

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, MAY 22, 2006**

**1. CALL TO ORDER.**

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

**2. PLEDGE OF ALLEGIANCE.**

All joined in the Pledge of Allegiance.

**3. ROLL CALL.**

Councilmembers Bob Ellingson, Brad Wiersum, Al Thomas, Tony Wagner, Dick Allendorf, Terry Schneider, and Jan Callison were present.

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou reviewed the changes and additional comments provided in the addendum dated May 22, 2006 which related to:

- Item 14A, Alano, minor technical corrections.
- Item 14B, Lipe Plat, revised a condition and added a condition.
- Item 14C, Home Reflections, revised a condition.

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

**5. APPROVAL OF MINUTES:**

**A. April 10, 2006 regular council meeting.**

Schneider moved, Allendorf seconded a motion to approve the minutes of the April 10, 2006 Minnetonka City Council regular meeting with the following change:

Page 20, last sentence of the third paragraph:

“ . . . because the previously approved conditional use permit and recommended conditions of approval was being voided and replaced by the new conditional use permit request; he did not see the new request as an expansion of a non-conforming use.”

All voted “yes.” Motion carried.

**B. April 24, 2006 regular council meeting.**

Schneider moved, Allendorf seconded a motion to approve the minutes of the April 24, 2006 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:****A. Retirement recognition of Mardell Rosengren, Police Department, and Betty Norton, Personnel Services/Administration.**

Callison recognized Mardell Rosengren, police department, and Betty Norton, personnel services/administration, for their successful careers.

Schneider thanked Rosengren for her years of service, positive attitude, and embodiment of the city's shared values. Rosengren thanked the city council. She will miss her coworkers and the seniors, but she looks forward to spending more time doing what she wants.

Allendorf congratulated Norton for her years of service, advancement of her education, and leadership of numerous committees. Norton has been a dedicated professional to the elected officials, citizens, and city employees. Norton stated that she has always been proud to be a city of Minnetonka employee.

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

Gunyou reported on the schedule for upcoming council meetings.

The park board canoe trip was postponed to June 14, 2006 due to the high water conditions.

City offices will be closed Monday, May 29, 2006, in observance of the Memorial Day holiday.

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

No one appeared. Callison welcomed a boy scout in the audience.

**9. BIDS AND PURCHASES:****A. Consideration of bids for the Alano Site Development Project No. 4313.**

Gunyou provided a staff report.

Thomas moved, Wiersum seconded a motion to award the bid for the Alano Site Development Project No. 4313 to Imperial Developers in the amount of \$365,273.35. All voted "yes." Motion carried.

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

**A. Claims for council authorization – May 22, 2006.**

Allendorf moved, Wagner seconded a motion to approve the May 22, 2006 claims which includes checks numbered 196730 through 197063, totaling \$1,052,269.23. All voted "yes." Motion carried.

**B. Conditional use permit for a telecommunications facility at 4801 County Road 101 for Cingular Wireless.**

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2006-038 approving the telecommunications pole and equipment at 4801 County Road 101. This resolution is based on the following findings:

1) The proposal meets the conditional use permit standards.

Approval is subject to the following conditions:

1) Record this resolution with the county before the city issues a building permit.

2) The site must be developed and maintained in substantial conformance with the plans date stamped March 30, 2006.

3) The city council may reasonably add or revise conditions to address any future unforeseen problems.

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

All voted "yes." Motion carried.

**C. Conditional use permit for an outdoor plant display/sales area at 17501 Minnetonka Blvd for Lakewinds Natural Foods.**

This item was pulled from the consent agenda by Callison, who asked staff to comment on the recent noise complaints. Rankin stated that environmental health staff visited the site and Lakewinds Natural Foods management agreed to install a temporary barrier to deflect the noise caused by the rooftop air handling units. A permanent barrier will eventually be installed. Rankin was confident a solution will be worked out.

Callison asked if the sound of vehicles idling when unloading in the morning was monitored. Rankin stated that typically retailers will change delivery times to address that problem. Staff will follow up on both noise concerns.

Thomas moved, Wiersum seconded a motion to adopt Resolution No. 2006-039 approving a conditional use permit for an outdoor plant display/sales area at Lakewinds Natural Foods at 17507 Minnetonka Boulevard. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) The display area may include plants and plant-related items only.
- 2) The display/sales area may be open 45 days annually.
- 3) No more than four signs, which do not exceed 32 square feet in aggregate, are allowed for the plant display/sales area.
- 4) Incidental product or pricing signs placed directly next to the appropriate product. Product advertising is permitted, but must be included in the maximum allowed sign area. The signs shall have a professional appearance and shall be securely mounted or erected in a safe location. These limitations apply to all signs associated with the use, including those affixed to vehicles.
- 5) The conditional use permit is issued in the name, Lakewinds Natural Foods, and is for an outdoor plant display area specified in the application. Any change in the person, location or items sold shall render the permit invalid.
- 6) Violation of the conditional use permit standards outlined in City Code 300.21.4(o) or conditions placed upon the conditional use permit shall result in immediate revocation of the conditional use permit.
- 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 8) 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.
- 9) The applicant must agree to the above conditions in writing and record this resolution with the county.
- 10) No exterior storage of any items not directly related to the plant display/sales area is allowed. Before release of this resolution, items outside on the east side of the building must be removed.

All voted "yes." Motion carried.

**D. Resolution establishing a new polling place location for Ward 1, Precinct F.**

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2006-040 establishing a new polling place location for Ward 1, Precinct F. All voted "yes." Motion carried.

**E. Preliminary plat to divide 13801 Spring Lake Road into two lots for Lawrence Olson.**

Allendorf moved, Wagner seconded a motion to approve the preliminary plat for Devisser Addition, date stamped April 5, 2006. Approval is based on the finding that the plat meets the required standards and ordinances. 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.
    - (3) Drainage and utility easements over wetlands, floodplains, and 100-year stormwater area, as determined by the city engineer.
    - (4) Dedication of five feet of right-of-way along Spring Lake Road.
  - b. Pay the city a park dedication fee of \$2,375.00
- 2) The following items must be submitted to the city before the city releases the final plat:
  - a. An electronic CAD file of the final plat in microstation or DXF on a CD disk.
  - b. The following documents for the city attorney's approval:
    - (1) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
    - (2) Conservation easements over the area 25 feet outward from the edge of the wetland, and a drawing of the easements for the approval of the city attorney. The easements and drawings must be recorded with the final plat.

- (3) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.  
These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
- c. Any other requirements included with final plat approval.
- 3) The following must be completed before the city issues a building permit:
- a. City approval of a grading and tree preservation plan for each lot. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
- b. The installation and maintenance of a temporary rock driveway, erosion control, tree protection, and wetland protection fencing must be installed subject to review and approval of the city's natural resources staff. The large Oaks on Lot 1 must be protected from construction damage. No grading may occur within the critical root zones of these trees.
- c. Grading plans must not include ponding within the 100-year stormwater elevation
- d. Submit a copy of the recorded plat and any easement or covenants required to be recorded.
- e. Pay a hookup fee for sanitary sewer and water.
- f. The fill placed within the wetland must be removed.
- g. Minimum low basement elevation of 960.6 for both lots.
- h. Submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 5) 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 ½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- 6) 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.

All voted "yes." Motion carried.

**F. Items concerning a three-lot subdivision at 3212 Wentworth Trail for Dennis Zylla.**

Allendorf moved, Wagner seconded a motion to:

- 1) Adopt the Ordinance No. 2006-11 approving the following for Wentworth Woods at 3212 Wentworth Trail:
- A rezoning from R-1, low-density residential to PUD, planned unit development, and
  - A master development plan.

The ordinance is 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 and larger area of steep slope than a plat meeting R-1 standards.

This rezoning is subject to the following conditions:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:

- Preliminary Plat, date stamped April 26, 2006.
- Grading and Drainage Plan, date stamped April 26, 2006.
- Utility Plan, date stamped April 26, 2006.
- Street Plan, date stamped April 26, 2006.
- Conservation Easement Map, date stamped April 26, 2006.

The above plans are hereby adopted as the master development plan.

- 2) Give preliminary approval to the Wentworth Woods plat, date stamped April 26, 2006. 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) 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.
  - (2) Pay the city a park dedication fee of \$7,125.00, less the value of the land dedicated for the trail.
  - (3) The developer must ensure public access to West Eldorado Trail. 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) Payment for traffic signs and installation, as required by the city engineer.
  - (3) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
  - (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% 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) Conservation easements over the mature trees and steep slope areas per the plans date stamped April 26, 2006, and a drawing of the easements for the

approval of the city attorney. The easements and drawings must be recorded with the final plat.

- (c) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
- (d) Public right-of-way or easement over 13535 Wentworth Trail and 13533 Wentworth Trail to provide necessary right-of-way to build the public street.
- (e) A trail easement to provide a connection from the property to the north to the property to the south. Final trail location and size would be determined by the city council.

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

- (6) Any other requirements included with final plat approval.

c. The following must be completed before the city issues a grading permit or any site work is started.

- (1) Approval of final grading, drainage, and erosion control plans by the city engineer. If the developer is building the streets and utilities, the developer must submit final street and utility plans for the city engineer's approval. Individual lots must be custom graded. The following changes must be included on the utility plans:
  - (a) Catch basins and a storm sewer must be added in the new streets, including at the intersection with Wentworth Trail.
  - (b) A sump catch basin must be added at the downstream-most point in the street.
  - (c) Sewer lines must be 8 inches and the water lines 6 inches.
  - (d) Existing public sanitary sewer must be lowered to serve the property.
  - (e) Storm sewer design and installation must include provisions for pond outlet from the existing pond basin on

Wentworth Trail, per the city's water resources management plan. The developer may construct the storm sewer or petition the city for its construction. The city will pay for the additional costs required to include the storm water pond outlet, as determined by the city engineer, that are over and above the normal costs for the developer to install storm sewer for his subdivision.

(2) The maximum street grade may be 7 percent.

(3) 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 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) All trees to be preserved must be fenced and erosion control measures installed, as approved by the city.

(5) Approval of a construction management plan by the planning director.

(6) If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.

d. The following must be completed before the city issues a building permit:

(1) City approval of a grading and tree preservation plan for each lot. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.

(2) City approval of the installation of a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot.

- (3) Submit a copy of the recorded plat and any easement or covenants required to be recorded.
- (4) Pay a hookup fee for sanitary sewer and water.
- (5) Submit 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) In addition to the standard PUD setback requirements, the side yard setback requirements for Lot 1 are 10 feet from the north lot line and 50 feet from the south lot line. This would ensure minimal encroachment into the steep slope area.
- (7) A fire flow test must be conducted on the new water main. If the fire hydrant flow is less than the minimum NFPA fire flow requirement of 2750 GPM, homes must be built with a sprinkler system.
- e. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- f. The Outlot must remain in conservation easement and must not be developed.
- g. 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 ½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- h. 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.

All voted "yes." Motion carried.

**G. Approval of Change Orders #1 and #2 for T.H. 7/Williston Road North Frontage Road Project No. 4806R.**

Allendorf moved, Wagner seconded a motion to approve Change Orders #1 and #2 for T.H. 7 / Williston Road North Frontage Road Project No. 4806R. All voted "yes." Motion carried.

#### **H. Resolutions ordering the abatement of nuisance conditions.**

Community Development Director Ron Rankin reported that five of the properties, listed as numbers 2, 3, 4, 5, and 11, are now in compliance and were pulled from the agenda.

Allendorf moved, Wagner seconded a motion to adopt the following resolutions ordering the abatement of the nuisance conditions with the removal of numbers 2, 3, 4, 5, and 11:

- 1) Resolution No. 2006-041 ordering the abatement of nuisance conditions existing at 12785 Amy Lane.
- 2) 12790 Amy Lane – in compliance.
- 3) 1509 Archwood Road – in compliance.
- 4) 1515 Archwood Road – in compliance.
- 5) 10702 Crestridge Drive – in compliance.
- 6) Resolution No. 2006-042 ordering the abatement of nuisance conditions existing at 2504 Bantas Point Lane.
- 7) Resolution No. 2006-043 ordering the abatement of nuisance conditions existing at 3320 Chippewa Road.
- 8) Resolution No. 2006-044 ordering the abatement of nuisance conditions existing at 16609 Devon Drive.
- 9) Resolution No. 2006-045 ordering the abatement of nuisance conditions existing at 16512 Excelsior Blvd.
- 10) Resolution No. 2006-046 ordering the abatement of nuisance conditions existing at 16720 Excelsior Blvd.
- 11) 14325 Grenier Road – in compliance.
- 12) Resolution No. 2006-047 ordering the abatement of nuisance conditions existing at 15224 Highwood Drive.
- 13) Resolution No. 2006-048 ordering the abatement of nuisance conditions existing at 3428 Hopkins Crossroad.
- 14) Resolution No. 2006-049 ordering the abatement of nuisance conditions existing at 3512 Hopkins Crossroad.
- 15) Resolution No. 2006-050 ordering the abatement of nuisance conditions existing at 3600 Hopkins Crossroad.
- 16) Resolution No. 2006-051 ordering the abatement of nuisance conditions existing at 5819 Louis Avenue.
- 17) Resolution No. 2006-052 ordering the abatement of nuisance conditions existing at 4200 Marlborough Court.
- 18) Resolution No. 2006-053 ordering the abatement of nuisance conditions existing at 15710 Minnetonka Blvd.
- 19) Resolution No. 2006-054 ordering the abatement of nuisance conditions existing at 11203 Oakvale Road N.

- 20) Resolution No. 2006-055 ordering the abatement of nuisance conditions existing at 18718 South Lane.
- 21) Resolution No. 2006-056 ordering the abatement of nuisance conditions existing at 16614 State Highway 7.
- 22) Resolution No. 2006-057 ordering the abatement of nuisance conditions existing at 10600 Wayzata Blvd.
- 23) Resolution No. 2006-058 ordering the abatement of nuisance conditions existing at 18 Westwood Circle.
- 24) Resolution No. 2006-059 ordering the abatement of nuisance conditions existing at 14680 Williston Glen.
- 25) Resolution No. 2006-060 ordering the abatement of nuisance conditions existing at 14685 Williston Glen.
- 26) Resolution No. 2006-061 ordering the abatement of nuisance conditions existing at 14702 Williston Glen.
- 27) Resolution No. 2006-062 ordering the abatement of nuisance conditions existing at 14711 Williston Glen.
- 28) Resolution No. 2006-063 ordering the abatement of nuisance conditions existing at 14720 Williston Glen.
- 29) Resolution No. 2006-064 ordering the abatement of nuisance conditions existing at 12900 Woodbridge Trail.

All voted "yes." Motion carried.

**I. Resolution appointing Minnetonka's director and alternate director to the LOGIS Board of Directors.**

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2006-065 appointing the assistant city manager as Minnetonka's director to the LOGIS Board of Directors and the city manager and IT manager as alternate directors. All voted "yes." Motion carried.

**11. ITEMS REQUIRING FIVE VOTES:** None.

**12. INTRODUCTION OF ORDINANCES:** None.

**13. PUBLIC HEARINGS:**

**A. Public hearing to consider increasing municipal water and sanitary sewer rates.**

Gunyou provided the staff report.

Wagner asked about the predicted infiltration cost. Gunyou expected that normal annual fee increases will accommodate the new charges.

Public Works Director Brian Wagstrom explained the public education process that will begin fall of 2006. Home inspections will begin in January 2007. Replacement of aging residential water meters will occur at the same time. Wagstrom explained the expected costs and weather conditions that could increase the surcharge to be imposed by the Metropolitan Council. The council has developed a program where the city will have the opportunity to retain the \$343,000 surcharge if those funds are used to reduce inflow and infiltration by the city into the sanitary sewer system.

Wagstrom explained how the Metropolitan Council acts as the receptor for treatment of all sanitary sewer deposits in the metropolitan area. Rain water gets in the sanitary sewer system, takes up the capacity of the system, and creates current and future infrastructure issues. Minnetonka is one of a handful of cities that is a significant contributor to the problem.

Wagner asked if the education program will include information regarding how to drain sump pumps outside. Wagstrom answered in the affirmative. Engineering will be working to identify proper drainage routes for the water.

Wiersum asked if Wagstrom expected to find a significant number of residents draining sump pumps into the sanitary sewer system. Wagstrom believed that the biggest offender may be sump pumps connected to the sanitary sewer system.

Wiersum asked if a punitive consequence will be imposed for a violation. Wagstrom stated that the repair cost will be the responsibility of the homeowner. A larger property repair expense may be divided and added to a property's utility bills to decrease the initial cost. Wagstrom explained that a fine will not likely be imposed for the initial violation, but one may be imposed if the problem is not corrected. The city council will be involved in setting those policies as the program progresses.

Gunyou reported that the finance director concluded that the city has adequate reserves in the utility fund. Finance Director Merrill King was present to answer questions.

Callison opened the public hearing. No one spoke. Callison closed the public hearing.

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2006-066 to increase water rates by \$0.05 per thousand

gallons and sewer rates by \$0.10 per thousand gallons. All voted "yes." Motion carried.

**B. Public hearing to consider increasing storm water utility fees.**

Gunyou provided the staff report.

Callison opened the hearing. No one spoke. Callison closed the hearing.

Allendorf asked if the utility bill lists the storm sewer fee separate from the water fee. Gunyou answered in the affirmative.

Allendorf moved, Schneider seconded a motion to adopt Resolution No. 2006-067 increasing storm water utility fees. All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

**A. Items concerning the remodeling and expansion of the home at 5235 Woodhill Road for West Suburban Alano Society and expansion of Glen Lake Park for the city of Minnetonka.**

Planning Director Geoff Olson provided the staff report.

Callison asked if clarification was needed that the site plan would only include one patio. Peterson confirmed with the Alano representative that the patio on the west side is meant to be a five-foot wide sidewalk that extends from the side door to the front of the house. The landscape plan had been revised to include additional required landscaping on the north side. The property owner adjacent on the north preferred a landscaped berm. Peterson was satisfied with the patio since it will be two feet lower than the basement elevation of the house. The Alano organization agreed to invest significant additional funds to cover the cost of the berm and landscaping on the north side.

Callison invited anyone from the audience to comment.

Peterson responded to a letter received from a resident who suggested other locations that the resident thought would suit Alano's needs. Peterson stated that all of the locations listed had already been considered. Alano needs its own facility to prevent scheduling conflicts with other users of the building.

Peterson acknowledged that the setback variances were large, but that the city is the adjoining property owner. Alano's use is an appropriate use for the property.

Callison stated that the north side yard setback requirement is 50 feet. The variance would allow it to be reduced to 34 feet, but it would be in line with the existing house. Peterson agreed and explained that the steep decline allows the addition to be constructed at a much lower level.

Gunyou felt the proposal is a win-win situation and thanked Alano's representatives for being open to participating in the discussions.

Ellingson attended the neighborhood meeting. Everyone in attendance responded positively to the presentation. Staff did an excellent job of working with the neighbors regarding landscaping. The trail was a good idea.

Callison agreed that the proposal is a win-win situation, but that does not relieve the city council of its responsibility to make sure that the ordinances are being followed and that the variances are appropriate. She felt the variances were appropriate. It created a good solution for the park as well as for Alano. She appreciated staff's work.

Allendorf appreciated Alano representatives' and Peterson's time and efforts put into the proposal.

Allendorf moved, Wiersum seconded a motion to include modifications to the resolution listed in the addendum dated May 22, 2006, eliminate the patio on the west side from the site plan, and:

- 1) Give preliminary approval to the Glen View Park 3rd Addition, date stamped April 14, 2006, with a lot width at the right-of-way variance from 80 feet to 0 feet. 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 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:

- 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.
- b. The following items must be submitted to the city before the city releases the final plat:
- (1) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
- (2) 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) A private driveway easement between the street right-of-way and Lot 2. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.
- (c) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
- These documents must be recorded with the final plat, and a drawing of any easement must be attached to the easement deed.
- (3) Any other requirements included with final plat approval.
- c. The following must be completed before the city issues a grading permit or any site work is started.
- (1) Approval of final grading, drainage and erosion control plans by the city engineer.
- (2) All trees to be preserved must be fenced and erosion control measures installed, as approved by the city.
- (3) Approval of a construction management plan by the planning director.
- (4) If required, submit evidence of the watershed district approval. The city may require revisions

to the preliminary plat to meet the district's requirements.

- d. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
  - e. 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.
- 2) Adopt the Resolution No. 2006-068 approving the conditional use permit for the West Suburban Alano Society with a building setback variance of 50 feet to 34 feet and 12 feet at 5235 Woodhill Road. This resolution is based on the following findings:
- a. With the exception of the building setbacks, the proposal meets the required conditional use permit standards.
  - b. The proposal meets the required standards for a variance, because:
    - (1) There is a unique hardship to the property caused by the existing location of the home.
    - (2) The variance would meet the intent of the ordinance because the structure looks like a single-family home, and would be setback 35 feet from the north lot line. A single-family home could be setback 10 feet from the north lot line.
- Approval is subject to the following conditions:
- a. The city council may reasonably add or revise conditions to address any future unforeseen problems.
  - b. 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.
  - c. A shared maintenance and utility agreement with the city for the driveway, parking lot, and lighting. The agreement is subject to review and approval of the city attorney.
  - d. Before the city issues a building permit, the applicant must agree to the above conditions in writing and record this resolution with the county.
- 3) Approve the site and building plan review with the removal of the west patio and with drive-aisle and parking lot setback variances from 20 feet to 4 feet from the south lot line, from

20 feet to 18 feet from the east lot line. Approval is based on the following findings:

- a. The proposal would meet the required standards and ordinances for a site and building plan approval.
- b. The proposal would meet the required standards for a variance, because:
  - (1) The drive-aisle setback variance for the driveway would be adjacent to the Glen Lake Park. The driveway would serve as an entrance to the park; therefore, visually there would be no impact.

Approval of the site and building plans is subject to the following conditions:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan date stamped April 14, 2006.
  - Grading plan date stamped April 14, 2006.
  - Landscaping plan date stamped May 1, 2006.
  - Building elevations date stamped April 14, 2006.
- b. Before starting any site work or obtaining a grading permit, complete the following work:
  - (1) The installation and maintenance of temporary rock driveways, erosion control, tree protection, and wetland protection fencing for each lot must be installed, subject to review by the city's natural resources staff.
  - (2) Submit final site, grading, drainage, utility, and erosion control plans for staff approval.
  - (3) Submit a construction management plan for staff approval.
- c. The following must be submitted to the city before the city issues a building permit:
  - (1) A final landscape and irrigation plan for staff approval
- d. A 6-foot-wide trail must be added on the west side of the batting cages.
- e. The property owner is responsible for replacing any required landscaping that dies.
- 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. Approval does not include the signs shown on the drawings. Separate permits are required from staff.

h. Construction must begin by December 31, 2007, unless the planning commission grants a time extension.

All voted "yes." Motion carried.

**B. Preliminary plat, with variances, for a four-lot subdivision at 5342/5356 Picha Road for Steve Lipe.**

Olson provided the staff report.

Wagner asked for the size of the three lots. Olson explained that the south lots would each consist of 17,472 square feet. The lot on the north would exist as it is now with 34,000 square feet.

Callison asked if the neighborhood fit the ordinance definition of a small lot neighborhood. Olson answered in the negative. The average lot size within 400 feet of the site must be 15,000 square feet or less. Most of the lots on the east side are a little over 15,000 square feet. The average is closer to 16,000 square feet.

Callison asked for the history behind platting of the lots. Olson was unaware of the history, but confirmed that an easement existed through the center of the property. A condition of approval would require the driveway to be paved and the easement widened from 16 feet to 34 feet.

Steve Lipe, 2150 County Road 127, Delano, represented himself and his father, the property owner. He stated that staff has been easy to work with and that he has no problems.

Wagner was not in favor of splitting a lot to create lots smaller than the minimum lot size requirement if the neighborhood does not qualify as a small-lot neighborhood.

Schneider saw a difference. A neighborhood that meets the small lot definition is automatically entitled to the smaller lot size without a variance because it would be in character with the surrounding lot sizes. In this case, the three proposed lots would be larger than the lots across the street. They would not be a major deviation in character to the general area and that has provided justification for approving variances in the past.

Ellingson was unsure of the legal standard since the lots across the street are smaller in size than the proposed lots, but the lots to the north are larger. He recognized a practical difficulty.

Callison thought dividing the site into four lots would create very small lots. The size of the houses makes the size of the lots feel even smaller. The two lots should be divided into three equally sized lots. She had a hard time understanding the practical difficulty that dictated the city council should approve a variance for a lot size standard when the only issue is that the lots are too small.

Wiersum struggled with the situation since the small lots are located on Holiday Road, not Picha Road.

Thomas generally does not support creating lots less than 22,000 square feet and specifically does not in this case.

Allendorf considered that lots north of the site are larger than the proposed lots; lots south and west of the site range from 11,000 square feet to 21,000 square feet; and lots on the east include small lot sizes. Regardless of the back doors facing Picha Road, the lots are small. He understood the problem, but felt that the real concern is the mass of the future residences, which would make the small lots seem even smaller.

Callison added identifying a hardship to serve as justification for the variance as a major concern.

Wagner apologized for not being able to visit the site. Since the area did not meet the definition for a small lot neighborhood, he could not support the variances.

Schneider recognized the need to have a discussion regarding residence mass and setbacks sooner than later. By not having criteria for certain sized lots, an applicant may suffer. There is no guarantee, but a 34,000-square-foot lot would be valuable and a humongous home would not fit with the neighborhood. The practical difficulty is straight forward. The easement would not allow the site to be divided into three lots without a variance. If the home size would be guaranteed to be the same size as surrounding homes, the size of the lots may not be as much of an issue.

If Wagner knew the residence would be valued at \$225,000, it would be much easier to approve a variance. If the city benefited

overall, by affordability and open space issues, he would consider the application differently.

Callison reviewed the council's concerns regarding four lots and four houses. The item requires five votes to be approved. She invited the applicant to comment.

Lipe understood the city council's role. He worked with staff and understood the issues. His brother is moving to Winsted. Both residences require extensive repairs. His mother is in a nursing home and his father is 83 years old. Two houses away, a 27,000-square-foot lot was approved to be divided into two lots sized 15,000 square feet and 12,000 square feet. The city council approved that lot division a couple months ago.

Lipe understood that a lot worth \$400,000 would need to have a residence four times the value of the lot. Combining the lots to subdivide them would cause financial complications. The easement and utilities located in the center of the site would also cause complications. A number of options were considered.

Wiersum struggled with the proposal. He agreed with Thomas, who did not support the creation of a lot below the minimum lot size, but thought of the large homes that could be built on the two existing large lots. The smaller lots would result in the construction of houses that would fit much better with the neighborhood.

Lipe has a plan for a 2,000-square-foot rambler. The lots would be 104 feet wide; the house would be 56 feet wide. He would construct the first house hoping that his father would live in the northerly house for another 10 years. All of the neighbors know his dad and encouraged the proposal. He would love to build entry level homes for under \$300,000, but did not know how that would be possible in Minnetonka. He is a home remodeler, not really a builder.

Callison stated that the city council has until July 18, 2006 to act on the application. In response to Schneider's question, Gunyou suggested that a work session could be scheduled before July 10, 2006 to discuss the restriction of house mass in established neighborhoods.

Schneider commented that if the proposal is denied, the applicant could do what he wants with two lots. If review is postponed, it may give the city council time to use this application as a pretty straight forward example to develop review criteria for homes on smaller

lots, and that would ultimately benefit the applicant and the city council.

Callison asked Lipe if he would agree to postpone action. Lipe agreed.

Thomas moved, Allendorf seconded a motion to postpone review of the preliminary plat, with variances, for a four-lot subdivision at 5342/5356 Picha Road for Steve Lipe to a date no later than July 10, 2006. All voted "yes." Motion carried.

Callison requested that the applicant be invited to the city council study session. She appreciated the applicant's patience.

**C. Lot division, with variances, at 5808 Louis Avenue for Home Reflections, Inc.**

Olson provided the staff report.

Callison confirmed with Olson that the lots would meet the minimum lot size requirement, but would not meet the lot width at the right-of-way requirement.

Allendorf felt it would be beneficial to see the proposed residences, but questioned what authority the city council has to restrict the size. Peterson explained that conditions are allowed to be added to variances to keep the spirit of the ordinance. A reasonable condition would be to require the applicant to adhere to what is being represented.

Teresa Elsbernd, 5880 Minnetonka Drive, Shorewood, thanked the city council for tabling the item to give her an opportunity to address councilmembers. She was familiar with the minutes from the last meeting and met with staff to discuss the concerns. She stated that:

- She was open to modifying the plan to keep the character of the neighborhood and provide as much green space as possible.
- She met with her engineer to consider different options. She reviewed different options considered by moving lot lines.
- There would be 40 feet to 50 feet between the existing house and the adjacent proposed house by skewing the 10-foot and 20-foot side yard setbacks.

- The house on the north lot could be moved as far as possible toward the wetland while still maintaining the wetland setback.
- Keeping the frontages each 102 feet in width seemed most reasonable.
- A single home on the lot would be valued over a million dollars. The lot is over an acre in size. Two lots with residences valued between \$750,000 and \$800,000 would provide a better transition for the surrounding neighborhood.
- She was open to conditions that would limit the size of the houses in exchange for the variance.
- She provided design examples of houses she would like to build on the site. She felt the houses would be comparable to the residence next door at 5820 Louis Avenue.

Callison asked if anyone from the audience wished to comment. No one spoke.

Ellingson considered that the neighbors on the south side may want the proposed residence moved further away from the property line rather than closer. Elsbernd agreed. She suggested an option to create more green space between the residences. The existing house is skewed so that the windows and outdoor space would have a buffer.

Ellingson asked if the mature oak trees would be saved by having 85-foot front setbacks.

Mike Brandvold, 16103 Temple Lane, engineer for the applicant, explained the layout of the lots. Depending on the type of house built, no more than three to six trees would need to be removed from the front along the steep slope.

Allendorf noted that the house on the south lot could be moved back and still meet the setback. Maintaining the distances in the current proposal satisfied the conditions the city council discussed at the last meeting. Looking at the roof line and designs of possible houses goes beyond the city council's purview.

Thomas asked if the applicant considered creating a shared driveway and rotating the building pads to create more space. Elsbernd would be concerned with the marketability of residences in that price range with a shared driveway. Rotating the residences was considered to keep the width at the street view more narrow.

She would be happy to consider that for the south lot as well. A side of a home viewed from the street probably does not fit as well with the neighborhood.

Callison recalled that shared driveways create complications. She was satisfied with the efforts made to increase green space. She felt the proposal was appropriate for the neighborhood.

Thomas understood that half the neighborhood supported the application and half did not. The lots would meet the lot size requirement.

Ellingson confirmed with Olson that the 85-foot front yard setback would not be required. It was expected that the front yard setback would follow the illustration to allow preservation of the trees. There would be no conservation easement on the trees, but there would be one on the wetland.

Thomas moved, Allendorf seconded a motion to include modifications listed in the addendum dated May 22, 2006 and adopt Resolution No. 2006-069 approving a lot division at 5808 Louis Avenue, with a lot width at the setback variance from 110 feet to 102 feet for each lot. Approval is based on the following findings:

- 1) Except for the variances, the proposal meets the required standards and ordinances for a lot division.
- 2) The proposal meets the required standards for a variance, because:
  - a. There is a unique hardship to the property caused by the existing width of the lot which would prevent subdivision of the lot similar to other lots in the neighborhood.
  - b. The variance would meet the intent of the ordinance because the lot width would be consistent with other lot widths on Louis Avenue.

Approval is subject to the following conditions:

- 1) The following items must be submitted to the city before the city releases this resolution:
  - a. If applicable, evidence of watershed district approval
  - b. The following documents for the city attorney's approval:
    - (1) Ten-foot-wide drainage and utility easements next to any public street right-of-way and seven-foot-wide drainage and utility easements along all other lot lines
    - (2) Drainage easements over wetlands and storm water ponds

(3) Conservation easements over the area 25 feet outward from the edge of the wetland, including a drawing of the easements. The easements and drawing must be recorded with the final plat.

(4) Restrictive covenants to be recorded against the individual lots with the lot split resolution. The covenants must include the conditions that have not been met as of the release of the resolution, including the required minimum setbacks.

These documents must be recorded with the lot split resolution, and a drawing of any easements must be attached to the easement deed.

c. A park dedication fee of \$2,375.00.

d. Title evidence that is current within thirty days before release of the lot split resolution.

2) The following must be completed before the city issues a building permit:

a. A grading and tree preservation plan for each lot, subject to the planning director's approval. The plans must be in substantial compliance with the building pads shown on the approved lot division plan and must preserve trees designated for preservation at the time of lot division approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.

b. Grading plan must be adjusted to eliminate retaining walls in the city right-of-way.

c. The installation and maintenance of a temporary rock driveway, erosion control, tree protection, and wetland protection fencing must be installed subject to review and approval of the city's natural resources staff.

d. A copy of the recorded resolution and a copy of any easements or restrictive covenants required to be recorded must be submitted to the city.

e. A hook-up fee for sanitary sewer and water.

f. Minimum low basement elevation of 945.5 for both lots.

g. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

h. All garbage and debris be removed from the property.

i. The following minimum setbacks apply to each lot:

- (1) The southerly lot: 10 feet to the south lot line and 20 feet to the north lot line.
- (2) The northerly lot: 23 feet to the south lot line and 10 feet to the north lot line, unless the planning commission approves a setback variance on the north side of the northerly lot.
- 3) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
- 4) 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 replace the required trees if they die within one year after installation.
- 5) This resolution must be recorded by the county within one year, unless the city council approves a time extension. If the council does not approve the extension, the lot division approval will be void.

Wiersum, Thomas, Wagner, Allendorf, Schneider, and Callison voted "yes." Ellingson voted "no." Motion carried.

## 15. APPOINTMENTS and REAPPOINTMENTS:

### A. Reappointments to the senior citizens advisory board.

Callison moved, Wiersum seconded a motion to approve the following reappointments to the senior citizens advisory board:

- Ruby Berg, to the senior citizens advisory board, to serve another two years, effective June 1, 2006 and expiring on May 31, 2008.
- Jerilynn Bergeson, to the senior citizens advisory board, to serve another two years, effective June 1, 2006 and expiring on May 31, 2008.
- Karen Mast, to the senior citizens advisory board, to serve another two years, effective June 1, 2006 and expiring on May 31, 2008.
- George Perry, to the senior citizens advisory board, to serve another two years, effective June 1, 2006 and expiring on May 31, 2008.

All voted "yes." Motion carried.

**16. ADJOURNMENT.**

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 8:16 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Laura L. Ronbeck  
Acting City Clerk