

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, JANUARY 22, 2007**

1. CALL TO ORDER.

Mayor Callison called the meeting to order at 6:34 p.m.

2. PLEDGE OF ALLEGIANCE.

All joined in the Pledge of Allegiance.

3. ROLL CALL.

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

4. APPROVAL OF AGENDA.

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

5. APPROVAL OF MINUTES: None.

6. SPECIAL MATTERS:

A. Presentation of 2007 Reflections Awards.

Callison recognized the following 2007 Reflections Award winners and nominees:

Winners:

- David Hakensen and Katie Lee, city of Minnetonka 50th anniversary committee

Nominees:

- Rev. Jim Cook and the Congregation of St. David's Episcopal Church
- Jim Hengel, Intercongregation Communities Association
- Mary Molzahn, We Can Ride, Inc.
- Mid-Country Bank and Jillian Botz
- Barbara Steiner
- Paul Thyren, TreeHouse

David Hakensen thanked the council for the award and former mayor Karen Anderson for the nomination.

Katie Lee thanked the council and acknowledged the hard work of the other volunteers on the 50th anniversary committee.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS.

City Manager John Gunyou reported on the schedule for upcoming council meetings and noted the mayor will be giving the annual state of the city address on February 7 at 7:30 a.m.

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

No one appeared.

9. BIDS AND PURCHASES:

A. Consideration of awarding the contract for the purchase of a seventy-five foot aerial fire truck.

Gunyou provided an overview of the staff report.

Thomas moved, Wagner seconded a motion to award the contract to the low bidder, E-One, Incorporated, in the amount of \$425,000.00. All voted "yes." Motion carried.

B. Consideration of bids for the purchase of automated residential water meters and accessory equipment.

Gunyou presented the staff report.

Allendorf noted the bids for the fire truck as well as the water meter equipment came in under the budgeted amount. He inquired what happens to those excess funds.

Gunyou responded it depends on the funding source for each item. The water meter equipment is funded out of the utility/water fund, so any savings would accrue to that fund. The fire track was out of a general fund, so it would roll back into that fund. The council approves the five-year CIP on an annual basis, and typically those funds are then available to reallocate.

Allendorf moved, Wiersum seconded a motion to award the project to Hydro Metering Technology, Inc. for the Orion drive-by system. All voted "yes." Motion carried.

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

A. Claims for council authorization – January 22, 2007.

Allendorf moved, Thomas seconded a motion to approve the January 22, 2007 claims which includes checks numbered 201843 through 202182, totaling \$1,247,852.63. All voted “yes.” Motion carried.

B. Resolution approving Minnetonka Firefighters Relief Association by-laws amendments.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2007-010 approving Minnetonka Firefighters Relief Association by-laws amendments. All voted “yes.” Motion carried.

C. Ordinance regarding massage license fees.

Allendorf moved, Thomas seconded a motion to adopt Ordinance No. 2007-01 amending City Code Section 710.005 regarding massage license fees. All voted “yes.” Motion carried.

D. Ordinance amending the massage regulations.

Thomas thanked the council for the changes to the regulations. He said that the item assists a disabled person in the fourth ward who wished to convey his gratitude to the council.

Allendorf moved, Thomas seconded a motion to adopt Ordinance No. 2007-02 amending City Code Section 810.040 regarding massage regulations. All voted “yes.” Motion carried.

E. Resolution approving the Pay Equity Implementation Report for the city of Minnetonka.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2007-011 approving the Pay Equity Implementation Report for the city of Minnetonka. All voted “yes.” Motion carried.

F. Resolution authorizing plans and specifications for the 2007 Street Rehabilitation Program, Phase 1, Project No. 06404.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2007-012 receiving the feasibility report, ordering the improvements in, authorizing preparation of plans and specifications, and authorizing easement acquisition for the 2007 Street Rehabilitation Program, Phase 1 Project No. 06404. All voted “yes.” Motion carried.

G. Resolution receiving petition and authorizing the preparation of a feasibility report for the West Eldorado Trail Roadway & Utility Improvements Project No. 4988.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2007-013 receiving a petition for roadway and utility improvements and authorizing the preparation of a feasibility report for the West Eldorado Trail roadway and utility improvements conditioned upon receiving the required letter of credit for study and report expenses. All voted "yes." Motion carried.

H. Conditional use permit for a telecommunication tower and equipment cabinets at the southwest corner of 494/394 Intersection for Sprint Spectrum/Hall Institute.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2007-014 approving a conditional use permit for telecommunications antennas and associated equipment at the southwest corner of 494/394 Intersection. This resolution is based on the following findings:

- 1) The city code recognizes telecommunications facilities as valuable public resources.
- 2) The proposal meets all of the conditional use permit standards.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
 - a. Record this resolution with the county before the city issues a building permit.
 - b. Submit a landscape plan for review and approval of natural resources staff. Landscaping must screen equipment cabinets from off-site views with specific emphasis on screening from the trail.
- 2) The site must be developed and maintained in substantial conformance with the plans date-stamped November 21, 2006.
- 3) The exterior surface of the antennas must be painted to match the existing structure.
- 4) Antennas must comply with all building and electrical code requirements and must be designed and certified by an engineer.
- 5) No external messages or on-site employees are allowed.
- 6) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 7) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

- I. Items related to telecommunications antennas at 4525 Williston Road for Cingular Wireless/Hall Institute:**
- 1) Conditional use permit**
 - 2) Lease agreement**

Thomas asked if the website can include an informational page about the current scientific findings regarding what antennas emit as well as some education for the public regarding the city's limited ability to do anything about the installation of antennas due to FCC regulations.

Gunyou indicated staff will update the website with that information.

Wiersum moved, Allendorf seconded a motion to:

- 1) Adopt Resolution No. 2007-015 approving a conditional use permit for telecommunications antennas at 4525 Williston Road. This resolution is based on the following findings:
 - a. The city code recognizes telecommunications facilities as valuable public resources.
 - b. The proposal meets all of the conditional use permit standards.

Approval is subject to the following conditions:

 - a. Record this resolution with the county before the city issues a building permit.
 - b. The site must be developed and maintained in substantial conformance with the plans dated November 21, 2005.
 - c. The exterior surface of the antennas must be painted to match the existing water tower.
 - d. Antennas must comply with all building and electrical code requirements and must be designed and certified by an engineer.
 - e. No external messages or on-site employees are allowed.
 - f. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - g. The applicant must agree to the above conditions in writing.
- 2) Approved the antenna lease agreement for Williston Road water tower.

All voted "yes." Motion carried.

J. Resolution ordering the abatement of nuisance conditions existing at 10308 Lakeview Drive West.

Wagner requested a staff update on the property. Community Development Director Ron Rankin reported some of the nuisance conditions still exist at that property, so staff recommends adoption of the resolution.

Allendorf moved, Thomas seconded a motion to adopt Resolution No. 2007-016 ordering the abatement of nuisance conditions existing at 10308 Lakeview Drive West. All voted "yes." Motion carried.

11. Items requiring Five Votes: None.

12. INTRODUCTION OF ORDINANCES:

A. Ordinance establishing Minnetonka History Commission.

Gunyou presented the staff report.

Wiersum moved, Thomas seconded a motion to introduce an ordinance establishing Minnetonka History Commission. All voted "yes." Motion carried.

B. Ordinance establishing Minnetonka Community Commission.

Gunyou provided the staff report.

Wagner stated this is a great idea, especially to keep the momentum moving forward in this area. He also suggested the efforts of the Minnetonka Community Commission be coordinated with some of the existing committees in the city.

Wiersum asked whether staff is confident there is an adequate number of volunteers for the commission. Gunyou responded there has been significant interest from the public for the commission.

Schneider stated this is an excellent idea that's long overdue and suggested a council liaison be appointed as well.

Wiersum moved, Thomas seconded a motion to introduce an ordinance establishing Minnetonka Community Commission. All voted "yes." Motion carried.

C. Ordinance authorizing the sale of two townhouse units in the Deephaven Cove development to the West Hennepin Affordable Housing Land Trust.

Gunyou provided an overview of the staff report.

Wagner moved, Thomas seconded a motion to introduce an ordinance authorizing the sale of two townhouse units in the Deephaven Cove development to the West Hennepin Affordable Housing Land Trust. All voted "yes." Motion carried.

D. Ordinance amending a master development plan at 14401, 14407, 14413 and 14517 Excelsior Blvd and 14324 Stewart Lane for Glen Lake Redevelopment LLC.

Gunyou presented the staff report and noted a correction on item 7 of page 196 of the council packet. The date by which construction should begin is December 31, 2008. He noted the plan will go before the planning commission on January 25 and before the EDA on February 13 before returning to the council on February 26 if things progress on schedule.

Thomas recommended providing a link on the front page of the website to provide information and updates on the Glen Lake project. Gunyou confirmed staff will do that.

Allendorf moved, Schneider seconded a motion to introduce the ordinance amending a master development plan at 14401, 14407, 14413 and 14517 Excelsior Blvd and 14324 Stewart Lane for Glen Lake Redevelopment LLC, and refer it to the planning commission. All voted "yes." Motion carried.

13. PUBLIC HEARINGS:

A. Public hearing to consider applications by Christos Four, LLC, for on-sale and Sunday on-sale intoxicating liquor licenses for Christos Greek Restaurant, 15600 State Highway 7.

Rankin presented the staff report.

Callison opened the hearing at 7:10 p.m.

Sarah Anton, 15523 and 15525 Highwood Drive, indicated she lives behind the Christos property. The prior restaurant, Sydney's, used to dispose of glass bottles three times a day, seven days a week, creating an ongoing noise disturbance in her home. She asked the

city to make a reasonable accommodation so that she may peacefully enjoy her home.

Rankin stated he spoke with Ms. Anton previously and contacted the owner of Christos, who indicated a willingness to address the issue.

Callison indicated the hearing will be continued until February 26, 2007.

Schneider suggested the owner of Christos look into compacting the glass and other alternatives.

Wagner moved, Wiersum seconded a motion to continue the hearing to February 26, 2007. All voted "yes." Motion carried.

B. Public hearing to consider a temporary on-sale wine license for the Morris Park Players, Inc. for a fundraiser on February 24, 2007.

Gunyou provided an overview of the staff report.

Callison opened the hearing at 7:15 p.m.

No one appeared.

Callison closed the hearing at 7:15 p.m.

Wiersum moved, Ellingson seconded a motion to grant a temporary on-sale wine license for the Morris Park Players, Inc. for a fundraiser on February 24, 2007. All voted "yes." Motion carried.

C. Public hearing to consider a resolution approving a housing program and confirming a joint powers agreement for Hammer Residences.

Callison opened the hearing at 7:17 p.m.

Timothy Joyce, Wells Fargo Broker Services, indicated he is the underwriter for Hammer Residences on this project and is available to take questions.

Callison closed the hearing at 7:18 p.m.

Allendorf moved, Wagner seconded a motion to adopt Resolution No. 2007-017 approving a housing program and confirming a joint

powers agreement for Hammer Residences. All voted "yes." Motion carried.

14. OTHER BUSINESS:

A. Items concerning the construction of softball fields at Minnetonka High School at 18301 State Highway 7.

City Planner Julie Wischnack presented the staff report.

Allendorf commented that during his time on the council he had never seen the word "swamp" used in a presentation instead of the word "wetland."

Wischnack said that "Tamarack Swamp" is the terminology used by the natural resources staff to technically describe the area.

Thomas asked staff to discuss the wetlands in the buffer zone, as a number of residents have expressed concern about that.

Wischnack discussed the managed planting areas proposed by the applicant. She noted the additional planting areas and the new conservation easement will provide sufficient protection and assist in the buffering, regardless of the three-foot intrusion in this case.

Thomas inquired about the location of the conservation easement. Wischnack displayed a map showing the managed buffer areas.

Thomas asked whether there will be any added runoff or ill effects on the Tamarack Swamp. Wischnack explained that issue was examined in detail by the natural resources staff. The runoff from the stormwater areas does not enter the Tamarack Swamp area. The natural resources staff has confirmed there will be no additional bounce in the Tamarack Swamp as a result of this proposal.

Thomas asked whether staff has checked for compliance with the improvements and the ponding that the city had asked for with the football field. Wischnack confirmed the follow-up from the previous conditional use permits and permits granted to this area have been satisfactory to the natural resources staff.

Thomas asked staff to comment on the noise factor. Wischnack explained there were two noise issues with the site. There is a condition in the resolution stating the site must go through the usual permit process in order to use a public address system on the site.

The second issue is general use of the facility. The wetland does separate the site from a residential area. Because the area is not being lighted and the area will be used mostly in the summer months, the concern seemed to be alleviated at the public hearing.

Thomas asked staff to comment on the traffic report in the area, as some residents have expressed concern about that. Wischnack reported the traffic consultant concluded the number of trips generated by this proposed use was not found to be impactful. This CUP did not generate additional concern regarding traffic.

Thomas asked whether staff has reviewed how to move vehicles in and out of the school area quicker and easier.

City Engineer Lee Gustafson responded staff has reviewed the area many times. Staff has previously worked with the school district to implement simple solutions like gates within the parking areas to channel traffic to certain locations. The issue before the council tonight is more of a summer issue and does not create additional concerns.

Wiersum asked about the nature of the buffer area currently and what changes will occur to it. Wischnack responded this is a heavily wooded area that would be impacted slightly by what is being proposed. There are some mature trees in the area, including some large oaks. The original plan had more impact than the plan before the council this evening, and staff discussed more native plantings with the applicant. Wischnack described the plantings to be natural and native species, and would hopefully perform well as a buffer.

Wiersum asked for additional information on the quality of the water that would flow into the wetlands. Gustafson explained staff feels the water quality should improve with the addition of the rain gardens and infiltration.

Mike Condon, Minnetonka School District, 5621 County Road 101, expressed appreciation for the city staff on this project and stated he is available for any questions.

John Guy, Minnetonka Diamond Club, 6341 Teton Lane, Chanhassen, thanked the council for its support of Veterans field. He noted Minnetonka has a severe shortage of girls' softball fields, and these two new fields represent a significant improvement. The majority of the girls using the fields will be age 10 and under.

Callison commented since the fields are already used for recreational purposes, this will have very little impact on the resources in that area and will also provide a significant community benefit.

Thomas stated he feels a lot better in the way this project has been approached as compared to prior controversial issues with the school. Early involvement in the process made it a lot easier, and he believes significant strides have been made with connecting to what is going on at the school.

Thomas moved, Wiersum seconded a motion to:

- 1) Adopt Resolution No. 2007-018 approving a conditional use permit for a recreational use within a wetland buffer area at 18301 State Highway 7. 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 before the city issues a building permit.
 - b. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - c. 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.
 - d. A wetland buffer must be established and maintained 25 feet upland of the wetland. The buffer must be placed in permanent conservation easement.
 - e. Any wetland buffer vegetation impacted by the softball field must be replaced in a mitigation area.
 - f. The applicant must agree to the above conditions in writing.
- 2) Adopt Resolution No. 2007-019 approving an amendment of a conditional use permit for an educational institution and facilities in an R-1 zoning district at 18301 State Highway 7. 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 before the city issues a building permit.
 - b. The city council may reasonably add or revise conditions to address any future unforeseen problems.
 - c. 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.
- d. Submit a Public Address System Permit Application for review and approval by the city's recreation department. Such permits may be issued for special events, including, but not limited to: high school athletic contests, special youth sports activities, opening day ceremonies, all-star and playoff games, and trophy presentations.
- e. The applicant must agree to the above conditions in writing.
- 3) Approve the site and building review for softball fields at 18301 State Highway 7, 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 November 30, 2006.
 - Grading plan date stamped November 30, 2006.
 - Landscaping plan date stamped November 30, 2006.
 - Storm water management plan date stamped November 30, 2006.
- b. Before starting any site work or obtaining a grading permit, complete the following work:
- (1) Submit the following information to the city:
- (a) Recorded copies of resolutions approving the conditional use permit and amendment to the conditional use permit.
 - (b) Final site, grading, drainage, utility and erosion control plans for staff approval.
 - (c) Construction management plan for staff approval.
 - (d) Conservation easements and drawings for approval of the city attorney over the following areas:
 - (i) Twenty five (25) feet upland from the edge of the adjacent wetland and up to the retaining wall and fence of field three.
 - (ii) Twenty five (25) feet upland from the edge of the mitigated wetland approved in the 1997 Wetland Conservation Act mitigation plan.

- (c) A wetland buffer mitigation area to the south and west of the existing soccer fields.
- (2) A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping
- d. The property owner is responsible for replacing any required landscaping that dies.
- e. 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.
- f. Construction must begin by December 31, 2008, unless the planning commission grants a time extension.

All voted "yes." Motion carried.

B. Ordinance changing the setbacks and variance standards for lots-behind-lots.

Gunyou noted Geoff Olson, retired city planner, has continued to help the city with the lot-behind-lot issue as well as the McMansion policy.

Consultant Geoff Olson presented the staff report.

Callison noted a significant amount of council time has been spent on consideration of this policy already. She noted there has been a lot of discussion about height in the policy, and she has a lingering concern the policy does not address the situation of an imposing house dwarfing the rambler in front of it. She asked whether there is anything else besides the McMansion policy available as a tool to control the height of these houses behind houses.

Olson explained the McMansion policy was an outgrowth of the first planning commission discussion on the lot-behind-lot ordinance. At that time, standards were created to address the issue of the setbacks as well as height and design of the house. The planning commission indicated they liked the lot-behind-lot ordinance, but they were concerned at that time about the same issue raised by Callison. Their suggestion was to use a floor area ratio (FAR) concept, which will be discussed further in the context of the

McMansion policy. That McMansion policy would apply to all lots-behind-lots because they do require variances.

Wiersum asked whether insurance companies charge higher rates for lots-behind-lots because of the additional fire risks.

Wischnack responded occasionally there are calls about the distance from a hydrant to a home, so it could would play into the insurance issue for these lots-behind-lots.

Schneider commented he does not believe insurance companies charge more for a lot-behind-lot, but they do offer a discount if the home is sprinkled.

Schneider added this policy has been in the works for a long time; it does a good job of maintaining the ability to build on lots-behind-lots, while the outcome is still reasonable to live with.

Schneider moved, Allendorf seconded a motion to adopt Ordinance No. 2007-03 amending City Code Section 300.02, 300.10, subd. 5(e) and 5(h)(2)(b) concerning setbacks and variance standards for lots-behind-lots.

Wagner stated this policy has been under consideration since 2004, and it will provide good guidance to the planning commission in the future. He noted something previously discussed is whether there are other public benefits from lots-behind-lots. He does view lots without frontage as being isolated lot splits that are really only benefiting the individual landowner who splits the lot.

Wagner continued that as the city struggles with affordable housing moving forward, he would have liked to see in this ordinance some kind of mechanism requiring an affordable housing fee for people who do a single lot split for financial gain only.

All voted "yes." Motion carried.

The meeting was recessed at 8:02 p.m. Callison reconvened the meeting at 8:13 p.m.

C. Policy on "McMansions".

Olson presented the staff report.

Gunyou noted a couple of corrections in the council packet. On page 412, the word "disallow" should be deleted and "exclude"

inserted in its place. The second line in that paragraph should be clarified to read "The new home or home addition must have a FAR that is no more than the highest FAR of the homes within 100 feet of the proposed house."

Allendorf stated he likes that this will be a policy for a period of time before becoming an ordinance. However, the intention was to have a tool that is not capricious. He questioned whether the city is being too flexible by saying a house can be added or deleted from comparison if so desired.

City Attorney Desyl Peterson responded whenever the city does something like an exclusion, it has to have good, solid reasoning for doing so. As long as there is a good reason, it is not arbitrary. She believes the phrasing does create a standard, and the council would have to provide a rational basis for excluding or adding a home.

Schneider commented on the changes made by the planning commission regarding which lots should be included and which lots should not be included. He objected to the 100-foot distance in the policy, because that limits consideration to only adjacent neighbors and possibly the neighbor across the street. That defeats the purpose of trying to get a sense of the size of the rest of the neighborhood homes.

Schneider suggested staying with the 1,000 foot measure, but using a 400-foot radius of the lot and adding language about the right to exclude a lot that is clearly not part of the neighborhood. He could not support this policy with the 100-foot limitation.

Wiersum initially thought the 400-foot radius was not enough, and the change to expand that to 800 or 1,000 feet along the same street on both sides really captured the essence of the neighborhood. However, he expressed agreement with Schneider's comments about including broader language for houses behind or adjacent to the lot. With that exception, this is a good policy that has flexibility built into it but also makes clear the value of respecting the character of the neighborhood.

Thomas stated he does not have a problem with the 1,000 feet. He also commented that the phrase "character of the neighborhood" frequently arises. He suggested a council study session to examine how to provide reasonable expectations to applicants wanting to build or make changes to existing homes. There are currently no specific guidelines available.

Peterson commented Thomas has pointed out the difficulty of trying to get at the issue of neighborhood character. Rather than creating a list of things such as size, layout of lots, and architecture of the house, this policy proposes the council make a decision on the character of the house simply by using the FAR. The policy is trying to objectify something that can be very subjective. Staff wants to use just one criterion to decide whether the neighborhood character is being met or not.

Thomas responded that he understands and supports Peterson's comments. His question is whether there are other things that staff or the planning commission feel are important that qualify as changing the character of the neighborhood. If so, can whatever has been done so far to prevent that change from happening be documented and provided to the residents.

Allendorf said he thought the 1,000 feet defines the street well. He suggested 100 feet may be too restrictive and 400 feet may be too generous. He asked if there is a number between the 100 and 400 feet that would get at the issue.

Gunyou clarified the intent was 100 feet from the lot line, not the house location. It was also intended to be 1,000 feet on both sides of the street.

Schneider stated because this is intended to be a trial-and-error policy to begin with, he would prefer to start with a larger number and if it becomes too complicated that number could be reduced. He believes the added language suggested by the planning commission is helpful, specifically with regard to excluding a lot that is clearly not part of a neighborhood.

Wagner agreed this is a trial-and-test policy and can be modified moving forward as the council begins to deal with tangible examples before them. The policy gives the council another tool in the box for the council to use when people want variances.

Ellingson commented 400 feet is a good number to start out with, as the larger number is less restrictive since a larger house may be included in the formula.

Callison added she agrees with Allendorf that 100 feet is too restrictive and 400 feet is too lenient. She suggested 200 feet would provide two lots in the formula. She believes the larger

number does make it more arbitrary and may create extra work for the staff in deciding what to include or exclude.

Callison noted this policy is not a huge change; it will not stop McMansions but rather will help them fit into the neighborhoods. She views it as formalizing the discussions already held at the staff level. This policy helps the staff and council come to resolution in a more systematic way and also helps developers and homeowners by giving them an idea of what to expect. She stated this policy is a good first step.

Gunyou noted each time the council adopts a policy or ordinance like this, it adds more definition to what defines the character of the neighborhood. Adoption of the tree preservation ordinance is another example of defining the character of a neighborhood. He summarized the council consensus at this point: "The highest FAR of the homes within 400 feet of the lot line of the proposed house and within 1,000 feet of the lot line of the proposed house on both sides of the same street."

Wiersum stated that he would prefer 200 or 250 feet, but he would be okay with 400 feet. He added that anytime anyone does anything in a neighborhood, it affects the character. The addition of a fence affects the character, as does someone parking eight cars in the driveway. The council's job is to define what is acceptable within the constraints of people's property rights while maintaining the best interests of Minnetonka.

Wiersum continued that the council determines rules and policies of what people can and cannot do, and that helps define the character of both the neighborhoods and of Minnetonka.

Dan Tillman, 5720 Creek Park Drive, stated he has applied for a four-foot variance because he is building an addition to his home. In the future he would like to add a swimming pool at his home, and he is not sure whether this McMansion policy will affect his ability to do that. He noted there are a number of other swimming pools in the neighborhood already.

Callison stated she would expect swimming pools are not part of this policy as it is an accessory use and not part of the structure of the house.

Wischnack agreed swimming pools do not fall within this policy and would not be included in the FAR.

James Couling, 11619 Live Oak Drive, asked what happens when there is an existing McMansion in the neighborhood.

Callison responded that issue has previously been discussed by the council. If there is a McMansion, that house then becomes the maximum FAR. The idea is to also allow properties to develop and neighborhoods to change, to encourage people to improve their properties.

Gunyou clarified it is not the size of the house that is the standard, but rather, the ratio of the size of the house to the size of the lot.

Couling asked what is considered in the FAR calculation. Gunyou responded it is the gross square footage of the house plus the garage.

Wiersum noted if all the lots of a neighborhood are of a similar size, theoretically all the lots could develop to the size of the largest house. Therefore, the size of the homes can certainly increase, but the idea is to have some consistency.

Allendorf noted he would like staff to investigate further the figure of 200, 250, or 400 feet so that a large number of exclusions do not become necessary when proposals go before the planning commission and then the council.

Callison commented the council can vote on this issue tonight or direct staff to provide further background research on the 100, 200, 250, or 400 feet for reconsideration in two weeks.

Schneider noted this is not a discussion of just lot splits and lots-behind-lots; this also includes somebody who wants to put an addition on the back of their home. He stated the real neighborhood consists of those homes surrounding the property. Additionally, he does not believe exclusions will have to be used frequently; they will likely be used only in the case of a real anomaly. He believes 400 feet is a recognized area of impact for notification of variances. If it is found not to be a good number, it can be revised.

Schneider moved, Thomas seconded a motion to Resolution No. 2007-020 adopting the new city council policy 3.2, with revisions changing the provision from "The new home or home addition must have a floor area ratio that is no more than the floor area ratio of the largest home within 100 feet of the proposed house and within 1,000 feet of the proposed house on the same street." to "The new home or home addition must have a floor area ratio that is no more

than the highest floor area ratio (FAR) of the homes within 400 feet of the lot of the proposed house and within 1,000 feet of the lot of the proposed house on both sides the same street.” And clarifying the wording from “The city may disallow any existing lots...” to “The city may exclude any existing lots...” All voted “yes.” Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS: None.

16. ADJOURNMENT.

Thomas moved, Wagner seconded a motion to adjourn the meeting at 9:16 p.m. All voted “yes.” Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk