

**MINUTES
MINNETONKA CITY COUNCIL
REGULAR MEETING, MONDAY, APRIL 6, 2009**

1. CALL TO ORDER.

Mayor Schneider 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 Brad Wiersum, Bob Ellingson, Tony Wagner, James Hiller, Dick Allendorf, Amber Greves, and Terry Schneider were present.

4. APPROVAL OF AGENDA

City Manager John Gunyou noted addenda to items 14C and 14E. Item 14E was moved to the top of "other business."

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

5. APPROVAL OF MINUTES:

A. February 23, 2009 regular meeting

Allendorf moved, Greves seconded a motion to approve the minutes of the February 23, 2009 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

B. March 9, 2009 regular meeting

Allendorf moved, Greves seconded a motion to approve the minutes of the March 9, 2009 Minnetonka City Council regular meeting. All voted "yes." Motion carried.

6. SPECIAL MATTERS:

A. Southwest Transitway Station Area Study

Gary Hay of Hay Dobbs P.A. gave the presentation.

Wagner asked how the plans addressed any additional parking that might be required. Hay said parking issues have been looked at with city and Hennepin County staff and with the city of Hopkins.

Numbers have been agreed upon as a guide to how much parking would be required at each station.

Wagner asked Hay to comment on the visioning and feedback sessions. Hay said community leaders, elected officials, planning staff, developers, and residents participated in the sessions.

Allendorf asked for an update on the negotiations with landowners near the proposed Opus stop. Hay said what exists are concept plans so discussion with specific property owners has not occurred. He said the study looks long term at what kind of development might occur based on what transit could bring to the areas. Allendorf said it would make sense to engage the landowners sooner rather than later to avoid having a situation where the concept plans are developed and the visioning sessions are held, and then a landowner says he will not participate. Hay said the land use plan tries to look at how the land might develop over time. He said for the Opus property the land use remains the same as the property that currently exists. Schneider asked if the county had eminent domain authority if right of way needs to be acquired for the line or a station. Hay confirmed the county had that authority.

Wiersum asked what the anticipated frequency of service and capacity was for the line. Community Development Director Julie Wischnack said the anticipated frequency is seven minutes.

Wagner noted there are existing green space areas in the Opus development, but this proposal concepts suggests for additional green space and parks. He said he was concerned that this concept would take a fair amount of land out of development in the plan which would both reduce the tax base and inhibit the ability to place additional density for housing and office use as outlined in our 2030 comprehensive plan. He asked what discussions occurred during the visioning sessions about the issue. Hay explained as overall land use was looked at in the planning process, the discussion was about increasing density to make more land available for open space. With the increased density more sustainable features would be introduced.

Schneider said currently on the south side of Bren Road there is a fair amount of existing commercial development. He asked why the city would turn this into open space. Wischnack said the intent of the plan is to evoke reaction and get feedback. In the comprehensive plan it is projected there will be 4,000 additional employees for the area in addition to another 500 housing units. Schneider said there are a fair amount of wetlands to the north and

east of the proposed station. He said that it would be desirable for the highest density to be to the west. Wagner said his concern was the area being taken offline was the area closest to the proposed station. He said the comprehensive plan discussed increased walkability. If a lot of housing density is added, the discussion should include what services should be within walking distance for the residents and businesses. Wischnack said the focus group discussed the service element of the development. She noted there is a significant pond to the west of the property and the intention would be to expand the pond.

Schneider said traffic demand will likely be higher than expected. Handling the higher capacity on the adjacent roads will need to be worked through during the design process. He suggested when the initial structure is designed for the station, it should include expansion capability.

B. Proclamation declaring April 24, 2009 as Arbor Day

Greves read the proclamation.

7. REPORTS FROM CITY MANAGER & COUNCIL MEMBERS

Gunyou reported on the schedule for upcoming council meetings.

Schneider noted he and Wagner attended a training session on the assessment appeals process.

8. CITIZENS WISHING TO DISCUSS MATTERS NOT ON THE AGENDA

Reed Holiman, 17306 County Road 101, said the contract for the continuing design of County Road 101 was recently extended. In the past the neighbors have had good interaction with the different stakeholders involved in the design. He said he wanted to make sure the engagement with the community continues. There has been discussion with the city of Wayzata about the historic stretch of the road and Holiman said he wanted to make sure parochial issues do not impact the design. City Engineer Lee Gustafson said there has been a long delay in the project due in part to the issues in the Wayzata area that required much discussion. There is a group working on those issues. Once the group's work is complete there will be further discussion that will include both cities as well as other organizations like the Minnehaha Creek Watershed District. The district has budgeted funds for the causeway area and the area from the Gray's Bay Bridge to Wayzata. Holiman said he would like

an environmental impact study done that looks at the impact to the residents living along the road.

Nancy Kehmeier, 663 Bushaway Road in Wayzata, said over the last nine months Bushaway Road residents worked with the Wayzata City Council to develop a vision for the road. She said the group was interested in a way to communicate with Minnetonka residents in order to work collaboratively on the environmental and traffic issues. Schneider said the easiest way to establish a line of communication was to work through the city engineer who would make sure the council and residents are informed on the issues. He said the collaborative effort will have to evolve as the process moves forward.

Don Wilbur, 3185 Lake Shore Boulevard, said he did not see a picture of former mayor Larry Donlin outside the council chambers along with the other former mayors of the city. Schneider said staff will check into why the picture is not included.

9. **BIDS AND PURCHASES:** None
10. **CONSENT AGENDA (Items Requiring a Majority Vote):** None
11. **Items requiring Five Votes:** None.
12. **INTRODUCTION OF ORDINANCES:** None
13. **PUBLIC HEARINGS:** None
14. **OTHER BUSINESS:**

E. Ordinance amending architectural material standards in the Planned I-394 zoning district

City Planner Loren Gordon gave the staff report.

Wiersum asked for further explanation of the exterior insulated finishing system. Gordon said the system was a composite exterior finish that has an insulating system behind it that would be applied over the top of a wall system. It is not structural but provides insulation and has the appearance of stucco in some cases. Schneider said he asked for the limited use and noted the system was used for the Eddie Merlot restaurant. He said he was supportive of its use on a case by case basis but would not like to see it used for an entire building because it does not have the durability of other materials.

Wagner noted one of the items that had been left out was aggregate precast concrete panels. Gordon said that material could fall under a man made material. He characterized the material as providing a lower grade aesthetic finish than what is being looked at in the district. Schneider asked how the proposed ordinance would apply if an acceptable project came forward using precast panels. Gordon said the overall design of the building would have to be looked at to make sure there are things that make it look compatible and consistent with other buildings in the corridor.

Wiersum said concrete is often used in combination with natural stone to create an office building look. He said to specify separate approval for its use would mean the council would be doing a separate approval every time an office building is put up in the city.

Allendorf said the proposed ordinance balanced flexibility with informing the development community what the council expects in an area. He said he thought precast architectural panels would be covered under man made materials.

Hiller moved, Greves seconded a motion to adopt Ordinance No. 2009-04 amending architectural material standards in the Planned I-394 zoning district All voted "yes." Motion carried.

A. Items pertaining to an Existing Master Development Plan for Sears Imported Autos located at 13500/13502 Wayzata Boulevard

Gordon gave the staff report.

Peter Beck spoke on behalf of Sears. He noted a correction to Gordon's staff report. He said the additional second floor space size has been reduced. The total increase in building area will be around 11 percent rather than 19 percent.

Hiller said when the process started one goal was to clean up outdoor sales. Eventually the process was split resulting in the issue only being applied to new dealerships. He asked what other issues staff hoped to accomplish and if those things had been accomplished for this item. Gordon said there are improvements that would fit with the new dealership ordinance. One improvement would be implementing the landscape plan and screening. A fence will be required to compliment the landscaping that is part of the new dealership provisions. Also there are storm water facility improvements that do not currently exist. He said in time it is hoped

the lighting would be scaled down in the front with a better distribution over the entire site. The applicant included lighting improvements in their materials but it is not part of the plan at this time. Also, there is a better consolidation of parking along the backside of the building. He said the materials of the building will also improve the aesthetic quality for the neighborhood.

Beck said one of the reasons the dealers were concerned with the original proposed ordinance was because of provisions that could not be complied with. The concern was if the ordinance was applied to existing dealerships an improvement like the one before the council could not be made. He said the project likely will not start for another year and by that time the lighting plan should be in place. The project adds density but reduces intensity.

Given that one of the conditions is for the construction of an opaque fence, wall, or combination along the top of the slope between the commercial and residential properties, Greves asked if it anticipated the cyclone fence would be taken down. Beck said the issue was raised at the planning commission hearing but the applicants chose not to raise the issue with the council. He said the applicants believe screening closer to the residential area would be more effective than moving it further away. The applicants will work further with staff on the issue and they are trying to avoid having trees on the slope because they have been unsuccessful in keeping the trees alive. Greves said the fence is not visually appealing and she sees the benefit of removing it and focusing on the new boundary with a new fence. Beck said there will be a definite edge between the commercial and residential area.

Greves agreed it is possible parking might not be an issue in the residential area because of the decreased intensity. She asked if there was anything in the plans specifying this or if it is a matter of good faith that the parking would no longer be an issue. Beck said the parking issue would be addressed in the operations plan. Gordon said there are a number of things that are spelled out in the resolution as part of the operations plan including a plan that would address parking.

Wiersum said he preferred a wall instead of an opaque fence to provide more delineation between the end of the parking lot and the residential area.

Schneider said if there is both landscaping and a short wall that would restrict someone from driving a car off the lot to the north then the more practical solution would be to eliminate the cyclone

fence and put in a solid fence toward the top that would buffer and screen the facility from the residents. Gordon said that was the intent of one of the conditions in the resolution.

Allendorf moved, Wiersum seconded a motion to adopt Ordinance No. 2009-05 which amends the existing master development plan and adopts final site and building plans to accommodate building and site changes to the existing auto dealership site at 13500/13502 Wayzata Boulevard. Approval includes the following variance:

1) Side yard setback variance from 50 feet to 44 feet.

Approval is based on the following findings:

1) The proposal would meet all ordinances and standards for a site and building plan approval.

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

a. UNDUE HARDSHIP: The variance is based on building code requirements applied the existing structure, which requires provision of stairwell to access to the existing and proposed second story.

b. UNIQUE CIRCUMSTANCE: The variance would result in a minor point instruction. Just 120 square feet of the stairwell, or 0.2 percent of the total building, would encroach into the required setback.

c. NEIGHBORHOOD CHARACTER: The stairwell addition would be made to an existing commercial building in an existing commercial corridor and would abut existing parking lots on the subject and adjacent property. The addition would not negatively impact the commercial character of the area.

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

1) 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 December 22, 2008
- Building elevations date-stamped December 22, 2008

2) 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.

a. The following must be submitted for the grading permit to be considered complete.

(1) Final site, grading, drainage, utility and erosion control plans must be submitted for staff approval.

- (2) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, and to restore the site. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
- (3) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
- b. Prior to issuance of a grading permit:
 - (1) Submit an electronic PDF copy of the plans and specifications.
 - (2) Submit two full size and three 11x17 sets of construction drawings and three sets of project specifications.
 - (3) Submit all required administration and engineering fees.
 - (4) Submit a SWPPP.
 - (5) Install a tree protection fencing as required by natural resources staff for inspection and approval. This fencing must be maintained throughout the course of construction.
 - (6) Permits may be required from other outside agencies including, but not limited the Basset Creek Watershed District. It is the applicant's and/or property owner's responsibility to obtain any necessary permits. Copies of all required permits must be submitted to the city.
- 3) Prior to issuance of a building permit:
 - a. Submit the following items for staff review and approval:
 - (1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance. If the builder is the same entity doing grading work on the site, the construction management plan submitted at the time of grading permit may fulfill this requirement.
 - (2) A landscaping and tree mitigation plan. The plan must include:

- Minimum landscaping required as part of the 1996 approved master development plan;
 - Additional landscaping in dollar amount as required under City Code 300.30 Subd 7(b)4.
 - An opaque fence, wall, or combination thereof should be constructed along/inside the north property lines to further screen the commercial use from the residential uses and define a separation between these uses.
- (3) A letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with landscape plan. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
- (4) Cash escrow in an amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge:
- The property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and
 - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- (5) An electronic CAD file or certified as-built drawings in microstation or DXF and PDF format.
- (6) An illumination plan for staff approval.
- c. A copy of this ordinance must be recorded with the County and a copy of the recorded document returned to the city.
- 4) Customer parking spaces must be clearly signed and may not be used for inventory vehicle parking.
- 5) Customer testing of vehicles may occur on non-residential streets and only with a store employee.
- 6) No loud speaker paging system may be used.

- 7) Any revised illumination plan must be city code standards.
- 8) Delivery hours, including vehicle delivery, and garbage pick-up must occur only between the hours of 7:00 a.m. and 10:00 p.m.
- 9) The property owner is responsible for replacing any required landscaping that dies.
- 10) An Operations Plan must be submitted annually for staff review. The plan must outline: delivery hours, on-site delivery routes, landscaping maintenance activities, and other operation activities mutually agreeable to the owner and staff.
- 11) 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.
- 12) This variance will end on December 31, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

All voted "yes." Motion carried.

B. Preliminary Plat for LAKE ROSE HIGHLANDS, a 2-lot subdivision of the existing property at 15407 Lake Shore Avenue

Gordon gave the staff report.

Greves asked for clarification on why the tree preservation easement was needed for the box elder trees. She suggested because box elder trees are not as long lived as the oak trees, something else could be used to replace them. Gordon explained although box elders are not a high value tree, they are established and provide good screening. The thinking was it was better not to remove a tree and replace it with something else if the existing tree might live for a longer time.

Hiller asked why the tree preservation provision was needed in addition to the screening. Gordon said the shoreland management ordinance provides language for tools that could be used to ensure that conditions that are present today, or that will be planted, exist into the future. The combination of the easement for the WPA and the easement for the trees keeps with the intent of the shoreland ordinance for providing vegetative screening and buffering of the

lake. Hiller said it seemed odd that the box elders are protected in perpetuity but the oaks are only protected for five years.

The applicant, Michael Stotesbery, 15407 Lake Shore Avenue, said he agreed with most of the staff recommendation. The Stotesberys proposed maintaining the oak tree for at least five years and to start replanting new oaks that would have to be forever maintained. This would provide for more flexibility on that lot to potentially build a house closer to the existing oak. He said the current plan is not to build on the lot. He understood removing the box elder trees would conflict with the shoreland ordinance.

Schneider said there were not questions about the appropriateness of the density of the property. His concern was erosion protection due to the specific design as the homes are built on the edge of the steep slope. He said the screening provision of the shoreland ordinance only is applicable to the shoreland buffer zone and not the 1,000 foot shoreland district. The conservation district would exist in perpetuity whether or not there was a conservation easement. He noted staff negotiated a 100 to 150 foot conservation easement from the lake based on the current plan that would protect two to three times as much as the shoreland ordinance would require. He questioned if the city had the right to require the protection of the box elder and oak trees. He suggested eliminating the box elder trees and softening the approach on the two oak trees, making the priority erosion control protection.

Gordon said the reason for requiring the screening is because the ordinance provision applies to any land altering activity on a riparian property. The vegetative screening does not apply to the whole 1,000 feet of shoreland around the perimeter of a lake but just to the riparian properties or those touching the lake. Gordon said the reason for this is due to the grading activity being within a 12 percent or more slope. Schneider said the ordinance was meant to keep existing vegetation on a steep slope because the thought was that was the best way to control erosion. In this case there may be a better way to prevent erosion because there are other trees screening the lake. Gordon said because there is some question about the longevity of the box elder trees the applicant could infill along the slope. At some point in time it would become difficult to replant trees in the area given the slopes and construction.

Wagner noted the applicant stated the current plan is not to develop one of the lots and there also is a construction management plan required. He asked if there was a way to eliminate the easement requirement for a period of time. Gordon

said typically it is desirable to get the easement in place so that future owners are aware of the easement. He said the easement could be put in place at the time of the certificate of occupancy.

Stotesbery said he and his wife would preserve the oak for a minimum of five years and they would like to plant more trees closer to the conservation easement. Although they could live with the staff recommendation they would prefer removing the tree ordinance provisions.

Schneider said instead of an easement around a specific tree, the environment and the city would be better served with approving a site plan with specific environmental grading approval conditions. This would confirm that whatever is built would protect the slopes. Wischnack said usually the site plan approval works through the building permit process.

Hiller moved, Wiersum seconded a motion to adopt Resolution No. 2009 -021 granting preliminary approval to LAKE ROSE HIGHLANDS, date-stamped December 2, 2008 eliminating the restriction of removing the box elder trees but retaining the two oak trees- one in perpetuity and one for five years.

Wagner said he likely would not support the motion. Greves agreed with Wagner and said she supported the full preservation easement on the oak tree. She said she agreed with Schneider's concerns related to grading with future construction of the site. She asked if there was a way to have the full easement now with the ability to lift the easement based on what the plan might look like for the future house. Schneider asked what the voting requirements were for removing an easement. Peterson said vacating an easement would take five votes. A majority vote is needed to approve an easement.

Schneider said his point about the oak tree was that the priority should be on the steep slope and erosion control design. Also, the resident has every right to take the tree out. The tree is not in the required conservation district.

Wiersum pointed out that the tree ordinance would already allow the homeowner to remove the tree.

Allendorf said he understood Schneider's suggestion to be that the applicant would be free to remove the box elders and the oaks without restriction. The time to remove the trees and plant new trees would be when construction is going on. This would allow for maximum flexibility because the applicant has the right to remove

the trees. Allendorf said most applicants are smart enough to know that if there are trees in the backyard as close to the conservation easement as possible, it gives flexibility and enhances the property value. He suggested amending the motion to remove any restriction on the three areas of trees identified in the yellow area on the map.

Hiller moved, Wiersum seconded a motion to amend the motion to accept the plan with the conservation easement over the southern portion of the site while removing the preservation easements over the two oaks and box elders.

Ellingson questioned if the council was undercutting the stated purpose of the tree ordinance. He said when specific examples have come to the council it is decided to allow applicants to remove any of the trees. Schneider said the council was trying to refine and define how the ordinance would be implemented and that had to be done on a case by case basis balancing property rights with preserving trees. Ellingson said existing trees are one of the best forms of erosion control because of the existing roots holding the soil together. Schneider said the best erosion control could not be known until the house plans are designed.

Ellingson said box elder trees have gotten a bad rap. While the trees often are blown down, they are native to the city. He said in Canada the trees are called Manitoba Maple Trees. Whatever the applicant plants will be small and take a long time to grow. He said the only reason the city has an improved tree ordinance is that surveys show that the number one priority of residents is to preserve the natural environment. He said the motion undercuts the staff's work in reaching an agreement with the applicant.

Greves suggested a compromise would be to keep the two oak trees and the tree preservation easement and to do the vacation on the oak that is fully on lot one. This would keep the tree in easement until a home is built. At that time the council could evaluate whether the grading would be impacted by the tree. Wischnack said technically the suggestion was feasible but it would be cumbersome to figure out when the vacation would actually occur. Schneider said from a procedural standpoint a vacation would not be used but rather a temporary preservation easement for five years would be approved. Peterson said a temporary easement could be approved that would expire when the certificate of occupancy is issued.

Allendorf said he didn't see how that would be different from removing the easements from all three of the areas in back. The

applicant likely would not remove the oak right away. The oak probably doesn't have that much to do with the erosion control because of its distance from the steep slope. He said the amended motion gets at where most of the council seemed to be going while allowing maximum flexibility. Under the amended motion when the site and building plans come in, an evaluation of the best erosion control for the lot would be determined.

Wiersum, Hiller, Allendorf, Schneider voted "yes." Ellingson, Wagner, and Greves voted "no." Motion carried.

Hiller moved to adopt Resolution No. 2009 -021 granting preliminary approval to LAKE ROSE HIGHLANDS, date-stamped December 2, 2008 with the conservation easement over the southern portion of the site while removing the preservation easements over the two oaks and box elders.

Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Submit a final plat drawing. The drawing must include:
 - (1) Dedication of 10-feet of additional right-of-way behind the existing bituminous cul-de-sac.
 - (2) 10-foot-wide drainage and utility easements adjacent to public right-of-way and 7-foot-wide drainage and utility easements along all other lot lines.
 - (3) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (4) Drainage and utility easements over the 928.3 elevation.
 - b. Pay the city a park dedication fee of \$5,000.
- 2) The following items must be submitted to the city before the city releases the final plat:
 - a. An electronic CAD file of the final plat in microstation or DXF. b. The following documents must be prepared by an attorney knowledgeable in the area of real estate and must be submitted for the city attorney's approval:
 - (1) Title evidence that is current within thirty days before release of the final plat.
 - (2) Conservation easement in an area in substantial conformance with the staff-drawn diagram dated January 30, 2008 and a drawing

of the easement. The easement may allow: removal of hazard, diseased, or invasive species. In addition, the easement may allow construction of stairway or pathway to Lake Rose and a water oriented structure on each lot, so long as such meet all provisions of the Zoning Ordinance. The easements and drawings must be recorded with the final plat.

- (3) A private driveway easement between the improved right-of-way and Lot 2. The easement must state the maintenance responsibilities of each owner. The easement must be 20-feet wide. The minimum driveway width must be as required by the fire marshal.
- (4) A private utility easement between the improved public right-of-way and Lot 2.
- (5) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include a provision restricting construction of swimming pools, sport courts, or other large accessory buildings within the conservation easement. The covenants must also include any conditions that have not been met as of the release of the plat.

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

- c. Any other requirements included with final plat approval.
- 3) The following must be completed before the city will issue a building permit for Lots 1 and 2:
- a. Verify all existing utility connection locations and elevations prior to setting the basement elevation. This verification must be provided for the city engineer's review and approval.
 - b. Clearly identify proposed sanitary sewer and water service locations.
 - c. Submit the following additional items for staff review and approval:
 - (1) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance.
 - (2) Final grading and tree preservation plan for the lot. The plan must:

- (a) comply with the preliminary grading plan as depicted on the preliminary plat;
 - (b) include rain gardens, French drains or other infiltration techniques as approved by the city engineer;
 - (c) must preserve trees designated for preservation at the time of preliminary plat approval; and
 - (d) show sewer and water services to minimize impact to any significant trees. No trees may be removed for installation of services. One set of new services must be installed.
 - (3) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the discretion of natural resources staff, mitigation inches may be decreased based on: the health of trees removed; the ability to appropriately install trees on the steep slope; and/or installation of under-story shrubbery.
 - (4) Submit cash escrow in the amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge: (1) the property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and (2) if compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- d. Submit the following documents:
- (1) A recorded copy of the preliminary plat, all required easements, and restrictive covenants.
 - (2) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
 - (3) A letter of credit or cash escrow in the amount of 150% of an estimated cost or 125% of a bid cost to complete required tree mitigation. Individual letters of credit are required for each lot.

- e. Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
 - f. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot. These items must be maintained throughout the course of construction.
 - g. Install heavy-duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.
 - h. Pay a hookup fee for sanitary sewer and water.
- 4) Notwithstanding the requirements outlined above, all lots and structures within the development are subject to the all R-1 and Shoreland zoning standards. In addition:
- a. Minimum rear yard setback for the principal structure on Lot 1 is 220 feet as measured perpendicular from the rear line of the plat. This setback may be reduced at staff discretion, if the reduction has no negative impact on trees or slope.
 - b. Minimum rear yard setback from the principal structure on Lot 2 is 190 feet as measured perpendicular from the rear line of the plat. This setback may be reduced at staff discretion, if the reduction has no negative impact on trees or slope.
 - c. Minimum floor elevation for both properties is 930.3
- 5) During construction, the streets must be kept free of debris and sediment.
- 6) Permits may be required from other outside agencies including the Nine Mile Creek Watershed District. It is the applicants' and/or property owners' responsibility to obtain any necessary permits. Copies of all required permits must be submitted to the city.
- 7) 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.

Wiersum, Hiller, Allendorf, Schneider voted "yes." Ellingson, Wagner, and Greves voted "no." Motion carried.

C. Items concerning TERRATONKA, a 7-lot subdivision of existing properties at 3100 Forest Lane, 3200 and 3218 Eldorado Trail West

Gordon gave the staff report.

Wagner said previously the council expressed concern about lot six encroaching on the knoll and discussed relocating the driveway and moving the lot closer to Forest Lane. Gordon said the proposed home site location was on the east down slope from the knoll. It would impact some of the slope but was not built on top of the knoll. He said the driveway probably would be relocated to the north and would be on the edge of the woodland preservation area. Wagner said he wanted the applicant to comment on the location for the home in the proposed plan versus the location the council discussed at the March 9 meeting.

Wiersum said the home and the pad on lot three had been moved forward and toward the cul de sac. He said the home appeared to be very close to the cul de sac. Gordon said part of the process was to create a good neighborhood around the cul de sac. This includes not only the trees but the setback of the homes from the street and how the homes appear from the street and how they are organized around the street. The setback for lot three was twenty feet. This was the minimum staff stipulated in its recommendation. He pointed out lot five does not meet the minimum and staff suggested that at the final plat stage the road be shifted to the northeast.

Greves said she thought the council was very clear in the March 9 discussion about which lot off Forest Lane was being discussed. The lot being discussed was lot seven north of Forest Lane. There was extensive conversation about how lots three and six of the applicant's proposal significantly encroached on the knoll. She asked what happened to the council's direction about lot seven. Gordon said it was the applicant's desire for a better home site in trying to site a home in the north side of the top of the knoll and trying to relocate the driveway. Staff identified issues with the grading within the woodland preservation area for the relocated driveway. When the applicant demonstrated they could achieve six new lots with 65 percent preservation, staff was comfortable bringing the proposal to the council while realizing there still was an issue about the road and the location of the house site. Greves said there was 70 percent preservation with the previous lot seven. Gordon agreed if the area was removed for lot six the preservation area would be around 70 percent even if a house were built.

Schneider said it was not his understanding that the far north lot was to be preserved. He said the council discussed putting one lot in that area and moving the road as far away from the knoll as possible to fit a house in as appropriately as possible. The home

would more likely have been on the other side of the relocated driveway.

The site's project engineer, Dave Nash, from McCombs Franks Roos Associates, said the intent for lot six was to leave the driveway in its current location and to place the house on the south side of the driveway. If a house were put on the north side of the road the driveway would need to be relocated and the amount of damage to the tree area would be the same. In listening to the previous council discussion, he said he understood putting a house on the north side of the road was inappropriate. He said it is possible moving a home to the north side would save more trees but he would have to look at what impact moving the driveway would have.

Wagner asked Nash to comment on the house placement in the proposed plan with the significant slope toward the east. Nash said he envisions the house following the contours of the walk out lot. Schneider noted it would be a tuck under home with a walk out on east side. Nash agreed it would be a side walk out with the garage on the west side. He said the applicant would meet the twenty yard setback for lots three and five.

Hiller said he was concerned the proximity of the four houses would create a block of houses around the cul de sac with no gaps. He would be willing to give up some trees to make a better neighborhood. Schneider said lot three is compounded because all one would see when driving by is the garage. The plan in the council packet had the house oriented the same way but pushed back into the hill. He suggested Hiller's concern could be addressed by turning the house so the front is more aimed toward the cul de sac and moving the house forward. Hiller agreed.

Wagner agreed he is more concerned about making sure lot six is addressed than getting more of a woodland preservation area. The lots have to be marketable because the city would not want them to sit for a number of years. Wiersum said he agreed with Wagner.

Greves said what was approved at the previous meeting was the staff's medium lot plan that didn't look anything like what was before the council. Part of the discussion was that lots three and six would be removed. There would then be a big outlot where a trail could go in. Some of that would be lost with what was being discussed for lot three. Gordon said that the grading impact in the staff plan would be the same as the applicant's plan if the Forest Lane lot was removed.

Schneider said in the medium plan the applicant would be forced to put three homes under the power line. Under the applicant's plan only two homes would be under the power line.

Greves said the previous discussion was to remove lots three and six and approving the staff's medium lot size plan. She clarified during the discussion what was being discussed was lot seven. She said what was before the council was completely different than what had been discussed and she was not comfortable with the changes. Schneider said the seventh lot was discussed but he had suggested the best solution would be to move the existing driveway all the way to the north edge of the property line to preserve as much buildable area. Both he and Greves were talking about the seventh lot but she was talking about the original layout and he was talking about a new layout. He said the issue is what side the driveway should be on.

Wagner said the current premise is the driveway would remain in its existing location and that is not creative enough to minimize the impact on that part of the property. He acknowledged he wasn't concerned about the one to two percent difference in the preservation area but was more concerned about the natural feel of that part of the lot which would not be built on. He said his understanding was at the previous meeting the council agreed the driveway was to be moved to accommodate a seventh lot. He said the council should ask for an analysis about what would best protect the knoll. Nash said that could be looked at.

Natural Resource Manager Jo Colleran said the knoll is covered with oaks. It transitions down on the north, west and south slopes. The knoll is the prominent feature and it is surrounded by oaks. She said when she met with the applicant moving the driveway was discussed. She thought the applicant had preliminarily looked at moving the driveway and based on the location of the house pad and where the driveway would go there would be more impact to the woodland preservation area.

Schneider said the intention was to figure out how to stay as far away from the knoll as possible. One issue was the location of the driveway and another issue was the shape of the building pad. A more rectangular pad may fit into the topography better than a square pad. He also asked the applicant to look at the impact if the right of way cannot be maintained.

Gordon noted the council seemed to be in agreement with the seven lots. The placement of the house and the driveway on lot seven still had to be worked out. Because the proposal was at the preliminary plat stage, he said not all the details were in place that would come with the final plat and plans. He recommended going ahead with the preliminary plat and staff would work with the applicants on how to site the house.

Peterson said by giving preliminary plat approval the council would be giving approval to what was currently in front of them. She said it would be better to postpone the item until some of the issues were resolved. Schneider agreed. He said if the applicant could redesign the north edge of the plat to move the driveway and to fit the home in to be more sensitive to the slopes and trees, and if final plat type engineering was done, the council likely would approve the seven lot proposal.

Hiller asked if the commitment for the trail was in writing. Schneider noted that it was a private trail.

Greves asked if what was being envisioned was the building pad being more in the area outside of the woodland preservation area or was it not known where the building pad would be. Schneider said it was not known at this point but he expected the building pad would likely be closer to the east and further down the slope where there would be less tree impact with the driveway to the north. He said the council was asking for both options to be studied.

Allendorf moved, Wagner seconded a motion to continue the item. Lot three is to be revised to orient the house more toward the cul de sac. Two alternative plans are to be developed with the driveway to the north or south side of the home with as limited tree impact as possible and showing what the implications would be for lot six if the right of way cannot be obtained.

All voted "yes." Motion carried.

D. Items concerning the existing Dairy Queen site at 5445 Eden Prairie Road

Allendorf recused himself due to a conflict of interest.

Gordon gave the staff report.

Ellingson said there was discussion about restricting the exit on to Eden Prairie road to right turn only and eliminating the left turn lane

so cars would not have to cross traffic. He asked for clarification on the traffic flow. Gordon said in the summer of 2008 the planning commission reviewed a total revamp of the site. The relocation of the driveway to a location along the north property line triggered comments about concerns with the traffic flow. As proposed the access drive on Eden Prairie Road remains unchanged. The site would essentially function as it does today with some increased stacking in the drive through lane.

Wiersum asked if there are decibel level restrictions in the ordinance for the type of speakers being proposed. Gordon said the ordinance restricts the speaker from being audible from a residential property. The Minnesota Pollution Control Agency sound level provisions would also be adopted. Wiersum asked if there were any restrictions on the volume of human voices that were not coming from the speakers. Gordon confirmed neither the ordinance nor the MPCA restrictions pertain to human audible decibel levels. The concern was brought up at the planning commission hearing.

Schneider said the future plan puts the drive through lane in a more appropriate place. Putting a menu board on the property line adjacent to homes has the potential of creating problems. He said years ago the city faced a similar issue with another fast food restaurant. The city required a telephone menu board be installed. Eventually the system was damaged and the restaurant got approval from the neighboring resident to install a regular voice menu board. He asked if telephone menu board could be used for this location. Gordon said the provisions of the CUP speak to the audible issue. If there is an issue with residences hearing the orders, there will be a reevaluation of the location of the board, the audible level and techniques to lower the sound.

Wiersum suggested that using something to block the sound including the use of sound absorbing materials could be looked into. There are sound mitigation options that would be cost effective and durable that could be considered.

The applicant, Gene Haugland, said the menu board is built with a shroud around the speaker. He said he was also prepared to install something like a wooden wall behind the board to deaden the sound. Alternative plans have been drafted to address some of the traffic concerns.

Greves asked if materials other than wood have been considered to better absorb sounds. Haugland said other materials may be looked at but something that is weather proof has to be used.

Randy Hamborg, 14477 Stewart Lane, said in the council packet the surrounding land uses on the southern boundary are noted as office property. He said residential properties should also be reflected. He added the conditions for approval included a provision stating if the currently vacant office space is leased the city could require that the outdoor seating area be relocated. Other information in the packet indicated there was only one area that supported the outdoor seating due to zoning requirements. The provision requires relocation rather than removal. Hamborg said at the planning commission hearing the opposition to a drive through subsided when staff assured the neighbors that the city code ensures there will not be a speaker system for the drive through. He said the issue about people's voices being audible is not regulated because the speaker should not be adjacent to a residential parcel. The council was being asked to change everything in the ordinance. He indicated his property is about 70 feet from the order station. The station cannot be accommodated without a variance and does not belong in that location.

Tom Cook, 14471 Stewart Lane, said the Dairy Queen has served a purpose of supporting the community. Making the changes creates a conflict with its purpose.

Mike Roth, 14485 Stewart Lane, said many of the sound abatement issues have yet to be addressed. In ten years he has not heard one order go through the drive through. If 20 orders come through every day it would equate to 73,000 orders over ten years. He said it would be problematic if he had to listen to the orders.

Hiller said the sound issues are a very real problem and the city needs to ensure the neighbors the issues can quickly be addressed. He said he was confident the problems were solvable.

Greves asked if there was discussion to have the new landscaping area on the other side of the parking spaces and moving the menu board to that area. Gordon said it was not discussed but one issue with that option may be the turning radius is not big enough.

Ellingson said the criteria for granting a variance require that there is a practical difficulty of the site. He said that requirement applied to this site because of the site's size. Another requirement is that the hardship has to prevent a reasonable use of the property. He questioned if this requirement had been met since the Dairy Queen had been operating there for a number of years. He said he was also concerned about traffic issues. The entrance from Stewart

Lane is proposed to be moved closer to the townhouses but would still allow traffic in both directions. The entrance and exit on Eden Prairie Road would also have traffic in both directions. He noted that the letter from American Dairy Queen indicated another site that installed the speaker board increased business by 100 percent. He said doubling the traffic without any accommodation for traffic improvement was another concern.

Wiersum said from a business perspective there is a value to speeding up service and making the drive through work more efficiently. The most problematic issue with the speaker board is that it is on the property line closest to the residences. He said he would feel better if there was a way to move the speaker board to the property line next to commercial property. He suggested looking for more creative solutions than those being presented.

Schneider said he sees the benefit of moving people quickly through the location. He said he was concerned what could be done if the changes do not work. He would rather have it demonstrated that the menu board will work. If the business improves it likely improves the probability of the location being rebuilt.

Wagner said he understood the neighbors' concerns and would not want to live that close to the noise without some proof that the concerns would be addressed. He said he believes the location will be redeveloped with more business.

Schneider noted the applicant said there is an updated plan. He said he was not supportive of moving the driveway as far to the east as was shown in the plan. He suggested some of the sound issues could be solved by installing a sign telling people to drive up to the window if there is no line. Haugland said he would prefer not having the council delay the item because he did not want construction to occur once the season starts. He suggested demonstrating to staff a place that has done sound extenuation. As for the suggestion of moving the traffic east by using a different curb cut, he said the original proposal was to leave the curb as it is but if a problem is identified the other curb cut could be used. He said if the speaker board was moved by the gas station a loop would need to be designed to have the driver side of the car come up against the building. He said in order to get the desired plan approved it has to be shown the site will generate more volume than it currently does.

Hiller said most conditional use permits that are denied create major issues with having to reconfigure the business. In this case if the noise is heard on the adjacent problems, the speaker would be shut off and customers would have to drive up to the front. He said for that reason he was comfortable supporting approval.

Wiersum said he would like staff to work on sound mitigation options to address the residents' concerns.

Wagner moved, Hiller seconded a motion to:

- 1) Adopt Resolution No. 2009-022 which approves a conditional use permit for an outdoor seating area at the Glen Lake Dairy Queen at 5445 Eden Prairie Road. The proposal includes the following setback variances:
Approval is based on the following findings:
 - a. Aside from setback variance, the proposed seating area would meet conditional use permit standards.
The use:
 - (1) Is consistent with the intent of this ordinance;
 - (2) Is consistent with the goals, policies and objectives of the comprehensive plan;
 - (3) Does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
 - (4) Is consistent with the city's water resources management plan;
 - (5) Is in compliance with the performance standards specified in section 300.28 of this ordinance; and
 - (6) Does not have an undue adverse impact on the public health, safety or welfare.
 - (7) Shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk.
 - (8) Shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;
 - (9) Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;
 - (10) Shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;

- (11) Shall be located adjacent to an entrance to the principal use;
 - (12) Shall be equipped with refuse containers and periodically patrolled for litter pick-up;
 - (13) Shall not have speakers or audio equipment which is audible from adjacent parcels; and
 - (14) Shall be located in compliance with building setback requirements.
- b. The requested setback variances meet the variance standard:
- (1) Practical Difficulty. The existing building has a non-conforming setback of 10 feet. As such, there is no area to reasonably locate outdoor seating which would meet the required 50 foot setback. The proposed 13-foot setback from the Eden Prairie Road property line is greater than the non-conforming setback of the existing building.
 - (2) Unique Circumstance and Neighborhood Character. The proposed setback would meet the intent setback requirement between outdoor seating area and residential properties. The applicant's proposal would meet this intent. Though 135-160 feet from the closest residential properties, the seating area would be separated from the properties by: (1) the restaurant building itself; (2) public roads; and (3) significant grade changes. As such, the outdoor seating would not negatively impact the character of the neighborhood.

Approval is subject to the following conditions:

- a. Prior to commencing any site work:
 - (1) Recorded this resolution with Hennepin County. A copy of the recorded resolution must be returned to the city.
 - (2) Submit a patio enclosure design for staff review and approval. Spaces between the proposed bollards must be closed with fencing material as approved by staff.
- b. If the currently vacant office space is leased, the city may require that the outdoor seating area be relocated.
- c. The patio must be equipped with refuse containers and patrolled daily litter pick-up.
- d. No speakers or audio equipment which is audible from adjacent parcels is allowed.

- e. The city council may reasonably add or revise conditions to address any unforeseen problems associated with this conditional use permit.
 - f. The applicant must agree to these conditions in writing.
- 2) Adopt Resolution No. 2009- which amends and is appended to Resolution 98-018 allowing for location of menu/communications board associated with an existing restaurant drive-up lane, with setback variance from 10 feet to 2 feet, for the Glen Lake Dairy Queen at 5445 Eden Prairie Road. This resolution is based on the following findings:
- a. Aside from the requested setback variance, the proposed menu/communications board would be consistent with previous conditional use permit approvals for the site.
 - b. The requested setback variance meets the variance standards, as:
 - (1) Unique Circumstance and Practical Difficulty: The existing conditions of site are both unique and present practical difficulties. The building, which has been on site since at least 1962, and driveup lane, on site since 1998, are both located less than 10 feet from the south property line. As such, it would be extremely difficult to locate a functional menu board meeting the 10-foot required setback.
 - (2) Neighborhood Character: The Eden Prairie Road/Stewart Lane area is a unique intersection surrounded by a variety of land uses, with a variety of setbacks. As such, the proposed menu/communications board setback would not impact this unique character.
- Approval is subject to the following conditions:
- a. The site plan must be modified to be in substantial conformance with the Exhibit B of this resolution.
 - b. Prior to commencing any site work:
 - (1) Recorded this resolution with Hennepin County. A copy of the recorded resolution must be returned to the city.
 - (2) Submit the menu/communications board sign plan for staff review and approval.
 - (3) Submit appropriate building and electrical permits for staff review and approval.

- (4) Submit a final landscape plan for staff review and approval. This plan must include additional plantings between the drive-up lane and Stewart Lane.
- (5) Submit a letter of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply landscaping plan.
- c. The city council may reasonably add or revise conditions to address any unforeseen problems associated with this conditional use permit amendment for installation of a menu/communication board. Vehicle stacking only Stewart Lane by drive-up customers would constitute a problem that may require additional review and revised conditions.
- d. The applicant must agree to these conditions in writing.
- e. This resolution amends and is appended to Resolution 98-108.

Wiersum, Wagner, Hiller, Greves, and Schneider voted "yes." Ellingson voted "no." Allendorf abstained. Motion carried.

Schneider called a recess at 9:33 p.m.

Schneider called the meeting back to order at 9:42 p.m.

F. Glen Lake Plaza concept plan

Wischnack gave the staff report.

Wagner asked for information about requiring irrigation of the hillside. Wischnack said from a maintenance perspective irrigation was preferred by the parks staff but an alternate bid could be asked for. Gunyou said 4 crews periodically water the areas that do not have irrigation. In parks with more intensive use irrigation is more common. Wagner asked if the intent was for the area to be actively used. Gunyou said the area will not necessarily be actively used but will be an area where a lot of people will be walking through.

Wagner noted that the plan is for around \$826,000 to come from the development fund with partial TIF reimbursement. He asked what TIF was being generated from the phase one property. Wischnack said the TIF was currently between \$25,000 and \$30,000. With the new senior project there would be an additional immediate \$200,000 under the best case scenario. Wagner asked what the current development fund balance was. Wischnack said the fund

balance was \$1.6 million. Wagner said he thought it was a good project but wanted further policy discussion about moving forward with designing the plaza without a commitment on the senior housing project.

Wiersum asked if it was correct that the TIF would be \$500,000 if the senior housing project occurs. Wischnack indicated that \$500,000 was the long term amount. Wiersum noted the cost of the fencing was around \$100,000 less than anticipated so the savings could be used elsewhere.

Allendorf said since the water feature was listed as an alternate it seemed to indicate the feature should not be included if the plaza was over budget. He noted from the comments that the water feature was one of the more desirable features. He asked for more information about the amphitheater and if it would be used. Wischnack said the thought is that if the space is created, there will be more activity in the area. Currently the space is quite confined and detached from the rest of the neighborhood. By opening the space up, more people will gather and more events would occur. Allendorf suggested he would look at cutting back the amphitheater rather than the water feature. Gunyou noted the bank has been approached about its interest in contributing towards or paying for the amphitheater since it was the organization most interested in having it included.

Allendorf asked for clarification about the hillside's use. Wischnack said the intention was not to have people walk through the area but it was an area people would sit and gather. Allendorf said there were comments received about planting native grass or some cover that would not require irrigation or staff maintenance. Wischnack said staff could look at amending the plans to look at putting in natural plantings.

Greves asked if the proposal would be presented to the park board. Assistant City Manager Geralyn Barone indicated that the plan was not scheduled to go before the park board. Greves said the park board might have some good ideas about the proposal. She asked if there was reason to believe the proposed water feature would work better than the previous one. Wischnack said the underground design is partially due to maintenance considerations. Having open pools of water tends to draw different kinds of activities. There had been some discussion about having some type of stream throughout the park, taking advantage of the contours of the land. She said after speaking with residents about a long term solution, the water feature was determined to be the optimal plan. The public

works department estimated annual maintenance costs would be around \$9,000.

Hiller asked what would be in the space if the water feature was not approved. Wischnack said one option would be some type of monument.

Hiller said he was concerned about the use of backless benches because seniors can find it difficult to stand up from the bench without some type of support. He said he liked the proposal and with the additional open spaces children will spread out further around the area and find more use. He would support leaving the area by the bank and hillside left open.

Wiersum asked what the life expectancy was for the water feature. Wischnack said the details are not known because the design of the feature had not been done, but typically there was a 20 year life expectancy for such a feature. Wiersum asked if the budget allows for the purchase of extra spare parts in anticipation that parts might become unavailable. Gunyou said the city typically does purchase spare parts when appropriate. Suppliers are monitored and if it looks like they might go out of business, then stocks of parts are considered.

Schneider said he liked the gathering feature of the central area. He agreed with Hiller that all the benches need backs on them. He said he was a fan of water elements because they add a dynamic and dimension to a gathering space. He questioned the use of the water spouts because similar features in other areas have kids stepping on the fountain and wading in the water. That was part of the problem with the current feature. He was more inclined to invest in something similar to what Target has at their Seven High site with pre-constructed rocks with water coming out. He said he would like to see alternatives on how a water feature could be built to create ambiance and still be easy to maintain. He agreed with Allendorf that he would rather cut back in another area in order to invest in the water feature. He said he was concerned about timing the expenditure of the funds without knowing where the city was with phase two development.

Wagner said he would like to move forward with the final design but would like to tie approvals of funding or construction with a solid phase two commitment. If nothing happens in the phase two site for a couple of years that could impact what the council would want to do with the plaza.

Wiersum agreed with tying the amount of money available to the expenditures and the timing of the availability of the money. The TIF money is being driven by the development. If the amount of money falls short of what is expected, and fund balances must be spent down or other funding sources identified, he would be less comfortable moving ahead with the plaza. He said the water feature was a great idea but features tend to be expensive and have maintenance problems. He would like to see alternative water features looked into.

Hiller asked if there were upcoming deadlines for any of the grant money. Gunyou said the grant funds would be used for reimbursement of streetscaping costs that have already been incurred.

Hiller asked if there could be significant savings given the current bidding environment. Gunyou said the bidding climate is a factor but it was ultimately the council's decision on whether the savings would be significant enough. He suggested that because the design went through the bottoms-up park renewal process, it would be appropriate to send any significant changes back to the neighborhoods and businesses for review. Schneider suggested combining that process with a park board meeting.

Allendorf agreed with identifying the funding with what was going to be done but said the residents of the area expect something to be done with the area and the plan should move ahead. He liked the idea of options for the water feature and said that it was within the council's authority to change the plan. He said the water feature makes the area.

Hiller said it should be assumed the feature will allow interaction with the children and that should be included in the considerations for the design. As for the timing he agreed the residents of the area cannot be left hanging indefinitely and should be told when the issue would be addressed.

Wagner said his point was not that the plaza would be on hold until the economy improves but rather the uncertainty with phase two would be clarified in the next two months and that would be a reasonable time to make a decision on the plaza. If the uncertainty is not clarified then the council could make a decision about the investment in the area during the capital budgeting process.

Gunyou suggested one option would be to order preliminary plans be prepared but not bid at this time. This would give more clarity on costs as the planning proceeds.

Wiersum said as alternatives are finalized durability and simplicity of water features should be included in the decision.

Greves asked if wood chips or mulch would be used in the water feature area that could jam the feature. Wischnack said those type of details have not been worked out. Greves agreed the water feature is key and would be okay with an active water feature. She also agreed with Wiersum about the importance of the durability of the feature. She also would like to look at different options and agreed with the cost and timing issues but said it was important for people to see the project as a positive and exciting thing.

Hiller moved, Wagner seconded a motion to order the preparation of plans and specifications for the Glen Lake Plaza renovation and refer the plan to the park board for review The plan should return to the council for consideration either when decisions are made about phase two or when the capitol budget is discussed. All voted "yes." Motion carried.

15. APPOINTMENTS and REAPPOINTMENTS: None

16. ADJOURNMENT

Wiersum moved, Wagner seconded a motion to adjourn the meeting at 10:36 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda
City Clerk