

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, JUNE 26, 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 Al Thomas, Tony Wagner, Dick Allendorf, Terry Schneider, Bob Ellingson, Brad Wiersum, and Jan Callison were present.

**4. APPROVAL OF AGENDA.**

City Manager John Gunyou reviewed the changes and additional comments provided in the addendum dated June 26, 2006 which related to:

- o Item 10D, Produce Stand at 17507 Minnetonka Blvd, revised conditions in the staff report.
- o Item 13A, Locust Hills, late letter in support of project.

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

**5. APPROVAL OF MINUTES:**

**A. May 22, 2006 regular council meeting.**

Wiersum moved, Allendorf seconded a motion to approve the minutes of the May 22, 2006 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS:**

**A. Choral performance by Minnetonka Chamber Choir.**

Roger Hoel, Music Association of Minnetonka, introduced the Minnetonka Chamber Choir and noted the choir will be attending a choral festival in Brazil and Argentina in July. Hoel stated this is the Music Association of Minnetonka's 32<sup>nd</sup> year of operation.

The Council listened to two songs by the choir: "You Are the New Day" and a Mozart song performed in Norwegian.

**B. Recognition of Senior Citizen Advisory Board Members Al Bundy, Mickey Ducharme and Diane Nagle.**

Callison recognized Senior Citizen Advisory Board Members Al Bundy, Mickey Ducharme and Diane Nagle. She noted that Bundy served from June 2002 to May 2006 and served as vice president for two years, Ducharme served from June 1998 to May 2006, and Nagle served from June 2002 to May 2006. She listed the activities that each had been involved with.

Callison thanked Bundy, Ducharme, and Nagle for their service to the city of Minnetonka and participants at the Minnetonka Senior Citizen Center.

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

Gunyou reported on the Minnetonka Summer Festival and Ice Cream Social, noting despite the damp weather, 7,800 people attended. He invited the public back to the amphitheater on the civic center campus for a program and fireworks on August 22, when the city will be celebrating its 50<sup>th</sup> anniversary. He provided an overview of the participation in the various activities offered during the festival.

Gunyou reported on the schedule for upcoming council meetings.

Callison thanked staff for all their hard work at getting the festival ready at its new venue this year.

Wiersum added his appreciation for the staff's efforts at the festival.

Wagner stated he attended the Southwest Light Rail Committee meeting last Wednesday where updates were received on state transportation bonding projects, which include the central rail corridor as well as progress on the current light rail study in the southwest corridor. He noted there will be two meetings on September 13 and 27 to provide recommendations related to cost estimates, ridership, and preferred routing. There will be open houses and public education in October and November of this year. He noted all meetings are open to the public and are held at St. Louis Park City Hall, and additional information can be found on the Hennepin County website.

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

No one appeared.

**9. BIDS AND PURCHASES:****A. Items pertaining to the 2006 Emergency Vehicle Preemption Project No. 06301.**

- 1) **Consideration of bids.**
- 2) **Approve traffic control signal agreement with MnDOT.**

Gunyou stated this is the annual installation of the white flashing lights on the interchanges. The city budgets a certain amount for this every year, and this is the latest installation. The city is on schedule to be done in three years.

Thomas stated he has noticed any type of strobe light can activate the lights, and is concerned about drivers someday installing their own strobe lights in order to trigger the lights. He requested that city staff mention this concern to the company that manufactures the lights. He has viewed MnDOT trucks with the strobe lights on, and the traffic signals will end up changing. He suggested perhaps there is some technology that can address the situation.

Wiersum moved, Wagner seconded a motion to:

- 1) Award the bid for the 2006 Emergency Vehicle Preemption Project No.06301 to Mankato Electric in the amount of \$18,650.
- 2) Adopt Resolution No. 2006-074 approving agreement No. 89696M with the Minnesota Department of Transportation.

All voted "yes." Motion carried.

**10. CONSENT AGENDA (Items Requiring a Majority Vote):****A. Claims for council authorization – June 12, 2006.**

Allendorf moved, Thomas seconded a motion to approve the June 12, 2006 claims which includes checks numbered 197064 through 197428, totaling \$2,457,670.94. All voted "yes." Motion carried.

**B. Claims for council authorization – June 26, 2006.**

Allendorf moved, Thomas seconded a motion to approve the June 26, 2006 claims which includes checks numbered 197429 through 197763, totaling \$1,844,486.53. All voted "yes." Motion carried.

**C. Resolution to approve a cooperative agreement with Hennepin County to receive Transit Oriented Development grant funds.**

Allendorf requested to pull this item from the consent agenda. He stated there is an ongoing group looking at traffic matters in the Glen Lake area, and he asked for an explanation of the funding in the agreement.

Gunyou responded there is a requirement that the funds be expended within a certain amount of time after they are granted. Because of the phasing of the project, the city could only expend about half of the total amount within that timeline. The county is awarding that much in this grant, and the city will reapply for the remainder when it is scheduled to be used for the project. Basically it is the same application, but it is being split into two. There is no guarantee the city will receive the second half, but staff believes it is likely.

Allendorf believes the reapplication means the city could be up against other projects at that time, but he understands that is the only way it can be handled.

Allendorf moved, Ellingson seconded a motion to adopt Resolution No. 2006-075 approving a cooperative agreement with Hennepin County for Transit Oriented Development grant funds. All voted "yes." Motion carried.

**D. Conditional use permit for transient sales at 17507 Minnetonka Boulevard for Sever and Sharon Peterson.**

Callison noted there is an addendum to this item and requested pulling the item from the consent agenda. She noted the staff addendum changes one of the conditions. This would permit the sales to be open for longer than the original 23 days. She asked whether the council should be looking at longer periods of time for these types of operations. Staff is considering 91 days as a general guideline, but there is concern for parity with existing businesses, whose outdoor displays are limited to 20 days. Callison said perhaps the council should look at extending that period of time as well.

Schneider suggested the timeframe should not be an issue as long as parking and other related criteria are met.

Wiersum concurred. He suggested retail stores should be able to have parity in outdoor displays. Residents do benefit from outdoor displays.

Wagner expressed support for the idea of extending the period of time for existing businesses.

Callison moved, Allendorf seconded a motion to adopt Resolution No. 2006-076 approving a conditional use permit for Sever and Sharon Peterson to operate a fruit/vegetable stand 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) Submit a signed parking agreement between the owners of the 17507, 17515, and 17523 Minnetonka Boulevard properties. This agreement must be recorded against the properties and a copy of the recorded agreement returned to the city.
- 2) The garden center may be open 23 days per year, except that it may be open from June 29 through August 27 during 2006.
- 3) City staff may require that the stand be relocated on the property if it interferes with parking/stock piling associated with the County Road 101/Minnetonka Boulevard road project.
- 4) No more than four signs, which do not exceed 32 square feet in aggregate, are allowed for the garden center.
- 5) 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.
- 6) The conditional use permit is issued for a fruit/vegetable stand in the area specified in the application. Any change in the location or items sold shall render the permit invalid.
- 7) 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.
- 8) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 9) 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.
- 10) The applicant must agree to the above conditions in writing and record this resolution with the county.

All voted "yes." Motion carried.

**E. Conditional use permit for transient sales at 14730 Excelsior Boulevard for Sever and Sharon Peterson.**

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2006-077 approving a conditional use permit for Sever Peterson to operate a produce stand at 14730 Excelsior 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 produce stand and/or stand patrons may not block the drive aisle.
- 2) The garden center may be open annually, the last Thursday in June through the last Sunday in August.
- 3) No more than four signs, which do not exceed 32 square feet in aggregate, are allowed for the garden center.
- 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 for a produce stand in the area specified in the application. Any change in the 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.

All voted "yes." Motion carried.

**F. Resolution accepting plans and specifications and authorizing the advertisement for bids for the Plymouth Road Storm Sewer Improvement Project No. 5615.**

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2006-078 accepting plans and specifications and authorizing

the advertisement for bids for the Plymouth Road Storm Sewer Improvement Project No. 5615. All voted "yes." Motion carried.

**G. Final approval of the GLEN VIEW PARK 3<sup>RD</sup> ADDITION plat at 5235 and 5243 Woodhill Road for the City of Minnetonka.**

Allendorf moved, Thomas seconded a motion to approve the GLEN VIEW PARK 3RD ADDITION final plat that was received on June 21, 2006, 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.

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

Gunyou stated the property at 13501 Crestwood Drive East was corrected and was in compliance, so the only properties with resolutions being adopted are 1 and 3.

Allendorf moved, Thomas seconded a motion to adopt the following resolutions ordering the abatement of the nuisance conditions, as amended:

- 1) Resolution No. 2006-079 ordering the abatement of nuisance conditions existing at 5335 Woodland Drive.
- 2) 13501 Crestwood Drive East. in compliance.
- 3) Resolution No. 2006-080 ordering the abatement of nuisance conditions existing at 15600 State Highway 7.

All voted "yes." Motion carried.

**11. Items requiring Five Votes:**

Deleted: ¶

**A. Request to add an outdoor eating area for a coffee shop at 3432 County Road 101 for Martin Woody.**

Wiersum moved, Wagner seconded a motion to adopt Resolution No. 2006-081 approving the proposed conditional use permit and variance. This resolution is based on the following findings: Approval is based on the following findings:

- 1) The hardship is caused by the small lot size. The setback for the outdoor eating area would be the same as the existing building.

- 2) The outdoor eating area would be adjacent to a parking lot to the east. The proposed landscaping around the perimeter of the outdoor eating area would be an improvement over the proposed paving.
- 3) The proposal meets the standards outlined in the city code, Section 300.21.2, regarding general standards for conditional use permits for business zoning districts.
- 4) With the exception of the setback variance, the proposal meets the standards outlined in the city code, Section 300.21.4. r., regarding accessory sidewalk cafes and outdoor eating areas.  
Approval is subject to the following conditions:
  - a. Record this resolution with the county within one year from the date of city council approval.
  - b. The site must be developed per the landscape plans date stamped May 1, 2006.
  - c. The outdoor eating area must be equipped with refuse containers and periodically patrolled for litter pick-up.
  - d. The outdoor eating area must not have speakers or audio equipment.
  - e. The city council may reasonably add or revise conditions to address any future unforeseen problems.
  - f. 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.
  - g. A wood fence must be constructed in the rear yard along the south and west lot lines.
  - h. The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

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

**13. PUBLIC HEARINGS:**

**A. Items concerning a six-lot subdivision at 2400 Bantas Point Lane for Locust Hills Development, LLC.**

Gunyou stated this is a portion of a much larger project that falls within Wayzata. City planner Geoff Olson provided an overview of the project.

Callison asked about the public trail on the property. Olson noted this is a private trail in the development. Additionally, there will be a public trail along McGinty Road. Callison asked if there is a public trail on Hwy. 101. Olson responded he believes that is proposed.

Wagner asked about water service. Olson responded the city will be providing and maintaining all utilities on the Minnetonka portion of the project.

Callison noted the public hearing tonight relates to vacation of rights-of-way. She invited the developer to speak.

Peter Pflaum, 18070 Breezy Point Road, Woodland, offered to do his presentation for the council if so desired. Schneider asked Pflaum to display and explain the model of the proposed project. Pflaum explained the scale model of the development. In Wayzata there was concern how the project would actually look, so significant effort was put into the model. He noted there are 44 total units in the project, with six of them in Minnetonka. The council members viewed the model.

Pflaum pointed out there is an existing stable and out building which will be renovated; they will be part of a swimming pool complex and a changing room/club room. The street pattern focuses in on that stable area, which is the centerpiece of the site.

Callison asked about the status of the project before the Wayzata City Council. Pflaum responded the planning commission has recommended approval, and the project is on the Wayzata's council's agenda for July 18.

Ellingson asked about any enforcement mechanisms to keep the public off the private trails. Pflaum stated there is a public trail with two public overlooks. In the site itself, there is no one policing it except for the homeowners association. If problems arose, the association would have to determine how to handle it. He noted public trails are pretty common in his developments.

Ellingson noted the streets are public, so anyone can walk on the streets. Pflaum concurred. He noted the concern about the private trail is it comes so close to the residences; it is a security problem for the people living there.

Callison noted the private trail is adjacent to the houses and the public trail is adjacent to McGinty Road and Highway 101.

Callison opened the hearing at 7:14 p.m. No one spoke. Callison closed the hearing at 7:15 p.m.

Allendorf commented he has not seen a property in Minnetonka that is as beautiful as this piece of property. He is struck by the restrictions on size on the first floor as well as the second floor and the overall height of 32 feet, and believes that concept will work well throughout the development. He expressed support for the project.

Wiersum added he drove through the property and believes this is a great opportunity for the cities of Wayzata and Minnetonka to preserve 84 percent of the land. He believes this is a spectacular neighborhood, and everyone benefits from having that property preserved.

Callison stated she appreciates Allendorf's comments on the restrictions on size, though she regrets there is no affordable housing in the project.

Wiersum moved, Thomas seconded a motion to:

1) Adopt Ordinance No. 2006-13 approving the following for

LOCUST HILLS at 2400 Bantas Point Lane:

- Rezoning from R-1, low-density residential, and wetland/floodplain 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. Wetland/floodplain filling will be compensated with excavation in the city of Wayzata.
- d. The proposed development would not have an adverse impact on the neighborhood.

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:
  - Site plan date stamped May 3, 2007.
  - Grading plan date stamped May 3, 2007.
  - Stormwater management plan date stamped May 3, 2007.
  - Landscaping plan date stamped May 3, 2007.
  - Open space plan date stamped May 3, 2007.

- Wetland alteration and replacement plan date stamped May 3, 2007.  
The above plans are hereby adopted as the master development plan and as final site and building plans.
  - b. First floor home and garage size must not exceed 3,600 square feet. The second floor must not exceed 50 percent of the habitable space on the first floor.
- 2) Give preliminary approval to the LOCUST HILLS plat date stamped May 3, 2006. Approval is based on the following findings:
- a. The proposal meets the required standards and ordinance for a preliminary plat.  
Approval is subject to the following conditions:
    - (1) Complete the following before final plat approval:
      - a) Show the following on the final plat:
        - i. 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.
        - ii. Utility easements over existing or proposed public utilities, as determined by the city engineer.
        - iii. Drainage and utility easements over wetlands, floodplains, and public storm water ponds, as determined by the city engineer.
      - b) Pay the city a park dedication fee of \$11,875.
      - c) If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
    - (2) The following items must be submitted to the city before the city releases the final plat:
      - a) An engineering/utility inspection fee.
      - b) Payment for traffic signs and installation, as required by the city engineer.
      - c) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
      - d) 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.

- e) The following documents for the city attorney's approval:
- i. Title evidence that is current within thirty days before release of the final plat.
  - ii. Conservation easements over the outlots, with a drawing of the easements. Easement shall include a 25-foot buffer around all wetlands. The easements and drawings must be recorded with the final plat. The conservation easement over Outlot F may be limited to the wetland buffer
  - iii. Documents establishing a homeowners' association. The association must be responsible for maintaining any common areas, common drives, 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.

- iv. Provide declaration and restrictive covenants over all mitigated wetland areas per the WCA, for review by the city's natural resources staff.
  - v. A notice recorded against individual lots that the stub street may be extended to provide access to the adjacent property.
  - vi. 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.
  - f) Any other requirements included with final plat approval.
- (3) The following must be completed before the city issues a grading permit or any site work is started.
- a) 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. Final grading plans must include the following:
    - i. Existing and proposed five-year stormwater elevations for the site.
    - ii. Runoff volume and rate analyses for existing and proposed conditions for the 1-year and 10-year events.
    - iii. Detailed stormwater pond outlet information including emergency overflow and the proposed outlet to allow extended detention runoff for smaller events.

- iv. Trash and floatable skimming devices to reduce outlet velocities to four feet per second or less.
  - v. A detailed cross section for the boulder retaining wall.
  - vi. Proposed silt fence and erosion control plans.
  - vii. Runoff from impervious surfaces, such as driveways and rooftops, should be routed into the street and to the stormwater ponds, as practical.
- b) Approval of final landscaping plan subject to approval of natural resources staff.
  - c) Street widths must be 24 feet face to face, with B6-12 curb and gutters. The cul-de-sac must be 70 feet face to face.
  - d) 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.
  - e) All trees to be preserved must be fenced and erosion control measures installed, as approved by the city.
  - f) Approval of a construction management plan by the city planner.
  - g) Submit a copy of the county access permit to McGinty Road.
  - h) If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
- (4) 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) City approval of the installation of a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot.
  - c) Submit a copy of the recorded plat and any easement or covenants required to be recorded.
  - d) Pay a hookup fee for sanitary sewer and water.
  - e) 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 city planner may approve a time extension to this requirement.
- (5) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- (6) All the streets and utilities in Minnetonka will be maintained by the city of Minnetonka.
- (7) 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.
- (8) 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) Adopted Resolution No. 2006-082 approving a conditional use permit to build an impervious trail within a wetland buffer area for the Locust Hills subdivision at 2400 Bantas Point

Lane. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- a. Record this resolution with the county.
- b. The trail must be constructed per the grading plan date stamped May 3, 2006.

3) Adopt Resolution No. 2006-083 approving the wetland and floodplain replacement plan. This resolution is based on the following findings:

- a. The proposed fill will require the overall restoration and quality enhancement of the wetland.
- b. The wetlands within the project will ultimately have higher functions and values.

Approval is subject to the following conditions:

- a. Obtain a grading permit as part of the wetland restoration.
- b. Must be developed per the plans dated May 3, 2006.

4) Adopt the Resolution No. 2006-084 vacating the obsolete right-of-way.

All voted "yes." Motion carried.

**B. Public hearing to consider an application by Misko Inc., for an off-sale intoxicating liquor license for Liquor Barrel, 11048 Cedar Lake Road.**

Gunyou stated this is a transfer of a liquor license, not a new license. He recommended opening the hearing and continuing the hearing until July 24, at which time the police background report will be available.

Callison opened the hearing at 7:20 p.m. No one spoke.

Thomas moved, Wagner seconded a motion to continue the public hearing to consider an application by Misko Inc., for an off-sale intoxicating liquor license for Liquor Barrel, 11048 Cedar Lake Road to July 24, 2006. All voted "yes." Motion carried.

**14. OTHER BUSINESS:**

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

Olson stated this item is coming back for a second look by the council because of the size of the proposed houses. Since the council's study session, the developer has proposed limits on the

house sizes. The staff report had discussed 2,800 square feet for the southerly house and 3,600 square feet for the second house. He received a call from the applicant today after the change memo was prepared, and the applicant is concerned about whether he would be held strictly to the square footage if some minor adjustments are needed. The applicant requested a floor area ratio of 19 percent for the southerly house rather than 18 percent, which would potentially bring the house up to about 3,000 square feet. Staff believes that is a reasonable request and recommends approval.

Callison asked about the rationale for the variance. In recalling the previous discussion, she was persuaded in part because of the existence of an easement across the lot, which would prevent a division into three lots. She wondered whether that would be an appropriate additional reason to cite for justifying the variance for this property. Gunyou and Olson concurred.

Callison requested that a change be made so it is recorded that there is an easement that prohibits the lot from being divided into three lots.

Thomas moved, Wagner seconded a motion to approve the Lipe Addition preliminary plat, date-stamped March 20, 2006, with lot area and lot width at setback variances, as well as the additional just Approval is for three lots, rather than four lots, and is based on the following findings:

- 1) Except for the requested variances, the proposal meets the required standards and ordinance for a preliminary plat.
- 2) The proposal meets the required standards for a variance, because:
  - a. The requested variances are reasonable in the context of the immediate neighborhood. The existing lots are both larger and wider than other properties in the immediate area. The proposed subdivision would result in lots more characteristic of the neighborhood.
  - b. As the existing properties are unique in the neighborhood, approval of the variances would not result in similar variance requests.
  - c. Given the sizes of the other properties in the Picha and Holiday Road areas, the variances would not alter the character of the neighborhood.
  - d. If the property were divided into three lots of roughly equal size, a variance would not be required, but an existing easement prevents this.

Approval is subject to the following conditions:

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- 1) Complete the following before final plat approval:
  - a. Show the following on the final plat:
    - (1) Dedication of 10 feet of additional right-of-way along Picha Road. This will require that the house pads shown on the preliminary plat be moved back an additional 10 feet.
    - (2) At least ten-foot-wide drainage and utility easements along the front property lines and at least seven-foot-wide drainage and utility easements along all other lot lines.
    - (3) A drainage and utility easement over the 957.5 elevation.
    - (4) A revised plat showing three lots: 5342 Picha Road in its current configuration and 5356 Picha Road divided into two lots, as originally proposed.
  - b. Pay the city a park dedication fee of \$2,375.
  - c. Submit final utility plans
- 2) Complete the following before release of the final plat:
  - a. Submit an electronic CAD file of the final plat in microstation or DXF on a CD disk.
  - b. Submit 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) A 34-foot-wide driveway easement across Lot 3 to access the two single-family homes to the west.
    - (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.
  - d. Remove from 5356 Picha Road all items in violation of the nuisance ordinance as required by the environmental health staff.
- 3) The following must be completed before the city issues a building permit:

- a. The building pads must be in substantial conformance with the pads shown on the preliminary plat, but must be moved back ten feet further from the road to reflect the added ten feet of right-of-way.
  - b. 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.
  - c. City approval of the installation of a temporary rock driveway, erosion control, and tree protection fencing for each lot.
  - 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. 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.
- 4) The minimum floor elevation for any new house is 959.5.
  - 5) The lot areas of Lots 3 and 4 may be revised to accommodate the required driveway easement.
  - 6) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
  - 7) 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.
  - 8) 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.
  - 9) The floor area of the house and garage for the southerly lot must not exceed 3,000 square feet (19% floor area ratio) and the floor area ratio of the new home and garage on the middle lot must not exceed 3,600 square feet (22% floor area ratio).

10) The existing common driveway to the two homes to the west must be paved as required by code.

All voted "yes." Motion carried.

15. **APPOINTMENTS and REAPPOINTMENTS:** None.

16. **ADJOURNMENT.**

Thomas moved, Wiersum seconded a motion to adjourn the meeting at 7:25 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Laura L. Ronbeck  
Acting City Clerk