

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JUNE 23, 2003**

1. CALL TO ORDER.

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

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL.

City Clerk Kathleen Magrew called the roll. Council members Ken Tauer, Brad Wiersum, Terry Schneider, Al Thomas, Jan Callison, Dick Allendorf, and Karen Anderson were present.

4. APPROVAL OF AGENDA.

Anderson said that Callison would recuse herself from item #14C, the Sanctuary, and asked that items 15A and 15B be taken before item #14A.

City Manager John Gunyou reviewed the items in the addendum packet. Finding #1 was changed for item #14A, a preliminary plat for Christopher Sirianni. Item #14B, a preliminary plat for Timothy Uzzell, was postponed at the applicant's request. Michael Halley, the applicant for item #14C, asked that the council postpone action on item #14C, The Sanctuary, until July 14.

Tauer asked staff to clarify for the audience how item #14C would be handled. Gunyou said that the item would be discussed, but that council action on the item would occur at a later council meeting.

Gunyou also introduced Acting City Attorney Corrine Thomson.

Callison moved, Thomas seconded a motion to accept the agenda as amended. All voted "yes." Motion carried.

5. APPROVAL OF MINUTES.

Allendorf moved, Callison seconded a motion to approve the minutes of the June 2, 2003 Minnetonka City Council meeting as submitted. Anderson noted that she had requested two routine changes. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Recognition of Officers Denneson and Piper with their new K-9 partners.

Anderson recognized Police Officer Troy Denneson and his K-9 partner Bodie, and Officer Ryan Piper and his K-9 partner Astro. Anderson also thanked Girl Scout Troop #2554 from Minnewashta for their \$500 donation toward the purchase of equipment for the dogs. The troop presented the officers with photo albums and said that it was an honor to be a part of this project. Anderson noted that there would once again be K-9 demonstrations beginning with the October City-wide Open House.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

City Manager John Gunyou noted the format changes, hours and major activities planned for the June 28th Summer Festival and Burwell Ice Cream Social. He reported that the June 30 study session topics would include regional transportation and the auditor's report. There will not be a council meeting on July 7, and the next regular council meeting will be held on July 14.

Anderson reported on the League of Minnesota Cities annual conference held in St. Cloud. Representatives of Minnetonka who attended included Council Member Schneider, Police Chief Joy Rikala, Gunyou and herself. Anderson participated in a session on the Metropolitan Council, Gunyou participated in a session on the new conceal/carry legislation, and Rikala participated in a session on homeland security.

Anderson also noted that Rikala accepted a Public Safety Achievement Award at the conference. The award was for the innovative Teen Safe Driving Initiative. This project was completed in collaboration with the Plymouth and Maple Grove police departments. Rikala displayed the award and said that it was an honor to receive it. She thanked Lieutenant Lora Setter and Sergeant Jim Dahl for coordinating Minnetonka's portion of the project. She said that the project touched and saved the lives of youths and helped build better relationships between the involved police departments.

Schneider said that the attendance was down at the conference due to budget concerns, but it was one of the best conferences he had attended.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA.

Joe Haley, 12807 Dolittle Drive, spoke. He was accompanied by David Hopp, 3817 Plymouth Road; Joan Olsen, 12800 Melody Lane; and Phyllis Stellmakers, 3813 Plymouth Road. Haley noted that the council had discussed the drainage problems in his neighborhood several months earlier. The neighbors wanted to submit a short-term, less costly solution

proposed by a contractor. The quote for the work was between \$4,300 and \$5,900.

Anderson thanked the neighbors for their research. She said that the council could not consider the item at this meeting without more background information.

Schneider suggested that the item be considered by the council at its July 14th meeting to allow time for staff to provide information about the full impact of the proposal, including the impact on storm water retention.

Callison supported that. She said that living with standing water at the back steps of a home was not acceptable. She questioned whether such a cheaper solution would be feasible.

Anderson offered a note of explanation that this project was not in this year's capital improvements program because it was not viewed as an immediate threat to a structure. She said that this situation was more of a nuisance than a threat.

Allendorf supported the council looking at the project and urged the city to do something sooner rather than later.

Phyllis Stellmakers said that she had lived in the neighborhood for 27 years. Her main concern was the danger to neighborhood children because there is a deep hole that holds water. Anderson said that Minnetonka does not pipe away its wetlands and it does not place fences around water, because it has been advised that can create more hazards and impede rescues. She urged parents to watch their children.

Thomas noted that this area had been discussed during the council's CIP discussions. He suggested that it be placed on a council agenda along with information from staff.

The council and staff concurred that this item should be placed on the July 14th council agenda.

Darryl Ponder, 18320 Byrnewood Lane, asked for information regarding the Comprehensive Guide Plan's relationship to affordable housing. He asked specifically if there was a target number for affordable housing units to add to the city, and referred to two projects on tonight's agenda—the Sanctuary and the Meadowwoods Golf Course property.

Anderson responded that the plan was updated in 1999. She said there is a close correlation between the plan and affordable housing. Information about the plan could be obtained from staff.

Tauer noted that Meadowwoods was guided for open space because it was a golf course, but said that it could also have been guided for business. He said that the EDA has studied housing trends and styles within the city, and the city's approach was not random.

Ponder said that his issue was not with development, but rather whether the guide plan reflected the council's approach to affordable housing for the city, and if the city was being reactive or proactive in that area.

Anderson said that discussion would take more time than available at the meeting. She said that the council discusses this issue frequently, and urged Ponder to contact staff. Ponder said that if staff did not provide an adequate answer, he would raise the issue to the council again.

9. BIDS AND PURCHASES

A. Consideration of bids for the 2003 Mill And Overlay Project No. 4421.

Gunyou provided a brief introduction to this item.

Schneider moved, Wiersum seconded a motion to award the bid for the 2003 Mill and Overlay Project No. 4421 to Valley Paving, Inc., in the amount of \$685,291.35.

Allendorf noted the problems with the soils used for re-seeding along the curb reconstruction area in Forest Hills. He asked that staff check on the subcontractor for this project to avoid a similar problem.

All voted "yes." Motion carried.

B. Consideration of bids for the 2003 Emergency Vehicle Preemption System Project No. 4124.

Anderson noted that the correct recommended action for this item was to reject all bids. Gunyou provided a brief explanation, noting staff's recommendation to rebid the project in 2004. The allocated funds would rollover to 2004. He said that the city typically receives better bids the second time.

Callison moved, Tauer seconded a motion to reject all bids for the 2003 Emergency Vehicle Preemption System Project No. 4124 and re-bid the project in 2004. All voted "yes." Motion carried.

10. CONSENT AGENDA (Items Requiring a Majority Vote):

A. Claims for council authorization – June 9, 2003.

Tauer moved, Thomas seconded a motion to approve the June 9, 2003 claims list, including checks numbered 174895 through 175142 totaling \$755,449.57. All voted "yes" with Callison abstaining as to check #174946. Motion carried.

B. Claims for council authorization – June 23, 2003.

Tauer moved, Thomas seconded a motion to approve the June 23, 2003 claims list, including checks numbered 175143 through 175480 totaling \$1,197,281.14. All voted "yes" with Callison abstaining as to check #175178. Motion carried.

C. Resolutions ordering the abatement of nuisance conditions existing at:

- 1) 4151 St. Marks Drive**
- 2) 13929 Excelsior Boulevard**
- 3) 14225 Excelsior Boulevard**
- 4) 15710 Minnetonka Boulevard**
- 5) 10604 Crestridge Drive**
- 6) 5108 Valley View Road**
- 7) 14909 Excelsior Boulevard**

Anderson pulled this item from the consent agenda for an update on compliance. Community Development Director Ron Rankin said that all properties had been reviewed earlier in the day and continued to be in violation of the nuisance ordinance.

Anderson said that it appeared that the property owner was trying to return a portion of 4151 St. Marks Drive to its natural state. She asked Rankin to explain the correct process for this type of change. Rankin said that the city changed the ordinance several years ago to provide specific requirements for care of such areas in the interim and there is a brochure with that information. He will provide a copy of the brochure to the St. Marks Drive property owner.

Anderson noted that the property at 15710 Minnetonka Boulevard has been in violation over the past five years, but this year there was only one area of that property in violation. Rankin said that the area in violation was around a parked vehicle.

Schneider moved, Tauer seconded a motion to adopt the following resolutions ordering the abatement of the nuisance conditions:

- 1) Resolution No. 2003-036 regarding 4151 St. Marks Drive.
- 2) Resolution No. 2003-037 regarding 13929 Excelsior Boulevard.

- 3) Resolution No. 2003-038 regarding 14225 Excelsior Boulevard.
- 4) Resolution No. 2003-039 regarding 15710 Minnetonka Boulevard.
- 5) Resolution No. 2003-040 regarding 10604 Crestridge Drive.
- 6) Resolution No. 2003-041 regarding 5108 Valley View Road.
- 7) Resolution No. 2003-042 regarding 14909 Excelsior Boulevard.

All voted "yes." Motion carried.

D. Resolution authorizing the installation of traffic control devices at various locations within the City of Minnetonka.

Tauer moved, Thomas seconded a motion to adopt Resolution No. 2003-043 authorizing the following traffic control devices:

- 1) "No Stopping" signs on Thimsen Avenue from Hutchins Drive to 350 feet north.
- 2) "No Parking 8 a.m. to 3 p.m. School Days" on the south and west sides of Cedar Bend from Cedar Lake Road to 250 feet east of Cedar Hills Boulevard.
- 3) "No Right Turn on Red, 7 a.m. to 7 p.m., Monday-Friday" for westbound Cedar Lake Road traffic at Lindbergh Drive.

All voted "yes." Motion carried.

E. Resolution accepting plans and specifications and authorizing the advertisement for bids for the Crestwood Circle Storm Sewer Project No. 4654.

Tauer moved, Thomas seconded a motion to adopt Resolution No. 2003-044, accepting plans and specifications and authorizing the advertisement for bids for the Crestwood Circle Storm Sewer Project No. 4654. All voted "yes." Motion carried.

F. Resolution receiving petition feasibility report, ordering the improvement in, and authorizing preparation of plans and specifications for the Cedar Lake Road and Hopkins North Junior High School West Entrance Signal Improvement Project No. 4899.

Tauer pulled this item from the consent agenda to ask how the new light would be coordinated with others in that area. City Engineer Lee Gustafson responded that there would be hard wire connections between all three lights so they would be coordinated.

Tauer moved, Wiersum seconded a motion to adopt Resolution No. 2003-045, receiving petition, feasibility report, ordering the improvement in, and authorizing preparation of plans and specifications for the Cedar Lake Road and Hopkins North Junior High West Entrance Signal Improvement Project No. 4899. All voted "yes." Motion carried.

G. Adoption of an ordinance authorizing the sale of city-owned property at 11208 Minnetonka Mills Road.

Tauer moved, Thomas seconded a motion to adopt Ordinance No. 2003-16, authorizing the sale of city-owned property at 11208 Minnetonka Mills Road. All voted "yes." Motion carried.

H. Amendment to the Contract for Redevelopment between the city and Minnstar Builders, Inc., to extend the build-out schedule for portions of the Willoughby development.

Tauer moved, Thomas seconded a motion to approve the amendment to the Contract for Redevelopment between the city and Minnstar Builders, Inc., to extend the build-out schedule for portions of the Willoughby development. All voted "yes." Motion carried.

11. CONSENT AGENDA (Items requiring Five Votes). None

12. INTRODUCTION OF ORDINANCES.

A. Introduction of ordinances concerning the proposed Meadowwoods Residential Development at 18300 Ridgewood Road:

- 1) Ordinance rezoning from R-1, low-density residential, to PUD, planned unit development, and approving a master development plan, with final site and building plans and variances; and an**
- 2) Ordinance changing wetland overlay district boundaries.**

Anderson noted that the recommended action for this item was to introduce the ordinance and refer it to the planning commission. She said that the council could not discuss the item until it was reviewed by the planning commission. She asked that staff provide a brief report on this item for public information purposes.

Planning Director Geoff Olson gave the staff report, noting that the project involves both conservation issues and affordable housing. He said that the planning commission would do further study and receive public comments on the project.

Callison noted that this item did not reference a guide plan change. Olson said that guide plan changes are accomplished by resolution, and this item only referred to introduction of an ordinance. He said that the guide plan change would be considered with the project's preliminary approval.

Callison referred to Ponder's earlier comments about changes to the guide plan related to affordable housing. She asked if during the guide plan review specific areas had been designated for affordable housing. Olson said that there are not specific areas identified for affordable housing within the city. He said that affordable housing is one of the points to be considered when reviewing requests for guide plan changes. Affordable housing is not mandated, but staff tries to negotiate it into projects.

Anderson said that the EDA plays a strong role in affordable housing. She noted that affordable housing did not drive this project, but that it came forward on its own merits. In response to Anderson's question, Olson said that this project proposed to include 17 single-family market rate lots, and three additional affordable units.

Allendorf moved, Wiersum seconded a motion to introduce the following ordinances related to the proposed Meadowwoods Residential Development at 18300 Ridgewood Road and refer them to the planning commission:

- 1) An ordinance rezoning from R-1, low-density residential, to PUD, planned unit development, and approving a master development plan, with final site and building plans and variances; and
- 2) An ordinance changing wetland overlay district boundaries.

All voted "yes." Motion carried.

- B. Introduction of an ordinance amending a PID master development plan, with final site and building plans, to reduce the number of condominium units from 46 to 39 at 408 Parkers Lake Road for Yellowstone Trail LLC.**

Gunyou provided the introduction for this item. He noted that the developer had reduced the number of units in the project for market reasons, and had also reduced the size of the building.

Anderson asked if the proposed mid-density level would remain. Olson said that it would, but the change was significant enough to require the planning commission to review it again.

Wiersum asked what had driven the change. Gunyou replied that the developer believed larger units would market better.

Schneider noted that he had a conflict of interest regarding this project so he would abstain from voting on it.

Tauer moved, Wiersum seconded a motion to introduce an ordinance amending a PID master development plan, with final site and building plans, to reduce the number of condominium units from 46 to 39 at 408 Parkers Lake Road for Yellowstone Trail LLC and to refer the ordinance to the planning commission. Tauer, Wiersum, Thomas, Callison, Allendorf and Anderson voted "yes." Schneider abstained. Motion carried.

13. PUBLIC HEARINGS. None

14. OTHER BUSINESS:

A. Preliminary plat for a two-lot subdivision, with lot area and depth variances, at 4760 Dominick Drive for Christopher J. Sirianni.

Gunyou reminded the council of the addendum change to finding #1. Anderson noted that the recommended action on this item was to deny the request.

Olson provided the background report for this item and reviewed the addendum information.

Allendorf asked if granting this request could raise precedent issues for owners of lots to the north who might make flag lot/lot split requests in the future. Olson said that he saw some distinctions between those lots and the subject lot. However, he said that the owners of the lots to the north could use this lot in their arguments to justify any future requests.

Allendorf noted that when he visited the property, children were playing ball in the four backyards. He could see a precedent for three of the houses, but could not understand treating those properties differently.

Wiersum asked for background information on the city's 22,000 minimum square foot requirement for lots. Anderson noted that it is the largest single-family lot standard in the entire metropolitan area of cities with sewer and water available. The standard was established before the sewer and water system was installed at a time when houses were served by private septic systems and wells. The thought was that one-half acre lots were large enough to sustain those private systems. As development increased, particularly in the 1960's, the city learned that half-acre lots could not sustain those systems due to differences in soil, and that in the mid-1970's, water and sewer service was added throughout the city. During the comprehensive guide plan discussions in the late 1970's/early 1980's, the decision was made to keep the one-half acre lot standard, with the understanding that there were many areas of the city that were already developed with smaller lots and other areas might lend themselves to more intense development. The areas for more intense development were identified and the one-half acre standard was kept. Anderson said that the standard has been reconsidered and maintained. There are a number of areas with substandard lots throughout the city, but those were primarily developed before the 1960's.

Schneider said that he had served on the council for 12 years, and on the planning commission for eight years. He said that there are two primary mechanisms to deal with smaller lots: PUD and neighborhood standards. PUD is used for larger, undeveloped parcels where smaller lots would make sense due to specific criteria such as environmental issues, clustering, etc. Often PUD projects result in bigger homes on smaller lots. Neighborhood standards refer to a sufficient number, but no specific number is set. These requests require a judgment call on a case-by-case basis, based on the general character of the area and the kind of lots in the surrounding neighborhoods. Schneider noted that the city council has denied a number of these requests. He would guess that there were many requests that were granted because the adjacent lots were smaller. Neighborhood standards require a relatively subjective judgment, and the city has been challenged on its decisions. Schneider said that it is up to the council to decide if the change would fit the neighborhood or not.

Tauer asked if there was a small lot policy that refers to all lots within a certain radius that are less than 22,000 square feet in size. He noted that the subject property would not qualify because some of the lots in that area are too large. Olson said that staff tries to define the characteristics of a small-lot neighborhood. They look at whether the lots are 15,000 square feet or less within a 400-foot radius. If the median average of all those lots is less, the area

qualifies as a small lot neighborhood. There are different standards, including reduced setback requirements, for those lots. Olson said that the ordinance recognizes that there are some older areas of the city.

Schneider clarified that lot splits in small-lot neighborhoods do not require a variance, but the subject property would.

Anderson noted that the applicant was not present. Schneider had questions for the applicant, so he was concerned about the applicant's absence. He wanted to know if the applicant had tried to acquire land from the property owner to the north to add to his own. Olson said that he did not know if that had happened. However, he recalled that at the planning commission, the applicant said that the property to the north was used by children to play ball and would be maintained. Also, the applicant had commented that there would be no loss of open space in the neighborhood.

Schneider noted that there are a number of smaller lots along Dominick Drive and he felt that this lot would not appear to be out of character for the neighborhood. Out of 48 lots in that area, one-third are under the minimum square footage and 30 lots are under the half-acre lot size, representing mixed uses in that neighborhood. Schneider said that this applicant has an alternate to bring the new lot closer to the average size through acquisition of some of the property to the north. This would eliminate the precedent issue because it would eliminate the possibility of a request for a split for the lot to the north. He thought it was worth investigating. He would be concerned about acting on the request without that information.

Tauer had the same question. He thought there was an expectation for substandard lot owners to try to acquire adjacent land. Tauer was concerned that the neighbor might not sell to the applicant expecting to also split his property.

Allendorf said that he would not oppose postponing the item to get the answer to Schneider's question. As their ward council representative, he had met with the applicant. He recalled no mention of willingness to expend additional dollars in order to accomplish the lot split. He felt there were indications to the contrary.

Allendorf said that if he just looked at this one lot and application, he could see no reason to turn it down. However, he also looked at character of the area west of Dominick, as well as the potential for 14 new lots of about 14,350 in size. He saw the potential for a change in the character of the neighborhood. Allendorf felt that the

applicant would not want to purchase part of the property to the north. Absent that occurring, this lot split would change the character of the neighborhood. Allendorf said that he could not support the request.

Callison said that when she drove on Dominick she did not get a sense of houses on one-half acre lots. The lots appeared to be smaller and in many cases are. She did not need to know if the applicant had tried to purchase part of the property to the north because her basic question was if the lot should be subdivided. She agreed with Allendorf's concerns regarding changes in the character of the neighborhood, because approval would create the possibility of additional flag lots. She was uncomfortable with saying that someone couldn't exercise their property rights and divide their lot because there was open space in their backyard.

Callison said that if the city wants to create affordable housing it could be forced to re-look at the one-half acre size. The first step to reach affordable housing goals would be to provide smaller, more affordable lots. Although this lot might provide an opportunity to achieve some affordability, there has been no promise of affordable housing. Due to her concerns about the impact on the neighborhood and redevelopment of other lots in the neighborhood, she was inclined not to support the request.

Thomas agreed with Callison and Allendorf. He could conceive of many people wanting to split other lots. He has been a staunch supporter of the 22,000 minimum lot size because that it is what gives Minnetonka its character. He will keep fighting for that standard. He had a problem setting a precedent for smaller or flag lots, so he would support denial.

Wiersum agreed with most of the comments from other council members. He shared the concern that this approval would change the character of the neighborhood, because the new lot would not only be smaller than the 22,000 square foot minimum size, but it would also be smaller than the average lots in the neighborhood. He would vote to deny.

Schneider felt that this discussion was about a different type of affordable housing than the standards of the Metropolitan Council and WHAHLT. This discussion referred to achieving housing diversity by having moderately priced housing within a reasonable range. The city needs diversity in housing to sustain the variety of people who live here. He challenged if the one-half acre standard was sacred. He noted that Minnetonka has great diversity of housing. Schneider noted that very few subdivisions offer only one-half acre sized lots unless they were planned, platted and

developed between 1955 and the 1970s. If the lots are bigger or smaller than the standard, they were platted after that time. Schneider said that one-half acre lots are good, but said that the city ought to recognize that part of its character is its diversity of lot sizes and types.

Schneider noted another mechanism that has been used in the past that may need to be re-introduced. He thought the process was called official map, and it was used along Plymouth Road where there were several deep lots. Based on staff or consulting engineers, the map indicated the appropriate road configuration and lot size result. Property owners were advised that if they wished to develop, they needed to do so in concert with the map. Schneider said that the lot to the north is large enough to subdivide in the future. Official map would provide the kind of progressive proactive approach needed to address development pressure in the future.

In response to Callison's comments about open space, Tauer said that the open space policy is great, but it does not apply in subdivision cases. He goes by the ordinance rather than the open space policy. Anderson said that his point was well taken.

Anderson agreed with the staff recommendation due to the potential to set a precedent. She said that the lots on the right side of the street have a different character from those on the left. The situation calls for a council decision. She did not believe that having information from the applicant about purchasing some of the property to the north would matter because that would take time, reconfiguration and another look by the planning commission and city council. It would require a different proposal with different impacts and precedent. Anderson would have no problem denying the application based on the recommendations. She was most concerned about precedence setting in this particular neighborhood and would like to deal with that issue at this meeting.

Tauer moved, Allendorf seconded a motion to deny a preliminary plat for a two-lot subdivision, with lot area and depth variances, at 4750 Dominick Drive for Christopher J. Sirianni. Denial is based on the following findings:

- 1) The proposed plat would not be in character with the surrounding residential area.
- 2) Approval of the proposed plat may set a precedent for future lot divisions and/or lot division requests with variances in the Dominick Drive area.

Schneider said that he would vote against the motion but not because he would have voted for approval. He thought that additional study about the alternatives was warranted, and he would have liked to hear from the applicant on the issue of acquisition of additional property.

Anderson said that the applicant would have that opportunity, and asked that staff advise him of that issue when he is notified of the council's action.

Schneider said that his understanding was that if a lot division were denied, there was a minimum timeframe to bring it back. He thought that the applicant would have to wait six months to re-apply. Thomson said that the applicant would not be prohibited from resubmitting sooner under State law. Olson said that he was not aware of any restrictions in the ordinances other than common sense--if there were no changes to the request, it would not make sense to re-apply. He said that the applicant had the right to submit a new application.

Allendorf said that those on the prevailing side could bring up an issue if new information came forward. He suggested that if this occurred, the applicant could contact his ward council member.

Schneider thought that reconsideration could only occur at the same meeting. Anderson said that an applicant could appeal the denial or bring back a new application, giving him a number of options to follow.

Thomson thought the question referred to reconsideration, which is governed by Robert's Rules of Order. Robert's Rules would allow the council to rescind a previous action taken. If this took place at a future meeting, the motion would be to rescind rather than reconsider.

Anderson said that Minnetonka has a separate council policy regarding this process.

Gunyou noted that the deadline for the council taking action on this item was this week, so council action would be required tonight.

On the vote on the motion, Tauer, Wiersum, Thomas, Callison, Allendorf, and Anderson voted "yes." Schneider voted "no." Motion carried.

- B. Preliminary plat, with lot-width-at-frontage variance, to divide one lot into two lots at 14400 Woodhaven Road for Timothy J. Uzzell.**

This item was pulled from the agenda at the applicant's request, and no council action was taken.

C. Items concerning The Sanctuary Third Addition plat at 3230 and 3306 Groveland School Road and 3305 County Road 101 for Halley's Custom Homes, Incorporated:

- 1) Resolution approving a comprehensive guide plan amendment from RL, low-density residential to RM, medium density residential;**
- 2) Ordinance approving a rezoning from R-1, low density residential, to PUD, planned unit development, and approving a PUD master development plan, with final site and building plans; and a**
- 3) Preliminary plat.**

As noted in the addendum, items #15A and 15B were discussed prior to this item.

Callison, who serves as the Executive Director of West Suburban Affordable Housing Land Trust (WHAHLT), recused herself from this discussion because of a conflict of interest.

Schneider, who serves as the council's official representative on the WHAHLT board without income or compensation, said that does not constitute a conflict of interest for him.

Anderson then explained the process she would use for the discussion. Because the project has been controversial and emotional, she wanted to give the item its due course. She noted that this was the first time the council had discussed this item as a group. The purpose for this meeting was to get as much information as possible, and let the council discussion begin. She referred the audience to a brochure regarding the conduct of council meetings. She said that staff would give a presentation and she pointed out that there are differences in the project since the planning commission. The council would then ask clarifying questions of the staff, and that would be followed by an applicant presentation, if a representative was present. Although this was not a public hearing, Anderson said that she would allow respectful, non-repetitive, and limited public comments.

Gunyou explained that the staff report was slightly different from the norm because staff does not typically recommend postponement of action. Due to the great interest in this project, there have been

several modifications to the proposal. Staff resolved a number of the issues, and provided recommendations about those items in the staff report. However, there were issues that would benefit from further discussion, such as the council often has during study sessions. Gunyou said that Olson would note those issues during his report, seeking council direction on those items. Before the project returns for council action, staff would meet with the developer to discuss any such direction from council. This approach would fit with the applicant's request for the council to delay action on the item for a meeting when he could be present.

Gunyou said that this approach would benefit everyone concerned, since it would allow the council to hear the neighborhood input and digest it before the formal vote. He noted that the project will likely change as a result of the discussion, and suggested that the council set a date certain for formal action so that staff, the applicant and residents would all be aware of that date. Gunyou said that the applicant has waived the deadline for council action on this item, so the council has flexibility in setting that date. In response to Anderson's question, Gunyou said that the applicant could choose to rescind his waiver and reinstate the deadline.

Olson provided the staff report, noting the addendum information.

Allendorf said that Minnetonka was one of the first communities to submit its revised Comprehensive Guide Plan in 1998-1999. He noted that the Metropolitan Council sets the process and procedure for changes to guide plans, recognizing that priorities sometimes change. Allendorf said that changes to the plan are not necessarily a negative, but rather just a reflection of a change in circumstances. He asked staff to explain the Metropolitan Council process for requesting changes.

Olson responded that the Metropolitan Council recognizes that plans are subject to change and does not view changes negatively. Their focus is on regional issues. He did not believe that the Metropolitan Council would have any particular concern with this change, because they would view it as a local issue.

Olson said that Minnetonka does not take such changes lightly because they require a supermajority vote. He said that while making a change is not easy, there was no intent that changes not occur. He noted that there are 10 points in the plan that address possible changes. These points were developed by the guide plan committee to provide guidelines for decisions about changes because committee members recognized that circumstances change.

Anderson clarified that staff had proposed construction of the stormwater treatment area in GroTonka Park regardless of whether The Sanctuary or other projects occurred in that area. Olson agreed. As recreation staff approaches park renewal projects, they work with engineering staff to identify potential drainage improvements that might benefit surrounding areas and try to coordinate those improvements. In this case, there is an existing drainage problem and the solution requires some excavation to maintain the capacity. The drainage improvements would benefit the park and the area.

Wiersum, in response to Anderson's question, said that 47 acres drain into this area and the subject property is 3.56 acres in size. Regardless of whether or not there was a project like The Sanctuary, that area would still drain to GroTonka. The issue is an increase in hard surface, but incremental water generated from that area would be small. Anderson noted that a solution is needed for the 47 acres that drain into GroTonka Park.

As Anderson considered the density issue, she looked to the density level for other projects that serve as transitions to community commercial and neighborhood commercial areas. She noted the fairly recent Minnetonka Mills Townhome project where three single-family homes were purchased by a developer and 34 affordable townhome units were built on the site. The density for that project was eight units per acre. In the more distant past, a tall and substantial senior housing building was added adjacent to the Glen Lake commercial area. Olson said that the density for that project was higher than medium density. Community Development Director Ron Rankin said that the Presbyterian Homes project included a four-story apartment building and a three-story assisted living building.

Anderson noted the Saddlewood development in the 7-Hi area, and said that it was somewhat removed from the commercial area by the wetland. The subject project reminded her more of Breconwood, which she thought had about six units per acre. Olson said that Saddlewood was zoned for mid-density, but he did not recall the specific number of units per acre.

Wiersum asked if the area was guided for medium density before the last guide plan change, and then changed to low density during that process. Olson said that some of the lots along CSAH 101 were guided for medium density, and those on Groveland School Road were guided for single-family during the 1999 review. Wiersum asked about the rationale for that change. Olson said that during the comprehensive guide plan update process, the group worked with a planning consultant who was asked to look for areas

suitable for medium density to help the city reach its affordable housing goals. As those areas were reviewed with committee, there was concern that there were too many areas, so a number of them were ruled out. Some of the property owners felt that their lots should be guided for single-family. They asked that their property not be guided medium density because there were no developers with immediate proposals for their land. The consensus of the committee was to leave those properties alone for the time being. The committee did not preclude considering a change if redevelopment was proposed in the future.

Wiersum said that the criteria established for a guide plan change indicate that it is a significant issue, but there are criteria to allow a change. He also noted that the stormwater project in GroTonka would occur regardless of the vote on the subject project.

Tauer was frustrated that there had been no resolution of the issue of internal circulation since the planning commission discussion. He agreed that there were safety concerns with the proposed access to CSAH 101, and said that it would be good to reduce the traffic on Groveland School Road. He asked if there were options to connect the two driveways. Olson said that staff looked at options, but was concerned that westbound Minnetonka Boulevard traffic might take the easier route of cutting through the project to go northbound on CSAH 101. Tauer said that would be a problem for those living in the project but not for the neighborhood.

Anderson noted that the applicant was not present due to surgery, but had asked that she read a letter from him into the record. The letter indicated that the intent for the project was to create quality, affordable, owner-occupied townhomes that would appeal to empty nesters and young families. The intended price range was from \$170,000 to \$500,000. One of the goals was to design a quality neighborhood that would protect the values of other properties in the area while including an affordable housing component--a definite need in Minnetonka. He said that quality was ultimately the most important characteristic in terms of design, materials, and execution. Halley noted that no development plan would perfectly satisfy everyone, and acknowledged that the plan approved by the planning commission was not satisfactory to the neighbors. Halley agreed to meet with staff to revise the plan based on council feedback. Halley noted that the property is not located in the middle of a residential area, but rather has 40 businesses as neighbors within 400 feet, the newest of which is a 75-foot cellular tower. Halley felt that a transitional use made sense and understood the neighbors' concerns.

Tauer said he had received more emails about this project than any other he recalled. He said that most undeveloped properties come in with townhomes proposed. He noted that Minnetonka was created with large single-family lots in a rustic setting. Tauer agreed that was appropriate in most places. However, he serves on the Economic Development Authority (EDA), and that group has found that the needs of people are changing. More people are seeking lower maintenance properties. He did not think it would be inappropriate to respond to the needs of those who want townhomes while respecting the history of the area.

Tauer asked staff if a developer could request a high-density PUD project clustered within a residential area. Olson said that such a change would not likely be approved based on the existing criteria. Olson noted that the EDA looked for sites suitable for lifecycle and workforce housing close to transportation and other commercial services. The subject site fit that criteria. Tauer said that areas without those types of access would not likely be faced with a request for townhomes in their area. Anderson thanked Tauer for providing the EDA's perspective.

Anderson said that she would allow limited public comment. She noted that council members had watched the planning commission discussion of this item or had read the minutes. She said that this council does its homework, and had visited the site and read the background materials. She restated that the council had not discussed this proposal as a group, and that was the intent of this meeting. She asked for statements by neighborhood spokespeople to avoid repetition, and reminded the audience of the process for comments.

Dan Dumbaugh, 17515 Bay Lane, introduced Neal Blanchett to speak on behalf of the neighborhood.

Pam Danzinger, 3116 Groveland School Road, asked if those represented by Blanchett could stand. Anderson said that would not be appropriate.

Neal Blanchett, an attorney with Larkin-Hoffman Daly & Lindgren, said that he was representing the saveminnetonka.com group. That group was comprised primarily of people in the neighborhood but also included people throughout the community who support them. Blanchett said that the group was well educated about the comprehensive plan issue and concerned about sound planning for Minnetonka neighborhoods. He said that the group does not oppose the project on the basis of its affordable housing component.

Blanchett said that it would not be unusual for a comprehensive guide plan to change. However, in this case, there was a recent and well-documented change of the subject property to low density. He drew a distinction between this property and the Meadowwood Golf Course property because that was a business.

Blanchett said that changes to the plan need to be well considered and should not occur absent a change to city policy or geographic condition. Blanchett said that the staff report stated without equivocation that those changes had not occurred. Blanchett said that the Livable Communities Act was in place in 1999. He said that the same group that set this property at low-density, had also created the 10 criteria for plan changes.

Blanchett could not see a rationale to change the plan. He said that the law was clear that the plan was meant to represent good planning and not be changed unless circumstances change. He was concerned that the city reflect the plan as a public document and that there not be a subtext. He noted that when the nearby animal hospital proposed a townhome development, they were told that the guiding was not appropriate. He said that planners advise applicants on the basis of the plan. He said that the 1999 decision was well considered and should remain.

Blanchett then addressed the issues raised in the staff report. He said that the market would decide if the site is appropriate for redevelopment, but the site is controlled by the guide plan. To the extent that the project complies with that plan, it may be appropriate for redevelopment.

Blanchett said that the 10 criteria factors were in place in 1999. He said that the committee and council looked at those criteria and rejected the subject property for mid-density. He disagreed with staff's conclusion that the 10 factors supported reguiding. He said that a change to the guiding would create an adverse impact on facilities and services and negatively affect traffic in an already congested area. He said that the impacts could be mitigated but that could not be the sole basis for a guide plan change because impacts could be mitigated anywhere, subject to the costs. He said that the density of this project, and the height and size of the structures was not consistent with the character of this neighborhood.

Blanchett said that the project would not provide a more viable transition to the adjacent properties. He felt that the adjacent properties would be better served with a transition of the current single-family housing.

Blanchett noted the city forester's comments, and interpreted them as indicating that the project would have adverse impact on trees in that neighborhood. He said that there had not been a change in city policy as suggested in the 10 criteria. He did not feel that the current designation was in error, and said that was undisputed in the planning report. He said that the community's need for affordable housing was identified in 1999, and rejected by the committee for this site when they favored low-density residential. He said that any site could be used to meet the city's life cycle goals. Blanchett noted that the project would allow the destruction of an historic structure.

Blanchett said that eight of the factors would not support regrading and the two that did would be supportable for any site. Blanchett saw no basis to reverse the well considered 1999 decision without cause. He said that the proposal would exceed the boundaries of the low-density designation. Even if that designation changed, the proposal would represent a significant increase over the density approved for other projects. Blanchett said that he had not researched all projects. The density for Breconwood is 5.88 units per acre, which would translate to at most 20 units on this site. The density level for the Enclave project was 2.3 units per acre, and for Willoughby Way, it was 4.9 units per acre. A density range of 8 to 19 may be more appropriate if Breconwood served as the model. Blanchett said that the market would determine that and he did not want to micromanage the project. Blanchett felt that the number of units per acre was just one measurement tool. He noted that the large footprints and vaulted ceilings don't count toward the criteria. Currently, there are one story to one and one-half story homes, and low-rise commercial in the area.

Blanchett said that the floor area ratio was below the city's maximum. He said that there was not a lot of open space on this project compared to the current single family.

Blanchett said that the project would maximize the impervious surface, increasing it to 77,000 square feet, a significant expansion. There was not room for two-car garages, the norm for the neighborhood. He did not believe the city would get the desired benefit with the proposed narrow strip of open space. Blanchett cited the road connection, density, and impervious surface as the group's site plan concerns. He noted that the proposed drive would go against Hennepin County's recommendation. To follow the county's recommendation, would put more traffic on Groveland School Road. Blanchett said that these concessions were required due to the density of the project. He said that the city has lots of discretion on requests for changes to the guide plan, and the city can demand reasonable conditions. He felt that the sizes of the

structures were incompatible with the neighborhood. He said more trees should be preserved because they are an outstanding feature of the neighborhood and provide a buffer. He said that trees are typically preserved as a trade-off in PUD projects, but that did not occur for this project.

Blanchett felt that the access drive should be connected to prevent hazardous movement and eliminate trips on Groveland School Road. He said that the neighborhood would not support the project as configured. He also noted that the proposal called for parking on interior streets for the affordable units that only have one garage. He said that was not compatible with the neighborhood or Minnetonka.

In conclusion, Blanchett said that there was no basis to change the plan. He cautioned about expanding the affordable housing component so far that it distorts the development guidelines. He said that the city was being asked to make considerable concessions for top-range affordable housing. He did not see a great benefit, even considering the affordable housing. He said that the permissions being requested were discretionary and there was no basis for the requested change. Blanchett asked the council to table the project to at least July 28, to allow the neighbors sufficient time to comment on any changes.

Anderson said that the council would discuss the timing of the postponement later in the meeting, but that there were concerns about council schedules.

Anderson said that the density level was the primary focus of the neighbors. She had polled neighbors to get some sense of what they viewed as an acceptable density range. The responses she got indicated the acceptable level was single family, with four units per acre. She thought those expectations were unrealistic. Anderson asked Blanchett if there was a typographical error in his letter because it referred to an acceptable density range of eight to 19 units per acre. Blanchett said that was an error, and should have read eight to 19 units for the entire project.

Anderson noted that the Willoughby Way project is adjacent to a large office building and the development across the street from that project is adjacent to a heavy retail area and had a density level of 20 units per acre. She said that the transition area for commercial areas is often more intense density than single-family.

Anderson asked staff to respond to Blanchett's comments about the recent change to the plan and the conditions under which the council could amend the plan. It was her understanding that

changing the plan was within the city council's prerogative, and something for which they have authority.

Thomson said that she heard Blanchett say that a change in condition would be required to amend the guide plan. She disagreed. She said that a court reviewing the decision would determine if the decision was reasonable. The burden would be on the challenging party to show that the council's decision was arbitrary or without a reasonable basis. In her opinion, a court would support the council approving the change based on staff's recommendations. She indicated that a court would also support the council's denial of such a request based on Blanchett's reasons. The courts would view the decision as a council policy decision. She said that the council would need to state its reasons and follow established criteria. Anderson said that those reasons were spelled out by Olson during his presentation.

Anderson referred to Blanchett's comment about following Hennepin County's recommendations for access to CSAH 101. She said that there have been numerous occasions where the city has gone against county recommendations, and that has not adversely impacted the working relationship. City Engineer Lee Gustafson concurred. He said that the county would prefer no driveway access points on CSAH 101 to make the road more efficient. He said that efforts will be made to reduce the negative impacts to the roads. In response to Anderson's question, Gustafson said that staff would support some internal connection of the roadways.

Anderson said that parking on access streets is fairly common. Olson said that the affordable units rely on only one garage space. To meet the code requirements, one spot for each affordable unit would need to be on an internal driveway. Anderson said that it is common for visitors to park on access streets in townhome areas. Olson agreed.

Wiersum asked if a variance would be required for a density of four units per acre. Schneider clarified that the subject property is guided low-density, which would allow four attached or detached units per acre.

Wiersum saw an inconsistency with the neighborhood's recommendation because they were against a guide plan change, but would support a number of units that would require a guide plan change. Blanchett responded that the neighborhood does not believe that a guide plan change would be justified. He noted that staff raised Breconwood as an example. They view Breconwood as the foremost example of a good precedent. The neighbors realize that the council has a number of decisions to make. If the council

believes there is justification for a guide plan change, then the next question would be the appropriate density level. He thought that Breconwood might be appropriate for the high range, but said that he could not speak for every member of the group.

Blanchett said that State law generally allows a fair amount of discretion for guide plan changes. In researching State law, and case law challenges, Blanchett did not find an instance where there was a plan change absent change to a policy. He stated that the 10 criteria were available to the city when the site was originally guided for low density and that decision was made looking at those criteria. The planning factors were the same. Blanchett said that there must be a reason to change the guided density and argued that there had been no changes since 1999.

Anderson told Blanchett that while she appreciated his opinion, she would choose to listen to the city's attorney opinion. Schneider said that Blanchett's comments were well noted and would be discussed as part of the council's deliberative process. Tauer said that he wouldn't debate the issue now, but believed that several circumstances had changed since 1999.

Allendorf, who chaired the comprehensive guide plan committee, recalled that the committee looked at various designations first. The neighbors said that there was no reason to keep the area guided mid-density. The group concurred and had no hidden agenda. At the end of their process, the committee met with the consultant to create criteria for changing the plan, not just in this area, but also in any area with distinct factors that might change. Allendorf said that Blanchett incorrectly implied that those factors were in place first, and that was not the case.

Erhard Bruderer, 4320 Windwood Way, spoke as a 10 year resident who moved to Minnetonka from Switzerland. He said that over the past years the city has changed from low density, quiet neighborhoods, to having much more traffic. He did not view these changes as positive. He noted that Tauer suggested that neighbors not fear another high-density project in their area if they are not adjacent to commercial uses. Bruder said that the Meadowwoods project was not near a commercial area. Bruder noted the differences between his birth city in Switzerland and the one to which he later moved. The latter city was half destroyed by modern buildings, while Bern remained beautiful with its 18th century structures. In Bern, there are requests to build new structures, and the citizens oppose those projects. In the latter city, people move out because of the changes. Bruder said that people move to Minnetonka because of its character—it is full of trees, low density housing, and it is quiet. Although the population has increased only

by five percent, traffic has doubled. The character of the city has changed due to traffic and higher density units. Bruder suggested that the council step back and say that it does not want this project. He suggested that the council not allow a guide plan change to higher density because it would attract more people and traffic, and it would change the character of the neighborhood.

Anderson, who visited Bern last summer, said that it is a beautiful city. She noted that property rights are different in the United States. She said that change is always difficult.

Jeff Hoberg, 3029 Groveland School Road, has lived in the neighborhood for 20 years and has a law enforcement background. He said that the neighborhood represents a city within a city with a diverse population. He would prefer 10 to 15 affordable housing units on the site because it would blend in with the neighborhood. He was concerned about safety issues with the increase in traffic. He was also concerned about adding water to the park due to safety for children. He said that the project would cost taxpayers money for snow removal. He would prefer to see senior housing to reduce the traffic to the area. He suggested townhomes like those recently built along Williston Road that fit with the neighborhood.

Allendorf asked for examples of why this project would cost the taxpayers. Hoberg said that the road would need to be widened. He noted that the new marina has added traffic to the area. Anderson said that there are no plans to widen Groveland School Road, and Gustafson concurred.

Allendorf asked Gustafson to comment on how the city is approaching the issue of the traffic from the new marina. Gustafson said that staff meets weekly on that issue. Internal signs have already been added to the marina parking lot to help with those in line for boat launching. Sandwich type signs have been purchased to place on CSAH 101 to indicate when the lot is full. Engineering is working with police staff and volunteers to help with traffic control. As issues arise, they will be addressed. Allendorf noted that the marina has been open only a short time, and there is a learning curve. During that time, staff is trying to address the problems. Anderson said that another neighbor indicated that there had not been much through boat traffic, but she noted that the boating season was not yet at its height.

Anderson asked staff to respond to Hoberg's statement that snow removal would increase the cost to taxpayers. Gunyou said that the streets within the development would be privately owned, and the cost of snow removal would be covered by the association.

Anderson referred to the comment about the huge increase in traffic over the past 10 years without a related increase of population. She noted that the number of cars per single-family home has increased, and there are more trips per household. Gustafson concurred.

Becky Gehrke, 17310 Charmy Downs, said that adding 14 houses to the neighborhood would change its character. She noted Thomas' comment about adhering to the minimum 22,000 square foot lot size.

Bob Crump, 3001 Bay Street, said that he had not received graphics of all of the structures proposed. As an artist, he wanted them to help visualize the impact of the project on the neighborhood. Anderson asked that staff provide the drawings.

Jean Stark, Mayor of Woodland, said that quite a few of their residents are concerned about the development. She noted that there had been many changes since she learned of the project 10 days ago. She encouraged that communication with Woodland continue. She noted that the entrance to Woodland is at CSAH 101 and Breezy Point Road and there are concerns about traffic in that area. She felt that the project was far too dense and that the height of the buildings didn't fit the neighborhood. She noted the diversity of Woodland's housing. Although their city is quiet, it has also changed over the past 10 years.

Kim Smith King, is the Pastor of St. Luke's Presbyterian Church, 3121 Groveland School Road, the closest neighbor to the project, and also resides 1418 Claredon Drive. She said that the open forum allowed her to give her personal perspective. She commended the city and the city council for its commitment to affordable housing, and encouraged them to continue that commitment. She noted the difficulty she had in finding affordable housing in Minnetonka when she became pastor of the church.

Bob Crump, 3001 Bay Street, said that the problem with The Sanctuary was not the affordable units, but rather its density and height.

Doug McNamara, 3633 Comet Lane, lives four blocks south of the proposed project. He supported affordable housing as part of a diverse housing stock in a healthy community, and urged the council to address the needs identified in the Maxfield study. He noted that the opposition to the project did not seem to relate to the affordable units, but rather to other issues more germane to the development as a whole. He trusted that the council, staff, developer, and neighbors would find an amicable solution that

would allow the affordable units to remain. He noted that someday those units may be needed by the community's children.

Winnie White Sherber, 14605 Orchard Road, restated the comments she made at the planning commission in support of affordable housing. She said that The Sanctuary offers a good fit to the area, and makes sense from the perspective of social justice and economics. She noted that Minnetonka is in transition and needs to respond to the growing population and housing demands. Townhomes offer a good alternative for first-time buyers and empty nesters because they are lower maintenance and use less land. The project would provide lifecycle and workforce housing in close proximity to transportation links, basic businesses, and a school. She said that communities are stronger and healthier when affordable housing is available because it improves family stability. She noted that Minnetonka is challenged to provide services with rising costs and the burden of additional unfunded mandates. Sherber said that when the CSAH 101/5 intersection undergoes widening, the businesses will also likely transition. Medium density will provide a buffer to those businesses, and she supported the project.

Kristin Koch-Wahl, 3218 Groveland School Road, questioned the accuracy of the maps with respect to her property. She said that the project would be close to her house and would impact her family. Gustafson said that the aerial photographs are generally fairly accurate to within about six to 12 inches. Cookwell said that the drawings didn't show her screen porch or fence, and the scale of the garage was wrong. Schneider said that the drawings are from aerial photos. Depending on when the drawing was put into the CAD system, there could be some inaccuracies. He noted that they are not relied upon as the final standard. Council members visit the site. He said that staff could update the aerial to provide a more accurate scale.

Hank Lederer, 3132 CSAH 101 South, said that the planning commission said that they were approving the project with reservations but would do anything to get affordable housing units. He said that the applicant could change the project to have only two affordable units out of 20, and he questioned if that would justify the guide plan change. Anderson said that she could not respond because that was only speculation.

Mary Brandenburg, 3627 Druid Lane, lives in a nearby neighborhood, and her children attend Groveland Elementary. She was concerned about the density of the project, the size of the structures, and parking on Groveland School Road. She would feel vulnerable to the decisions of the city council if it was not clear to

her why the decision was made. She did not oppose affordable housing, but questioned the value of the small number of affordable units. She thought there were other options for affordable housing. The fact that a decision to change the guide plan would hold up in court did not give her trust in the government. She would prefer that the decision be made because it was the right thing to do. She said that people make their decisions on where to live based on the guide plan. She felt that the project would negatively impact the character of that neighborhood and did not see a good purpose for that.

Dan Dumbaugh, 17515 Bay Lane, was pleased to hear McNamara acknowledge that the saveminnetonka.com group does not oppose affordable housing but opposes the project entirely due to its density. He would support a larger number of affordable housing units with less density. He asked the council to look for ways to keep the existing affordable housing units affordable. He was skeptical that these affordable units would remain affordable sandwiched between more expensive units. Anderson said that the council would need assurances of that as well. Dumbaugh noted that the Breconwood project has parking spots carved into the access road. He was concerned about public safety access with vehicles parked on the access drives. Dumbaugh noted the traffic problems related to the new marina and thanked staff for working on those issues.

Doug McNamara clarified that he was not sure the saveminnetonka.com group was supportive of affordable housing.

Schneider provided background on WHAHLT's discussion of the project. He said that as a policy, WHAHLT does not advocate for projects in Minnetonka that require rezoning that might be controversial and necessary for the affordable housing component. If this project is approved, WHAHLT would be available and willing, subject to available financing, to acquire the land on which the affordable units are located. This arrangement would require a guarantee that the units would remain affordable in perpetuity in the same way that land covenants are written. The units would have to be sold to qualified affordable housing buyers, or WHAHLT could buy the unit back at a specific value. Schneider said that a similar technique is used for existing affordable units, but they are more challenging because they often have deferred maintenance issues. This project offered the first opportunity for WHAHLT to acquire new units.

Anderson noted that there was misinformation about the eventual sale price of the affordable units and the city's cost for the affordable units. Schneider said that if the project was approved,

WHAHLT would commit to purchase a specific number of the affordable units at the fixed rate of \$167,000 per unit. That price would be offset by the resale target price of \$120,000 per unit. The affordable units would only be sold to qualifying families, and association dues would be factored into the loan payment for mortgage qualification purposes. The developer has agreed to an association fee of 75 percent of the regular dues. Schneider said that some additional write-down may be needed, but that would likely be covered by a grant from Hennepin County. The city would not likely have to contribute to the affordable unit costs. Schneider noted that WHAHLT has been raising about \$1 million each year to accomplish the needs of affordable housing.

Lori Hajas, 17950 Breezy Point Road, Woodland, felt that the project would change the character and ambience of the neighborhood. She was concerned about safety because she and her children frequently walk to Groveland Elementary School. She thought that the project would increase congestion because of the number of units.

The council recessed from 11:03 p.m. to 11:10 p.m., and then Anderson invited council comments. She laid out the three primary questions on which staff was seeking council comments:

- Is the site appropriate for redevelopment?
- Is the proposed density acceptable?
- Are there any specific site plan concerns?

Anderson said that staff would likely want feedback on the road connection, hard surface percentage, and building height and setbacks. She asked that staff provide graphics for all the structures within the project and a more current depiction of the surrounding properties.

Wiersum, the ward representative, said that he had given the project lots of thought and had received a great deal of emails and comments. He found the process to be educational, even though it was controversial.

Wiersum first spoke on the issue of whether the site was appropriate for redevelopment. He had laid out the pros and cons and found that the site is a likely location for transition between residential and commercial uses due to the availability of amenities. He could see some cons, as well, and said that comprehensive guide plan changes should not be taken lightly. He could not see any factor that would preclude a guide plan change. His greatest concern was whether or not the project was consistent with the character of the neighborhood, because people buy their homes

with certain expectations. He hasn't checked the guide plan in the past when he has purchased homes, but he might do that in the future. The guide plan is a public document.

Wiersum thought the L-shaped design of this project made it less attractive than it could be. He could see pros and significant cons. Based on the comments from the neighborhood, he felt that the density level was unacceptable. He noted that it would represent a ten-fold increase in density from the current level. He didn't believe that the density should not increase, but a ten-fold increase would be too much.

Wiersum's biggest site plan concern related to the hard surface coverage. At 50 percent, the coverage was at its maximum, and it was shoehorned into a configuration that was not ideal. He thought the buildings were too high, and that more green space would be needed for him to approve the project. Although he thought that piping stormwater to GroTonka Park was a good solution, he wished that the project was already in place to avoid the appearance that the work was being done to satisfy the needs of a developer. He thought that affordable housing was an important component of the project, but thought there was an answer beyond the project as proposed. He encouraged some changes to the project so that it would be acceptable for its location.

Schneider looked at the big picture of whether the site was appropriate to be re-guided to mid-density and developed. He said that it was, subject to the right level of density, the right plan, and the right design for the site. He did not think leaving the area to 22,000 square foot single-family homes was appropriate.

Schneider believes that the guide plan is a policy document that provides the primary tool to establish land use within the city. It is within the council's discretion to change it. He felt that there had been a change in character since the 1999 amendment. The EDA had looked at the overall city from a guide plan standpoint to identify appropriate places for medium or higher density projects with an affordable housing component. The EDA went through the list, ranked them, and placed the subject property as number one in the overall criteria list. The EDA forwarded that list to the city council. This process was not part of the original 1999 guide plan discussion. It represents new information that has changed, and it refocused the city to a proactive role. Schneider took exception to the parcel that is not being acquired. He respected that homeowner's request not to be re-guided. If that piece is ultimately re-guided to something other than low density, that should be part of the overall scenario. Schneider said that this could be accomplished by a separate action to put an amendment into the

plan stating that the council would be open to consider reguiding that property to mid-density subject to an appropriate and compatible site plan development scenario in the future. This would legitimize that parcel and give notice of the possibility of a future change. Schneider said that he personally would support that if something happens to these other lots.

The issue of density, the site plan and the right solution is more complex. As a professional architect and developer, Schneider is uncomfortable when councils redesign his projects, so he tries to avoid doing that to Minnetonka developers. However, in this case, the developer asked for direction and alternatives to solve some of the issues. Schneider presented a plan that staff had viewed but council had not.

Schneider described his proposal. He was uncomfortable without a direct east/west connecting road, and suggested a serpentine road to avoid cut-through traffic. His plan kept the three or six two-story units as proposed by the developer, but changed the east half of the site to reduce the density and the hard surface coverage. Schneider found the three-story eight-building unit very attractive, but lopping off two units from the same design for the other building didn't make sense. He suggested eliminating two of the affordable units and having only a four-unit affordable structure. The balance of the three structures would be a four-plex, similar to the eight-plex without the affordable units. It would look like a big home, similar to those in Minnetonka. Schneider had no problem with a three-story structure in a residential area, and said that it would also reduce the floor area of the units. He reoriented the units to provide some parking spaces at the ends of all of the driveways so the main road would not be needed for parking, and said that there might be room for additional green space. The hard surface coverage would be reduced to 43 percent, so there was room for some flexibility. His plan pulled the new units significantly away from the single-family homes on Groveland School Road, keeping them 80 to 100 feet from the existing homes. This would provide an area for landscaping, buffering, ponding, or gazebos.

Schneider said that a minor benefit of the plan would be that it could provide a direct connection should the remaining parcel be reguided in the future. Schneider said that the plan was a reasonable compromise that would give the developer reasonably good density, maintain most of the affordable housing units, provide more open space, and provide flexibility for the remaining lot. Schneider asked the council to use this plan as a basis for providing feedback to the developer. Schneider said that the original plan was unacceptable due to the hard surface coverage.

Allendorf thanked Schneider for his efforts. In the big picture, Allendorf thinks that the area is suitable for redevelopment especially as a transition from commercial to residential. Allendorf was in charge of the 1999 guide plan revisions so he was very mindful of the opinions from the neighbors at that time. He reiterated that there was no hidden agenda. Allendorf said that traffic has increased in the area, and there is now a cellular antenna in the commercial node. There have been complaints about the noise from the commercial area, which he viewed as a signal that some buffering could be of benefit for the residential area to the north. He did not support using single-family housing for that buffer, and said that would not be good planning. Allendorf said that the area is suitable for redevelopment and should be regulated. Although Allendorf didn't know what the right number of units per acre should be, he was puzzled that some people offered rationale to support eight to 19 units per acre, and others suggested replacing the existing units with three single family units.

Allendorf said that he had visited a garage sale in the area on Saturday, and asked the owner about saveminnetonka.com. The owner said that the council was trying to destroy the community by shoving units into the neighborhood. Allendorf asked him how many units would be acceptable, and he said three. Allendorf said that did not provide much of a guide for him in how to respond. Rather than focus on density, he focused on mass. He did not see anything in the commercial or residential neighborhoods in that area over two stories other than the tower and the billboard. He would not support three story units. He could support a project modeled on Breconwood, which is two stories and fits nicely with the residential and commercial uses in the area. He would probably support a project in the range of 19 to 20 units. That might result in some loss of affordable housing units, but Allendorf felt that good planning should drive developments.

Allendorf supported Schneider's plan and felt the original plan lacked imagination. He thought that if the roads could be connected in some way, it could keep traffic away from Groveland School Road so the neighbors would not feel the traffic impact they fear. Taking these steps would help save Minnetonka and would also be doing the right thing from a planning perspective.

Thomas also supported the Schneider plan, and concurred with Allendorf that the original plan looked sterile and lacked imagination. Shifting the layout added a lot to the development. Thomas said that there is no question that the city council places importance on affordable and lifecycle housing. He also agreed with Wiersum that a guide plan change would be an important step.

Thomas said that even though he did not consult the guide plan when he purchased his home, the Internet has changed the access people have to information. He noted that realtors more frequently disclose that information than in the past. He said that major changes to the plan would require a careful look.

Thomas thought the site was appropriate for redevelopment but the proposed density was too high. He thought that Breconwood fit in because the buildings were not as large or intrusive. He noted the comment about his support for 22,000 square foot lot sizes. He said that standard is more applicable to lot splits because those lots create private open space. Thomas said that because his neighborhood has no streetlights, or curb and gutter, it makes him feel like he is up north—that's why he moved to Minnetonka.

Thomas thought that connecting the roads would have a positive impact. He was glad to hear that the roadway changes would upgrade the intersection from a D to a C because that does not often happen. He was concerned about hard surface coverage with the original plan. He noted that green space and open space should be blended into the development to serve as a buffer.

Tauer said this project was difficult for him. He disagreed with Blanchett, and felt that circumstances had changed since 1999. He noted that the EDA has become more proactive in seeking lifecycle and workforce housing, and there are greater pressures from the Metropolitan Council in that area. He noted that home values have increased 10 to 15 percent per year, which means that affordable housing is rapidly decreasing. Because traffic has increased, he encouraged people to consider mass transit. He did not support the former method of using overlay districts for redevelopment because neighborhoods often disintegrate. The subject project is a case where the project created its own momentum and the city reacted to that.

Tauer noted that the subject property is surrounded on three sides by high or medium density housing, commercial and institutional structures, typical of transition areas. The city has been working with the businesses to protect that neighborhood commercial service area, and has avoided any change to big box businesses. Tauer said that not everyone wants single-family houses on large lots with trees. Many are seeking higher density homes, and those people are fellow Minnetonkans and their children.

Tauer saw the biggest impact to the one or two homes to the immediate north, with some traffic impact to the others. He noted that 16 units moved into his neighborhood in 1981, and neighbors got used to them and came to appreciate them. This site is a

natural place for redevelopment. The interior of the historical home has been lost. Tauer noted the suggestion for 10 to 15 affordable units for the site, but asked who would pay for that. In this case, the city would get additional affordable housing units at no city cost. Tauer felt that the mass was more important than the density, and it struck him that the structures in the original proposal were extremely large. He noted that the Parker's Lake project decreased the number of units to provide bigger units because of the market. Tauer said that mass was pushing the limits for this project, and he preferred Schneider's proposal. He also preferred the serpentine streets. He was not sure of an acceptable height for the structures, but would support something comparable to other homes in Minnetonka.

Tauer noted that the density in Breconwood I was lower. He agreed that internal circulation needed to improve. Tauer observed traffic on Groveland School Road on a Saturday morning for an hour. There were 23 cars going southbound and all but two were single occupants. There were five cars traveling northbound. He said that the numbers were low, and the neighborhood is quiet. Tauer did not believe that a project of 25 to 30 units would change the rating of the intersection by much.

Schneider moved, Thomas seconded a motion to extend the meeting past midnight until the item was completed. All voted "yes." Motion carried.

Anderson said that the site is appropriate for redevelopment, and a guide plan change would be needed to redevelop it for other than single-family homes. She felt that there had been changes since the last guide plan.

Anderson noted that she was on the original 1980 guide plan committee. That group recommended that some of this area be guided for medium density. They also reinforced the half-acre lot standard and made a conscious decision not to create a downtown area. The group felt that there were viable and important neighborhood and community commercial centers and wanted to ensure that they remained viable and strong. Anderson noted that those neighborhood centers worked against the identity of the community, because people said they lived in those areas, not Minnetonka, but that was how they saw themselves. Building a downtown area would have competed with Hopkins, Excelsior and Wayzata. Keeping the neighborhood centers and not building a downtown area would help everyone survive, and the city has maintained that course. In supporting the neighborhood commercial centers, the council has honored the residential areas around them and worked hard to avoid commercial creep. She noted that in the

CSAH 101/5 area, some single-family homes have become offices or commercial, but the city has required that the buildings retain their residential appearance. Anderson said that the city is working with the businesses in the CSAH 101/5 commercial area to keep them strong, and that represents a major change since the last guide plan. She noted the ugly parking lot behind the Great Harvest building. The businesses provided the impetus for discussions about the streetscape and that will bring a great improvement. Anderson noted that a proposal to redevelop the whole commercial strip was defeated a few years ago because it would have required a large subsidy from the city.

Anderson said that in the city's struggle to keep commercial areas from growing outward, transitional housing has been used as a tool. She thought that single family housing was no longer viable or desirable to buyers in that area. She noted that higher density projects often force improvements to areas. The adjacent commercial area is ripe for redevelopment. She doubted that the new structures would be single-story. She would not want to see big box stores in that area. She said that the transition area could help encourage better commercial development when that occurs.

Anderson supported a guide plan change. She had a problem with the proposed density due to the mass and hard surface coverage. She was intrigued by Schneider's plan providing a mix with 26 units, including four affordable units. She said that reducing the number of affordable units might improve the financial viability of the project. She liked the lower scale for the buildings and shift in positions of Schneider's plan, but said that she would not oppose three stories because of the potential for changes to the commercial area. She would support connection of the roads, but not as a straight throughway. She was concerned about the hard surface coverage and said she would not approve a project at the maximum coverage.

Anderson said that mixed housing works best. She would no longer approve any development in the city that is all affordable units, because it isolates those residents and calls attention to them. She said that the city is looking for scattered site affordable housing throughout the city, and that should be true for new developments as well. Under Schneider's plan, 15 percent of the units would be affordable and that would be acceptable.

Anderson asked that when the project returns for council discussion, that the packet address a construction management plan the neighbors could depend on and ask the city to enforce.

Anderson asked if staff had sufficient direction. Gunyou said that the input was helpful.

The council then selected August 11 as the date for the continued discussion of this item. Gunyou noted that July 14th would be too tight, especially for the neighbors to provide comments on changes. Allendorf will be excused on July 14, and Tauer will be excused on July 28th.

Wiersum moved, Allendorf seconded a motion to postpone action on items concerning The Sanctuary Third Addition plat at 3230 and 3306 Groveland School Road for Halley's Custom Homes, Incorporated, to August 11, 2003.

Anderson said that the intent was to continue the discussion to August 11th. Gunyou said that if that date changes, all the parties would be notified. Anderson asked that Blanchett be contacted on behalf of the saveminnetonka.com group. Anderson said that the neighbors cannot redesign the project, but information should be shared with them as quickly as possible.

Schneider generally agreed, but wanted an option for the applicant to come back sooner for informal feedback. Allendorf suggested that might set an expectation for the developer that the project would be approved if those suggestions were followed. He preferred that the applicant filter his questions through staff, and the council concurred.

All voted "yes." Motion carried.

15. APPOINTMENTS AND REAPPPOINTMENTS.

A. Appointment of Bruce Gefvert, 11610 Vista Drive, to the Minnetonka Park Board.

As noted in item #4 above, this item and item #15B were taken out of sequence, before item #14A.

Anderson noted that Gefvert was well-qualified for the park board, and would provide balanced ward representation.

Anderson moved, Callison seconded a motion to approve the appointment of Bruce Gefvert, 11610 Vista Drive, to the Minnetonka Park Board for a term effective June 23, 2003 and expiring January 31, 2004. All voted "yes." Motion carried

B. Appointments and Reappointments to the Minnetonka Senior Citizen Advisory Board as follows:

- 1) **Appointments:**
 - Vern Drilling, 13717 Bellevue Drive
 - Florence Dockendorf, 17801 Frommes Circle
 - Dave Griep, 12653 Sherwood Place
 - Naomi Stock, 5639 Pompano Drive
- 2) **Reappointments:**
 - Donna Bloom, 5324 Mayview Road
 - Marjorie Harn, 10411 Cedar Lake Road, #212
 - Bob Kelly, 5901 Covington Court
 - Joseph Steen, Jr., 14601 Atrium Way, #339

Anderson moved, Allendorf seconded a motion to approve the following appointments and reappointments to the Minnetonka Senior Advisory Board:

Reappointments

- That Donna Bloom, 5234 Mayview Road, be reappointed to the Senior Citizen Advisory Board for a term effective June 23, 2003 and expiring May 31, 2005.
- That Marjorie Harn, 10411 Cedar Lake Road, #212, be reappointed to the Senior Citizen Advisory Board for a term effective June 23, 2003 and expiring May 31, 2005.
- That Bob Kelly, 5901 Covington Court, be reappointed to the Senior Citizen Advisory Board for a term effective June 23, 2003 and expiring May 31, 2005.
- That Joseph Steen, Jr., 14601 Atrium Way, #339, be reappointed to the Senior Citizen Advisory Board for a term effective June 23, 2003 and expiring May 31, 2005.

Appointments

- That Florence Dockendorf, 17801 Frommes Circle, be appointed to the Senior Citizen Advisory Board for a term effective June 23, 2003 and expiring May 31, 2005.
- That Vern Drilling, 13717 Bellevue Drive, be appointed to the Senior Citizen Advisory Board for a term effective June 23, 2003 and expiring May 31, 2005.
- That Dave Griep, 12653 Sherwood Place, be appointed to the Senior Citizen Advisory Board for a term effective June 23, 2003 and expiring May 31, 2005.
- That Naomi Stock, 5639 Pompano Drive, be appointed to the Senior Citizen Advisory Board for a term effective June 23, 2003 and expiring May 31, 2005.

All voted "yes." Motion carried.

16. ADJOURNMENT.

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 12:07 a.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk