

**MINNETONKA PLANNING COMMISSION
MINUTES**

JUNE 19, 2003

1. CALL TO ORDER

Chair Wagner called the meeting to order at 6:30 p.m.

2. ROLL CALL

Commissioners Knight, Maes, Britain, Egge, Gallop, Hart, and Wagner were present.

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Planning Intern Ed Davis, and Environmental Intern Chris Robbins.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted. Olson reviewed items included in the Change Memo dated June 19, 2003.

- 4. APPROVAL OF MINUTES:** June 5, 2003

Hart moved, second by Gallop, to approve the June 5, 2003 and March 20, 2003 meeting minutes as submitted.

Maes, Britain, Egge, Gallop, and Wagner voted yes. Hart and Knight abstained. Motion carried.

5. REPORT FROM STAFF

Olson announced that a neighborhood meeting will be held Monday night at the district service center on County Road 101 to review the traffic and parking problems that have been occurring at the Pagel Ice Arena. The meeting was prompted by the interest in adding a sports dome to the Minnetonka High School.

Olson confirmed that a meeting is scheduled with the City Attorney on August 7, 2003, at 5:00 p.m. to discuss legal issues. A second meeting will be held on September 4, 2003, to discuss a back-up Commissioner program, with the City Council.

- 6. REPORT FROM PLANNING COMMISSION MEMBERS:** None

7. PUBLIC HEARINGS: CONSENT AGENDA

No item was removed from the Consent Agenda for discussion or separate action.

Egge moved, second by Hart, to approve the item listed on the Consent Agenda as recommended in the respective staff reports as follows:

A. Resolution approving a side yard setback variance for a two-stall garage at 16100 Gleason Lake Road for James and Constance Leuer (03020.03a)

Adopt the resolution on pages A1–A4 of the staff report. This resolution approves a side yard setback variance from 10 feet to 5 feet for a 22-foot by 26-foot, two-stall garage to replace the existing garage at 16100 Gleason Lake Road, based on the following findings:

1. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
 - a. The alternative location would require the removal of a maple tree and could negatively affect the root system of a row of trees along the southwest property line.
 - b. The proposed location of the garage provides a functional and reasonable internal circulation into the home.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. Although the garage could be built meeting required setbacks on the southwest side of the home, the removal a maple tree would be necessary.
 - b. Adequate separation would be maintained between the proposed garage and the garage of the adjacent home to provide for the necessary drainage and separation of structures.

Approval is subject to the following conditions:

1. Submit proof of having recorded this resolution with the county before the City issues a building permit.
2. The building materials and color of the garage must compliment the existing home.
3. Prior to issuance of a building permit, the existing sewer and water lines on the property must be located and protected during construction.
4. This variance will end on December 31, 2004, unless the City has issued a building permit for the project covered by this variance or approved a time extension.

Knight, Maes, Britain, Egge, Gallop, Hart, and Wagner voted yes. Motion carried and the item on the Consent Agenda was approved as submitted.

8. PUBLIC HEARINGS

A. Three-lot preliminary plat, with lot width at the right-of-way and at the building setback variances, at 4821 and 4813 Williston Road for John and Linda Paulson (98023.03a)

Chair Wagner introduced the proposal and called for the staff report.

Gutoske reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Gallop asked how many lots located on Williston have the potential to be subdivided in the same lot-behind-lot manner. Staff provided a graphic that illustrated six other properties that do not have frontage. Gutoske was unaware of additional lots in the area that would have the potential to be subdivided without frontage.

Maes asked if accessibility for emergency vehicles would be an issue on a private drive. Gutoske answered in the affirmative. The plans would include a turn-around at the end of the driveway to accommodate emergency and city-maintenance vehicles.

Maes asked if the driveway location would increase traffic or traffic problems. Gutoske explained that lining-up with Crown Drive would be the best location for the driveway.

Chair Wagner asked how many trees would be removed. Gutoske stated that the private driveway plan would cause the loss of three significant trees; the public cul-de-sac plan would cause the loss of eight significant trees. The private-drive scenario would cause the removal of 12,000 square feet of surface area. The public cul-de-sac would disrupt approximately 25,000 square feet of surface area.

In response to Knight's question, Gutoske answered that a public street would be 26 feet wide. Gutoske added that the maximum grade for a public street is seven percent, so, not only would it be slightly wider, but it would require more grading, because the hill would need to be cut into. Gutoske explained that the grading required to construct a cul-de-sac would fan-out over a much broader area. The cul-de-sac would not be as steep. The trees in the periphery would be taken out. Gutoske confirmed that the proposal could use a hammer-head or circular turn-around.

Gallop asked who would fund the cost of a public street. Gutoske explained that the abutting properties would be assessed the cost and it would be included in the cost of purchasing the lot.

John Paulson, 4809 County Road 101, spoke on behalf of his mother. His daughter and son-in-law hope to build on Lot 3. The City recommended the sewer, water, and larger driveway. The applicant agreed with the City's conditions except the width of the driveway. The applicant wished to save the trees by narrowing the width of the driveway and adding landscaping instead of the curb and gutters. A fire sprinkler system would be included in Lot 3, to decrease the need for a large turn-around. Their largest issue is staff's requirement for the width of the driveway. The current driveway is ten feet wide. They would prefer the driveway to be twelve to fourteen feet wide. It could always be widened in the future, to make it safer for additional vehicles. There are no plans for additional lots.

The public hearing was opened.

Keith Guggenberger, 4851 Westminster Road, asked if one or two residences were being proposed. Gutoske explained that the applicant's plan has the potential for two residences to be constructed on the two separate lots.

Mr. Guggenberger agreed with the applicant in regard to the trees in relation to how they relate to the street. A city access would be more destructive. He asked if the analysis looked at the tree removal that would be needed due to the property layout, if it was in a block diagram or if it was only referring to the driveway itself. Gutoske clarified that the tree removal estimate referred only to the street. It did not consider future house construction.

Mr. Guggenberger asked if Lot 3 met the ordinance lot width requirements. Chair Wagner explained that the buildable area has a 110-foot setback lot width and the protruding area does not have much buildable area. Gutoske agreed.

Mr. Guggenberger supported saving trees, but understood the reality of development. He stated that a subdivision to the north advocated saving the trees, but did not really make a difference. He supported the Commission considering the extent which the Williston area should be allowed to be developed, because homes would begin to appear to be "added onto" multiple times.

Brian and Michelle Nash, who hope to build their residence on Lot 3, stated:

- They intend to leave the rear all woods.
- The residence that was torn down on Lot 2, was his grandfather's house. His family lived there 85 years. His wife's family is the owner of Lot 1 and a portion of Lot 3. Her family has lived there almost 70 years. They hoped to raise their children there.
- They hope to construct a nice, single-family home with a simple, private drive.

No additional testimony was submitted and the hearing was closed.

Knight asked if a variance could be given for grading. Gutoske stated that a grading variance could be considered.

Chair Wagner reviewed the primary issues.

Hart asked if a narrower driveway would be allowed if Lot 2 were eliminated from the proposal. Gutoske answered in the affirmative. Hart felt that was one option.

Knight asked if a twenty-two foot driveway would be allowed if the proposal was limited to two lots. Gutoske answered in the affirmative.

Chair Wagner struggled with the lot being created behind a lot. Chair Wagner was concerned with creating the potential for a fourth lot in the future.

Gallop was not a proponent of lots located behind lots; however, he felt the application had extenuating circumstances. The property would not set a precedent, there are existing similar properties in the area. It does not appear that many other properties on Williston would have the option to do a similar lot division. A family history exists on the property and it appears that the first development would stay in the family. A public cul-de-sac would eliminate the lot-behind-lot situation, but the trade-off may not justify the loss of trees and the grade changes that would be required. He saw both arguments, but felt a private drive would be justified with restrictions that staff talked about.

Hart asked if a condition would be included that in the event that Lot 1 was further divided, the public road and cul-de-sac would be required. Chair Wagner confirmed with Gutoske that if Lot 1 was subdivided into two lots, a lot frontage variance for the eastern lot and another variance to allow four lots to access one private driveway would need to be authorized. The engineering department favored restricting individual accesses to Williston Road. If Lot 1 were to be subdivided in the future and if the lot frontage variance was granted, then the second variance for having four properties on a private street would be more of a public safety issue to keep the additional accesses off Williston Road.

Hart felt that if the City allowed the potential for the creation of the fourth lot, a public street and cul-de-sac should be constructed. Chair Wagner acknowledged that staff presented that issue to the Commissioners. Staff indicated that preservation of the trees may justify allowing a private street in the case where the allowed number of lots using the same driveway would be exceeded by one.

Knight was uncomfortable with the proposal when he realized the potential of a future fourth lot.

Gutoske explained that staff believes the private road would be a better way of accessing the future development of the proposed site. It would not be disruptive to the site, both in a grading and tree removal aspect. The resulting lot configuration would still maintain the character of the area, which already has other lots without frontage. This application is different from the one the Commission reviewed two weeks ago, where there was a much different layout. Staff felt the lot front variance was justified for Lot 3 with access being provided by a private drive. With respect to a future division of Lot 1, if the private drive remained as it was proposed, another lot frontage variance would be needed. A new lot, created by dividing Lot 1, could be allowed access to Williston. That decision would be reviewed and made in the future, if an application was made.

Egge agreed with Mr. Paulson that something could be done in the future, when Lot 1 is divided. She recognized wanting to establish something consistent, but she looked at the applications merits individually. Egge, who resides in that area, preferred staff's recommendation because there are already many houses located behind houses in the area. Similar driveway configurations already exists. She supported preserving trees. She agreed with staff's recommendation to restrict Lot 1 from being divided into more than two lots in the future.

Gallop asked if Lot 1 could be restricted from being divided if the private drive was allowed. Gutoske stated that the restriction would be "toothless," since the Commission and the City Council would have the authority to approve it at that time.

Gallop felt the choice was either eliminate the lot behind a lot by requiring a cul-de-sac, a twenty-six foot drive, curb and gutter, removal of additional trees, and more grading or have a lot behind a lot with a private drive and turn-around. He favored the latter to reduce the disturbance to the property. He saw both sides.

Britain felt the decision would be easier if the proposal only included two lots. He was not strongly opposed to the project, but he was opposed to lots behind lots. He favored an alternative to the flag lot.

Knight felt it could strengthen the precedent already set. He noted the difference in the drive width of twenty-two feet versus twenty-six feet. He stated that granting a variance for grading was an option. He felt flag lots were poor planning. He felt a cul-de-sac would not look odd.

Maes firmly supported a private drive. She measured that a twenty-two foot drive would cause the removal of a large spruce tree. Lot 2 was predestined for additional family members. A cul-de-sac would rob the natural resources of the lot and eliminate a beautiful area. A hammer-head turn-around and private drive would be appropriate.

Egge felt some of the quirkiness of lots behind lots is the charm of Minnetonka. If cul-de-sacs are always required, that is when Minnetonka would look like all of the other suburbs. She challenged that in some areas a house behind a house looks odd, but this particular proposal and property and future are unique. The two grandchildren marrying and living on the property of both ancestors was unique history. She recognized that Lot 1 would be divided into two lots in the future. At that time, the property owner will have to meet the City's requirements.

Hart supported the proposal. She echoed Egge's comments. She felt the entities reviewing an application for the division of Lot 1 would acknowledge the concern of allowing four residences to share a private drive.

Egge agreed with staff working with the applicant to create the optimal driveway width.

Gallop moved, second by Egge, to recommend that the City Council give preliminary approval to the Sunrise Farms plat, date stamped June 13, 2003, with a lot width at the right-of-way variance for Lot 3 from 80 feet to zero feet, and a restriction that Lot 1 may only be split once and a hammer-head turn around be included. Approval is based on the following findings:

1. The proposal meets the required standards and ordinances for a preliminary plat.
2. The proposal meets the required standards for a lot width at the right-of-way variance in Section 300.10, Subdivision 5(h)(2)(b).

Approval is subject to the following conditions:

1. Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street rights-of-way and at least seven-foot-wide drainage and utility easements along all other lot lines
 - (2) Utility easements over existing or proposed public utilities, as determined by the City Engineer
 - (3) Drainage and utility easements storm water ponds, as determined by the city engineer
 - b. Pay the City a park dedication fee of \$2,375.

- c. If the developer is petitioning the City to construct the public water and sewer improvements, the City Council must order the improvements.
 - d. If required, submit evidence of watershed district and Pollution Control approval. The City may require revisions to the preliminary plat to meet the requirements of these agencies.
2. The following items must be completed before the City releases the final plat:
- a. Submit title evidence that is acceptable to the City Attorney. Title evidence must be current within thirty days before final City Council approval.
 - b. Provide a private driveway easement between the street right-of-way and Lot 3 that is acceptable to the City Attorney. The easement shall state the maintenance responsibilities of each owner. This easement shall extend 17 feet north and seven feet south of the driveway. The minimum driveway width shall be as required by the fire marshal.
 - c. Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants shall include the conditions below that have not been met as of the release of the plat. The covenants shall also state that it is the City's intent to not permit any more than two lots on Lot 1, if a future subdivision application is submitted. These covenants must first be submitted for the city attorney's approval.
 - d. All accessory buildings on Lots 2 and 3 must be removed, or a cash deposit must be made to the City ensuring the removal of the accessory buildings within a time frame agreed upon by staff.
4. The following must be completed before the City issues a grading permit or any site work is started:
- a. Final grading, drainage and erosion control plans must be submitted for staff approval. A turnaround must be provided at the top of the shared driveway to accommodate City utility vehicles, subject to the city engineer's approval.
 - b. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the City.
 - c. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.

- d. A construction management plan must be submitted for staff approval.
5. The following must be submitted to the City before the City issues a building permit:
 - a. A grading and tree preservation plan for each lot, subject to staff approval.
 - b. A copy of the recorded plat and any easements or covenants required to be recorded.
 - d. A hookup fee for sanitary sewer and water.
 - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
6. Before the City makes a final inspection of the house on Lot 3, the drive must be paved from the street to the house on Lot 3. A driveway setback of at least seven feet must be maintained from the side lot lines. The City may approve a time extension if weather prevents paving of the drive.
7. No direct access to Williston Road is permitted for Lots 1 and 2, other than the shared private driveway access.
8. A new home on Lot 3 must be provided with a fire protection sprinklering system, subject to the fire marshal's approval.
9. 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 shall be void.
10. Lot 1 may not be divided into more than 2 lots.
11. A paved, hammer-head turn-around must be located at the end of the driveway.

Maes, Britain, Egge, Gallop, and Hart, voted yes. Knight and Wagner voted no. Motion carried.

Chair Wagner stated that the City Council is tentatively scheduled to review the application at its July 14, 2003, meeting.

B. Items concerning a development of eight single-family homes at 3111 and 3150 County Road 101 and 3030 Groveland School Road for CoPar Development, LLC (03018.03a):

- 1) Ordinance approving a rezoning from R-1, low-density residential, to PUD, planned unit development, with a master development plan; and a**
- 2) Preliminary plat**

Chair Wagner introduced the proposal and called for the staff report.

Teague reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

In response to Chair Wagner's question, Teague stated that this application was the first time during his time with the city that staff suggested planned unit development zoning be used in a single-family development. However, in the past there have been other single-family developments that have used the planned unit development, such as Dunibar Ridge on Ridgewood Road.

Egge recalled a planned unit development that was used, near Shady Oak Lake, to allow a three-car garage. Teague remembered that the development went in, in the mid 1980's. Olson stated that Dunbar Ridge used a planned unit development to cluster small lots and allow wetland and green space in the rear. The Cedar Pass development on County Road 73 and Cedar Lake Road was also a planned unit development.

Tom Hanson, of CoPar Development, applicant, was present to answer questions, as were Ryan Bloom, the engineer on the project, and the builder and co-developer of the site. The plan meets all of the City's requirements for developing the site as single-family homes. As staff got more involved, the planned unit development was suggested to help preserve more features of the site.

Gallop asked if the planned unit development zoning would cause any negative impact from a construction standpoint. Mr. Hanson stated that the addition of the conservation easement would require more cautious grading of the site so those areas would not be impacted. He has a close relationship with the excavating contractor. The contractor has experience with similar situations.

Knight felt a positive benefit would be saving mature trees and the natural surroundings that would result in higher-valued lots. Mr. Hanson stated that the character of the neighborhood would be preserved more as a whole, but it would also make the buildable areas more challenging to design a home to fit each lot.

Hart asked what the anticipated selling price of the lots would be. Mr. Hanson distributed brochures that included the prices and sizes of homes that would be offered.

Chair Wagner stated the estimated prices ranged from \$900,000 to over \$1,000,000.

Egge clarified with Teague that the application met all of the standards of a planned unit development except that there was no element of affordable housing.

The public hearing was opened.

David Bell, who lives down the road from the proposed site, was happy to find out the lights would be illuminating his garage and not his living room. He was worried about the loss of zoning protection by it changing to a planned unit development zoning district. The site changed from low density to medium density. He had no problem with the plan. He supported keeping the trees. The rezoning concerned him for now and the future. Teague explained that the planned unit development would only allow low-density residential housing. The master development plan would reflect the low-density residential district. The City would still review an application for the site if it did not meet the R-1, low density requirements.

Mr. Bell stated that that addressed his concerns.

Gallop pointed-out that the proposed density met R-1 density requirements. It did provide more flexibility to preserve trees and environmental features.

Teague explained that the planned unit development was used rather than three variances for lot size requirements that would have preserved the environmental features. Teague confirmed that the safeguards would still be in place.

Pam Dantzinger, 3116 Groveland School Road, asked what would happen if one of the requirements of approval was not met, particularly the conservation easement requirement. Teague stated that the easements would have to be in place before the final plat was released or a building permit was issued.

Ms. Dantzinger asked if the conservation easement is part of the master development plan. Teague explained that the City would not release the final plat, for the applicant to record at Hennepin County, until the easements were in place.

Nan Bell, 3101 Groveland School Road, asked what the erosion control plan entailed. Robbins explained measures taken to prevent erosion run-off during the construction period.

No additional testimony was submitted and the hearing was closed.

Egge questioned comments sent in by a resident that referred to run-off. Teague was unsure what the correspondence referred to, but stated that an improvement project was being done

down the street. No assessments were being charged to the property owners. The applicant would be responsible for containing the erosion control and run-off from their site.

Knight asked staff to explain why the affordable housing standard was not met. Teague explained that the ordinance does not require the developer to meet all of the planned unit development standards. The R-1 plat, that met all of the City's requirements, could be used and it would not be required to include affordable housing units. There was no leverage to require affordable housing.

Maes asked what would happen if the ponding easement was not granted. Teague pointed-out where the proposed easement would be located and he stated that if the applicant is unable to obtain the easement, the run-off and drainage would need to be contained on the site.

Chair Wagner asked if there would be an adverse effect caused by ponding all of the drainage on the property. Teague answered that the trees could be negatively affected. If the applicant is unable to obtain the easement, the plans would need to be revised and reviewed by the Planning Commission again.

Egge was pleased to see staff and the developer work to gain a solution that would save the trees as much as possible. She recognized the project could have moved forward with the three variances. She felt the key was that the planned unit development zoning provided more of a safeguard than regular R-1 zoning. She felt the planned unit development zoning was justified and welcomed as it was recommended for the application.

Knight concurred.

Britain preferred the proposed residences to be more affordable, but he understood the demand in the market. He commended the cooperation staff and the developer used to create an improved project. He felt it was well done and thanked those involved.

Chair Wagner hoped the residences understood the benefit of using the planned unit development zoning. Traffic concerns were discussed for the area two weeks ago. He supported the proposal and applauded the cooperation between the developer and staff.

Hart applauded staff for creating a potentially controversial project, but once it was understood, it made perfect sense. She supported it whole-heartedly.

Knight moved, seconded by Hart, to approve the items concerning a development of eight single-family homes at 3111 and 3150 County Road 101 and 3030 Groveland School Road for CoPar Development, LLC with the modifications listed in the Change Memo dated June 19, 2003(03018.03a):

A. Recommend that the City Council adopt the ordinance on pages A1–A3. This ordinance approves a rezoning with master development plan for 3111 and 3150 County Road 101, and 3030 Groveland School Road. This ordinance is based on the following findings:

1. The rezoning would be consistent with the City’s guide plan.
2. The rezoning would be consistent with the public health, safety, and welfare.
3. The rezoning would save more significant trees than a plat meeting R-1 standards.

The rezoning is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Preliminary Plat, dated April 21, 2003
 - Grading & Drainage Plan, dated April 21, 2003
 - Utility Plan, dated April 21, 2003
 - Street Plan, dated April 21, 2003
 - Conservation Easement Map, dated April 21, 2003

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

B. Recommend that the City Council give preliminary approval to the Groveland School Road Development plat, dated April 21, 2003. Approval is based on the following findings:

1. The proposal meets the required standards and ordinances for a preliminary plat.
2. The proposal meets the required standards and ordinances for a planned unit development.

Approval is subject to the following conditions:

1. Complete the following before final plat approval:
 - a. Show the following on the final plat:
 - (1) At least ten-foot-wide drainage and utility easements next to any existing or proposed public street right-of-ways and at least seven-foot-wide drainage and utility easements along all other lot lines.

- (2) Utility easements over existing or proposed public utilities, as determined by the city engineer. This would include the following:
 - (a) A 20-foot wide easement centered over the storm sewer pipe that runs along the shared lot line for Lots 7 and 8.
 - (b) A 20-foot wide easement centered over the waterline that runs along the shared lot line for Lots 4 and 5.
 - (c) A 20-foot wide easement centered over the storm sewer pipe that runs from the street to the stormwater pond on Lot 1.
 - (d) Drainage and utility easement of the stormwater retention pond drawn along the 951.9 elevation.
- (3) Drainage and utility easements over storm water ponds, as determined by the City.
 - b. Pay the City a park dedication fee of \$11,875.
 - c. Submit evidence of watershed district approval. The City may require revisions to the preliminary plat to meet the district's requirements.
 - d. If the developer is petitioning the City to construct the public improvements, the City Council must order the improvements.
3. The following items must be submitted to the City before the City releases the final plat:
 - a. An engineering/utility inspection fee.
 - b. An electronic CAD file of the final plat in micro-station or DXF.
 - c. If the developer is constructing any public improvements, the developer must submit a signed agreement with City. This agreement must guarantee that the developer will complete all public improvements and meet all City requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all City regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
 - d. The following documents for the city attorney's approval:

- (1) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
- (2) Conservation easements over the areas identified on the preliminary plat, and a drawing of the easements for the approval of the city attorney. The easement must be expanded to include the existing driveway over Lot 5, and be expanded 10 feet to the west on Lot 1 to ensure tree preservation over the trees on the west side of the stormwater pond. The easements and drawing must be recorded with the final plat.
- (3) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions below 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 easements must be attached to the easement deed.

- e. All delinquent taxes must be paid in full.
4. The following must be completed before the City issues a grading permit or any site work is started:
- a. A construction management plan must be submitted for staff approval. The plan must include installation and maintenance of a temporary rock driveway, erosion control, and tree protection fencing for each lot. The plan is subject to review by the City's Environment Resources Coordinator.
 - b. The items listed in the construction management plan must be installed and inspected by the City's Environmental Resources Coordinator.
 - c. Final grading, drainage, and erosion control plans must be submitted for staff approval. If the developer is building the streets and utilities, the developer must submit final street and utility plans for staff approval.
 - d. Submittal of a landscape plan showing additional trees planted in the open area along County Road 101. The landscape plan shall be subject to review and approval by the City's Environmental Resources Coordinator in landscaping this area.
 - e. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the City. The City will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, road, and grading have been completed according to the plans approved by the City.

- f. Construction vehicles must not park on Groveland School Road during construction.
 - g. Drainage and utility easement must be obtained on the property to the north to be utilized as part of the stormwater retention pond drawn along the 951.9 elevation. If the easement cannot be obtained, the applicant must submit a new grading drainage plan subject to review and approval of the city engineer. The revised plans must not cause the removal of any additional trees within the proposed conservation areas.
5. The following must be submitted to the City before the City issues a building permit:
 - a. A grading and tree preservation plan for each lot subject to staff approval.
 - b. The installation and maintenance of a temporary rock driveway, erosion control, tree protection fencing for each lot must be installed, subject to review and approval of the City's Environmental Resources Coordinator.
 - c. A copy of the recorded plat and any easements, covenants, and any other homeowners' document required to be recorded for the development.
 - d. All required hookup fees for sewer and water.
 - e. A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
 6. All structures must meet the minimum setback and height requirements. Lowest floor elevation of all of the homes must be 955.7.
 7. The floor area ratio and hard surface coverage each may not exceed 50% of the site area.
 8. The conservation easements must be maintained in accordance with a conservation plan approved by the City.
 9. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 10. Existing driveways off County Road 101 and Groveland School Road must be removed, and seeded or sodded.
 11. All existing structures must be removed from the site.

12. Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 1/2 inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
13. 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.

Knight, Maes, Britain, Egge, Gallop, Hart, and Wagner voted yes. Motion carried.

C. Items concerning the Austrian Pines plat at 2016 and 2020 Dwight Lane for Michael Barry (98043.03a):

- 1. Vacation of a public road easement; and a**
- 2. Preliminary plat for six lots, with a lot-width-at-the-required-setback variance.**

Chair Wagner introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Chair Wagner asked if Lot 2 also needed a right-of-way variance. Thomas explained that since Lot 2 would be located on a cul-de-sac, its front setback requirement would be 65 feet.

Chair Wagner asked Thomas to explain the pros and cons to shifting the adjacent lot. Thomas provided an illustration that demonstrated that, without the variance, the entire buildable area of the lot would be shifted into the steep slope. Staff supported the variance option. Chair Wagner asked if consideration was given to provide some frontage for the rear lot. Thomas explained that the lot on the south would need to be looked at to determine the affect to the total buildable area.

Gallop asked if the property could be accessed on the north, rather than from Hilloway Road West. Regarding additional traffic, the proposal would not be significant by itself, but additional development in the area could cause an impact on Hilloway. Thomas stated that YMCA Lane would not have direct access to Dwight Lane. The City has a trail easement between YMCA Lane and Dwight Lane.

Olson elaborated that when the Barry development was being reviewed, the residents were adamantly opposed to connecting YMCA Lane and Dwight Lane because they did not want

the Ridgedale commercial traffic. Gallop asked if there were any plans to improve Hilloway Road West in the future. Olson was unaware of any.

Maes questioned if the two existing residents would gain front yards. Thomas explained that a condition of approval would require the developer to remove the bulb that exists outside of the existing right-of-way. Maes confirmed with Thomas that the residences would gain more yard and would not be located right on the cul-de-sac.

Knight questioned if cul-de-sac length is restricted for safety reasons. Thomas answered in the affirmative.

Mike Barry, 2020 Dwight Lane, applicant, was present with his engineer, Roger Anderson. Mr. Anderson stated:

- The project has some interesting features including steep slopes and the access.
- He tried to balance all of the issues with the public's safety and other issues.
- The first hard decision made was to reduce the plat from seven lots to six lots. The seven lot plat would meet ordinance requirements, but Mr. Barry took other issues into consideration.
- The proposal would not impact traffic for the area.
- He felt the proposal was the best compromise for the site.
- Modifications were made to decrease the amount of grading. He explained the less desirable options.
- The character of the neighborhood would be enhanced by the project.
- He agreed to the recommendations and conditions in the staff report.

Britain asked if the driveway on the northeast corner would remain. Mr. Anderson stated that the driveway would remain until a building permit was issued and the driveway was altered in accordance with the building permit. There would be no immediate desire to build on that lot.

Chair Wagner asked if there were plans for construction of Lot 5. Mr. Anderson stated that there were no current plans.

In response to Knight's question, Mr. Anderson stated that Lot 5 would be built on some day. It is adjacent to Mr. Barry's residence and he has no plans to change it at this time.

Maes questioned if the existing road that connected to the residence at 2016 could be used for construction traffic. Mr. Anderson stated that the road is very narrow, steep, and windy. Numerous over-hanging trees are along the driveway. Construction traffic may damage the trees and an existing culvert. He felt the improvement of the cul-de-sac would be confined.

Chair Wagner asked what would need to be done to provide frontage for Lot 3. Mr. Anderson explained the rationale for making the plat six lots instead of seven. Allowing a sliver of land to connect to the cul-de-sac would not provide a benefit. An easement provided the same thing. Mr. Anderson stated that the proposed cul-de-sac location was carefully placed to optimize the project.

Knight said that it appeared that a shift would eliminate the need for the variance. Mr. Anderson stated that there are wetland issues. Mr. Anderson stated that shifting would not be an option.

Gallop was concerned with the lot behind a lot. He received clarification of the location of the easements. In response to Gallop's question, Mr. Anderson stated that the driveway would be approximately 60 feet in length.

Britain asked if it is typical to allow the driveway to remain. Olson stated that since the driveway already exists, a cross access easement would be to the property owner's advantage. The City of Minnetonka has many shared driveways.

Thomas explained that part of an existing roadway easement would be vacated along the south 50 feet and a portion of the existing driveway is located in the roadway easement, but not the majority of it.

Chair Wagner called for a short recess.

The public hearing was opened.

Jerry Brill, attorney, spoke on behalf of seven neighbors who reside on Austrian Pine Lane and three more of the area's residents. He commended staff's report and the engineering work. He stated:

- The neighbors he represents understand the right of an owner to develop one's property.
- The lot frontage variance, cul-de-sac variance, and 50-foot right-of-way easement that equals 34,000 square feet of property, are discretionary items.
- The developer's concessions are in order to the neighbors in return for the 34,000 square feet.
- The residents of Austrian Pine Lane have lived there for seventeen to eighteen years and enjoy the privacy of the cul-de-sac.
- The residents were not aware that their cul-de-sac was a temporary one.
- They assumed that the developed property would be accessed on Dwight Lane.
- The additional traffic is a legitimate concern since there are no sidewalks.

- The cul-de-sac had been landscaped by the Ross'. They have five Norway pines that would be eliminated by the proposal. Fifteen additional trees would be removed to accommodate the cul-de-sac.
- He proposed that the property be accessed by the road easement that already exists or use Dwight Lane and the existing bituminous driveway.
- Construction equipment should travel on Dwight Lane.
- Reduce the number of lots to three or four.
- He felt the concession of 34,000 square feet was an economic consideration for the developer. He did not see it as a planning consideration.
- The driveway would exceed the City's ten percent slope policy.
- Retaining walls and curb and gutters could be used to utilize the existing road.
- Staff failed to complete a detailed study of the environmental damage comparison of using the existing road and the one that is being proposed on Austrian Pine Lane.
- The public cul-de-sac would destroy many trees. The Paulson plat was approved with a private drive rather than a public cul-de-sac to save trees.
- The homeowners would like staff to complete a study to see how many trees could be saved by using the existing driveway.
- The applicant did not first submit a plan for seven lots, but mentioned that after a plan for six lots was submitted.

Knight stated that the current proposal reduced the number of homes and the variance would allow for more green space. Mr. Brill's clients would have the same objections to a seven-lot proposal. The access would still be off of Dwight Lane. Knight stated that the proposal reduced the number of lots the applicant could construct and meet ordinance requirements. Mr. Brill stated that it could not be done unless the City vacated 34,000 feet of easement. Knight asked why the easement should not be vacated. Mr. Brill stated that it would be a benefit for the developer.

Knight commented on Mr. Brill's statements regarding trees and reducing the number of lots. Mr. Brill reiterated his comments. He felt the City was basing its decision on economic reasoning.

Egge thanked Mr. Brill for his presentation. She pointed-out a memo written to the Planning Commission and members of the City Council in 1985 that stated that access to the lots of the "temporary Austrian Pines cul-de-sac" would be required. She doesn't like to see tree loss, but clarified with Mr. Brill who owned what part of the area. Mr. Brill stated that the pines were planted on the right-of-way. Mr. Brill acknowledged that the real estate agent may have known what was written in the public record, but may not have informed the buyers. He stated that the neighborhood would lose a significant asset if the trees were removed.

Maes asked for the addresses of Mr. Brill's clients. Mr. Brill provided the addresses.

Hart asked if the neighbors would prefer to have the street built within the existing easement. Mr. Brill stated that the City opposed construction of the street because it would impact a wetland and steep slopes. Hart stated that the existing road is a narrow driveway. Mr. Brill stated that it is a significant, bituminous driveway that could be resurfaced and improved. Mr. Brill's clients preferred that construction equipment not travel on Austrian Pine Lane until the final portion when the cul-de-sac would be constructed itself.

Hart stated that Mr. Anderson stated that the existing driveway would not be able to handle construction traffic. Mr. Brill disagreed. Adding class five gravel and resurfacing the road could be done.

Britain asked why the City was giving full benefit of the property to Mr. Barry. He asked why a portion of it would not be given to the property owners located on the south. Olson explained that Mr. Barry owns the property that the easement is located on.

Chair Wagner confirmed with Olson that the property would be unbuildable if the easement was not vacated. Olson confirmed that the easement would have allowed construction of a street, but Mr. Barry owned the property.

Gallop asked how much consideration was given to access being located off of Dwight Lane. Thomas stated that the city engineer preferred access to the site from Austrian Pine Lane and that significant cut and fill would be required to bring the existing road up to acceptable engineering standards. Gallop asked if it was a dollar or environmental issue. Thomas stated that the cut and fill would create environmental issues. She was unaware what the cost difference would be.

Chair Wagner explained that City standards require a public street to be twenty-six feet in width. Mr. Brill suggested a private drive be used.

Knight stated that variances could be granted for grading and private roads. Knight questioned if property adjacent to property restricted by a public right-of-way easement could be built on if it met requirements. Olson explained that a public right-of-way easement maintains 35-foot setbacks, so the easement would need to be removed before the property within 35 feet of each side of the easement could be built on.

Frank Sparks, 14834 Timber Hill Road, felt the twenty-five foot driveway easement should be illustrated on the map. He presented some suggestions to the plan. Thomas explained that the easement would be partially on Lots 2 and 4.

Nelson Young, 2093 Austrian Pine Lane, appreciated Gallop's traffic comment. Hilloway Road West is extremely dangerous and he has two young daughters. He asked staff to look at

how construction would affect the residents. More weight should have been given to using the existing driveway to maintain the same number of lots, but not affect the neighborhood as much. The proposal would keep the traffic away from Mr. Barry 's residence.

Egge asked if Mr. Young was aware that if the proposal was changed to access Dwight Lane, that the proposed homes would still access Hilloway Road West. Mr. Young understood that, but he favored the development not occurring or accessing onto Ridgedale Drive. Egge pointed-out that if it accessed Ridgedale Drive, then his neighborhood would receive traffic off of Ridgedale Drive.

Kate Goldstien, 2110 Austrian Pine Lane, represented the moms and the walkers present. There are no sidewalks in the neighborhood. They have huge concerns with the noise and safety hazard the construction trucks would cause on their street. The loss of the trees would diminish its beauty and privacy.

Bruce Goldstien, 2110 Austrian Pine Lane, called the City when he was looking into buying the Rothenberger property three and a half years ago. He was told that there was an easement that the City had to the north that would prohibit development.

Mr. Goldstien provided a photograph of the Ross' trees and the street. He stated that Mr. Barry is a fine individual and he was distressed to contradict his proposal. He acknowledged the benefits and burdens with every development, but felt that Mr. Barry was receiving all the benefit and bearing none of the burden.

Mr. Anderson explained that the roadway easement cannot be used for sewer, water, or utilities and was dedicated in 1967 in a different era of platting. The easement did not have a viable basis for being made into a road and the city engineer has confirmed that now. Exhibits A3 through A15 provide examples of how reconstructing the existing street would not be an option. The fill would need to be twenty feet high and the necessary retaining walls would make the road 200 feet wide. It would not be feasible. The existing driveway is twelve feet wide right now. The plat and wording in the approval of the original plat illustrates that the cul-de-sac would be expanded.

In response to Knight's question, Mr. Anderson explained how the grading to accommodate the driveway would extend 94 feet on each side of the driveway at its widest point, the base of the steep slope, where the wetland is located. Mr. Anderson reiterated that utilizing the driveway was considered, but it was determined unfeasible.

No additional testimony was submitted and the hearing was closed.

Maes asked if the road could be made to handle the construction traffic. Mr. Anderson stated that the driveway would need massive fill added to handle concrete truck traffic. There

would be construction traffic on the public road. It would not be feasible for construction traffic to travel on the driveway. Mr. Anderson traveled the driveway in a four-wheel pick-up and experienced difficulty. Mr. Anderson stated that if the road was improved, it may be more useable, but the damage that would be caused to add the fill to make the driveway useable would not provide a viable alternative. He suggested restrictions on Austrian Pine Lane be implemented.

Gallop asked if reaching the cul-de-sac from the north, off of YMCA, would be a viable option. Mr. Anderson illustrated on the overhead the grades that would prohibit access from the north.

Egge empathized with the neighbors' concerns, but commented that residences in the neighborhood may have construction done that would cause similar construction traffic. She stated that, in accordance with the size of the lots, the area may be considered for rezoning by accessing YMCA Lane and opening-up Dwight Lane for higher density. She regretted the loss of trees and went through a situation where property adjacent to her residence was changed to high-density housing. She felt four homes would be reasonable. She felt rezoning the property to higher density would be a logical conclusion.

Knight asked that the discussion be focused on the current application.

Chair Wagner reviewed the issues.

Britain felt staff's recommendation minimized the impact of the proposal as much as possible. He acknowledged the neighbors' points. He also had development occur adjacent to his property that he was unaware that easements existed that allowed. He felt staff and the developer worked closely to achieve a good plan. He supported open communication with area residents. He supported the proposal.

Hart supported the plan. She felt that reasonable care was taken to meet everyone's needs as much as possible. She grew-up in Florida, where all lots are square. Every subdivision is the same and the land is flat. She appreciated the slopes, trees, and creeks. She felt the proposal was very reasonable and that the City would not be nearly as interesting without some variation.

Egge supported the project. She appreciated the neighbors' time and effort.

Chair Wagner identified a couple pieces that made him support the proposal. A precedent was set in the 1980s. The trees were planted in the right-of-way. The trade-off would be too great to have traffic routed through on a road that would have to be extended from twelve feet to twenty-six feet. The proposal would minimize the impact to the wetlands. He

sympathized with the neighborhood, especially during the day, since there are no sidewalks. He supported the proposal as recommended by staff.

Maes supported the project. She liked the way the owner and the developer worked with the City. She applauded the balance of development and the preservation of the natural terrain and the wetlands. She felt that Mr. Barry would be more than willing to work with the neighbors in making sure that the area residents would be happy and aware of what would be going on.

Knight viewed the site and was comfortable with it before the meeting. He was now undecided. He was concerned that a full analysis may benefit the option of granting grading variances or moving the cul-de-sac to eliminate the flag-lot. He saw environmental give and takes. He walked down the road and felt a minor upgrade to it would be reasonable. He was not concerned with the length of the cul-de-sac. Traffic was not an issue. He deferred the fire and police issues to those agencies. He preferred more of a balance with the neighbors' concerns. He has never voted for a lot-behind-a-lot. He saw issues with a lot-behind-a-lot because of its aesthetic value, green-space, and granting a variance. He looked at the issues on both sides. He was inclined to support the proposal, but wanted a condition that construction traffic, when "at all possible" would be used on the private driveway, with some minor upgrades.

Gallop viewed the property and saw both sides of the argument. He had an issue with the traffic on Austrian Pines and Hilloway. He does not think there would be a feasible alternative to using the public streets for construction traffic. His biggest concern was the lot-behind-a-lot. This application would set a precedent for this particular area. He did not see another lot-behind-a-lot in the area. He felt there was a viable alternative, coming off of Austrian Lane, to improve the access onto the property. He felt that the cul-de-sac could be redesigned and moved slightly to the east to solve the problem without causing greater environmental issues. The other option would be to reduce the number of lots. He did not support the proposal because he felt an even better job could be created to eliminate the lot-behind-a-lot. He felt financial consideration should not be a factor, but he supported a better option.

Knight asked if the option to modify the conditions was possible. Chair Wagner explained the multitude of options available to the Commissioners. Chair Wagner suggested a motion to table the item if major modifications, such as moving lot lines, were being suggested.

Knight had an issue with the construction traffic.

Gallop supported tabling the item to have staff and the developer review alternate access to the site and elimination of the flag lot. Knight felt the proposal could be improved.

Chair Wagner notified Commissioners that the City had until July 28, 2003, to act on the item, so there was time to table the item until the next meeting.

Maes had asked about using the existing drive for construction purposes. Mr. Anderson stated it would not be feasible. Using it as a condition to table the item was a possibility.

Edge wanted to see as much of the construction traffic use another access as possible. The six residences would not be constructed at the same time. She did not want to table the item just for that issue, because what the neighbors wanted would not be achieved by tabling the item. Gallop and Knight have an issue with the flag-lot; changes to modify that would not appease the neighbors. Shifting the cul-de-sac would not appease the neighbors and would not save the trees. She referred to the staff report and listened to the engineer. She did not see the point of tabling the item, other than modifying the plat for the flag-lot.

Hart referred to Mr. Anderson's description of the twelve-foot wide driveway that has an eighteen percent grade. His assessment was that it would not be workable for construction traffic. Mr. Anderson did consider the possibility and determined that minor improvements would not make the driveway workable. Significant regrading and fill would impact the environment and be necessary to accommodate the construction vehicles.

Chair Wagner asked if the road would be constructed before lots would be sold. Thomas explained that typically development of the street would occur prior to building permits being issued for homes. Olson confirmed that the street would have to be constructed before the homes would be built. A first lift would be put down prior to the homes being constructed. Usually the final lift would be done after completion of the homes.

Olson questioned how using a private drive on Dwight Lane would benefit the neighborhood since that access would route construction traffic through another neighborhood. Chair Wagner agreed. Mr. Anderson agreed with Olson. Mr. Anderson stated that Dwight Lane has a lot more homes than Austrian Pines. He would not support postponing the decision for that reason; although, if there was a better way to layout the plat to eliminate the flag-lot, he would support postponement.

Chair Wagner commended staff's recommendation. He acknowledged there would be construction traffic, however it was routed.

Gallop acknowledged that shifting the construction traffic would not appease everyone. His biggest concerns were that the plan could be done without the variance and that it be improved.

Olson explained that the item could be continued to a date specific to eliminate renotification. He also pointed-out that there was a plan considered that needed no variances

and it included seven lots. He was not sure that pushing a developer to a less desirable plan was the best option.

Knight stated that the cul-de-sac could be moved and the plat could maintain the same number of lots. He did not see the need to rush. He had issues he wanted more information on. If the item was not tabled, he would vote no.

Gallop moved, second by Knight, to table item 8C, concerning the Austrian Pines plat at 2016 and 2020 Dwight Lane for Michael Barry, to allow time to redesign the cul-de-sac to eliminate the flag-lot; study options to prevent the need for any variances; and to consider an alternative access onto the site for construction and roadway traffic, including statistics on the necessary modifications to the existing drive and the possibility of access from the north, to the July 17, 2003, Planning Commission meeting.

Knight, Britain, Gallop, and Wagner voted yes. Maes, Egge, and Hart voted no. Motion carried.

Olson informed Commissioners that the applicant would need to provide staff with the reports to include in the July 3, 2003 agenda by June 25, 2003. There would be enough time to add the item to the City Council's July 28, 2003, meeting agenda, but it would leave little time for the City Council to review the item.

In response to Chair Wagner's request for a comment, Mr. Barry declined to comment.

Knight preferred to do more of the work to make it easier for the City Council.

D. Conditional use permit for a telecommunications facility at the Cargill campus at 15407 McGinty Road West for AT&T Wireless Services (03002.03a)

Chair Wagner introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Chair Wagner asked if there was a mobile source provider that requested access to the proposed site. Thomas stated that the applicant could provide the most recent information.

Chair Wagner asked if there was a reason the tower was unable to house more than two towers. Thomas stated that due to the topography, existing vegetation, and existing technology, currently only two carriers could be accommodated by the 90-foot tower.

Mark Holm, of AT&T Wireless Services, 2515 24th Avenue South, Minneapolis, applicant, indicated that, because it was late, he would keep things brief. He explained:

- A search was done of the area.
- Co-location possibilities were exhausted.
- The nearest existing structures already have AT&T towers on them.
- A second port would be available at 75 feet for another carrier to use, but so far no one has contacted them to use it.
- A tower could be designed to house three carriers, but the third signal would travel through the trees and not be effective.
- Representatives from Cargill were present in support of the application because they would be one of the primary beneficiaries of the tower.

Mr. Holm and Chair Wagner discussed the challenges of providing coverage to Cargill, Inc., since it is surrounded by residential housing.

Joe Beck, engineer for AT&T Wireless, stated that there are distribution systems, made from fiber optic cable, that can be run throughout the building. A third carrier on the proposed pole could add those to a building to provide better coverage. If he looked at the proposed site as a third carrier, he would not approve it. It would be very expensive. The customer would have to fund or defer the costs. A distribution system would not help the exterior of the campus, the parking lot, or the associated areas.

Gallop asked how large an area the signal would cover. Mr. Beck stated roughly a two-mile radius. Cargill's objective was to provide a signal in the building.

Egge motioned, second by Hart, to continue the meeting until midnight.

Knight, Maes, Britain, Egge, Gallop, Hart, and Wagner voted yes. Motion carried.

Knight was concerned with the co-location issue. Thomas explained that, with existing technology, an additional carrier would require additional height to the tower. The 90-foot height would accommodate a maximum of two carriers.

Egge pointed-out where the report addressed the proposal's impact on the environment.

Egge recalled discussion during the revision of the telecommunications ordinance that focused on promoting stealth and co-location opportunities and preventing clustering.

Egge, Chair Wagner, and Knight discussed the next logical location to be the McGinty Road site.

Chair Wagner supported the application, but wanted to consider other providers as well.

Gallop was comfortable with the 90-foot height and the location of the proposal. He felt the second user, at 75-feet, may be limited and request its own 90-foot tower.

Knight questioned if a variance could be granted for a tower over 90 feet in height.

Egge pointed-out that Mr. Beck stated that the second carrier would be functional at 75-feet and that the trees were grown to their height potential. Mr. Beck confirmed that the very tops of the tallest trees were at 75-feet.

Maes was comfortable with the sight. It was the best possible location. She preferred the brown exterior surface color.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Egge moved, second by Maes, to recommend that the City Council adopt the resolution on pages A1–A3 of the staff report. This resolution approves a conditional use permit for a 90-foot-high, wireless antenna tower and associated equipment on the Cargill campus at 15407 McGinty Road West for AT&T Wireless Services.

Approval is based on the following findings:

1. The proposal meets the conditional use permit standards.
2. The proposed 90-foot tower height is justified. The tower would have minimal impact on surrounding properties given its proximity, topography, and screening by trees.
3. The central location of the tower is the least visually obtrusive of the three locations considered.

Approval is subject to the following conditions:

1. Prior to release of this resolution, submit for staff review and approval a revised site plan minimizing tree impact in the siting of equipment associated with the telecommunications tower.
2. The site must be developed and maintained in substantial conformance with the plans dated 03/28/03.
3. Exterior surface of the antenna and equipment must be painted a non-contrast color consistent with the surrounding area such as blue, gray, brown, or silver.

4. Record this resolution with the county.
5. The city council may reasonably add or revise conditions to address any future unforeseen problems.
6. 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.
7. The applicant must agree to the above conditions in writing.

Knight, Maes, Britain, Egge, Gallop, Hart, and Wagner voted yes. Motion carried.

Chair Wagner stated that the City Council is tentatively scheduled to review the item at its July 14, 2003, meeting.

Knight motioned, second by Gallop, to waive the rule and start Item 8 E, a minor amendment to the master development plan for a service and office addition at 12520-12550 Wayzata Boulevard for Morries Properties L.L.C. (86127.03a), after 11:00 p.m.

Knight, Maes, Britain, Egge, Gallop, Hart, and Wagner voted yes. Motion carried.

E. Minor amendment to the master development plan for a service and office addition at 12520-12550 Wayzata Boulevard for Morries Properties L.L.C. (86127.03a)

Chair Wagner introduced the proposal and called for the staff report.

Gutoske reported. He recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Egge asked what the issue with employee parking on Marion Lane was and why parking would be restricted when there had been no complaints. Gutoske stated that parking on Marion Lane had been monopolized by Morries' employees. Although there have not been recorded incidences of the parking causing problems, that heavy use of on-street parking could lead to potential traffic or pedestrian conflicts. The street is somewhat of a tight fit, if vehicles are parked on one side and the driver is exiting into the traffic lane.

Egge asked how the proposal would be enforced. Gutoske stated that a "spot-check" or complaint scenario could be utilized.

Hart felt it would be difficult to monitor. She questioned the validity of the proposal when it would not be enforceable.

Maes confirmed with Gutoske that approximately twenty Morries employee vehicles would typically utilize Marion Lane at the same time.

Knight agreed with the goal the proposal strived to achieve. It would give responsibility to the owners of Morries to inform their employees of the proposal. Gutoske believed that would be how the amendment would be executed. Knight saw no problem.

Gallop concurred with Knight. Basically, the City would be requesting Morries' voluntary cooperation. Gutoske stated that the stipulation on vehicle inventory being allowed would provide the City some enforceable leverage.

Peter Johnson, of Morries Properties, Wayzata, applicant, was present with the architect, Steve Fictell, to answer questions.

Hart asked if the proposal would eliminate the neighbors' complaint of inventory in the street. Mr. Johnson explained a separate plan created to address that issue. Morries acquired an industrial site in Long Lake where all of its incoming shipments would be unloaded. The vehicles would be prepped there and driven to the Minnetonka site. Morries has a policy that trucks are not to unload on the street. When it has been a problem, it was a failure of communication with the truck driver, but Morries will continue to try to be a good neighbor.

In response to Knight's question, Mr. Johnson stated that a section would be designated for staff parking.

The public hearing was opened. No testimony was submitted and the hearing was closed.

Chair Wagner commended staff's work on the project.

Britain moved, second by Hart, to approve the minor amendment to the 1986 master development plan. Approval is based on the finding that the proposal would meet the required standards and ordinances for a site and building plan approval. Approval is subject to the following conditions:

1. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site and landscape plan, dated February 20, 2003
 - Building elevations, dated February 20, 2003
 - Building area and parking calculations, dated May 28, 2003
 - Parking Plan, date-stamped June 11, 2003

2. Submit the following to the City before the City issues a building permit or before starting any site work:
 - a. A plan showing code-required parking spaces, with specific spaces dedicated to customer and employee parking, subject to staff approval. The customer parking spaces must have convenient access to the retail showrooms and service areas.
 - b. Final landscape and irrigation plan for staff approval. The cost of the landscape improvements must be at least equal to two-percent of the project's building costs.
 - c. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
 - d. All required hook-up fees.
3. The property owner is responsible for replacing any required landscaping that dies.
4. Employee parking is permitted on the south side of Marion Lane in front of the Morrie's Subaru and Saab and the Baker's Square properties, unless the City Council posts the street for no parking by all users.
5. Vehicle inventory may be displayed and stored in the site's required parking spaces, but not in the designated customer parking spaces.
6. All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas for the new addition, 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.
7. Fire sprinklers must be provided in the new addition and in the showroom area of the Subaru building.
8. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
9. Construction must begin by December 31, 2004, unless the Planning Commission grants a time extension.

Knight, Maes, Britain, Egge, Gallop, Hart, and Wagner voted yes. Motion carried.

Chair Wagner stated that an appeal of the Planning Commission's decision must be made to the Planning Director within ten days.

9. ADJOURNMENT

Hart moved, second by Knight, to adjourn the meeting at 11:25 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary