

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, SEPTEMBER 15, 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.**

Assistant City Manager Geralyn Barone 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.**

City Manager John Gunyou reviewed the addendum. There was a revision to clarify the dates of approval for item #10K, a banner for Minnetonka High School. Additional e-mails and calls had been received since the packet was distributed regarding item #14A, the Sanctuary. There were several amendments to the staff report regarding item #14B, Meadowwoods.

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

**5. APPROVAL OF MINUTES.**

Callison moved, Thomas seconded a motion to approve the minutes of the August 25, 2003 regular council meeting. Wiersum, Schneider, Thomas, Callison, Allendorf and Anderson voted "yes." Tauer abstained. Motion carried.

Tauer moved, Allendorf seconded a motion to approve the minutes of the September 11, 2003 special council meeting. Tauer, Schneider, Thomas, Callison, Allendorf and Anderson voted "yes." Wiersum abstained. Motion carried.

**6. SPECIAL MATTERS:**

**A. Proclamation declaring September 16, 2003 Opportunity Partners Day.**

Tauer read a proclamation proclaiming September 16, 2003 as Opportunity Partners Day. Mary Luecker of Opportunity Partners thanked the city council for the proclamation on behalf of their board of directors and clients, and invited the council to their events. Anderson said they are a strong part of the community and wished them the best in their next 50 years.

**7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.**

Gunyou provided a recap of the Special Drop-off, and noted that there was higher than normal use. Gunyou reported that the September 22 study session had been cancelled, and the city council's next regular meeting would be held on September 29.

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

**9. BIDS AND PURCHASES:**

**A. Consideration of bids for the Park Renewal project at Meadow Park.**

Gunyou introduced the item, and recommended approval.

Callison moved, Thomas seconded a motion to award the bid for the park renewal project at Meadow Park to Odesa Construction, Inc., in the amount of \$485,797,42. 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 September 15, 2003 claims list, including checks numbered 176866 through 177216 totaling \$1,006,385.43. All voted "yes." Motion carried.

**B. Final approval of the GROVELAND PLACE plat at 3111 and 3051 County Road 101 & 3030 Groveland School Road for Co-Par Development.**

Tauer moved, Allendorf seconded a motion to approve the GROVELAND PLACE final plat that was received on July 21, 2003, subject to the following conditions:

- 1) Compliance with all preliminary plat conditions, especially the specific conditions for release of the plat; and
- 2) Unless the city council approves a time extension, the final plat must be recorded within one year of council approval of the final plat.

All voted "yes." Motion carried.

**C. Designation of voting and alternate voting delegates for the annual Congress of Cities conference.**

Tauer moved, Allendorf seconded a motion to designate Mayor Karen Anderson and Council Member Dick Allendorf as voting delegates for the annual Congress of Cities conference, and Council Member Jan Callison as the alternate voting delegate. All voted "yes." Motion carried.

**D. Authorization of 2003-2004 workers' compensation coverage.**

Tauer moved, Allendorf seconded a motion to authorize the renewal of the workers' compensation coverage for 2003-2004 as outlined by staff. All voted "yes." Motion carried.

**E. Resolution adopting the Minnetonka City Council's meeting schedule for 2004.**

Tauer moved, Allendorf seconded a motion to adopt Resolution No. 2003-079 adopting the Minnetonka City Council's meeting schedule for 2004. All voted "yes." Motion carried.

**F. Review of Park Renewal Master Plan for Libbs Lake Beach.**

Anderson pulled this item and item #10G from the consent agenda, noting that many people had been involved in the planning process. She asked that the concept plans be displayed. Recreation Program Manager Perry Vetter reviewed the plans for the beach. Anderson said that the plan was very responsive to the neighbors' comments.

Callison moved, Tauer seconded a motion to direct staff to complete Phase 1 of the Park Renewal Master Plan for Libbs Lake Beach. All voted "yes." Motion carried.

**G. Review of Park Renewal Master Plan for McKenzie Park.**

Anderson noted that citizen participation was good for this park as well. Vetter reviewed the plan.

Anderson asked if the concerns of a neighbor had been addressed. Vetter said that staff had responded and will also meet with the neighbor.

Tauer said that other paved rink are sometimes used as basketball courts, and asked what the plans were for this one. Vetter said that it is used for in-line skating during the summer, and would be a location for the portable skateboard ramp.

Anderson invited public comments, and there were none.

Allendorf moved, Wiersum seconded a motion to direct staff to complete Phase 1 of the Park Renewal Master Plan for McKenzie Park. All voted "yes." Motion carried.

**H. Resolution stating the position of the City of Minnetonka regarding law enforcement responsibilities on Lake Minnetonka.**

Tauer moved, Allendorf seconded a motion to adopt Resolution No. 2003-080 stating the position of the City of Minnetonka regarding law enforcement responsibilities on Lake Minnetonka. All voted "yes." Motion carried.

**I. Items pertaining to the Carlson Parkway/Cheshire Parkway Traffic Signal Project No. 4901 and the Cedar Lake Road/Hopkins North Junior High Traffic Signal Project No. 4899.**

- 1) **Approval of cost sharing agreement with Carlson Real Estate Company.**
- 2) **Resolution accepting plans and specifications and authorizing the advertisement for bids for Project No. 4899.**
- 3) **Approval of cost sharing agreement with Hopkins School District.**

Tauer moved, Allendorf seconded a motion to:

- 1) Approve a cost sharing agreement with Carlson Real Estate Company for the Carlson Parkway/Cheshire Parkway Traffic Signal Project No. 4901.

- 2) Adopt Resolution No. 2003-081 accepting plans and specifications and authorizing the advertisement for bids for Project No. 4899.
- 3) Approve a cost sharing agreement with Hopkins School District for the Cedar Lake Road/Hopkins North Junior High Traffic Signal Project No. 4899.

All voted "yes." Motion carried.

**J. Authorization to construct Plymouth Road/Dolittle Drive temporary drainage improvements.**

Tauer moved, Allendorf seconded a motion to authorize the construction of Plymouth Road/Dolittle Drive temporary drainage improvements after receiving payment of \$3,375 by Mr. Haley and the acquisition of required easements. All voted "yes." Motion carried.

**K. Temporary banner for Minnetonka High School Boys and Girls Soccer Program at 18301 State Highway 7 (Minnetonka High School).**

Tauer moved, Allendorf seconded a motion to approve a temporary banner for Minnetonka High School Boys and Girls Soccer Program at 18301 State Highway 7 (Minnetonka High School) for September 18, 20, 25, 29 and October 4 for this year only. All voted "yes." Motion carried.

**11. CONSENT AGENDA (Items requiring Five Votes).**

**A. Resolution approving a conditional use permit, with a sideyard setback variance from 17 to 12 feet, to remodel and expand an existing detached garage that would exceed 12 feet in height and 1,000 square feet at 3723 Farmington Road for Tim Greely.**

Schneider moved, Tauer seconded a motion to adopt Resolution No. 2003-082 approving a conditional use permit for a detached garage of 17 feet in height and 1,373 gross square feet and a side yard setback variance from 17 to 12 feet. Approval is based on the following findings:

- 1) Apart from the proposed setback, the proposal meets the required conditional use permit standards.
- 2) The proposal meets the required standards for a variance, because:

- a. Hardship is caused by the location of the existing garage, which presents practical difficulties. Use of the foundation of the existing garage is reasonable.
- b. The proposal meets the intent of the ordinance, as it would be located in the rear of a wooded lot and 70 feet from the nearest residential building.
- c. The proposal would have no negative impacts on the surrounding area.

Approval is subject to the following conditions:

- 1) Record this resolution with the county before the city issues a building permit.
- 2) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 3) 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.
- 4) All existing debris and materials must be removed from the site or placed in appropriate dumpsters prior to final building inspection.
- 5) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

## 12. INTRODUCTION OF ORDINANCES.

### A. Introduction of an Ordinance Declaring Violations of Certain Zoning Ordinance Sections to be Public Nuisances.

Gunyou introduced this item, noting that this ordinance and the following ordinance regarding public indecency were suggested by the city attorney to clarify existing ordinances. Peterson provided an overview of the ordinance regarding public nuisances.

Callison moved, Allendorf seconded a motion to introduce an ordinance declaring violations of certain zoning ordinance sections to be public nuisances and to refer the ordinance to the planning commission. All voted "yes." Motion carried.

### B. Introduction of an Ordinance Amending the Public Indecency Ordinance.

Peterson provided the staff report for this item. She will review an issue raised by Tauer regarding someone standing in front of a window in an enclosed structure.

Tauer moved, Wiersum seconded a motion to introduce an ordinance amending the public indecency ordinance. All voted "yes." Motion carried.

### 13. PUBLIC HEARINGS.

#### A. Items pertaining to the proposed Origami West restaurant at 12401 Wayzata Boulevard (Ridgedale Shopping Center);

- 1) Resolution approving a conditional use permit for a restaurant with a variance from the requirement for a master plan amendment at 12401 Wayzata Blvd. (Ridgedale Shopping Center), for Kiminobu Ichikawa.
- 2) Public hearing to consider applications by Yonki Shoji, Inc., for on-sale and on-sale Sunday intoxicating liquor licenses for Origami West Restaurant, 12401 Wayzata Blvd. (Ridgedale Shopping Center)

Planning Director Geoff Olson provided an overview of the conditional use permit, and the variance requested. Community Development Director Ron Rankin provided an overview of the applications for liquor licenses.

Anderson opened the public hearing. No one spoke.

Schneider moved, Callison seconded a motion to:

- 1) Adopt Resolution No. 2003-083 approving a conditional use permit for a restaurant and a variance from the requirement for a Master Plan Amendment.

Approval is based on the following findings:

- a. Apart from the requirement for a Master Plan Amendment, the proposal meets the required conditional use permit standards.
- b. The proposal meets the required standards for a variance, because:
  - (1) The minor change of use within the Ridgedale Shopping Center does not warrant the comprehensive analysis for a Master Plan Amendment.
  - (2) The proposal would effectively replace an existing restaurant that is leaving another space in the mall.
  - (3) The proposal would have no negative impacts on the surrounding area.

Approval is subject to the following conditions:

- a. Record this resolution with the county before the city issues a building permit.
  - b. Construction must be in substantial conformance with the following plans:
    - (1) Floor and Mezzanine Plans (dated 08/04/03)
    - (2) Exterior Elevations (dated 08/04/03)
  - c. The Burger King space must be converted to retail or service space, unless a Master Development Plan is approved by the city, which would allow additional restaurant space. Approval of a Master Development Plan would be contingent on a parking and traffic study concluding that the site could support an additional restaurant.
  - d. 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.
  - e. The city council may reasonably add or revise conditions to address any future unforeseen problems.
  - f. The applicant and a Ridgedale Shopping Center representative must agree to the above conditions in writing.
- 2) Continue the public hearing to consider applications by Yonki Shoji, Inc., for on-sale and on-sale Sunday intoxicating liquor licenses for Origami West Restaurant, 12401 Wayzata Blvd. (Ridgedale Shopping Center) to October 13, 2003.

All voted "yes." Motion carried.

#### 14. OTHER BUSINESS:

- A. **A 23 Unit Townhouse project called the Sanctuary 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.**
  - 3) **Preliminary plat.**

Callison, who is the executive director of WHAHLT, recused herself from this item due to a conflict of interest. Anderson said that Callison had been excused from past discussions of this item and reviewed the process for consideration of this item.

Gunyou noted that the planning director's staff report would focus on the changes since the council's last consideration of this project.

Olson reviewed the two new options provided by the developer, and said that staff recommended the 23 unit option with four affordable units. Staff recommended against the money in lieu of affordable housing option.

Schneider noted the 35-foot building setbacks around the perimeter of the project, and asked if the unit in the middle would encroach into that setback. Olson said he would check.

Anderson invited public comment.

Michael Halley, 14801 Minnehaha Place, spoke as the applicant and Vice President of Halley's Custom Homes. He thanked staff for their work on the project. He said that the proposal submitted was well within the requirements of the building code and height requirements. He asked the council to make a decision based on priorities. Alternate A would provide workforce housing with 19 market rate homes. Alternate B would eliminate those workforce housing units, but would provide a monetary contribution that could be used for affordable housing. He urged the council to support Alternative A. He suggested that it was meaningless to set goals for affordable housing and not follow through on them.

Neil Blanchett of the Larkin Hoffman Law Firm, spoke as the representative of SaveMinnetonka.com, a group of area residents. He said that their objections to the 23 unit plan were the same as their objections to the 24 unit plan. They felt that the changes were only incremental. Their goal is a development that is compatible with the area, provides affordable housing, and follows a sound development process. They saw that with the CoPar development, but have not seen that with this project. Blanchett said that the applicant presents a false choice. He felt that land costs had skewed the issue and said that they had not received the whole story on the economics. He said that on March 30<sup>th</sup>, the developer maintained he needed \$80,000, and now says he needs \$47,000, to make the shift to development without affordable housing. Their concerns about density and mass remained the same for the new options.

Blanchett said that the residents realize that transitional housing is appropriate, and a 19-unit project might be an appropriate design. They

see the latest proposal as an ultimatum, and asked the city council to deny it.

Bob Crump, 3001 Bay Street, said that after the last meeting, he had hoped the developer would get it right. He suggested that the latest proposal had gone backwards. He did not like the developer holding affordable housing hostage, and asked the council to deny the request.

Kim Smith-King, 1418 Claredon Drive, spoke as pastor of St. Luke's Presbyterian Church on Groveland School Road. She commended the city's commitment to affordable housing. She asked the city council to support the plan and not shrink its vision for the city. Smith-King said that there are not sufficient affordable units, and housing costs in Minnetonka are often prohibitive for police officers, teachers, and pastors, as well as the children of residents. After the last council meeting, she received a letter from a neighbor who indicated that people who cannot afford to live in Minnetonka should live someplace else. She asked if the city council wanted to keep service people out of the city. She noted that the proposal had shrunk from six affordable units to four, and asked that the council not shrink its vision.

Winnie White-Scherber, 14605 Orchard Road, supported the development and the comments made by Smith-King. She asked the council to hold to its vision for affordable housing.

Anderson noted that green space has been an issue for this project and asked about the requirements. Olson said that the impervious surface has been reduced. In the first proposal, it was 50 percent, the maximum allowed in the PUD ordinance. The project is now at 43 percent. Impervious surface limits are required in all zones, except residential.

Tauer said that he had come close to supporting the 30-unit project. He is on the EDA, and they looked for appropriate sites within the city. He noted that Minnetonka has fewer areas of clustered housing, and still has 95 percent single-family lots. Minnetonka residents want choices not just for affordable housing, but also for low maintenance housing. The project is ideal because it will get people out of their cars. He likes having higher density projects near transportation nodes. Tauer liked the new plan better than the original plan, but did not like the higher price for the affordable units. He supported the plan.

Schneider said that he had supported the previous plan, but had some reservations about the layout of the site plan. He said that the new plan was a minor improvement in the character and flow, but was still somewhat lacking in green space on the northerly and easterly edges. He said that could have been improved without increasing the density.

Although the proposal was not ideal, he would support Alternate A, but not Alternate B. He also supported a comprehensive guide plan change with affordable housing being provided.

Thomas said that at the last meeting, the issues for him were hard surface and green space. In a perfect world and plan, the hard surface would have been reduced, and the green and open space would have increased by moving buildings to eliminate the institutional appearance. He would not support Alternate B, and was not willing to give up the affordable units. He was glad that the hard surface had decreased, but said more could have been done with the building locations. He thought the project was too linear. He said that most of his concerns, with the exception of providing more green space, were addressed by Alternate A, and he would support that plan.

Wiersum said that he had met with some of the neighbors and with Halley to try to reach consensus. The gap was narrowed, but everyone was not in agreement. He had hoped there could be one less market rate unit because density was an issue in the northeast corner and building mass was a concern. Wiersum would like to see 18 market rate and four affordable units, but that didn't work out. One neighbor would have preferred the path on the southern side, rather than the northern side, and that made sense to Wiersum. Wiersum said that the need for affordable units is great, and the trade-offs to get four affordable units were worth it. He would support the project.

Allendorf asked how Minnetonka was doing on its affordable housing goals in comparison to other Metro area cities. Community Development Director Ron Rankin said that Minnetonka is doing fairly well. He reviewed the long-term goals of the city for a total of 504 affordable units by 2010. He said that Minnetonka exceeded its five-year goals and has reached 71 percent of its goal halfway through the 15-year program.

Allendorf said that city council members serve on a number of boards. He has heard Minnetonka lauded for its affordable housing efforts. He did not think this project was about affordable housing, but rather it was about good planning. In his judgment, the project had gone backwards since the previous meeting. He would have removed the market rate unit at the northeast corner to increase green space and decrease mass. He feels the developer went the other way. He said that \$11,000 more for an affordable unit was not "give and take," but rather, was all "take." He could not support the plan because it did not represent good planning.

Anderson said she had supported the 30-unit proposal. She said that the area could support it. She noted that there were a number of improvements from the last proposal, such as fewer units per acre (6.6),

and the project would be at the low end of the requirements for medium density (five to 12 units). The impervious surface had been reduced to 43 percent. If there are buildings, driveways, and roads, the green area must be reduced, but the project is at 57 percent green space. There are two playgrounds across the street at the church and school. She said that the council should be deliberative if it wanted to reduce the restriction below 50 percent.

Anderson was troubled by the great amount of time spent on the design of the buildings, and said that has not occurred on other projects. She noted the mass of the apartments behind Ridgedale. She was concerned that this project was being treated differently from others, and thought that the council may have overstepped its boundaries. She was pleased with the development, and could accept the density and height. The current proposal was a good compromise from the 30-unit plan. She said that this development was about economics, and any development in Minnetonka will be about density or dollars if affordable housing is involved. She could see lots of advantages with this development and was troubled by the extra criteria the city imposed on this proposal that it had not put on other developments.

Schneider said that the project appeared to have sufficient votes to move forward. He has dealt with Halley over the years and knows he tries to achieve a plan with more open and green space. He said that the city has often worked with a proposal to get more green space and did not think the city had gone too far in this case. He said that it had been difficult for the developer to come up with a good consensus on this project. He said that the developer had been given the opportunity to improve the green space and reduce the hard surface without giving up density. Schneider was willing to grant a 15-foot variance from the western edge to allow the developer to move the affordable unit from the northeast building, and create more green space.

Halley said that he respected Schneider's view. It was suggested that he not design a project that needed a variance, but said that he would request one if required to do so by the city council.

Schneider asked if the council could approve the project subject to a variance. Peterson said that there had not been a public hearing on a variance. She thought it would be wiser to allow the process to proceed, subject to review before the final plat. Schneider said he was comfortable approving the project as it is, and would support a 15-foot variance at the time of the final plat. Peterson said that any variance request would have to go back through the planning commission.

Anderson questioned the value of that, noting that there was already consensus on the project.

In response to Anderson's request, Olson reviewed the path locations. Wiersum said that a neighbor thought the path was too close to his property. Anderson said that there would be a heavy buffer.

Schneider suggested that the path remain on the north side in the west half of the development, but connect with the internal roadway in the east half. Thomas said that children would take the shortest route, so the change made sense. Tauer said that it is an internal trail used by the residents. He would defer to the applicant.

Halley agreed with Thomas's comment about users taking the shortest route. He was fully aware of the concerns of the residents to the north and was willing to change the trail as suggested by Schneider. He noted that most of the residents of the development would be empty-nesters.

Anderson asked if there would be a sidewalk on the north side of Minnetonka Boulevard with its new design. City Engineering Lee Gustafson confirmed that there would be a sidewalk.

Schneider moved, Tauer seconded a motion to:

- 1) Adopt Resolution No. 2003-084 which amends the guide plan from RL, low density residential, to RM, medium density residential. This resolution is based on the following findings:
  - a. The guide plan change would provide a transitional land use between the commercial area to the south and single-family homes to the north.
  - b. The site is next to a commercial center, which provides services such as supermarkets, service stations, drugstores, cleaners, banks, etc. Metro Transit bus service is also available at Minnetonka Boulevard and County Road 101.
  - c. The land use pattern would be similar to the land use pattern to the west across County Road 101.
  - d. The guide plan change would be consistent with the public health, safety, and welfare.

Schneider limited his motion to the guide plan amendment due to Allendorf's comment that he could support the comprehensive plan change, but not the project.

Tauer, Wiersum, Schneider, Thomas, Allendorf and Anderson voted "yes." Callison was excused. Motion carried.

Schneider moved, Tauer seconded a motion to:

- 2) Adopt Ordinance No. 2003-21 which approves the proposed PUD, master development plan with final site and building plans. This ordinance is based on the following findings:
- a. The rezoning would provide a transitional land use between the commercial area to the south and single-family homes to the north;
  - b. The site would be next to a commercial center, which provides services such as supermarkets, service stations, drugstores, cleaners, banks, etc. Metro Transit bus service is also available at Minnetonka Boulevard and County Road 101;
  - c. The land use pattern would be similar to the land use to the west across County Road 101;
  - d. The rezoning would be consistent with the public health, safety, and, welfare;
  - e. The rezoning would be consistent with the proposed guide plan designation;
  - f. The proposed development would not have an adverse impact on neighborhood traffic or property values and would provide for a regional pond to improve water quality in the neighborhood; and
  - g. The density would be in the lower end of the medium density range, similar to the Breconwood Townhome project on the west side of County Road 101.

This 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:
  - o Site plan, date-stamped September 3, 2003
  - o Grading, drainage and erosion-control plan, date-stamped September 3, 2003
  - o Landscape/Preservation plan, date-stamped September 3, 2003
  - o Building drawings, date-stamped July 28 and July 30, 2003
  - o Utility plan, date-stamped September 3, 2003
- b. The following work must be completed before the city issues a grading permit or before starting any site work:
  - (1) The installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot must be installed, subject to review by the city's environmental resources coordinator.
  - (2) Submit final site, grading, drainage, utility, and erosion control plans for staff approval. Final plans must include the following revisions:

- a) The water main must be looped/connected to the County Road 101 system;
  - b) Separate water/sewer services are required for each townhome;
  - c) Water services must be 1-1/2 inch diameter;
  - d) Provide an emergency overflow for the catch basins in the middle of the development;
  - e) The grading plan must be revised to save the eight most easterly evergreens and the lilacs along the southerly property line; and
- (3) A letter of credit or cash escrow for 150 percent of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, driveway, and grading have been completed according to the plans approved by the city.
  - (4) Submit copies of the watershed district permit, NPDES permit, and county permits for driveways and utility connections. The city may require revisions to the approved plans to meet these agencies' requirements.
  - (5) A construction management plan must be submitted for staff approval.
  - (6) Obtain and record a public drainage and utility easement over the Groveland School property for a storm sewer connection to an existing storm sewer on the school property. If the applicant makes a reasonable effort to obtain the easement and cannot for reasons beyond his control, he must revise the site plan to include on-site stormwater ponding, subject to the approval of the city engineer.
- c. The following must be completed before the city issues a building permit:
- (1) The installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot must be installed, subject to review and approval of the city's environmental resources coordinator.
  - (2) An illumination plan for staff approval. Exterior lighting must be designed and arranged to limit direct illumination and glare upon, or into, any contiguous parcel. Reflected glare or spill light shall not exceed five-tenths (.5) foot-candles as measured on the property line when abutting a residential parcel.

- (3) A final landscape and irrigation plan for staff approval.
- (4) A hookup fee for sanitary 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.
- (6) A copy of the recorded plat and any easements or covenants required to be recorded.
- (7) Eight percent of the city engineer's most recent estimate of the cost of an off-site stormwater treatment pond in Gro Tonka Park.
- d. The property owner is responsible for replacing any required landscaping that dies.
- e. Four units must be sold to the city or an affordable housing organization designated by the city for \$178,000 or less or be subject to resale indexing covenants approved by the city council. The city must approve specifications for the construction of the affordable units.
- f. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
- g. The buildings must be built with automatic fire sprinklers throughout.
- h. Construction of the trail shall be subject to review and approval of the environmental resources coordinator and the fire marshal.
- i. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- j. The applicant must arrange for the city to have access to the site before any site disruption to photograph the house.
- k. The floor area ratio and hard surface coverage may not exceed 50 percent of the site area.
- l. Construction must begin by December 31, 2004, unless the planning commission grants a time extension.
- m. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- n. Except for the affordable homes, the homes on the northerly side of the drive must be one-story units, with look-out, walk-out, or single-story elevations facing the neighbors. The other homes may be one- or two stories high.

- 3) Give preliminary approval to the Sanctuary Third Addition, date-stamped September 3, 2003. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:
- a. Complete the following before final plat approval:
- (1) Show the following on the final plat:
    - a) the 10-foot-wide easement along County Road 101 must allow for a public trail;
    - b) utility easements over existing or proposed public utilities, as determined by the city engineer;
    - c) drainage and utility easements over any storm water ponds, as determined by the city engineer; and
    - d) the correct lot numbers for Block 3.
  - (2) If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
  - (3) If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
- 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 microstation or DXF.
  - (3) Pay the city a park dedication fee of \$47,500.
  - (4) If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150 percent of the estimated cost of the improvements or 125 percent of the cost if based on actual bids.
  - (5) The following documents for the city attorney's approval:
    - a) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
    - b) Documents establishing a homeowners' association. The association must be

responsible for maintaining any common areas, common drives, on-site drainage pond, if required, and any other required drainage improvements approved by the city. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits.

c) Common access easements for each lot. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal. These documents must be recorded with the final plat, and a drawing of any easements must be attached to the easement deed.

c. 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.

Schneider clarified that his motion included relocation of the trail.

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

Schneider asked that the minutes reflect his support for a 15-foot variance on the western edge of the property to allow for additional open space and less mass on the northeast corner of the site.

Wiersum said that the neighborhood did a terrific job of making their thoughts known, and felt that they truly influenced the process, thereby resulting in changes from the original plan. He said that it was a long and difficult, but rewarding, process.

**B. Items concerning the Meadowwoods development at 18300 Ridgewood Road for Nedegaard Custom Homes, represented by Roger Humphrey, Agent:**

- 1) **Resolution changing the guide plan from open space to low-density residential;**
- 2) **Ordinance re-zoning from R-1, low density residential, to PUD planned unit development, and approving a master**

- development plan, with final site and building plans, including variances for rear and wetland setbacks for all lots;**
- 3) Ordinance changing the wetland overlay district boundaries;**
  - 4) Wetland alteration permit;**
  - 5) Wetland Conservation Act replacement plan; and a**
  - 6) Preliminary plat, with lot width at the setback variances for eight lots and lot area variances for further subdivision of Lot 6 Block 3.**

Olson provided the staff report for this item.

Callison asked if some of the \$40,000 park dedication fee could be used for trail maintenance. Gunyou responded that park dedication fees are typically used for capital projects, but not for operating expenses.

Thomas asked Gunyou to provide a rough estimate of the cost to maintain the trail on the west side compared to the east. Gunyou said that staff is checking to see if state law would allow the use of park dedication fees for trail maintenance. He also noted that it is not customary to dedicate fees for specific projects. The park dedication fund is programmed in the CIP. The annual cost to maintain the recommended trail would be a few hundred dollars. The maintenance costs for a boardwalk would be about three to four times higher.

Schneider said that he had been part of the development of the trail through Big Willow Park. He noted that boardwalks are terribly vulnerable to vandalism and abuse, and could make the trail unusable and hard to maintain.

Gunyou confirmed that state law would not allow use of park dedication fees for operating expenses.

Tauer asked if the wetland could be viewed from the other side. Anderson said that there is vegetation, but there are gaps where the wetland could be seen from the trail.

Wiersum asked about the expected ground cover in the upland areas of the yards. Olson deferred that question to the applicant's architect.

In response to Tauer's question, Olson said that the lot lines could be extended but the area is a wetland. He said that it would be cleaner to have the wetlands described as one.

Roland Aberg, 3175 County Road 24, Long Lake, spoke as the project's master planner and landscape architect. The plantings would provide for native restoration of the wetland and upland area. The upland areas will have grasses, dogwoods, and shrubs. The marketing is geared toward a natural woodland area. He provided a rendering depicting five-year growth.

Schneider wanted a better understanding of the restoration plan, including the dynamics of the design of the ponding area parallel with Ridgewood Road and how it factors into the criteria of required restoration.

Steve Apfelbaum of AES said that the site is tight, and it is difficult to balance the wetland mitigation and storm water requirements. There is nothing optional in the plan. There may be some flexibility, but if something moved, the whole plan would need to be redone. He reviewed the buffering along the roads.

Aberg reviewed the landscaping work to be done along Ridgewood Road. In response to Schneider's question, Aberg said that safety concerns for trail users need to be addressed. Trail users would experience the wetlands on the northern end of the trail and on the eastern side. He said that a lookout could be provided on the way to the regional trail.

Anderson asked if the trail on the east side would go through the wooded area. Aberg said that it would.

Anderson had heard that the plantings would not be maintained. Aberg said that there are pockets of wetland trees. Apfelbaum added that the Spruce and Cedar trees could not be salvaged due to the grading requirements.

Callison asked about the trail's proximity to the affordable units. Aberg said that the minimum setback is at least 15 feet. The trail could be pushed as far away from the driveway as possible. In response to Callison's question, Aberg said that the front of the units face to the trail.

Anderson invited public comment.

Peter Portless, 18327 Ridgewood Road, lives in the cul-de-sac immediately to the south and across from the project. He has been a supporter of the project. Since they are losing the golf course, he accepts the wetland restoration. He said that the trail on the north side of Ridgewood from Sparrow to the north/south connection makes more sense as part of a continuous trail going all the way to CSAH 101. He would be more inclined to accept the trail if there will be an extension. He noted that there will be a berm on the west side, and screening will be provided on the east. He was concerned about the disruption to the current berm and vegetation. A more important factor to him was safety. He said that safety was critical on this stretch of the road because many people travel at 37 miles per hour. He noted that at some times of the day, the stop sign at Sparrow and Ridgewood seems optional. Accidents could occur where the trail is going to be placed. He suggested that consideration be given to protection between the road and trail, or putting the trail to the north of the berm.

Gustafson said that there is a trail segment scheduled in the 2008 CIP from Sparrow Road to CSAH 101.

Aberg proposed that the city engineer layout the trail in the field with them. He said that there are many options for the trail, and it can be woven in without a problem.

Anderson asked if it would be possible to put the trail on the north side of the berm wherever safety is a concern. Aberg said they would be glad to do that.

Mark Werley, 4516 Sparrow Road, talked about the wetlands ordinance, pods and screening, and the trail. He was concerned about the 10 foot buffers from the wetland. He said that idea of the ordinance is to protect the wetlands so no structures are allowed. He did not feel that the language of the ordinance was being followed, and the project would be in direct contradiction to the ordinance.

Werley noted that at the last meeting, Allendorf asked what the pods would look like from the road. He noted the comments about the berm and vegetation screening the project, and asked why the screening was needed. Werley noted that the northern pod had been decreased because of the peat. He had not seen evidence that the view from Ridgewood Road would not be of the backs of the homes. He said that too many houses were being squeezed in to allow sufficient tree growth and wetland buffers. He wanted the city to require more screening at the buildings rather than on

Ridgewood Road. Werley asked for less visual density and more opportunities for interaction for residents.

Tauer said that the wetlands would be close to the rear of the homes. He was intrigued by the concept. He said that something might be learned from this site so he was willing to approve it. He noted that there are no wetlands now, so a precedent would not be set. He was concerned about planting tall trees next to a wetland but was willing to accept the project.

In response to Anderson's question, Apfelbaum said that the trees to be planted on the north end are wetland trees. The same types of species will be planted near the houses. These trees can grow tall.

Callison presumed that the southwest portion of the site would provide a viewshed into the wetland. She asked if the site would be covered with trees or restored as native plantings. Aberg described the plantings and said they will obstruct the view to the wetland because they are trying to create green space along Ridgewood Road.

Wiersum suggested that metal framing for a boardwalk might be more durable and stable than a floating boardwalk. He wondered if that would be a possible solution that could minimize costs. Olson said that due to problems with boardwalks, most have been removed. Environmental Resources Coordinator Jo Colleran said that boardwalks or bridges would be allowed if their posts were two feet or smaller in diameter.

Callison noted that the applicant suggested that some wetland experience could occur at the northeast corner. Aberg pointed out the area of the trail that would travel through the wetland. He suggested an overlook in the area where the internal trail connects with the higher-level regional trail.

Anderson said that there are no requirements to screen one neighborhood from another so that was not necessary. She wanted to offer some view areas on the trail along Ridgewood Road. She said that houses will be closer together in three areas, but won't be spread across the whole landscape. She saw that as an advantage.

Aberg explained how the tree growth would cycle.

Schneider said that the city shouldn't talk about screening, but rather softening the view so that it would not be too stark against the wetlands.

Thomas agreed. He was concerned about the winter view when the cluster of pods would be visible.

Callison supported the project. She said it was a good proposal for the site and would achieve some important public values. More open space is made possible with the clustering. In time, the vegetation will grow. The houses will not be on Ridgewood Road, so the beauty of the view from the road will be maintained.

Tauer liked the idea of the tree growth cycle. He said that 17 homes on 20 acres, with 10 acres of upland, were appropriate. The city will learn a lot about this concept with homes nestled against nature rather than mowing and fertilizing of lawns. This makes the east side denser, but clustered homes would be better than scattered homes. The trail would be nicer on the west side, but the neighbors to the west would object. There would be a substantial amount of trail. He asked staff to enforce the developer's statements. He appreciated the two affordable homes.

Allendorf thought the project was good. It would involve a risk because he has not seen what the cluster houses would really look like from the road. He was reluctant to take the risk before, and there are still elements that concern him, such as the wetlands amongst the homes. He was willing to live with the cluster concept. He likes the trail on the east side.

Wiersum said that the project was intriguing and saves the open space amenity. It also solves a problem by restoring the wetlands. Clustering allows the resolution of these issues. All residents can enjoy the open space and the trail. There was going to be some change to the property, and these changes are in the public's interest. The project provides wetlands and vistas. He looks forward to seeing how the plantings develop. He said that the homes will be attractive and supported the project.

Schneider supported the project and complimented the developer for assembling the necessary expertise. The project justified the PUD. His concern related to the three northerly homes and the long-term practicalities for owners of those homes. He was concerned about 40 to 50 feet of peat. He said that unit 13 would be on 50 feet of peat, the middle unit on 35 feet of peat, and the end unit on 32 feet of peat. He was concerned about the driveways

and roads. The affordable units were a bonus but they push the homes to the north. Eliminating them might resolve the issue. He questioned if the affordable units should be eliminated to move the other three units further to the south.

Anderson said the proposal followed staff's recommendation. Staff was concerned about the northern cul-de-sac. She did not support redesigning the project and giving up the affordable units.

Gustafson said that the developer was not concerned about how quickly the northerly three units would develop. This will allow time to look at different methods to address the situation. Staff is comfortable proceeding, given the time available to address the issues.

Anderson asked how much of the roadway would be public versus private. Gustafson provided that information. Anderson asked if there were maintenance concerns with the design of the cul-de-sacs. Gustafson said that concerns would be discussed with the developer. The radius of the cul-de-sacs is sufficient for snowplowing.

Schneider hoped the soils expertise gained at 7-Hi would help in this case, since the project would not be easy.

Callison assumed that all the units would be part of an association. She asked that the association fee for the affordable units be kept reasonable.

Anderson concurred with the comments from Callison and Tauer. She said that the project was creative and innovative. She liked the vegetation plan and its protection of wetlands. She noted that there are no wetlands on the site now, so this project would not set a precedent. She said that if the wetland setbacks were extended to those in other areas, the project would result in lawns that are mowed and that would put pesticides in the wetlands. She supported the project.

Thomas agreed with the wetland restoration, but had some concerns. He thought it was innovative for the trails to interact with the wetland, but said that it was important to connect with the regional trail. He was concerned about the cost to maintain the trail without funds available for maintenance. He had a problem with the cluster concept. He was also concerned about the peat, and noted that it had reduced the number of houses, and resulted in the city

requiring private roads. He was concerned about the northern three homes, and said that he could not support the site plan.

Tauer moved, Callison seconded a motion to:

- 1) Adopt Resolution No. 2003-084 amending the guide plan from Open Space to RL, low density residential. This resolution is based on the following findings:
  - a. The present open space designation was based on the use of the property as a golf course and was not intended to prevent other uses from developing on this site;
  - b. The surrounding land uses are already guided for low-density residential use;
  - c. The guide plan change would better reflect the use allowed under the existing zoning;
  - d. The proposal meets the ten findings in the comprehensive plan for a guide plan change.
- 2) Adopt Ordinance No. 2003-21 approving the proposed rezoning to Planned Unit Development, and master development plan with final site and building plans and variances. This ordinance is based on the following findings:
  - a. The proposed use is consistent with the existing land uses on adjacent properties.
  - b. The rezoning would be consistent with the proposed guide plan designation.
  - c. The plans restore the jurisdictional wetlands on the site; and provide large private open spaces through permanent conservation easement.
  - d. The proposed development would not have an adverse impact on neighborhood traffic or property values.

Approval includes the following variances:

- a. Rear yard setback reductions from 21 feet to 10 feet for decks and 26 feet to 20 feet for buildings;
- b. Wetland setback reductions from 35 feet to 10 feet for buildings, from 25 feet to 0 feet for decks and 25 feet to 0 feet for wetland buffers.

The proposal would meet the required standards for a variance because:

- a. There is a unique hardship to the property caused by the public benefit of minimizing lot sizes to maximize wetland restoration and open space.
- b. The variances would not alter the essential character of the neighborhood.

This 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:
- o Development Standards plan, date-stamped September 5, 2003
  - o P.U.D. plan, date-stamped September 5, 2003
  - o Building elevations, date-stamped May 28, 2003
  - o Grading plan, date-stamped September 5, 2003
  - o Development Image Package for Meadowwoods, dated April 2003
  - o Landscaping plan, date-stamped May 13, 2003
  - o Utility/Site plan, date-stamped September 5, 2003
  - o Wetland plan, date-stamped September 5, 2003
  - o Restoration Plan, date-stamped May 2, 2003
  - o Floor Plans, Elevations and site plan for the affordable building, date-stamped September 5, 2003
- b. The following must be completed before the city issues a grading permit or before starting any site work:
- (1) The installation and maintenance of a temporary rock driveway, erosion control, and tree and wetland protection fencing for each lot, subject to review by the city's environment resources coordinator.
  - (2) Grading and drainage plans must be approved by Barr Engineering.
  - (3) Final site, grading, drainage, utility, street and erosion control plans must be approved by city staff. Final plans must include the following revisions:
    - a) must have 1-1/2 inch water services and 6 inch sewer services;
    - b) the private drive to the three northerly homes must be at least 20 feet wide;
    - c) the sewer and water lines must be stubbed to the east to provide future service;
    - d) central stormwater detention area number 3 must be shifted south out of the public right-of-way and provide a minimum of one-foot freeboard between the 100-year flood elevation and the street elevation; and
    - e) retaining walls supporting public streets must be modular block or other

approved material approved by city engineer.

- (4) If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit or cash deposit or other form acceptable to the city attorney. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
- (5) Submit a letter of credit, cash escrow, or other form acceptable to the city attorney for the estimated cost to comply with grading permit requirements and restore the site. The city will not release the letter of credit or cash escrow until the developer submits asbuilt drawings and a letter certifying that the grading has been completed according to the plans approved by the city. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
- (6) Submit a letter of credit or cash escrow, or other form acceptable to the city attorney for the estimated cost to restore the wetlands, including the wetland plantings, the upland forest, and the rain gardens. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
- (7) Submit a final landscape and irrigation plan for staff approval. The plan must indicate wetland restoration and percent totals of tree sizes for the reforested areas, as outlined in attachment C (Specifications for Ecological Restoration and Management of the Meadowwoods Wetland Permit Application).
- (8) Fence all trees and vegetation to be preserved and install erosion control measures for staff approval.

- (9) Submit a construction management plan, including a phasing plan for staff approval.
  - (10) Submit copies of the watershed district permit, NPDES permit and county permits for driveways and utility connections. The city may require revisions to the approved plans to meet these agencies' requirements.
  - (11) Submit a soils study for staff approval that addresses at least the following items:
    - Street construction recommendations, including pavement section and subgrade corrections;
    - Public utility construction methods;
    - Private utility services construction methods;
    - Viability of the use of rain gardens, given soil types and groundwater conditions;
    - Impacts to street integrity and underlying soil corrections due to close proximity of rain gardens; and
    - Impacts to house foundations due to close proximity of wetlands and storm water retention.
- c. The following must be completed before the city issues a building permit:
- (1) The installation and maintenance of a temporary rock driveway, erosion control, and tree and wetland protection fencing for each lot must be installed, subject to review and approval of the city's environmental resources coordinator.
  - (2) A hookup fee for sanitary sewer and water.
  - (3) 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.
  - (4) A copy of the recorded plat and any easements or covenants required to be recorded.
- d. Retaining walls in the public right-of-way must be modular block or other, as certified by a licensed engineer and approved by the city engineer.
- e. Minimum floor elevations must be two feet above the 100-year flood elevations, as determined by the city

- engineer after acceptance of final drainage calculations.
- f. The homeowners' association is responsible for replacing any required wetland plantings, woodland plantings, and landscaping that die or are destroyed after the developer's guarantee period.
  - g. The three affordable units must be priced at \$170,000 or less and be subject to resale indexing covenants approved by the city council, or the units be sold to a housing organization designated by the city for no more than \$170,000. The city must approve specifications for the construction and the homeowners' fees for the affordable units.
  - h. Construction of the trails are subject to city staff approval. The north-south trail should be crushed rock or paved. The wetland boundary may be altered to accomplish this, if in accordance with city and WCA rules. If the city determines that the wetland boundary cannot be altered, any part of the trail crossing the wetland must be a boardwalk design that would comply with city and WCA requirements. A paved trail must be constructed along the north side of Ridgewood Road, between the proposed north-south trail and Sparrow Road.
  - i. All signs for the development must meet city code, including obtaining sign permits.
  - j. Sprinkler systems must be installed in each home.
  - k. The floor area ratio and hard surface coverage each may not exceed 50% of the site area.
  - l. Construction must begin by December 31, 2004, unless the planning commission grants a time extension.
  - m. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
  - n. The maintenance of the stormwater ponds will be the responsibility of the homeowners association under the stewardship program.
  - o. All private garden areas must have a ten-foot transition area between them and the wetlands.
  - p. Each cul-de-sac shall have one mailbox bank, rather than one mailbox for each lot.
- 3) Adopt Ordinance No. 2003-23 approving the proposed change in the wetland overlay district boundaries. This resolution is based on the following findings:

- a. The proposed development would correct a wetland draining violation of Section 404 of the Federal Clean Water Act.
- b. The proposed restoration would significantly enhance the wetland.
- c. The rezoning would be consistent with the city's guide plan.
- d. The rezoning would be consistent with the public health, safety, and welfare.

Approval is subject to the following conditions:

- a. Obtain a grading permit as part of the wetland restoration.
  - b. Must be developed per the grading plan date-stamped September 5, 2003 and the Restoration Plan date-stamped May 2, 2003 and May 13, 2003.
- 4) Adopt Resolution No. 2003-085 approving the proposed wetland alteration permit. This resolution is based on the following findings:

- a. The proposed development would correct a wetland draining violation of Section 404 of the Federal Clean Water Act.
- b. The jurisdictional wetlands consist of mowed turf grass, which have a low ecological wetland value.
- c. The proposed restoration would significantly enhance the wetland.

Approval is subject to the following conditions:

- a. Obtain a grading permit as part of the wetland restoration.
  - b. Must be developed per the grading plan date stamped September 5, 2003 and the Restoration Plan date stamped May 2, 2003 and May 13, 2003.
- 5) Approve the Wetland Conservation Act replacement plan.

This approval is based on the following findings:

- a. The proposed development would correct a wetland draining violation of Section 404 of the Federal Clean Water Act.
- b. The proposed restoration would significantly enhance the wetland.
- c. The plan meets the criteria as set forth in the WCA.
- d. The TEP recommended approval of the plan with conditions.

Approval is subject to the following conditions:

- a. Meet the conditions as outlined by the TEP, which require approval of the hydrological review by Barr Engineering as the city's consultant and the

consultant to the Riley Purgatory Creek Watershed District.

- 6) Give preliminary approval to the Meadowwoods Addition plat, date-stamped May 16, 2003. Approval is based on the finding that, with the exception of the proposed variances, the plat would meet the required standards and ordinances for a preliminary plat.

Approval is subject to the following conditions:

- a. Complete the following before final plat approval:
- (1) Show the following on the final plat:
    - a) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines.
    - b) Utility easements over existing or proposed public utilities, as determined by the city engineer.
    - c) Drainage easements, as required by the city engineer.
    - d) Streets within the plat must be named. The names of the streets would be subject to review and approval of the city engineer.
    - e) A 10-foot-wide trail easement along Ridgewood Road.
    - f) A 15-foot-wide trail easement over the public trail along the proposed public street and 30 feet wide across the wetland areas to the regional trail, as required by the city engineer.
    - g) The center islands in the cul-de-sac must be removed, or platted as outlots to be owned and maintained by the homeowners' association.
    - h) Increase the area of Lot 3, Block 3 to 15,000 square feet.
    - i) Revise the southerly lot line for the affordable homes to be just south of the driveway and show the land south of this line as one separate outlot all the way to Ridgewood Road.
  - (2) If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.

- (3) Submit evidence of watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
- 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 microstation or DXF.
  - (3) A park dedication fee of \$40,375.
  - (4) If the developer is constructing any public improvements, the developer must submit a signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all city regulations. This escrow must be a letter of credit, cash deposit or other form acceptable to the city attorney. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
  - (5) The following documents for the city attorney's approval:
    - a) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
    - b) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions below that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
    - c) Conservation easements over the areas identified on the preliminary plat and a drawing of the easements.
    - d) Conservation easements must be expanded to include the areas shown as private gardens and rain gardens on the restoration plan date-stamped May 2, 2003.

- e) Documents establishing a homeowners association. The association must be responsible for maintaining any common areas, the required drainage pond and any other required drainage improvements approved by the city. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits, and adhering to a conservation management plan approved by the city's environmental resources coordinator. Maintenance of the conservation easement must be paid through the homeowners' association fund, which would require an annual fee for each dwelling.
- f) Establish a stewardship plan and fund agreement for the long-term maintenance of the conservation easements within the plat and the area designated as Outlots 1, 2 and 3. The establishment and terms of the fund is subject to the city attorney's approval. The terms of the fund must specify who is responsible for maintaining the conservation easements and buffer areas, and who is responsible for fiscally managing the endowment.
- g) Provide declaration and restrictive covenants over all mitigated wetland areas per the WCA.
- h) Provide a road and utility easement to the city over the outlot that would run along the easterly property line between the affordable housing lot and Ridgewood Road.

These documents must be recorded with the final plat, and a drawing of any easements must be attached to the easement deed.

- c. The conservation easements and transition areas must be maintained in accordance with a stewardship plan and fund agreement approved by the city.
- d. 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.

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

**C. Items relating to the 2004 Budget:**

- 1) **Resolution setting a preliminary 2004 Tax Levy and budget for truth-in-taxation purposes.**
- 2) **Resolution setting a preliminary 2004 Tax Levy for the Bassett Creek Watershed management tax district.**

Anderson said that the tax levy set tonight could be reduced at a later date, but could not be increased when the budget is adopted.

Gunyou said that the city council discussed the proposed budget at the previous week's study session. He said that information about the budget would be distributed through the *Minnetonka Memo* and the cable channel.

Gunyou said that the proposed budget reflects a property tax increase of three percent, but that the state is requiring the city to pay for an \$800,000 state property tax relief program from these local taxes. He said this illustrates how little relationship there is between property taxes and what the city spends. The city will increase spending by only two percent. Compared with other cities, Minnetonka's responsible financial management leaves us in reasonable shape to handle the disruptions caused by the State.

Callison moved, Thomas seconded a motion to:

- 1) Adopt Resolution No. 2003-086 setting a preliminary 2004 Tax Levy and budget for Truth-in-Taxation purposes.
- 2) Adopt Resolution No. 2003-087 setting a preliminary 2004 Tax Levy for the Bassett Creek Watershed management tax district.

Schneider noted that individual homeowners' taxes would not increase by only three percent. Gunyou agreed that this would be clarified in the information distributed to residents. Minnetonka's spending will go up by two percent, city revenues will increase by

three percent, but for numerous other reasons, residents may see double digit increases in their property taxes.

Anderson asked staff to provide information for council members to give to those who ask.

All voted "yes." Motion carried.

**15. APPOINTMENTS AND REAPPPOINTMENTS.**

**A. Appointment of John C. Riley and Michael C. Hupp, to the Police Advisory Committee.**

Anderson moved, Allendorf seconded a motion to:

- 1) Appoint Michael C. Hupp to the Police Advisory Committee to serve a two-year term of office as youth member beginning October 1, 2003, ending October 1, 2005.
- 2) Appoint John P. Riley to serve on the Police Advisory Committee for a term of office beginning October 1, 2003, ending October 1, 2005.

All voted "yes." Motion carried.

**16. ADJOURNMENT.**

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 10:23 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Kathleen Magrew  
City Clerk