

**MINUTES  
MINNETONKA CITY COUNCIL  
REGULAR MEETING, MONDAY, SEPTEMBER 24, 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 Al Thomas, Dick Allendorf, Bob Ellingson, Tony Wagner, Brad Wiersum, and Jan Callison were present. Terry Schneider was excused.

**4. APPROVAL OF AGENDA.**

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

**5. APPROVAL OF MINUTES:**

**A. August 6, 2007 regular meeting.**

Wiersum moved, Thomas seconded a motion to approve the minutes of the August 6, 2007 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

**B. September 12, 2007 special meeting.**

Wiersum moved, Thomas seconded a motion to approve the minutes of the September 12, 2007 Minnetonka City Council special meeting. All voted "yes." Motion carried.

**6. SPECIAL MATTERS: None.**

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

City Manager John Gunyou reported on the schedule for upcoming council meetings. The next regular meeting is October 8. The city's open house is October 9 from 5 p.m. to 8 p.m.

Callison noted there will be a League of Women Voters city council candidate forum October 1. She welcomed former council member Ken Tauer who was in attendance. She also welcomed Will Arrett and Tom

Larson from Boy Scout Troop 345 in attendance while working on a merit badge.

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

Annette Marie Poeschel, executive director of ICA, and Shirley Buehler, a coordinator from the organization, thanked the council for its support and said the ICA's clientele is continuing to increase. Poeschel said there are about 25 new clients a week at the new location. Many are struggling with foreclosures and need emergency financial assistance. Buehler said coordinating the efforts of the 300 volunteers is challenging but the volunteers do a great job. Callison noted the ICA is having a fund raiser on November 12.

Allendorf asked for an update on the plans for the old ICA location on Williston. He said the current condition of the site with the building removed and a silt fence doesn't look very good. Gunyou said the plan is to landscape the area and maintain it as open space. A retention pond will eventually be installed when work is done on the road.

**9. BIDS AND PURCHASES: None.**

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

**A. Claims for council authorization – September 24, 2007.**

Allendorf moved, Wiersum seconded a motion to approve the September 24, 2007 claims which includes checks numbered 206828 through 207127, totaling \$1,195,167.78. All voted "yes."  
Motion carried.

**B. Settlement agreement with GL Development for property acquisition in Glen Lake.**

Allendorf moved, Wiersum seconded a motion to approve the agreement. All voted "yes."  
Motion carried.

**C. Amendments to the on-going agreement between the city of Minnetonka and Intermediate School District #287 for school liaison services.**

Allendorf moved, Wiersum seconded a motion to approve the agreement. All voted "yes."  
Motion carried.

**D. Rezoning and preliminary plat for a two-lot subdivision at 506 Milbert Road.**

Callison pulled the item from the consent agenda. She said because of the city's moratorium the project is being done under the planned unit development portion of the zoning code. Normally, a variance analysis would be done because the two lots are smaller than 22,000 square feet. She asked if the lots would qualify for a variance if a traditional analysis was done and what the rationale for a variance would be. She also asked if there were any long term consequences in creating a PUD rather than leaving it zoned as R-1 residential.

City Planner Julie Wischnack said it would be appropriate to look at a variance analysis under the R-1 zoning. She said the parcel is a different size than other parcels in the area. Given the unusual width of the property, the requested variances would create lots very similar to others in the area. She said the area has moderately-sized single family houses, and the requested lot variances would not change the neighborhood character.

In response to Callison's question about possible long term consequences in creating a PUD, City Attorney Desyl Peterson suggested amending a condition of the proposed ordinance to make it clear that all of the provisions that are normally attached to an R-1 lot apply to this lot. She suggested the possible language to the appropriate provision.

Callison said when she visited the site earlier in the day she learned that originally there were two separate lots that were later combined into one lot. Wischnack confirmed this.

Dan Ylitalo of 506 Milbert Road said because R-1 requirements were being applied, he would like relief on the park dedication fee. Callison asked staff if the \$5,000 fee was a standard fee. Wischnack confirmed it was a standard fee. Ylitalo said he picked up materials from the city indicating the fee was \$2,375. Wischnack said the fee had recently been increased for all new lot divisions.

Allendorf moved, Wagner seconded a motion to:

- 1) Adopt Ordinance No. 2007-31 approving a rezoning from R-1, low density residential to PUD, planned unit development for a two-lot subdivision at 506 Milbert Road. This ordinance is based on the following findings:
  - a. The rezoning does not change the residential character of the neighborhood.

- b. The rezoning would be consistent with the city's comprehensive guide plan. The site is guided for low density residential uses, and the site would be developed consistent with the R-1 zoning requirements.
- c. The rezoning preserves the natural resources of the site, and minimizes site impacts as required by the development moratorium.
- d. The rezoning would be consistent with the public health, safety, and welfare.

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 preliminary plat dated June 15, 2007, unless modified by the conditions below.
  - b. The lots are subject to the standard R-1 requirements to ensure consistency with the surrounding neighborhood, except that the minimum lot sizes are reduced to 21,970 and 21,995 square feet.
  - c. The floor area ratio of the homes must not exceed 0.17. The new home on the northern lot cannot exceed 3,735 square feet, which includes the above-grade floor area, attached garage, and half the area of an exposed basement.
- 2) Give preliminary approval to Ylitalo Acres, date stamped June 15, 2007. 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 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 on the final plat.
    - (2) Pay the city a park dedication fee of \$5,000.
  - 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 current within thirty days before release of the final plat.
      - (b) 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.
- (c) 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 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) Install a temporary rock driveway, erosion control, and tree protection fencing for each lot, as required by the city's natural resources staff. These items must be maintained throughout the course of construction.
- (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 city planner may approve a time extension to this requirement.
- d. All portions of the first story walls of the new home must be within 150 feet of the street as measured by an approved route around the exterior of the building. If access requirements cannot be met, the building must be protected with a 13D automatic fire sprinkler system.
- e. The floor area ratio of Lot 1, the northern lot, must not exceed 0.17. Therefore, the floor area of the new home cannot exceed 3,735 square feet, which includes the above-grade floor area, attached garage, and half the area of an exposed basement.

- f. The driveway approach for each lot must not exceed 20 feet in width at the point it intersects with the right-of-way line, except that a driveway approach that provides access to a three-car garage may have a width no greater than 30 feet at that point.
- g. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- h. 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.
- i. 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.

**E. Approval of supplemental agreement No. 1 for the 2006 pavement rehabilitation project No. 4429.**

Allendorf moved, Wiersum seconded a motion to approve the supplemental agreement. All voted "yes." Motion carried.

**F. Resolution decertifying Tax Increment Financing District No. 1-3 (Ridgebury/Opus/Ron Clark).**

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2007-126 decertifying Tax Increment Financing District No.1-3 (Ridgebury/Opus/Ron Clark). All voted "yes." Motion carried.

**G. Resolution ordering the abatement of long grass nuisance conditions.**

Rankin said the properties at 5819 Lewis Ave and 11203 Oakvale Road North remain out of compliance.

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2007-127 ordering the abatement of long grass nuisance conditions. All voted "yes." Motion carried.

**H. Resolution ordering the abatement of nuisance conditions existing at 10000 Hillside Lane West.**

Rankin said there is no change to the property.

Allendorf moved, Wiersum seconded a motion to adopt Resolution No. 2007-128 ordering the abatement of nuisance conditions existing at 10000 Hillside Lane West. All voted "yes." Motion carried.

**11. Items requiring Five Votes:**

**A. Approval of supplemental agreement No. 1 for the Highland Road and Old Excelsior Boulevard storm sewer improvements project Nos. 06607 & 06606.**

Thomas moved, Wiersum seconded a motion to approve the supplemental agreement, and amend the 2007 CIP to reflect the added TH 12 frontage road drainage improvement project. All voted "yes." Motion carried.

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

**13. PUBLIC HEARINGS:** None.

**14. OTHER BUSINESS:**

**A. Items concerning a medical office building at 14001 Ridgedale Drive.**

Wischnack gave the staff report.

Allendorf said in 1979 the council stipulated that there could not be more than 60 percent medical use in the building. The current request is for 75 percent medical use and the presentation materials indicated there is now 90 percent medical use in the building. He asked how the medical use increased to 90 percent given the 60 percent restriction and also how the building will be monitored going forward. Wischnack said over the years there may have been some confusion about medical uses adjacent to the properties. The city will need to monitor the building's use. One indicator would be increased traffic. The more medical use the building has, the more parking issues will likely arise and become noticeable.

Wagner noted the proposal was for one parking spot fewer than was recommended in the parking study. He asked if a condition should be included that provides if there is a significant parking shortage in the future additional parking spaces would be required or a demand management plan developed. Wischnack said adding additional parking on the site would be challenging.

Wiersum said given the history of the building that it made sense to require the property management company to provide to the city an annual report of the tenants and the percentage of space utilized for medical uses. Guny you agreed the city could require that as a condition.

Addressing Wagner's parking concerns, Peterson asked if the council wanted to require a condition stating that if the parking proves to be insufficient that the percentage of medical use would be decreased. Wagner said he was going to suggest such a condition. Callison asked for clarification about the parking requirement. Wischnack said the city code requires 142 spaces and the proposal includes 114. She said a parking analysis was done using the Institute of Traffic Engineers manual to determine a realistic number for a medical use building. The proposal is one space lower than the study's number of spaces. Wagner said the number was a good guideline but that there should be some protection for this office space because there is no on street parking as the building is located off a frontage road. The nearest available additional parking would be on the neighborhood streets.

Wiersum said looking at the site there appears to be space to add additional parking spaces.

The applicant, John Patterson of Fendler Patterson, said if additional parking were to be added to the site, he would like to see it as proof of parking. Patterson said he didn't think the additional spaces would be needed. He said in his own determination of the parking needed he subtracted 10 percent of the floor area for common space in the building. The number he came up with was the exact number required by the city's ordinance. He suggested this might indicate that the 1979 ordinance used the same method for determining the parking requirement. Callison asked if he saw any issues adhering to the parking space number for medical office space. Patterson said he did not and that the proposed tenant for the second floor of the building would have 10 examination rooms and the rest of the space would be used for administrative purposes.

Allendorf asked Patterson if he thought Wiersum's idea for the city to require an annual report would be onerous. Patterson indicated no and that his company already prepares a leasing plan for the property management firm and that could be copied to the city.

Wagner moved, Allendorf seconded a motion to adopt Resolution No. 2007-129 approving the proposed conditional use permit, with variances. This resolution is based on the following findings:

- 1) The proposal meets all general and specific conditional use permit standards.
- 2) The proposal meets the variance standards:
  - a. The existing building and associated parking lot was approved and designed for partial medical use and met all code requirements at the time of approval. Subsequent changes to the ordinance have resulted in nonconformity. The discrepancy between the original intended use of the site and current code requirements presents a practical difficulty.
  - b. There are several circumstances unique to this property.
    - (1) The subject property is separated from residential properties by a significant grade change and vegetated screening.
    - (2) There is a significant discrepancy between the code required parking and the parking demand actually created by the proposed use.
  - c. For many years the subject property was used almost entirely for medical purposes. Staff is not aware that this medical use adjacent to residential area or its associated parking had any negative impact on the essential character of the neighborhood.

Approval is subject to the following conditions:

- 1) Submit/complete the following before the city issues a building permit:
  - a. Submit proof of having recorded this resolution with the county before the city issues a building permit.
  - b. Submit a construction management plan; this plan must outline parking and construction access and stockpile and material storage.
  - c. Install temporary rock driveway, erosion control, tree protection and lake protection fencing, subject to review by the city's natural resources staff. These items must remain in place throughout the course of construction.
- 2) a. A maximum of 75% of the gross floor area of the building may be used as a medical clinic.

- b. The property manager must provide a written report to the city no later than January 30 of each year specifying the percentage of space leased as a medical clinic. If there is insufficient parking on site and parking problems occur, the city may require that the percentage used by a medical clinic be reduced to eliminate the parking issue.
- 3) 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.
- 4) The city council may review the conditional use permit and may reasonably add or revise conditions to address any future unforeseen problems.
- 5) 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.
- 6) The applicant must agree to the above conditions in writing.

All voted "yes." Motion carried.

**B. Items concerning a proposed senior housing cooperative to be known as Applewood Pointe at 5709 Rowland Road, for United Properties Residential, LLC.**

Wischnack and Rankin gave the staff report.

Allendorf said the city's threshold for affordable housing is 20 percent of the total and the proposal included 10 percent affordable housing. He asked Rankin for the rationale. Rankin said the EDA felt the cooperative housing in the proposal and the number of mid-priced units compared to other multi-family projects in the city would essentially substitute for the additional 10 percent affordable housing units. He said if more affordable units were required it is likely there would be fewer mid-range units available.

Callison said she understood the city's affordable housing percentage policy required a range between 10 to 20 percent. Rankin confirmed this. He said the city tries to get as close to 20 percent as possible but other factors are also taken into account. Allendorf said he wasn't second guessing the affordable housing number in the proposal but was asking for the rationale.

Mark Nelson of United Properties asked that a provision of the resolution requiring the company to break ground by December 2008 be extended. He said the company intends to begin

construction by that date but given the current housing market it could not guarantee that would occur. Callison said the one year condition was a routine condition. Wischnack concurred with Callison and said the staff did not have any concern about extending the date.

Ellingson asked if there were a number of units that had to be pre-sold before United Properties could secure the financing needed to begin construction. Nelson said the company was working through the HUD program for the master mortgage. Typically 50 to 60 percent of the units have to be pre-sold in order to get the financing. He said that threshold has been met in the other communities where a similar complex was constructed but the current housing market might require additional time to sell the units.

Ellingson said the site was located next to a park but there isn't much visibility from any major road. He said a few years back the city approved a senior assisted living unit off of Highway 7 that didn't have many nearby amenities but the developers preferred the location because of its visibility. He said in a prior conversation Nelson indicated that this type of building would be successful in either type location because of the success in other communities. Nelson said there have been a variety of different types of sites that the company has located its buildings. He said there is a difference between senior independent living and senior assisted living. This proposal is for independent living so assisted services would not be provided. Assisted living sites usually include more retail.

Allendorf said he could not recall a time when the one year condition was waived nor when an applicant came in later and asked for an extension, that the city denied the request. He asked what protection the city would be giving up if the one year condition was waived. Peterson said the city would be giving up the ability to review the situation at the end of a year. She said generally circumstances do not change greatly in one year so it has been a formality of the council to grant a requested extension.

Thomas asked Rankin to provide information about the appreciation caps added by the EDA for the affordable and mid-range units. Rankin said as a limited equity cooperative the appreciation of the units is limited to 2.5 percent as an annual maximum. This provision is proposed to be included in the cooperative's bylaws. He said the EDA included a provision requiring the same limit be maintained going forward as part of a

restrictive covenant so that it could not be changed by the board of directors and would remain in effect for 30 years.

Wagner thanked the staff and the applicant for coming back to the council with the affordable housing provisions. He said the affordable housing in the initial proposal was a concern. He said the proposal would fill a need in the city but he preferred not waiving the one year condition because there was an existing method to review conditions.

Thomas agreed with Wagner. He said it would be a good project providing more affordable and mid-range priced housing but he was not supportive of waiving the one year condition. Requiring the applicant to come back and ask for an extension would allow the council to review the project at that time.

Wiersum said it was a strong project and the type of housing is needed in the city. He agreed with sticking with the one year provision and granting an extension if requested at a later date. He said the units at the greatest risk in an uncertain market are the mid-range units. If an extension is needed, the council could examine how the mid-range units might be affected by proposed changes.

Wagner moved, Thomas seconded a motion to:

- 1) Adopt Resolution No. 2007-130 approving the proposed guide plan amendment from low density to high density for the property to be known as Applewood Pointe. This resolution is based on the following findings:
  - a. The proposal would meet several of the criteria which should be considered when amending the comprehensive plan:
    - (1) The amendment would not create an undue impact on the surrounding properties. The proposed development would be consistent with the physical character of the surrounding neighborhood.
    - (2) The amendment would be consistent with the goals and objectives or other elements of the Comprehensive Plan and the city's Strategic Framework.
    - (3) The amendment would not create an adverse impact on public facilities and services that could not be mitigated with proposed improvements. Public facilities and services

- include roads, sewers, water supply, drainage, schools, and parks.
- (4) The amendment would help the city meet its life-cycle and affordable housing goals.
- b. The proposed amendment would be consistent with several land use planning principals.
- (1) The proposed guide plan amendment would result in a development similar/compatible to area land uses.
- (2) The proposed amendment would allow for a high-density use to be located on a road with high levels of service.
- (3) The proposed amendment would provide a housing stock choice to area residents.
- 2) Adopt the ordinance on pages A33–A40, which approves the proposed rezoning and final site and building plans.  
Approval includes the following variances:
- a. Side yard setback variance from 50 feet to 20 feet.
- b. Front yard setback variance from 50 feet to 45 feet.
- This ordinance is based on the following findings:
- a. The rezoning would be consistent with the public health, safety, and welfare.
- b. The rezoning would have little impact on area roadways or intersections.
- c. The rezoning would have little impact on the character of the surrounding area, which includes a variety of land uses: single-family houses, several medium density residential projects, and an office/industrial park.
- d. The rezoning is consistent with the purposes of the PUD district, particularly the provision of affordable housing, and sensitive development in transitional areas located between different land uses and along significant corridors within the city.
- e. The proposed variances associated with the development are reasonable and appropriate:
- (1) There are several practical difficulties impacting reasonable development of the site:
- (a) Though providing a visual and environmental benefit, the wetland and floodplain on the site present a practical difficulty. The property is 3.27 acres in total size. However, the buildable area of the property is less than 1-acre, 30 percent of the total site area.

- (b) The requested side yard setback variance is required due to the PUD zoning classification. This PUD zoning is required during the current development moratorium. If a standard residential zoning category were used, no variance would be required.
- (c) The requested front yard setback variance is for a point intrusion; 336 square feet or less than 0.3 percent of the total square footage of the building. From Rowland Road, there would be little to no visual difference between the required 50-foot setback and the proposed 45-foot setback.
- (2) The Applewood Pointe is bounded by unique properties, none of which are in constant and/or consistent use. As such, the situation of the applicant's property is unique and not common to every R-1 or PUD zoned property.
- (3) There are no structures on the properties immediately adjacent to subject property. As such, the front yard setback variance would have little to no impact on area sight lines or area standards.

The rezoning, master development plan, and final site and building plans are subject to the following conditions:

- a. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
- Site plan date-stamped June 13, 2007
  - Grading plan date-stamped June 13, 2007
  - Landscaping plan date-stamped June 13, 2007
  - Building elevations date-stamped June 13, 2007
  - Utility plan date-stamped June 13, 2007
- (1) The utility plan must correctly identify existing conditions, as well as proposed conditions. Water must be wet taped in the same area as the sanitary sewer connection.
- b. The building must include at least 2 units priced at no more than \$187,875, and 4 units priced at no more than \$206,800.
- c. The building must include at least 28 mid-range units priced as follows:
- up to \$263,475 (4 units)
  - up to \$282,375 (4 units)

up to \$284,175 (2 units)

up to \$289,800 (1 units)

up to \$290,700 (6 units)

up to \$298,595 (7 units)

d. A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.

(1) The following must be submitted for the grading permit to be considered complete:

(a) The following documents for the city attorney's review and approval:

(i) A construction and restoration agreement. The agreement must stipulate that United Properties Residential, LLC and the Applewood Pointe Homeowners' Association are responsible for:

- Construction of the full trail;
- and
- Restoration of the woodland area through the removal of buckthorn and other invasive species.

(ii) A maintenance agreement. The agreement must:

- Grant city staff the right to monitor/inspect the trail and require any safety improvements as necessary;
- and
- Provide for an annual meeting between the Applewood Pointe Homeowners' Association and city staff to discuss maintenance issues.

(iii) A public trail easement over the portion of the public trail on the Applewood Pointe property.

(b) Final site, grading, drainage, utility and erosion control plans for staff approval.

(i) The proposed trail on city property must be specifically located to minimize tree loss. The final location is subject to review

- and approval of natural resource staff.
- (ii) Final plans must meet all the requirements of the city engineer.
- (c) A stormwater pollution prevention plan for staff review and approval.
- (d) A letter of credit or cash escrow for 150% of the estimated cost or 125% of a bid cost to comply with grading permit requirements and restore the site.
- (e) A construction management plan. The plan must indicate:(1) how equipment will avoid roots of trees to be saved; (2) location for stockpiling of earth and construction materials and equipment; and (3) how contractors will prevent tracking of earth onto the street .
- (2) Prior to issuance of a grading permit:
- (a) Install a temporary rock driveway, erosion control, tree and wetland protection fencing for natural resources staff inspection. These items must be maintained throughout the course of construction.
- (b) The final plat must be released by the city and filed with Hennepin County for recording.
- (3) Permits may be required from other outside agencies, including but not limited to Nine Mile Creek Watershed District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
- e. Prior to issuance of a building permit, the following must be submitted:
- (1) A park dedication fee of \$144,875. These funds will be used for future improvements in Lone Lake Park.
- (2) A final landscape and irrigation plan. The final plan must meet minimum value as outlined in city code and is subject to the review and approval of natural resources staff.
- (3) A letter of credit or cash escrow for 150% of the estimated cost or 125% of a bid cost of all required landscaping.
- (4) An illumination plan for staff review and approval.

- (5) All required hook-up fees.
  - (6) Submit proof of having recorded this ordinance with the county.
  - f. The property owner is responsible for replacing any required landscaping that dies.
  - g. 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.
  - h. The existing trail must be maintained through the driveways.
  - i. Stop signs must be installed at the drive exit.
  - j. Curbing must be replaced upon removal of the existing driveway.
  - k. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
  - l. Construction must begin by December 31, 2008, unless the planning commission grants a time extension.
- 3) Approve the preliminary plat date-stamped April 24, 2007. Approval is based on the finding that the plat meets the required standards and ordinances and is subject to the following conditions:
- a. Complete the following before final plat approval:
    - (1) Submit proof-of-ownership of the railroad property or application signature of an authorized Canadian Pacific Railroad representative.
    - (2) Show the following on the final plat:
      - (a) At least ten-foot-wide drainage and utility easements adjacent to Rowland Road.
      - (b) Drainage and utility easements over the 100-year storm elevation, as determined by the city engineer.
      - (c) A drainage and utility easement for city inspection purposes over the underground stormwater treatment facility. The easement must extend a minimum of 10 feet from the edge of the treatment system and required grit chamber. The easement must include access from the public roadway.

- 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 25-foot-wide conservation easement upland adjacent to and upland of the delineated edge of the wetland.
    - (c) Easements over all trails or common spaces that will be open to the public, as determined by staff. This may include on-site trails.
    - (d) 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.
    - (e) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include:
      - (i) A 2.5% price appreciation cap for the affordable and mid-range units.
      - (ii) All 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 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.

**15. APPOINTMENTS and REAPPOINTMENTS:**

**A. Appointment to the senior citizen advisory board.**

Callison moved, Wiersum seconded a motion to appoint Richard Koenig to the senior citizen advisory board, for the remainder of a two year term, effective September 24, 2007 and expiring on May 31, 2008. All voted "yes." Motion carried.

**16. ADJOURNMENT.**

Thomas moved, Wiersum seconded a motion to adjourn the meeting 7:46 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk