

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, July 14, 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 Brad Wiersum, Terry Schneider, Al Thomas, Jan Callison, Dick Allendorf, Ken Tauer, and Karen Anderson were present.

4. APPROVAL OF AGENDA.

Acting City Manager Geralyn Barone advised the council of two changes to the agenda. There was an additional letter for item #14A, CoPar, and the planning director recommended a change to one of the conditions, and added two new conditions. An additional letter was also provided for item #14D, Dolittle Drive.

Tauer moved, Callison seconded a motion to accept the agenda with the addendum. All voted "yes." Motion carried.

5. APPROVAL OF MINUTES.

Allendorf moved, Thomas seconded a motion to approve the minutes of the June 23, 2003 Minnetonka City Council meeting. Anderson said that she had made some small changes. Schneider asked for a change on page 31 to indicate that he could accept a three-story building. All voted "yes." Motion carried.

6. SPECIAL MATTERS: None

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

Barone reported on several items. The filings for the four ward council seats opened on July 1 and would remain open until July 15. There will be no council meeting on July 21, and the next regular council meeting will be held on July 28. The North Star Chapter of the Victorian Society will host a garden party at Burwell on July 20.

Barone also reminded the public of the city's Web site, eminnetonka.com, and told them how to subscribe to the city's electronic newsletter.

Anderson reported that she and Wiersum attended the grand opening of the city's newest park at Sunrise Ridge. She applauded that neighborhood's partnership with the city to create this innovative park. Wiersum said that it was great to see the city and residents work together on this project.

Callison, who had participated in the Policy Advisory Committee for the Southwest Rail Corridor, reported that the group had completed its task and was forwarding its recommendations to Hennepin County. She noted that Community Development Director Ron Rankin and LuAnn Tolliver also participated in the group. Among the group's recommendations were:

- Elimination of DMU (diesel).
- Elimination of an entrance at Lyndale Avenue in Minneapolis.
- Recommendation to look at a modified route for Hwy. 169 through Opus and the Golden Triangle area that might reach as far as the Eden Prairie mall.
- Left open a recommendation regarding a termination at I-494 and the use of the trail corridor. The group indicated that the trail corridor would be the least preferred option.

Anderson thanked Callison for her work on this project.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA.
None.

9. BIDS AND PURCHASES

A. Consideration of bid to replace Fire Department breathing air compressor.

Barone provided a brief introduction for this item, noting that the current equipment is 18 years old.

Allendorf asked how the bid could have been so much lower than the estimate of \$72,000. Barone said that staff researches pricing when budgets are prepared. It appeared that bids were favorable due to the economy. In response to Allendorf's question, she said that staff was confident that the bid would meet the city's requirements.

Anderson said that she would like staff to provide more information about the pricing, and noted that there had been a trade-in.

Allendorf moved, Wiersum seconded a motion to award the bid for a breathing air compressor to Alex Air Apparatus, Inc. in the amount of \$43,425. All voted "yes." Motion carried.

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

A. Claims for council authorization.

Tauer moved, Allendorf seconded a motion to approve the July 14, 2003 claims list, including checks numbered 175481 through 175882 totaling \$1,339,914.45. All voted "yes." Motion carried.

B. Resolution accepting plans and specifications and authorizing the advertisement for bids for the I-394 North Frontage Road Mill and Overlay Project No. 4355.

Tauer moved, Allendorf seconded a motion to adopt Resolution No. 2003-046 accepting plans and specifications and authorizing the advertisement for bids for the I-394 North Frontage Road Mill and Overlay Project No. 4355. All voted "yes." Motion carried.

C. Resolution receiving petition and authorizing preparation of a feasibility report for the closure of Stewart Lane.

Tauer moved, Allendorf seconded a motion to adopt Resolution 2003-047, receiving petition and authorizing the preparation of a feasibility report to consider the closure of Stewart Lane. All voted "yes." Motion carried.

D. Resolutions pertaining to levying the 2003 special assessments:

- 1) **Declaring costs.**
- 2) **Scheduling a public hearing at 6:30 p.m. on August 25, 2003.**

Tauer moved, Allendorf seconded a motion to adopt :

- 1) Resolution No. 2003-048 declaring costs for sewer and water projects to be specially assessed in 2003 and preparation of proposed assessment rolls.
- 2) Resolution No. 2003-049 declaring costs for nuisance abatement projects to be specially assessed in 2003 and preparation of proposed assessment rolls.

- 3) Resolution No. 2003-050 declaring costs for fire sprinkler system projects to be specially assessed in 2003 and preparation of proposed assessment rolls.
- 4) Resolution No. 2003-051 calling for a public hearing on August 25, 2003 at 6:30 p.m. on the proposed special assessments of sanitary sewer, water main, nuisance abatement, diseased tree removals, and fire sprinkler system projects.

All voted "yes." Motion carried.

E. Approval of Settlement for the Ridgedale Water Tower.

This item was pulled from the consent agenda by Thomas, who wanted to make sure the same contractor and paint was not being used for the new Williston Road water tower. Barone assured him that they were not.

Thomas moved, Allendorf seconded a motion to approve the settlement concept and direct the city attorney to prepare the settlement agreement. All voted "yes." Motion carried.

F. Resolution affirming the decision to join the regional radio system.

Anderson pulled this item from the consent agenda for additional information about the involvement of Homeland Security funds, and an explanation of how the grant would work.

Barone said that most of the grant money would come from Federal Homeland Security funds, but there would be some State contributions. The actual funding the city might receive would depend on how eligibility is defined, and the number of applicants.

Police Chief Joy Rikala said that the Minnesota Department of Public Safety has received \$13.5 million from the Federal Homeland Security funds. \$7.5 million of those funds will be dedicated to the seven county metropolitan area, and the remainder to Greater Minnesota. However, the infrastructure for the system is not ready in the out state area. Rikala reported that bonds and COP grants may help fund the 800 Mhz project.

Rikala said that Minnetonka's long-range plan was to build the tower in 2004 to 2005, and then replace the subscriber units in 2006 to 2007. The grant proceeds would not require a city match, so the city should apply for the funding. The actual proceeds will

depend on the number of applicants, and other factors such as if Chisago and Isanti counties will be considered to be in the metropolitan area. She said that the council resolution was needed for the application, which is due July 24.

Thomas asked if receiving a grant would decrease the city's scheduled CIP expenditure for this project. Rikala said that it would. The funds could contribute up to 50 percent of the cost to build the tower, and help replace subscriber units. Anderson asked Rikala to keep the council advised on the progress of the application.

Allendorf moved, Callison seconded a motion to adopt Resolution No. 2003-052, affirming the decision to join the regional radio system. All voted "yes." Motion carried.

G. Resolution authorizing the police department to enter into a grant agreement with the MN Department of Public Safety.

Tauer moved, Allendorf seconded a motion to adopt Resolution No. 2003-053 authorizing the police department to enter into a grant agreement with the MN Department of Public Safety. All voted "yes." Motion carried.

H. Resolution to approve a grant agreement with the Metropolitan Council to receive Livable Communities Act Local Housing Incentives Account funds.

Tauer moved, Allendorf seconded a motion to adopt Resolution No. 2003-054 approving a grant agreement with the Metropolitan Council to receive Livable Communities Act Local Housing Incentives Account funds. Wiersum, Schneider, Thomas, Allendorf, Tauer and Anderson voted "yes." Callison abstained. Motion carried.

I. Scheduling of Administrative Hearing Regarding Alleged Liquor Violations.

Tauer moved, Allendorf seconded a motion to schedule administrative hearings regarding the liquor licenses of Lund's Country Village and MGM Liquors as the last items of business for the city council meeting of August 25, 2003. All voted "yes." Motion carried.

11. CONSENT AGENDA (Items requiring Five Votes).

A. Preliminary approval of the Sunrise Farms plat, with a lot width at the right-of-way variance, for three lots at 4821 and 4813 Williston Road for John and Linda Paulson.

Allendorf moved, Tauer seconded a motion to give preliminary approval to the Sunrise Farms plat, date-stamped June 13, 2003, with a lot width at the right-of-way variance for Lot 3 from 80 feet to zero feet.

Approval is based on the following findings:

- 1) The proposal meets the required standards and ordinances for a preliminary plat.
- 2) The proposal meets the required standards for a lot width at the right-of-way variance in Section 300.10, Subdivision 5(h)(2)(b).

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer
 - b. Pay the city a park dedication fee of \$2,375.
 - c. If required, submit evidence of watershed district approval. The city may require revisions to the preliminary plat to meet the requirements of these agencies.
- 2) The following items must be completed before the city releases the final plat:
 - a. Submit title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before final city council approval.
 - b. Provide a private driveway easement between the street right-of-way and Lot 3 that is acceptable to the city attorney. The easement shall state the maintenance responsibilities of each owner. This easement shall extend 17 feet north and seven feet south of the driveway. The minimum driveway width

- shall be twenty feet, with curb and gutter on the sloped part of the driveway.
- c. Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants shall include the conditions below that have not been met as of the release of the plat. The covenants shall also state that it is the city's intent to not permit any more than two lots on Lot 1, if a future subdivision application is submitted. These covenants must first be submitted for the city attorney's approval.
 - d. All accessory buildings on Lots 2 and 3 must be removed, or a cash deposit must be made to the city ensuring the removal of the accessory buildings within a time frame agreed upon by staff.
 - e. If the developer is petitioning the city to construct the public water and sewer improvements, the city council must order the improvements.
- 4) The following must be completed before the city issues a grading permit or any site work is started:
- a. Final grading, drainage and erosion control plans must be submitted for staff approval. A turnaround must be provided at the top of the shared driveway to accommodate city utility vehicles, subject to the city engineer's approval.
 - b. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city.
 - c. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.
 - d. A construction management plan must be submitted for staff approval.
- 5) The following must be submitted to the city before the city issues a building permit:
- a. A grading and tree preservation plan for each lot, subject to staff approval.
 - b. A copy of the recorded plat and any easements or covenants required to be recorded.
 - d. A hookup fee for sanitary sewer and water.
 - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
- 6) Before the city makes a final inspection of the house on Lot 3, the drive must be paved from the street to the house on

- Lot 3. A driveway setback of at least seven feet must be maintained from the side lot lines. The city may approve a time extension if weather prevents paving of the drive.
- 7) No direct access to Williston Road is permitted for Lots 1 and 2, other than the shared private driveway access.
- 8) A new home on Lot 3 must be provided with a fire protection sprinklering system, subject to the fire marshal's approval.
- 9) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval shall be void.
- 10) Lot 1 may not be divided into more than 2 lots.
- 11) A paved, hammer-head turn-around must be located at the end of the driveway.

All voted "yes." Motion carried.

12. INTRODUCTION OF ORDINANCES.

A. Introduction of an ordinance rezoning 17710 Old Excelsior Boulevard from R-1, low density residential, to B-1, office, for Pandora Holdings, Inc.

Anderson provided a brief introduction to this item. Barone noted that the applicant proposes to operate a professional office in the existing building.

Tauer said that the use was appropriate given the building's close proximity to commercial uses.

Tauer moved, Wiersum seconded a motion to introduce an ordinance rezoning 17710 Old Excelsior Boulevard from R-1, low density residential, to B-1, office, for Pandora Holdings, Inc., and to refer it to the planning commission. All voted "yes." Motion carried.

13. PUBLIC HEARINGS.

A. Public hearing to consider a resolution to vacate parts of the undeveloped Hidden Valley Road right-of-way next to 4028 and 4036 Dublin Drive for Mary and Donald Hauff and Carolyn and Harlow Bomstad.

Planning Director Geoff Olson provided the introduction for this item.

Anderson opened the public hearing at 6:59 p.m.

Donald Hauff, 4028 Dublin Drive, spoke as one of the applicants. Anderson asked him if the past issue of children traveling on an informal trail continued. Hauff said that rarely occurred, but adults do infrequently use the informal trail as a connection to the trail system. Anderson said that she appreciates the informal trails, and said that without an easement, the city could not protect them. Hauff said it was not their intent to block that connection.

Tauer asked if there was interest from the council to retain an easement for the trail. There was not.

Anderson closed the public hearing at 7:03 p.m.

Callison moved, Allendorf seconded a motion to adopt Resolution No. 2003-055 vacating the public right-of-way, subject to the following conditions:

- 1) Reserving unto the City of Minnetonka, its successors and/or assigns, perpetual easements for drainage and for utility purposes over, under, across and upon all that part of said public right-of-way described above and now vacated; and
- 2) Recording an ingress/egress easement over the private driveway on 4036 Dublin Drive that connects the house at 4028 Dublin Drive with the public cul-de-sac for Dublin Drive.

All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. Items concerning a development of eight single-family homes at 3111 and 3150 County Road 101 and 3030 Groveland School Road for CoPar Development, LLC:

- 1) **Ordinance approving a rezoning from R-1, low-density residential, to PUD, planned unit development, with a master development plan.**
- 2) **Preliminary plat.**

Olson provided the staff report for the item.

In response to Allendorf's question, City Engineer Lee Gustafson explained that rain gardens are a depression in the ground in which deep-rooted vegetation is planted to promote the infiltration of water into the ground. Olson noted the demonstration rain garden at the new public works facility.

Callison asked about the trail easement. Olson said that Hennepin County had recommended seven additional feet of right-of-way for future widening of CSAH 101, and a 10-foot trail easement. These easements were not included in the plat, but had been added through the information in the addendum. This area would not be part of the CSAH 101 project scheduled to begin in 2005.

Callison asked if there could be future loss of trees in the conservation easement area. Olson said that was probable. He noted that the city tries to place trails to avoid tree loss, but the county favors straight lines. He said that staff would work to protect the trees.

Callison asked if the size of the pond would change if rain gardens were used. Olson said that rain gardens would eliminate the need for an off-site easement. The pond would still be needed, but it would not need to be expanded or deepened.

Tauer asked if lawn grass could be used for the vegetation in a rain garden, and asked about the impact of different soil types. Gustafson said that the city reviews a checklist to determine if a rain garden would be appropriate. Soil type is a factor, and hard clay soil does not expedite infiltration of water. Tauer said that rain gardens sound like a wonderful tool, but they do not work in all situations.

Schneider added that the Mosquito Control District is concerned about the proliferation of rain gardens because if they malfunction, they provide an ideal breeding habitat for mosquitoes. The Metropolitan GIS Policy Board is also cautious about rain gardens due to their labor intensive management requirements.

Wiersum asked what level of council approval would have been required if PUD was not used for this project. Olson said that the council would have been asked to approve the preliminary plat.

Tom Hanson, CoPar Development, spoke as the applicant. He noted that the area has very coarse soil that is primarily gravel and sand. It is expected that the rain gardens will work well in that soil. He noted that the depression on the site is a remnant from past gravel mining.

Callison said that this project has been overshadowed by The Sanctuary project. She said this project is as important as that project because the homes that will be built will be more expensive than the homes they replace, and the existing larger lots will be

lost. She said that the developer and staff worked to improve the placement of the homes which resulted in a better project than if the ordinance had been strictly followed. The PUD worked well because eight lots would have been allowed regardless, but those lots were now a better fit with the neighborhood.

Tauer said that some people still identify Minnetonka with large lots, and he noted that Minnetonka's minimum lot size is still the largest in the metropolitan areas among communities with water and sewer utilities. He appreciated staff's extra efforts to save trees.

Anderson agreed. She noted that very adequate buildable areas remain beyond the conservation areas. She asked what notice would be given to people who buy the lots. Olson said that the easements would be recorded on the title, and the developer will educate buyers.

Anderson asked if the council could face a future request to vacate the conservation easements. Olson said that it could. Peterson said that the decision would be that council's to make. She said that the homeowners association could also reference the conservation easement in their document to provide additional protection.

Anderson wanted the information on record that this council could not bind future councils. She hoped the conservation easements would be permanent, but could not guarantee that they would.

In response to Wiersum's question, Peterson said that inclusion of the conservation easement in the association's agreement would provide another safety net. Schneider said that the developer could take that step voluntarily, but he did not think it would be appropriate for the council to require it. Schneider noted that trees die out over time so the conservation easements should be flexible.

Schneider moved, Tauer seconded a motion to:

- 1) Adopt Ordinance No. 2003-17 approving a rezoning from R-1, low-density residential, to PUD, planned unit development, with a master development plan based on the following findings:
 - a. The rezoning would be consistent with the city's guide plan.
 - b. The rezoning would be consistent with the public health, safety, and welfare.

- c. The rezoning would save more significant trees than a plat meeting R-1 standards.

The rezoning is subject to the following conditions:

- a. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
- Preliminary Plat, dated April 21, 2003
 - Grading & Drainage Plan, dated April 21, 2003
 - Utility Plan, dated April 21, 2003
 - Street Plan, dated April 21, 2003
 - Conservation Easement Map, dated April 21, 2003
- The above plans are hereby adopted as the master development plan.
- 2) Give preliminary approval to the Groveland School Road Development plat dated April 21, 2003. Approval is based on the following findings:
- a. The proposal meets the required standards and ordinances for a preliminary plat.
- b. The proposal meets the required standards and ordinances for a planned unit development.

Approval is subject to the following conditions:

- a. Complete the following before final plat approval:
- (1) Show the following on the final plat:
- a) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street right-of-ways and at least seven-foot-wide drainage and utility easements along all other lot lines.
 - b) Utility easements over existing or proposed public utilities, as determined by the city engineer. This would include the following:
 - (i) A 20-foot wide easement centered over the storm sewer pipe that runs along the shared lot line for L
 - (ii) A 20-foot wide easement centered over the waterline that runs along the shared lot line
 - (iii) A 20-foot wide easement centered over the storm sewer pipe that runs from the street to the stormwater pond on Lot 1.
 - (iv) Drainage and utility easement of the stormwater retention pond drawn along the

951.9 elevation.

- c) Drainage and utility easements over storm water ponds, as determined by the city.
 - (2) Pay the city a park dedication fee of \$11,875.
 - (3) Submit evidence of watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
 - (4) If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- b. The following items must be submitted to the city before the city releases the final plat:
- (1) An engineering/utility inspection fee.
 - (2) An electronic CAD file of the final plat in micro-station or DXF.
 - (3) If the developer is constructing any public improvements, the developer must submit a signed agreement with city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
 - (4) The following documents for the city attorney's approval:
 - a) Title evidence that is acceptable to the city attorney. Title
 - b) Conservation easements over the areas identified on the plat on Lot 1 to ensure tree preservation over the trees on the west side of the stormwater pond. The
 - c) Provide restrictive covenants to be recorded against the improvements approval. These documents must be recorded with the final plat, and a drawing of any easements must be attached to the easement deed.
 - d) Provide a ten-foot-wide trail and utility easement along CSAH 101. This easement will not be included in the conservation easement.
 - (5) All delinquent taxes must be paid in full.

- c. The following must be completed before the city issues a grading permit or any site work is started:
- (1) A construction management plan must be submitted for staff approval. The plan must include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot. The plan is subject to review by the city's environmental resources coordinator.
 - (2) The items listed in the construction management plan must be installed and inspected by the city's environmental resources coordinator.
 - (3) Final grading, drainage, and erosion control plans must be submitted for staff approval. If the developer is building the streets and utilities, the developer must submit final street and utility plans for staff approval.
 - (4) Submittal of a landscape plan showing additional trees planted in the open area along County Road 101. The landscape plan shall be subject to review and approval by the city's environmental resources coordinator in landscaping this area.
 - (5) A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city. The city will not release the letter of credit or cash escrow until the developer sub
 - (6) Construction vehicles must not park on Groveland School Road during construction.
 - (7) Drainage and utility easement must be obtained on the property to the north to be utilized as part of the stormwater retention pond drawn along the 951.9 elevation. If the easement cannot be obtained, the applicant must submit a new grading drainage plan subject to review and approval of the city engineer. The revised plans must not cause the removal of any additional trees within the proposed conservation areas.
- d. The following must be submitted to the city before the city issues a building permit:
- (1) A grading and tree preservation plan for each lot subject to staff approval. A drainage plan may also be required if the developer decides

- to store water from each lot in on-lot rain gardens, versus the public pond for the project.
- (2) The installation and maintenance of a temporary rock driveway, erosion control, tree protection fencing for each lot must be installed, subject to review and approval of the city's environmental resources coordinator.
- (3) A copy of the recorded plat and any easements, covenants, and any other homeowners' document required to be recorded for the development.
- (4) All required hookup fees for sewer and water.
- (5) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
- e. All structures must meet the minimum setback and height requirements. Lowest floor elevation of all of the homes must be 955.7.
- f. The floor area ratio and hard surface coverage each may not exceed 50% of the site area.
- g. The conservation easements must be maintained in accordance with a conservation plan approved by the city.
- h. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- i. Existing driveways off County Road 101 and Groveland School Road must be removed, and seeded or sodded.
- j. All existing structures must be removed from the site.
- k. Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must be responsible for their maintenance.
- l. The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval will be void.
- m. If rain gardens are required by the city engineer for individual lots, the property owners are responsible for their maintenance. The rain gardens may not be filled or their integrity compromised.

All voted "yes." Motion carried.

Anderson noted the additional letter in the addendum.

B. Resolution approving a conditional use permit to install a wireless antenna tower on the Cargill campus at 15407 McGinty Road West for AT &T Wireless Services.

Olson provided the staff report for this item.

Anderson asked if council action would have been required if the requested tower had been 75 feet. Olson said that all towers require council action, and the 90 foot height also required council action.

Callison asked if options had been considered for an 80 or 85 foot tower to minimize the visual impacts. Olson responded that the radio frequency expert's testimony at the planning commission meeting indicated that the quality of the signal would decrease with a lower height. Also, an 80 foot tower would have ruled out a second tenant on the tower. The planning commission felt there should be space for an additional tenant to decrease the likelihood of an application for an additional tower in that area.

Callison asked if a second tenant could be forced to use the 75 foot height. Olson said that the ordinance requires antennas to be placed on the best suited location, but they can't put an antenna where it is not technically viable. He noted that the trees in that area had reached their mature height. Given the line of sight, Olson was not certain if a 75-foot tower would work.

Callison asked if the height of the tower could be extended at a later date. Olson said that he recalled that question arising during the discussion of the tower at CSAH 5/101, and the answer was that the tower would have to be taken down and rebuilt.

Schneider noted that Cargill was seeking in-building coverage for their facilities. Callison said that she was not certain that a lower tower could not meet the in-building coverage needs, and said that there would be gaps under either option. Olson said that the city's radio frequency consultant had indicated that there would be less than adequate in-building coverage for Cargill with a lower tower. A lower tower would not give them the desired quality of signal, nor would it eliminate coverage gaps. Anderson noted the distance between Cargill's buildings.

Anderson thanked Callison for pushing the issue. She hoped that in the future staff would look not just at 75 or 90 foot high towers, but also look at heights in between. The desired goal would be to get the desired coverage and stay within minimum heights. She noted that the city's experience has been that providers do not like to share towers, and she hoped that staff would push that issue, too.

Wiersum asked if there were other wireless providers in that area, and how many providers the city was required to accommodate. Olson said that staff first explored other towers in that area with the applicant. There were none. Antennas are a bit different from other conditional uses that are usually related to zoning because FCC regulations obligate cities to provide adequate coverage.

Schneider asked the council to be mindful that the wireless industry is reaching the end of the cycle of filling gaps. The next round will be to provide increased capacity to meet user demands.

Mark Holm of American Tower, spoke on behalf of the applicant. The subject tower was one of the shortest towers he had been involved with; the norm is much higher towers. He said that a 90 foot tower was required to meet Cargill's in-building needs and to provide coverage to consumers in the residential area. The nearest tower was on the Wayzata water tower. It was only feasible to provide for two users on the new tower. Holm said that the cost benefit ratio would not justify additional users. Holm noted the benefits of wireless service.

Anderson was pleased that Minnetonka's towers are among the smallest around. Holm said that Minnetonka's towers were more typical of those seen on the west coast and the southeast area of the country.

In response to Anderson's question, Holm said he had been involved with this tower since the beginning. He said that Cargill is the largest privately held corporation, and AT & T is the second largest wireless provider. He noted that the original site was found to be too close to the creek so they changed to a different location that still provided adequate coverage.

Anderson said that she had concerns with the first location because it would have spoiled the aesthetic view from the creek. She appreciated staff pushing the application to look for other sites. She appreciated that Cargill placed the tower in the midst of their

buildings, and thought that was appropriate since they would benefit from it. She supported the application.

Wiersum asked how tall the tower would need to be to accommodate three or four users. Holm estimated that the tower would need to be 105 to 120 feet tall.

Anderson had written a letter in opposition to the tower based on the original location. She noted that the part of the creek that would have been disturbed was the only wilderness-like view along the creek. She would have had trouble approving something that would ruin that view shed. With the new location, there would be a limited view of the tower.

There were no public comments.

Schneider moved, Tauer seconded a motion to adopt Resolution No. 2003-056 approving a conditional use permit to install a 90-foot high, wireless antenna tower and associated equipment on the Cargill campus at 15407 McGinty Road West for AT & T Wireless Services.

Approval is based on the following findings:

- 1) The proposal meets the conditional use permit standards.
- 2) The proposed 90-foot tower height is justified. The tower would have minimal impact on surrounding properties given its proximity, topography, and screening by trees.
- 3) The central location of the tower is the least visually obtrusive of the three locations considered.

Approval is subject to the following conditions:

- 1) Prior to release of this resolution, submit for staff review and approval a revised site plan minimizing tree impact in the siting of equipment associated with the telecommunications tower.
- 2) The site must be developed and maintained in substantial conformance with the plans dated March 28, 2003.
- 3) Exterior surface of the antenna and equipment must be painted a non-contrast color consistent with the surrounding area such as blue, gray, brown, or silver.
- 4) Record this resolution with the county.
- 5) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 6) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

7) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

Callison said that even though the impact to the view along the creek had been reduced, the tower would still be visible from the headwaters area, which is where that sense of open space and wilderness begins. She had looked for alternatives to meet Cargill's needs while reducing the visual impacts. Anderson said that the tower would be painted a color to make it blend better with its surroundings.

Tauer said that cellular towers are a reality. He said that this site was well-planned, and the tower would not be very visible from the creek. He thinks demand for wireless antennas will increase.

Anderson said that she would be hard-pressed to approve another cellular tower in that area.

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

Olson provided the background information for this item.

Timothy Uzzell, 14400 Woodhaven Road, spoke as the applicant. He purchased the property in 1999, and remodeled the home. He had hoped to recover some of his expenses through the sale of the new lot. He is a builder and intended to build a home for himself on the new lot, and sell his current home.

Uzzell said that the lot to the north of him is flat. He did not feel the lot division would change the integrity of the neighborhood or that others would try to create additional lots in that area because the cost of the properties would not justify it. The lot division would not adversely affect trees. The new home would be built in the vicinity of the old barn. In response to Anderson's question, Uzzell said that he intended to provide access to the new lot from Woodhaven Road.

Tauer said that he would support the subdivision. As a member of the subdivision task force, he recalled that the city attorney had told them that they would not have had to allow for lots behind lots. However, the task force chose to allow for them but required greater setbacks. Tauer said that Minnetonka requires fewer streets because it allows houses behind houses. He did not perceive that

granting this request would create a precedent because the lot would be in character with the neighborhood. He said that only one variance would be required for this lot, and the lot division was consistent with past approvals.

Schneider said that he had not been on the subdivision task force, but had been on the zoning ordinance task force in 1984 to 1985 with Anderson. The issue of lots behind lots was debated at that time. That task force provided for them if they complied with certain criteria. He felt that was the right decision at that time, and said that the community has benefited. Schneider said that this particular lot was as ideal as any because it did not require fill and trees would not be adversely affected. He said that to deny the request would be changing the direction, and suggested that if that were the case, the change should be accomplished by changing the ordinance.

Schneider's bigger concern was how to deny the request. He said that the two reasons in the resolution said that the lot was not in character with the neighborhood and would set a precedent for other divisions. He suggested that would go against the council's position for the Meeting Street area. That area argued that their lots were larger, and the council decided that a minimum lot standard of more than one-half acre was not appropriate. Schneider said that this lot was inappropriate for denial without wetland fill, tree removal, or a home immediately next to it.

Callison said that she would not support the lot division. Referring to the subdivision task force, she said that houses behind houses were kept as a discussion item but not as something that would always be approved. She said that this lot would be out of character with the neighborhood. She noted a lot behind a lot on Excelsior Boulevard where the new home overshadows the old home without separation. She questioned why that lot was approved, and said that this lot strikes her the same. She said that the Uzzell's lot is open and stark, and a large home would be very visible. The new lot would not be a benefit to that area or the city. Callison said that she would have difficulty changing the ordinance because each situation requires discussion and the application of judgment. She said that the new lot would be a mistake for the neighborhood, and the neighborhood needs to be saved and protected.

Allendorf had not served on either task force, nor had he been on Woodhaven Road before. He noted that the street has a special feeling of Minnetonka. He asked staff to explain the extent of the area for which a possible precedent could be set with this lot. Olson explained the two areas on Orchard Road that could potentially

divide. Allendorf said that this is a unique area that has a character of its own. He would hate to see all of the larger lots divide as lots behind lots because of this request and felt that would create a substantial change in the character of that neighborhood.

Thomas agreed with Callison and Allendorf. He thought the neighborhood represented the character of Minnetonka, and approving the lot split would change that neighborhood's character in a negative way. He would also be concerned about setting precedent for future lot divisions in that area.

Wiersum said that Tauer and Schneider made valid points. He rides bike on the street and would not like to see a subdivision appearance that would change the character of the neighborhood. He is a big believer in keeping the character of neighborhoods because people buy their homes with an expectation that their property will remain somewhat similar in nature and feel to what they bought. While he was sympathetic to the applicant, he felt that the lot split would bring too great a change to the character of the neighborhood.

Anderson agreed. She noted that the zoning ordinance committee made the decision to stay with the one-half acre lot minimum. She said that earlier lot split requests were easier—those lots were obvious and compatible with those neighborhoods. Current requests are tougher. She agreed with Callison that granting lot divisions was discretionary and not a right. She said that the council should continue discussing these requests. In 30 or 40 years, if the homes in this neighborhood deteriorate, a development such as CoPar would likely be proposed. She felt that this lot was a lynch pin lot and that granting the request could set up a domino effect. She did not want to be part of that. She supported denial for the reasons stated in the staff report, and said that the council needed to keep its discretionary ability.

Callison moved, Thomas seconded a motion to deny preliminary approval to the plat, with variance, based on the following findings:

- 1) The proposal is not consistent with neighborhood character.
- 2) Approval of the proposed plat may set a precedent for future lot divisions and/or lot division requests with variances in the Woodhaven Road/Orchard Road area.

Wiersum, Thomas, Callison, Allendorf and Anderson voted "yes." Schneider and Tauer voted "no." Motion carried.

Sharon Nelson, 14324 Woodhaven Road, said that she was a neighbor to the Uzzell property. She said that construction debris has been an issue. She applauded the council's decision. Tauer asked staff to check on the nuisance issues.

D. Consideration of request for temporary drainage improvements in the Dolittle Drive/Plymouth Road area.

Gustafson gave the staff report for this item.

Allendorf asked if the city would be liable if it oversaw a contractor working on the interim solution requested by the neighbors. City Attorney Peterson said that the city would be liable for engineering or construction mistakes, but not for the council's discretionary decision.

Allendorf asked if the neighbor's solution would solve the problem for two years. Gustafson said that the temporary solution would allow for the pond level to drop by about one foot, but would not drain the pond completely. Allendorf said that the question was then whether or not the council would authorize spending about \$10,000 for a throw away solution.

Thomas said that a one foot drop in the level was not a great deal and likened it to putting a finger in a dike. Gustafson said that he had some concerns, but that after talking to the neighbors, it sounded like a one foot drop in the pond level would be acceptable to them.

Anderson asked if the CIP project solution would lower the pond level even more. Gustafson said that would be difficult to answer without the usual survey information. He said that the pond would always retain some water for water quality and rate control purposes.

Tauer noted that a 42" diameter pipe was proposed, and asked what else the CIP project would have accomplished. Gustafson said that a 42" pipe or an equivalency was called for in the water resources management plan. A much larger area drains to the pond. The plan does not call for the pond to be totally drained. The area is quite flat, and a 42" pipe would assume that the road would be raised somewhat.

In response to Schneider's question, Gustafson estimated the cost of the CIP project at \$200,000. Schneider asked if the neighboring properties had petitioned for the CIP project. Gustafson said that

they had. Schneider said that as petitioners, they would be required to donate the necessary easements.

Callison said that the drainage problem has been apparent for some time, and a project is in the 2005 CIP. She asked if the problem was worse now because someone was living in the house or if the situation had gotten worse. Gustafson responded that it was not and said that the high water levels are related to the significant amount of rain that has fallen this year and last fall.

Joe Haley, 12807 Dolittle Drive, said that the problem has worsened, and the pond is high 10 months of the year. He said that the problem might be worse due to the new house. He felt that the short term solution would only cost \$6,000 to \$7,000. He questioned spending money for the CIP project if water would remain in the pond. He was willing to contribute financially to the short term fix. He said that a metal culvert could be used so that the road would not buckle, and the project could be completed in one day. He suggested that the short term project be completed with him sharing the cost, and the CIP project delayed.

Anderson said that Haley's points were good. She would only agree to a solution that would allow the water retention to continue and would not allow a solution that drained the property completely. Haley said that was not his intent. A creek would direct the water to a culvert.

Peterson referenced a letter regarding liability issues. She did not see any liability for the city for allowing the current conditions to remain. She noted that there are ponds throughout the city and they are not attractive nuisances. Anderson added that during the previous discussion of this item, she cautioned parents to watch their children around wetland areas.

Callison viewed Haley's proposal as a temporary solution that would not replace the CIP project. Gustafson said that the temporary solution might allow a delay in the permanent solution. When the street reconstruction project is done, the permanent storm sewer solution could be done. Gustafson would typically recommend that the permanent solution be done with the street reconstruction. He noted that petitioners do withdraw their requests for projects.

Wiersum asked if a building permit would be issued for Haley's lot in its present condition. Gustafson said that it would have been

issued. He noted that at the time of the lot division, the lot was determined to be able to withstand a 100-year event.

Tauer recalled the night the lot division was approved, and that the water was standing to the road at that time. He had not wanted to approve the lot. He noted that the applicant wanted to use more fill, but the council did not allow that.

Haley said that he was not part of the original request for the lot division. When he purchased the property, he was told that water would be high one or two months of the year.

Phyllis Stellmakers, 3813 Plymouth Road, said that she had never seen the pond without tufts of grass showing. Now the pond is four feet from Haley's door, and he has two small children. Stellmakers asked about the impact to her frontage with the CIP scenario. Anderson said that would be hard to answer without a feasibility report. Gustafson said that a pipe would help the water recede more quickly.

Joanne Olson, 12800 Melody Lane, has lived in the neighborhood for ten years. At times in the past, the water would go over the road and recede, but it does not recede now. She said that the situation has changed. Anderson said that the whole city is saturated from the rain. Olson said that there would be a benefit in reducing the stench, and the garbage from the overflow water. Anderson said that the issue was who should pay for the solution, and how many times.

Allendorf said that the issue of liability and whether the solution would work were central to his view. If the temporary solution would work, he would support contributing to the project until the permanent solution was done, regardless of the cause of the problem.

Schneider asked when Plymouth Road would be reconstructed. Gustafson was not sure, but thought the project would occur in five to ten years. Schneider preferred to time the permanent solution with the road reconstruction. He said that the temporary solution might avoid a rush to the permanent solution.

Wiersum said that the neighbors do have a significant problem, and they have been persistent in bringing the issue to the city council. He supported continuing to work toward the permanent solution, but could support a modest expenditure if staff was satisfied that the temporary solution would work and bring a reasonable level of

satisfaction. He suggested that the applicants contribute to the cost of the short-term solution.

Tauer said that he regretted approving the lot division, and thought that he would not support a temporary solution. However, because Haley had not been part of the lot division and was a victim of what happened, Tauer said he could support the temporary solution. He said that the short-term project could buy time for an appropriate solution.

Wiersum said that he would not like to do two projects, and there is a project proposed for 2005. The applicants say that is too far away. He said that the real question was if the temporary solution would help and how much participation the applicants would have in the costs.

Callison said that the situation evokes sympathy. She questioned the city's responsibility. She did not agree that the city had accepted responsibility for the situation, and she was not sure who was responsible. The only way she could support the temporary solution would be with participation in the costs from the applicant.

Anderson said that she was leaning the same way. She noted that the council had talked about precedent with respect to earlier items. She said that there was no precedent for this type of situation. In this case, the neighbors presented their own solution to an engineering problem. She urged caution proceeding with a temporary solution for a water project that the city knows needs to be done. She asked if there were any similar past situations. Gustafson said that he could not think of any. In this case, there was no potential for structural flooding. Anderson asked if there were projects with similar street flooding, and Gustafson said that was a possibility for any project. Gustafson noted that he was purely guessing on the date for the street reconstruction project.

Schneider viewed it as coming up with a simple solution to address the current problem, different from the project planned. He said that has been done before, and cited an example on Baker Road where there was a ravine. He agreed that because the project would be taken out of sequence, the resident would need some participation. He suggested dividing the cost by responsibility, with the city doing the work, and the neighborhood taking care of the restoration, including plantings and seed.

Peterson urged the council to list the factors about this project that they perceive to be different and distinct from others. She did not

see the issue as one of legal precedent but rather moral obligation. This circumstance was not like a land issue with property rights.

Allendorf moved, Tauer seconded a motion to give direction to staff to negotiate with the neighbors on the temporary solution to assure that the work was done to staff's satisfaction and with a financial split agreeable to staff and the neighbors.

Callison asked for a list of reasons to support the motion.

Schneider said that there were compelling reasons that make this project different from others including the timing between the permanent solution and the road reconstruction. He also noted that there are safety issues, particularly in the spring when water overflowing the road could freeze on the road surface. The temporary solution would allow the city fiscal flexibility to tie the permanent solution to the road reconstruction.

Thomas noted that there would be monetary contributions from the residents.

Anderson was concerned about referring to general safety, and preferred to reference traffic safety. She suggested that more reasons would be needed because those cited had not made the project unique enough. She said that this issue did not involve flooding of basements or homes.

Tauer said that two of the neighbors were willing to provide the easements, so there was not an issue about public easements.

Allendorf asked if the item would return to council for approval of the financial arrangement. He suggested that staff use the minutes to draft the reasons to support the project.

Wiersum suggested that the motion also continue the item to the next council meeting to allow staff to capture the issues and provide a document to which the council could react. Anderson said that the motion should be amended.

Schneider suggested directing staff to work out the issue and bring the item back to the council.

Peterson said that the original motion did not include the item returning to the council. She said that the person who moved the item and the person who seconded it should clarify their intent.

Allendorf said that he assumed the item would return to the council as an expenditure of money with a list of articulated reasons to support it.

Peterson noted that the city manager can authorize purchases up to \$25,000. Allendorf saw this as a bigger issue that the council should approve.

Allendorf and Tauer accepted an amendment to the motion to direct staff to bring the negotiated agreement to the council for approval.

Callison said that this situation was different from others because the city was already recommending a project in the Capital Improvements Program to address this issue, and had acknowledged the problem.

All voted "yes" on the amended motion. Motion carried.

E. Request to rescind the denial of a preliminary plat for a two-lot subdivision, with lot area and depth variances, at 4750 Dominick Drive for Christopher J. Sirianni.

Christopher and Tanya Sirianni addressed the council as the applicants for this item. They apologized for their absence at the previous meeting. They felt that they could add clarity to the flag lot discussion and address the issue of purchasing additional property from the neighbor. They also wanted to talk about affordable housing. They hoped that the council would rescind its previous vote.

Peterson clarified that the Sirianni's could make their presentation without the council taking any action. Anderson said that she would not rescind her vote until she was convinced that she had acted in error.

Mrs. Sirianni said that they had purchased and remodeled their home, which was an abandoned HUD house. She said that they considered the impact of their request on the children in the neighborhood.

Mr. Sirianni said that they had considered purchasing the property to the north to bring their new lot closer to 22,000 square feet in size, and they remained open to that idea. They thought that their proposed size was closer to other lots in the area so it would be more in keeping with the character of the neighborhood and would also retain the open backyards to the north. He said that their

proposal also protected significant trees and addressed environmental concerns. He said that four variances would be required if they combined their property with the lot to the north, and 12 mature trees would be lost. He noted that the land to the north also falls within a storm water retention area.

Mrs. Sirianni said that taking the land to the north would not benefit the neighborhood.

Mr. Sirianni raised the issue of precedence for flag lots. He had never heard about the precedent issue and was surprised by it. He did not think their lot split would set precedent because they could provide direct access onto Dominick Way. He said that part of the lot to the north was part of the 100-year floodplain, so it was not buildable.

Allendorf said that he had based his previous position on erroneous information. He thought that the four lots to the north could be divided into 14 lots. He has since learned that there was only the possibility of three additional lots.

Callison referred to the map of the storm water retention area on page 419 of the packet, and asked why it would be acceptable to build in that area for the Sirianni's but not for the lot to the north. Mrs. Sirianni said that they would be able to maintain their storm water retention area through grading that would enhance the volume. She said that there would be some fill but there was not standing water in their back lot area.

Mrs. Sirianni said that they did not want to create a flag lot. They only requested a variance as to the lot size. She said that there were no flag lots in the neighborhood, and they would object to them. She also noted that there was considerable distance between their house and the site for the proposed new house. The Sirianni's noted people's comments that it appears that there is a house missing where the new lot would be.

Mrs. Sirianni noted the median size for other lots in the area. She said that their lot division would not result in their lots being the smallest in the area, rather they would be near the median.

Mrs. Sirianni said that they considered open space preservation as they drafted their plan. People dump in their back lot because it looks abandoned. She thought that the new lot would be in harmony with the neighborhood. The new lot would not require new streets or any road changes. They have received general support

for the lot division from the neighbors. She said that staff and the planning commission agreed that the new lot would be a natural complement to the neighborhood.

Mrs. Sirianni said that they chose to make the new lot smaller to encourage modest homes in keeping with those in the area. They were interested in keeping the new house at a reasonable price range, and had been pursuing affordable housing programs, such as WHAHLT. Callison clarified that Sirianni had not met with WHAHLT. Rankin said that he had met with the Siriannis to explain affordable housing to them. Anderson clarified that there had been no discussions with WHAHLT, so there was no conflict of interest for Callison. Sirianni said that they planned to move forward toward making the new home affordable.

In response to Anderson's question, Mrs. Sirianni said that they intended to remain in their existing home, and sell the new lot for an affordable home. She said that would create the opportunity for two affordable homes in that neighborhood.

Tauer noted Schneider's comment at the last meeting about the possibility of purchasing part of the property to the north to increase the lot size. Tauer said that he would not be inclined to approve this request unless the lot to the north was involved to ensure that there would not be an additional lot split request for that property. He was also concerned about the storm water retention area. His opposition of the request had to do with the size of the land, and not with the issue of lots behind lots.

Anderson, noting the storm water retention area, said that there would be no buildable area on the lot. She said that 14,000 square foot lots would be almost one-half of the standard lot size. She said that a larger depression would be needed between the existing home and the new home. She saw a benefit in restricting the options for a future lot division for the property to the north, and said that would address not only the precedent issue, but also the area for replacement excavation. She noted that placing homes close to water storage areas can have unintended consequences.

Wiersum said that the proposed lots would be well below the standard lot size and the median lot size in that neighborhood. He saw that as a powerful argument against the lot division. He noted the potential for water issues, and said that was a big concern. He had trouble seeing any reason to change his previous vote.

Schneider said that he had visited the site, but had not walked through the property to the north. In response to Schneider's question, Mr. Sirianni said that most of the trees in the new lot were box elders, not oaks.

Schneider said that he was looking for ways to get the lots closer to the norm. An option that could be explored was allowing the mitigation to occur in the upland area at the back of the lot to the north. This would keep the storm water storage further from the homes. He was inclined to stand by the denial of the lot division, and allow the applicant to redo the application after looking at other options.

Callison referred to the discussions from previous items on rain gardens, neighborhood character, and affordable housing. She noted that affordable housing is a strong goal of the city, but affordable housing will likely require smaller lots. She was concerned about the water storage and did not want to create a situation where there would be water ponding outside someone's door.

Gustafson cautioned that this area is different from Dolittle Drive, or the CoPar project. The water retention area near this property is very large. He noted that all of the retention area had not been shaded on the map. He said that a study would be needed to respond to the water issues for this project.

Allendorf said that he had re-read the reasons the council stated for denying this lot division at the previous meeting. He noted that the main basis for his denial vote at that time had changed when he clarified the number of potential properties that could use this lot division for precedent. He said that a new home that meets affordable housing goals and size would not be out of character with the neighborhood, even if the other three properties changed. He was concerned about the water retention issue.

Tauer said that the only way he would approve the request was if the back third of the lot to the north were restricted to address the storm water retention issue.

Wiersum said that if a portion of the lot to the north were acquired, the resulting lots would be in the 18,900 square foot range, which would be much closer to the 22,000 square foot standard and would still allow an area for play. He said that would be more appealing. He was concerned about the density level with a lot of 14,000 square feet.

Anderson said that the potential precedent would not be for a flag lot but for a very small lot. She was also concerned about the storm water retention area.

Schneider said that he would have supported the lot division if the lots had been flat and there were no storm water mitigation issue. He thought that the lot would fit the neighborhood. He would maintain the denial and encourage the applicant to revise the plan with flexibility as to the location of the new home, and using the upland for potential mitigation to eliminate the need for excavation. He said that would accomplish the goals.

Anderson said that staff's recommendation was to reaffirm the denial, or rescind that action. She suggested that the applicant consider the small lot size, and said that the council would want assurances that the affordable housing unit would remain affordable.

Callison asked if staff could explore other options for storm water retention if the matter were postponed. Gustafson said that there were not enough alternatives to avoid creating another situation like Dolittle Drive. He said that it would require quite a bit of creativity.

Tauer moved, Wiersum seconded a motion to reaffirm the previous denial of the Sirianni Addition, date-stamped February 26, 2003, 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.

Callison suggested amending the motion to reference the storm water retention issue. Anderson also suggested a reference to the precedent regarding the lot size. Schneider suggested that the precedent refer to the lot being below the median size in the neighborhood, and that it refer to the amount of storm water mitigation that would be needed near the home.

Tauer and Wiersum accepted the amendment to the motion so the findings would read:

- 1) There was additional lot area that could be acquired to the north that would have reduced the size of the variance.

- 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.
- 3) The lot would be too small to allow adequate setbacks for the proposed ponding area.

Allendorf suggested that Gustafson review the minutes and meet with the Siriannis to pursue any possible alternatives.

Mr. Sirianni said that they had discussed the storm water options with staff, and followed the direction they were given.

Instead of staff creating alternatives for the storm water retention, Schneider suggested that the Siriannis talk with the neighbor to the north about the possibilities for acquisition, and retain a civil engineer to prepare a plan for staff to review.

Allendorf agreed, and said that he wanted to leave the lines of communication open.

Callison was confused about the storm water retention. She had heard conflicting comments about the similarities to the Dolittle Drive area. Gustafson said that there was the potential for this project to have problems similar to Dolittle Drive. There were unknowns, such as the soil type, and without that information, there was no way to determine how things would work. He said that much more analysis would be needed.

Anderson said that if the lot could expand to the north, expanded options might be available.

Tauer said that the circumstances were different.

All voted "yes." Motion carried.

15. APPOINTMENTS AND REAPPPOINTMENTS. - None

16. ADJOURNMENT.

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 10:37 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew
City Clerk