

**MINNETONKA PLANNING COMMISSION
MINUTES**

JULY 17, 2003

1. CALL TO ORDER

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

2. ROLL CALL

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

Staff members present: Planning Director Geoff Olson, Planner Susan Thomas, Environmental Coordinator Jo Colleran, City Engineer Lee Gustafson, and Community Development Director Ron Rankin.

3. APPROVAL OF AGENDA: The agenda was approved as submitted.

4. APPROVAL OF MINUTES: July 3, 2003

Egge moved, second by Hart, to approve the July 3, 2003, meeting minutes as submitted.

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

5. REPORT FROM STAFF

Olson briefed the Commission on land use applications considered by the City Council at its meeting of July 14, 2003.

- Adopted a resolution that approved a preliminary plat and an ordinance approving a rezoning from R-1, low-density residential, to PUD, planned unit development, with a master development plan concerning a development of eight single-family homes at 3111 and 315 County Road 101 and 3030 Groveland School Road for CoPar Development, LLC.
- Adopted a resolution approving a conditional use permit to install a wireless antenna tower on the Cargill campus at 15407 McGinty Road West for AT &T Wireless Services.
- Gave preliminary approval of the Sunrise Farms plat, with a lot width at the right-of-way variance, for three lots at 4821 and 4813 Williston Road for John and Linda Paulson. Some council members felt that lots behind lots are inherent to Minnetonka. Other council members felt that the character of the immediate area should weigh

heavy as a factor in determining the appropriateness of a lot-behind-lot. All variances should be reviewed on a case-by-case basis.

- Reaffirmed the previous denial of the Sirianni Addition, date-stamped February 26, 2003, based on the following findings: the proposed plat would not be in character with the surrounding residential area and approval of the proposed plat may set a precedent for future lot divisions and/or lot division requests with variances in the Dominick Drive area. The City Council indicated that if the applicant acquired additional land from the lot above the proposed site, it would consider approving the lot split. Another item discussed by the City Council that night dealt with the problem of a residence being located too near a drainage area, in the Dolittle Drive/Plymouth Road area.

Olson announced that the Planning Commission will meet with the City Attorney at 5:30 p.m. on August 7, 2003. The joint meeting with City Council is scheduled for August 2, 2003.

6. REPORT FROM PLANNING COMMISSION MEMBERS:

Chair Wagner noted that the chairs of all of the boards and commissions met with City Manager John Gunyou and reviewed the strategic framework of the City. Chair Wagner had more information for anyone who wished to learn more.

7. PUBLIC HEARINGS: CONSENT AGENDA

Item 7A, a south side yard setback variance from 7 feet to 4 feet for the wall; north side yard setback variance from 7 feet to 3 feet for the wall; south side yard setback variance from 7 feet to 2.5 feet for the overhang; north side yard setback variance from 7 feet to 1.5 feet for the overhang; and hard surface coverage variance from 30% from 42%, was removed from the Consent Agenda for discussion and separate action.

Britain moved, second by Hart , to approve items 7B, 7C, and 7D as listed on the Consent Agenda as recommended in the respective staff reports as follows:

B. Items concerning the Meadow Park public trail and recreational facilities at 2725 Oakland Road for Brauer & Associates, Ltd (03026.03a):

- 1. resolution approving a conditional use permit for recreational facilities in a wetland buffer area; and**
- 2. site plan review.**

- 1) Recommend the city council adopt the resolution on pages A1–A4 of the staff report. This resolution approves a conditional use permit for recreational facilities in a wetland buffer area at 2725 Oakland Road. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions.
 - a. The following work must be completed before the City issues a grading permit or before starting any site work:
 - (1) Install for staff approval erosion control and tree protection fencing. The fencing must be maintained throughout the construction process.
 - (2) Submit copies of Minnehaha Creek Watershed District approval of wetland buffers. The City may require revisions to the approved plans to meet the district's requirements.
 - b. The City Council may reasonably add or revise conditions to address any future unforeseen problems.
 - c. Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
 - d. The applicant must agree to the above conditions in writing.
- 2) Recommend the city council approve the site and building plans for Meadow Park at 2725 Oakland Road, subject to the following conditions:
 - a. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - (1) Overall Layout Plan dated May 28, 2003.
 - (2) Grading Plan dated May 28, 2003.
 1. A catch basin must be installed connecting the parking lots to the rain gardens ponds.
 2. Ensure a smooth transition from the bike lane on the street to the trail north of the driveway.
 - (3) Landscape Plan dated May 28, 2003.

(4) Wetland Buffer Plan dated May 28, 2003.

C. Items concerning an office building at 17710 Old Excelsior Boulevard for Pandora Holdings (03028.03a):

- 1. ordinance rezoning from R-1, low density residential, to B-1, office; and a**
- 2. final site and building plan review.**

1) Recommend that the City Council adopt the ordinance on pages A1–A4. This ordinance rezones the property at 17710 Old Excelsior Boulevard from R-1 low-density residential to B-1, office. Rezoning is based on the following findings:

- a. The rezoning would be consistent with the City’s guide plan; and
- b. The rezoning would be consistent with the public health, safety, and welfare.

2) Approve the site and building plans for Pandora Holdings, Inc. at 17710 Old Excelsior Boulevard, subject to the following conditions:

- a. The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:

(1) Site Plan dated June 13, 2003

(2) Building elevations dated June 18, 2003.

- b. Remove or upgrade non-complying fire alarm system per City Fire Marshall.
- c. Spaces shown as proof-of-parking may not be paved, unless approved by the City upon showing of a demonstrated need for these spaces.
- d. This approval does not cover any signs on the site. Separate sign permits must be submitted for staff review and approval.

D. Items concerning the reconfiguration of property lines at 3822 Hopkins Crossroad and 11208 Minnetonka Mills Road for the City of Minnetonka (03031.03a):

- 1. preliminary plat; and a**
- 2. resolution vacating a public right-of-way easement.**

- A. Recommend that the City Council grant preliminary and final approval of the plat. Approval is based on the finding that the plat meets required standards and ordinances. Approval is subject to including standard drainage and utility easements on proposed Lot 1, Block 2.
- B. Recommend that the City Council hold the public hearing and adopt the resolution vacating the public right-of-way.

Britain, Egge, Gallop, Hart, Knight, Maes, and Wagner voted yes. Motion carried and items 7B, 7C, and 7C on the Consent Agenda were approved as submitted.

8. PUBLIC HEARINGS

- A. **Resolution approving the following variances to build a new home at 2809 McKenzie Point Road for Hans Hagen (00046.03a):**
 - 1. **south side yard setback variance from 7 feet to 4 feet for the wall;**
 - 2. **north side yard setback variance from 7 feet to 3 feet for the wall;**
 - 4. **south side yard setback variance from 7 feet to 2.5 feet for the overhang;**
 - 5. **north side yard setback variance from 7 feet to 1.5 feet for the overhang; and**
 - 6. **hard surface coverage variance from 30% from 42%.**

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 if the area had ever been considered for rezoning as a planned unit development, to accommodate the uniqueness of the area's substandard lots. Gutoske and Olson answered in the negative. The small-lot standards address the applicant's hardship, but Gutoske agreed that the application was unique to those standards as well.

Gallop explained that he pulled the item from the agenda because he had a concern of setting a precedent. The proposed home's distance and the existing home's distance from the property line concerned him. The neighbors to the south and north will not always be the current owners. He agreed that the size of the lot makes it unbuildable without variances, but he asked if a residence could be constructed that would come closer to the seven-foot setback

requirement. He did not have as much of a problem with the hard surface coverage, just the residences being located in such close proximity to the lot line.

Gutoske agreed that a residence could be designed that might better meet the required setbacks. The applicant had chosen not to. He suggested the applicant comment on that point. Staff found the size of the home reasonable when comparing it to the properties in the area. Gutoske acknowledged that the north and south walls, not just point intrusions, would be located in the setbacks. The residence to the south received a variance for the full-length of a wall.

Knight asked if an application denied six to nine months ago could use this application if approved as a precedent to justify his or her application. Olson recalled that the Randall variance was similar in some ways, but it was also different. The proposed setbacks are not unusual for the area; most of the lots in the area are smaller than small lot standards; the only objection was the fire hazard of the homes being located so close, which was addressed by requiring the proposed home to be sprinklered; mutual easements have been reached between the neighbors to address maintenance of the properties; the Randall application proposed a height increase; and the current application would eliminate a non-conformity by moving the house back further than it is currently. This proposal is distinguishable from the Randall application.

Chair Wagner recalled that one of the setbacks of the Randall application was actually on the lot line.

Knight recalled that the overhang crossed the property line. He was comfortable, if staff was comfortable, that the current proposal could not be used as a precedent for the Randall application.

Chair Wagner asked if the proposal would allow windows on all sides. Gutoske stated that windows would be allowed, because the structures would be far enough apart. He explained the building code requirement that if a residence was built less than three feet from a property line, it could not have windows.

Maes confirmed with Gutoske that eight feet would separate the residences. Three feet would separate the base of the proposed home and the north property line. Four feet would separate the base of the home and the south property line.

The public hearing was opened.

Hans Hagen was present to answer questions.

Gallop asked if the home could be configured differently to allow for the same square footage area, but reduce the north and south depth. Mr. Hagen responded that in order to reduce the intrusion into the setbacks, the house would need to be smaller. He explained that both the houses at 2811 and 2809 were close to the lakeshore. He spoke to staff and determined that the most benefit for the environment would be to move the houses back to allow for the floodplain and shoreland setbacks. The compromise was to shorten the house and have reasonable sideyard setbacks, so that it met the fire code and would not have safety problems. By moving it back from the lake and having it be in accord with the neighborhood, the best plan was created.

Gallop agreed with moving the proposed residence 50 feet back from the shoreline. He asked if it could be extended further to the west, by adding to the length. Mr. Hagen explained that maintaining the lakeside setback and rear setback were priorities. The alternative that was considered was to build onto the existing house, if the application was denied. Then other situations would be created. The eave of 2809 overhangs 2811's lot. That was a variance that was granted after he moved-in. The applicant granted his neighbor an easement to remove the non-conformity. He wanted to avoid a similar situation. The alternative would violate the shoreline setbacks and would require building on bad soil. Mr. Hagen stated that an easement has been granted to the neighbors on the north side to allow them to repair their house. He felt the proposal represents the best plan for the situation.

Gallop asked if a variance would be required if the existing home was remodeled more than 50 percent. Olson stated that it would create a similar situation to the Randall application, if the addition increased the structure's height. If part of the addition entered into the setback, then a variance would be required.

Egge asked if Mr. Hagen had calculated the difference in the hard surface coverage between the proposed plan and the option of extending the length of the structure. Mr. Hagen understood that the structure could not be extended toward the street. He explained how the compromise was reached.

Geraldine Crutch, 2805 McKenzie Point Road, and John Crutch, her son, were present. Ms. Crutch was concerned with the setback from the street. The other new house increased the flooding on the street. Mr. Crutch stated that his mother was worried about two lots north of the proposed site because they were located so close together that they would spread a fire. They opposed the proposal. The current house created the situation where the City needs to pump the water every time it rains.

No additional testimony was submitted and the hearing was closed.

Hart reviewed that the proposal would eliminate two nonconformities completely, three would be improved significantly and the other nonconformities would not be made any worse. She felt the proposal would improve the current property significantly.

Knight asked staff to address the drainage and fire concerns. Gutoske explained that the lot is flat, so drainage would travel to the lake or the street. Gutters on the residence would keep the runoff on the property. Conditions of approval would include a shoreland buffer and gutters to be installed and runoff confined to the property. Gutoske stated that the proposal would reduce the current amount of hardcover on the site. He was unsure if it would provide a measurable amount of relief.

Maes asked if additional complaints were received regarding drainage in the area. Gustafson explained that several complaints had been received. It is obvious that the entire area is as flat as a pancake and water basically stays where it falls on the site. Staff is currently working with the adjoining city to make improvements to the street. Involving another agency slows down the process, but staff is working with a consulting engineer for the other agency to determine a solution for the road.

Gallop did not support the proposal as it was. It appeared to be an economic issue. The 50-foot setback and reduction in the amount of hard surface would be improvements, but if the house was 50 percent or more reconstructed, the owner would need to apply for a variance. He did not think it was a good choice.

Chair Wagner agreed with Hart. He respected Gallop's concerns. He reviewed the application's improvements to the current property. He supported the project.

Maes appreciated Gallop's comments. She leaned toward supporting staff's recommendation after considering the shoreland and floodplain setbacks and the agreement reached by the neighbors that would be a permanent, legal agreement. She favored the project.

Knight supported the proposal with reservations. He was concerned with the precedent it could set for prior decisions, but it was a difficult situation.

Britain agreed with Gallop's concerns, but he felt the biggest issues were reducing the hardcover, moving the residence back from the shoreline, establishing the easements between the properties, and preventing the overhang from extending over the adjacent property. He felt the proposal was legitimate and should be supported.

Chair Wagner asked Olson if the easement could be included as a condition of approval. Olson answered in the affirmative.

Egge favored the project. She was encouraged to know that there was a long-term look at the drainage issues.

Egge moved, second by Maes, to adopt the resolution on pages A1–A4 of the staff report with the addition of a condition to require an easement be recorded to provide access to the property owners of 2807 and 2811 McKinzie Point Road for the purposes of maintaining the exterior of the homes on said properties. This resolution approves the following variances to build a single-family home at 2809 McKenzie Point Road:

- Side yard setback variance from 7 feet to 4 feet for the wall;
- Side yard setback variance from 7 feet to 3 feet for the wall;
- Side yard setback variance from 7 feet to 2.5 feet for the overhang;
- Side yard setback variance from 7 feet to 1.5 feet for the overhang; and
- Hard surface coverage variance from 30% to 42%.

Approval is 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 narrow width of the lot, which is 45 feet at the required front yard setback and 47 feet at the required shoreland setback.
2. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
 - a. The aggregate side yard setbacks would be increased by 60% over the existing conditions.
 - b. The hard surface coverage would be reduced from 48% to 42%.
 - c. The existing non-conforming shoreland and floodplain setbacks would be eliminated.

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 survey and house plans must be revised to provide a 3-foot side yard setback from the north property line.

3. An erosion control plan must be submitted for staff approval before the City issues a building permit.
4. Gutters must be installed along the north and south sides of the house to channel runoff to the lakeshore yard. Drainage must be controlled on the subject property.
5. Installation and maintenance of a 15-foot-wide buffer along the shoreline. The buffer may narrow at the north property line. The applicant must work with the City's environmental resources coordinator in creating a vegetation plan for the buffer area.
6. The new home must have a fire protection sprinklering system, subject to the approval by the fire marshal.
7. 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.
8. Before the City issues a building permit, the applicant submit proof of recording access easements benefiting the owners of 2807 and 2811 McKenzie Point Road for the purposes of maintaining the exterior of the homes and said properties.

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

Chair Wagner explained that the Planning Commission's decision was subject to appeal to the City Council if notice was given to the Planning Director in writing, within ten days.

B. Items concerning the Austrian Pine 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-right-of-way 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.

Gallop thanked staff for the additional information provided for the item. He asked if the applicant would actually implement the five-lot plan, since the owner could develop seven lots without a variance. Thomas stated that the plan was presented by the developer at staff's

request as an alternative to eliminate the lot without frontage. She suggested Gallop refer to the applicant.

Chair Wagner clarified with Thomas that the six-lot option would require a variance as it was presented. Thomas indicated that Plan 2, which included six lots, would require no variances.

Knight asked if more than three residences could access one driveway if a variance was granted. Thomas answered in the affirmative.

Knight asked if construction traffic could use an alternate route. Thomas explained that if the plat were filed, there would need to be a legal easement to allow construction traffic to travel over the individually owned lots. Olson agreed with Thomas and explained that construction traffic for the cul-de-sac may be done prior to the filing of the plat, but a building permit could not be issued until the plat was filed. The title company would not be favorable to a lot on Dwight Lane with an easement going through the middle of it connecting to the other lots. That easement would need to be dissolved prior to the filing of the final plat.

Chair Wagner acknowledged that traffic would impact Austrian Pines due to the utility work.

Britain clarified with Olson that the Planning Commission was only acting on the plan submitted with the application. Olson answered in the affirmative. Commissioners were invited to provide comments regarding the plans.

Edge questioned why Knight favored shifting traffic to Dwight Lane, since there are a number of residences on Dwight Lane that would have their own construction traffic. Knight suggested reserving discussion until all questions had been asked of staff.

Chair Wagner explained that since there had already been a public hearing on the item, comments not already stated were welcome. Knight encouraged flexibility in the hearing.

The public hearing was opened.

Roger Anderson, design engineer for the project, stated that the alternatives presented were created in response to the comments made at the previous Planning Commission meeting. The applicant felt strongly that the best plat for the property was the six-lot plat with one variance. A six-lot plat could be done without a variance, but it would cause more of an impact to the environment. The alternate access off of Dwight for construction traffic would be unworkable. The improvement that would be required to use the driveway on a temporary basis would cause the removal of many trees, grading, and construction of a retaining wall. It would not make any sense. He requested the Planning Commission support the plan presented. He was present to answer questions.

Edge asked the length of time to complete construction of a home and if he anticipated all of the homes would be constructed at the same time. Mr. Anderson stated that he has never seen all of the houses in one development constructed at one time. It has always been a progression. House construction would take anywhere from six months to fourteen months. The houses would be beautiful and take more time. Mr. Anderson explained that the initial phase of the construction of the basement and the initial framing, until a roof is constructed, seems to happen quickly. The interior finish is a slower process. The interior work creates van traffic. The initial cement and block work requires trips by larger, construction trucks.

Chair Wagner appreciated the work Mr. Anderson and staff did.

Jerry Brill, attorney representing eight or nine opposing neighbors stated:

- The tree loss would be about the same to have construction traffic travel on a permanent driveway off Dwight Lane. The plan presented by staff does not follow the private driveway continually.
- A private planner reviewed the proposal, but was out of town. He suggested that a lot be shifted to the east side of the wetland and the drainage pond be shifted. The plan he described would save ten to fifteen trees, include five lots, and require retaining walls.
- Private driveways are done frequently and would provide seclusion.
- The Dwight Lane residents submitted a letter with seventeen signatures in opposition to routing the construction traffic on their street. Mr. Brill has eight signatures supporting routing construction traffic on the Dwight Lane, which is a public street.
- He did not think the conservation development practice was utilized for this proposal.
- Mr. Ross would like his front landscaping continued, rather than have additional grass. The developer is providing significant trees for the property owner who resides across the street from Mr. Ross.
- The utility work would not disturb Austrian Pine Lane as much as installing the cul-de-sac.

Knight pointed-out that if the proposal was not approved, the applicant could develop the property as seven lots, without any variances. He felt the vacation of the right-of-way was a small issue. Mr. Brill understood that a variance would be required to extend the cul-de-sac.

Knight asked Mr. Brill to address the utility issue. Knight asked if clear-cutting would have to be done for the utilities even if access would be located off of Dwight Lane. Mr. Brill stated that the clear cutting would be on Mr. Barry's property.

Knight questioned if the landscaping request had been presented to the applicant. Mr. Brill answered in the negative.

Thomas explained that the City Council may approve extension of a cul-de-sac beyond 500 feet if certain conditions exist. Two conditions that would apply to the site are its topography and following the existing development pattern. Gustafson explained that the proposal calls for a very small extension that would follow the topography in the area and provide the least amount of disruption. The application and the alternate would meet the two conditions. Thomas clarified for Knight that the proposal would not require a variance for the extension of the cul-de-sac. It would require a majority vote of the City Council.

Olson clarified that a variance would not be needed for the seven-lot plat, but the Planning Commission and City Council would need to review the application due to the site's steep slope issues. The council would need to find that the property would be physically suitable for the design and the setting of the proposed development and would preserve significant natural features, that development would not result in any erosion or reduce water quality, and the development would provide property measures to protect public safety.

Wagner asked if the main reason Mr. Brill requested the construction traffic travel on Dwight Lane was for public safety. Mr. Brill answered in the negative. He felt that applied generally for the neighborhood. Mr. Brill stated that the difference of the impact of traffic for five or four houses would be minimal. He stated that he never stated that safety was the issue. The problem is, the area is already experiencing traffic problems. He said that there would be less environmental disturbance if Austrian Pine was accessed by Dwight Lane. The tree loss situation was his clients' big concern.

Kari Greybow, 2001 Norway Pine Circle, was concerned that her oak trees would die from the grading. She has a very rare white oak tree in her back yard. They had looked into filling in their back yard to make it more flat. The landscaper that viewed the site told them that filling the yard could kill 25 of her property's trees. Colleran agreed that changing the grade around an oak tree's canopy could kill it or cause its health to decline. The proposal would have custom graded lots, so staff would meet with the developer when each lot would be developed to establish grading limits to keep construction and grading activity contained. No grading would occur on Ms. Graybow's property.

In response to Chair Wagner's question, Thomas stated that the conservation easements are conditions of approval. Ms. Greybow stated that there are four homes that share one driveway on Essex Road, where she used to reside.

No additional testimony was submitted and the hearing was closed.

Egge questioned if the Norway Pines could be protected. Colleran stated that some of the pines are located in the right-of-way. If the root system is cut, it could kill the tree. There is a good potential that some of those trees would be killed. Egge asked if it would be reasonable for a resident to ask a developer to replace the landscaping as requested. Gustafson stated

that, in reference to the pine trees at the end of the cul-de-sac, when the final plans are submitted, staff would look at any means possible to save the trees. The road is fairly straight, so there would not be a large concern regarding sight obstructions. With respect to the Ross' landscaping features in their front yard, staff could not place extra-ordinary conditions. This developer must meet the same requirements as any other developer. Unfortunately, sod is what the ordinance would require the developer to provide. If the developer chose to work with the homeowner for special arrangements, that would not be handled by the City. Anything located in the right-of-way would require the City's approval.

Knight felt that the situation was unusual and staff has previously required landscaping to be done. He found it troublesome and hard to believe that there was no lee-way there, based on some of the landscaping plans he had seen for other proposals. Gustafson explained that landscaping proposals for development projects do not include the public right-of-way. He explained that for street reconstruction projects, sometimes landscaping was removed. The City worked with the homeowners to replace the removed landscaping and sometimes replace a tree. In this case, vacation of the easement would not cause the removal of vegetation. This developer needs to be treated the same as any other developer. He had been involved in similar situations where a cul-de-sac bulb was eliminated, the street was extended and the disturbed vegetation was replaced with sod. Knight stated he understood.

Gallop mentioned that the homeowner landscaped and planted trees in the right-of-way without permission, so the homeowner was taking a risk. As much as he would love to preserve the aesthetics of the area, he understood why the City would not get involved.

Chair Wagner reviewed the primary issues.

Britain felt the original proposal was good all-around. After reviewing the optional plans, he felt Plan 3 was the best. The original proposal's lots were disproportionate in size. The five-lot plan allowed for better-sized lots. He questioned if the five-lot plan would cause greater tree loss than the six-lot plan. Thomas stated that the numbers in the staff report were provided by the applicant's engineer. Staff had not flushed-out the numbers or confirmed the site impact. She invited Mr. Anderson to address that issue.

Mr. Anderson stated that his calculations were based on assumed foot-prints, assumed trees, and assumed tree conservation easements. He found, in Minnetonka, that builders stretched the limits when it came to residence size. The five-lot plat would allow larger homes and more tree clearing to accommodate the larger home. In a way, it's counter-productive. It ends-up causing more damage to the environment because the buyer pays more for the lot and typically spends more on a large home. If the numbers were equal, he would still advocate the proposal. It is the best use of the property. It is reasonable to assume that the damage would be equivalent.

Chair Wagner struggled originally with the application. He referred the Commissioners to page A-11 of the staff report and an addendum that referenced variances required and the number of trees lost. Given that another proposal could be done with six lots and no variances, the original proposal creates the least amount of impact and makes the most sense. The proposal balanced the environmental damage and the property owner's rights the best.

Britain preferred a five-lot development, based on what he saw. He was concerned with creating a precedent for flag-lots in the area. He understood that the property was large enough to justify six or seven lots. Five lots would be a better situation, but would still not be perfect. Six lots would be a compromise. He supported the proposal at the moment, but his concern regarding the flag lot had not been totally addressed.

Gallop concurred with Britain. The five-lot option was the best of both worlds, whether it was economically feasible for the developer remained to be seen. The flag-lot was still his concern with the main proposal. Eliminating the flag lot would cause the removal of more trees and wetlands. He was half-way in-between.

Knight concurred with Britain. He was happy with the diligent work Thomas did. His previous questions were answered. He leaned more in favor of the proposal. There are quite a few trade-offs. The number of lots would be reduced by one and there would be less impact on the trees and wetland.

Hart stated that the flag-lot in the proposal would not be a house located behind a house. It would be a driveway off a cul-de-sac. She did not feel it was a big issue, because it would not appear like a classic flag lot. The developer does not support the five-lot plan and has at least three other options that require no other variances and include six or seven lots. So, it may not be productive to push the five-lot plan. An alternative six-lot or seven-lot plan with no variances could be applied for if the current proposal was denied. The argument for extending the cul-de-sac was justified and the conditions would be in place. She focused on the plan in front of them.

Edge felt it was evident that the Dwight Lane residents opposed the construction traffic on their street. Austrian Pine is a public street, just as Dwight Lane is. She did not understand the rationale to shift the traffic or the need for the developer to create something temporary. She had no problem with those issues.

Gallop stated that he previously moved to table the item with the hope that a route could be identified from YMCA Lane to a small portion of Dwight Lane. Unfortunately, that is not an option. Transferring the traffic from Austrian Pine to Dwight Lane would no longer be an advantage. It doesn't seem to make sense.

Chair Wagner reviewed that Austrian Pine right-of-way and the cul-de-sac were platted in the 1980s. The installation of the utilities would cause destruction at the end of the cul-de-sac anyway. Austrian Pine Lane is the appropriate construction traffic route. Traffic levels and safety concerns would apply to all plausible routes. Chair Wagner suggested the installation of a sidewalk be looked into.

Knight concurred with Egge and Gallop's comments. He was comfortable with the process. He felt the issues were analyzed thoroughly. If Austrian Pine did not exist, another route would be found off of Dwight Lane. He felt it was a balance from different options. He walked the lot and felt it made sense to extend Austrian Pine. People knew that the extension was inevitable. He did not favor access off YMCA Lane. Overall, he was comfortable with the proposal in terms of the access.

Maes still felt that Austrian Pine was the appropriate access. Dwight Lane residents objected to supporting Austrian Pine's construction traffic. It will have its own.

Chair Wagner reviewed the remaining issues. Gustafson explained the City's sidewalk and trail policy. If the residents of Austrian Pine would like to have a sidewalk, it would require a petition from every property owner along the segment of the road, on both sides, that the sidewalk was being proposed. It would also require the property owners to pay for the sidewalk, because that sidewalk would not be part of the City's sidewalk and trail plan. That plan is put together as a means of determining what areas would receive the most benefit from a sidewalk.

Gallop asked what the average size of the lots would be in the five-lot proposal. The exact calculations were not available.

Knight encouraged Mr. Barry to work with Mr. Ross on the landscaping issue.

Egge moved, second by Hart, to recommend that the city council vacate the 50-foot-wide public road easement along the south lot line and give preliminary approval to Austrian Pines plat dated March 31, 2003. Approval is based on the finding that the plat, apart from lot-width-at-frontage variance, meets the required standards and ordinances.

Approval of the lot-width-at-frontage is based on the following finding:

1. The proposed lot has been specifically configured to minimize impact to steep slopes. The proposed variance is consistent with the City's steep slope ordinance, which indicates that such variances should be allowed when appropriate to minimize grading.

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) A 20-foot wide drainage and utility easement on Lots 2, 3, and 4 over storm sewer pipe running from cul-de-sac to the stormwater pond.
 - (3) A 20-foot wide access easement over Lots 2, 3, and 4 from the cul-de-sac to the stormwater pond.
 - (4) Drainage and utility easements over wetlands and storm water ponds, as determined by the city engineer.
 - (5) Cross access and utility easements on Lots 2 and 3 from the cul-de-sac to Lot 4.
 - (6) Utility and driveway easements on Lot 5 from Dwight Lane to Lot 6.
 - (7) Vacation of the 50-foot right-of-way easement running the length of the subject property.
 - b. If the developer is petitioning the City to construct the public improvements, the City Council must order the improvements.
 - c. Submit evidence of the watershed district approval. The City may require revisions to the preliminary plat to meet the district's requirements.
2. The following items must be submitted to the City before the City releases the final plat:
 - a. An engineering/utility inspection fee.
 - b. A subgrade inspection fee, as required by ordinance.
 - c. An electronic CAD file of the final plat in microstation or DXF.
 - d. If the developer is constructing any public improvements, the developer must submit a signed agreement with the City. This agreement must guarantee that the developer will complete all public improvements and meet all City requirements. This agreement must include an escrow to ensure that the developer completes all public

improvements and complies with all City regulations. This escrow must be a letter of credit or cash deposit. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.

- e. 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 steep slopes outside of grading limits as depicted on plan dated May 20, 2003, and a drawing of the easements for the approval of the City Attorney. The easements and drawing must be recorded with the final plat.
 - (3) Conservation easements over the area 25 feet outward from the edge of the wetland on Lots 2, 3, and 4 and a drawing of the easements for the approval of the City Attorney. The easements and drawing must be recorded with the final plat.
 - (4) A conservation easement over the area 50 feet outward from the edge of the wetland on Lot 1 and a drawing of the easement for approval of the City Attorney. The easement and drawing must be recorded with the final plat.

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

- 3. 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. The grading plan should:
 - (1) minimize grading on Lot 4 in the westerly portion of required buffer area.
 - (2) ensure no tree loss in areas proposed for wetland mitigation.
 - b. If the developer is building the streets and utilities, the developer must submit final street and utility plans for staff approval.
 - c. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and to restore the site must be submitted to the City. The City will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, driveway, and grading have been completed according to the plans approved by the City. Additionally, the letter

of credit will not be released until the stormwater pond has been cleaned out to the satisfaction of the City Engineer.

- d. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.
 - e. A construction management plan must be submitted for staff approval.
 - f. Utility service to Lot 5 must be installed prior to the surfacing of the Cantera Woods project.
4. The following must be submitted to the City before the City issues a building permit:
- a. A grading, tree preservation and erosion control plan for each lot, subject to staff approval. The plans must be substantially in compliance with the wetland mitigation plan dated May 20, 2003. The sewer and water services must be shown to minimize impact to the significant trees.
 - b. Grading on Lot 5 must be designed to direct all drainage westerly along the lot line.
 - c. The installation and maintenance of a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot must be installed, subject to review by the City's Environmental Resources Coordinator
 - d. A copy of the recorded plat and any easements or covenants required to be recorded.
 - e. A park dedication fee of \$9,500.00.
 - f. A hookup fee for sanitary sewer and water.
 - g. 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.
 - h. All homes must be elevated 2 feet above the 100-year flood plain; therefore, minimum basement elevation:
 - (1) for homes on Lots 3, 4, 5 shall be 958.0 or the 100-year elevation of the stormwater pond plus two-feet, whichever is greater;
 - (2) for homes on Lots 1 and 2 shall be 954.6.

- i. Provide automatic fire sprinklers.
 - j. Provide private sewer ejector pumps.
 - k. Existing hydrants must be removed and replaced. Relocation of hydrants is not permitted.
 - l. Developer shall remove existing "bulb" of cul-de-sac on Austrian Pine Lane and restore area to green space.
5. All retaining walls within public right-of-way must be modular block, as approved by the city engineer.
 6. The retaining wall surrounding the stormwater pond must be a rock wall.
 7. During construction, the streets must be kept free of debris and sediment, and tree protection, wetland protection, and erosion control fencing must be maintained.
 8. 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.
 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 will be void.

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

Chair Wagner announced that the City Council is tentatively scheduled to review the item at its August 11, 2003 meeting.

C. Items concerning the Meadowwoods development at 18300 Ridgewood Road for Nedegaard Custom Homes, represented by Roger Humphrey, agent (90019.03a):

- 1. resolution changing the guide plan from open space to low-density residential;**
- 2. ordinance rezoning from R-1, low density residential, to PUD planned unit development, and approving a master development plan, with final site and building plans, including variances for rear and wetland setbacks for all lots;**
- 3. ordinance changing wetland overlay district boundaries;**

- 4. wetland alteration permit;**
- 5. Wetland Conservation Act replacement plan; and a**
- 6. Preliminary plat, with lot width at the setback variances for eight lots and, lot area variances for further subdivision of Lot 6 Block 3.**

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

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

Chair Wagner clarified with Olson that the golf course was designated as open space, because that is what it was at the time the Comprehensive Guide Plan was created. It was zoned R-1, single-family residential housing.

Britain asked if the City seriously considered purchasing the property. Olson answered in the affirmative. For the same reason the owner sold the property, the City determined it was not fiscally viable to sustain the nine-hole golf course with the increase in value of the property.

Britain asked where the affordable housing units were located on the site plan. Olson pointed-out on the site plan the lot that would be divided into three lots. Britain asked if there would be one or two driveways for each duplex. Olson stated that there would be two driveways for each duplex.

Britain asked if the wetland area would remain owned by the developer. Olson explained that the homeowner's association would own the wetland once the units were completed. Maintenance of the wetlands would be included in the management wetland plan that details transferring the property from the property owner to the homeowner's association. A maintenance fund would be established to supply funds for the ongoing maintenance.

Chair Wagner was happy to see the provision that would allow the City to assume maintenance of the wetland if the conservation easement agreement was not met. He asked if there was a designation for the amount of the seed money. Colleran stated that a specific minimum amount of seed money would be required and listed in the overall stewardship fund and program agreement. There would be an annual fee for all of the homeowners, ten percent of the principal of the fund would be reinvested so that the fund would never run-out. The developer would pay to restore the wetlands during the course of development.

Chair Wagner asked if the West Hennepin Affordable Land Trust (WHALT) had been presented with the application yet. Rankin stated that WHALT would be contacted when the City worked-out specific arrangements.

Maes questioned how the houses would be built to accommodate the wet conditions. Olson stated that the building inspectors would require whatever was necessary to ensure the residences would not have problems in the future. In addition, soil information would be required to verify that the soils would support the residences. The same concern for the public utilities exists and would be inspected carefully.

Knight asked how likely it was that the affordable units would be run by WHALT. He felt WHALT would be more effective than indexes and other tools previously used. Rankin stated that the Economic Development Authority indicated that they favored using their funds to utilize WHALT guidelines for the proposed affordable units. Rankin explained how an indexing tool would work.

Knight asked what the conservation easements would allow and prohibit. Colleran stated that, basically, the conservation easement's intent would be to keep the area natural. The purpose would be to restore the wetlands to a higher quality wetland ecology with a diversity of grasses as well as wildflowers, trees, and shrubbery, and to maintain that. The stewardship fund would provide the funds to do so. Colleran confirmed that the homeowner's association would maintain the conservation easement area, not individual homeowners.

Knight asked the maximum density for the site. Olson stated that approximately fourteen lots could be developed on the site. If the right-of-way was acquired from Zimmerman's, another approximately nine lots could be developed in the back. Olson further explained that the basis to deny rezoning a wetland needed to be reasonable. Since the current application's wetland is currently golf-course turf, relocating the wetland would seem reasonable.

Gallop asked if having the affordable housing units separated from the other units was a negative aspect of the proposal. Rankin stated that for scattered site developments, like this one, it was favored to integrate the affordable housing units as much as possible. In this case, the buildable space was at a premium. The inclusion of affordable housing is a plus.

Gallop was concerned that the road and entrance would not be able to accommodate parking. Olson stated that similar width roads accommodate parking with no problems. The units would have garages and driveways as well. Gustafson stated that the City ordinances allow the width of the proposed street. If a problem occurred, "no parking" could be established on one side of the road.

Roland Aberg, 3175 County Road 24, Long Lake, stated he was the Land Planner and Architect for the project. He also does landscape architecture. He stated:

- Wetland restoration costs a lot.
- Restoration of upland forests would also be done.
- The levels and standards of native plantings would be maintained.
- The whole project would be a restoration of the big woods and the full landscape from top to bottom.
- The ornamental trees along Ridgewood Road would be maintained.
- Native trees in groves would also be preserved. Others would be dug-up and replanted.
- The number of units required to offset the cost of the restoration was seventeen.
- He and the applicant felt that the proposal integrated the affordable housing units. The townhouses were paired to make it look like a larger residence. The single one would represent a carriage house and make the appearance complete.
- The peat depth was six feet. The residences would have a continuous foundation that would go down six feet. It is in the applicant's interest to provide quality foundations.
- Piers would probably only be used for decks, because the intent would be for the residence to appear to float on the property.
- He provided images that illustrated how the reforestation would be integrated.
- The intent would be to create a woods upon driving into the proposed development, the forestation would exist on both sides of the drive, and only when the driver turned into the cul-de-sac, would the residential community area be viewed.
- The cul-de-sacs were made larger than standards required. Plantings would be maintained inside of them to eliminate large amounts of pavement.
- Raingardens were utilized to accommodate drainage.
- The front of the residences would be more opaque and the rear would be more transparent.
- The residences would be clustered to the east, away from Ridgewood Road.
- The forestation would help mitigate any views into the proposed development.
- He described the materials that would be used to provide the aesthetic appeal of the proposed residences.

Maes questioned why the trail was moved to the east. Mr. Aberg stated that the applicant could go either way with the location of the trail. After meeting with staff, the east location was decided upon. The trail located on the west would be more of a nature trail. Maes and Mr. Aberg agreed that if the trail was moved to the east, it would not have the boardwalk feel.

Knight confirmed with Mr. Aberg that the trail would provide a connection to the other trails. Knight suggested that the conservation easement would help sell the units. Mr. Aberg stated that there would be a benefit.

Knight asked if the photographs were of restored wetlands. Mr. Aberg answered in the affirmative.

Mr. Aberg welcomed discussion regarding the width of the trail. He stated that the trail, if located on the west side, would be eight feet wide.

In response to Maes' question, Gustafson provided background regarding the location of the trail. The boardwalk on the west side would look inviting, but the City would need to maintain it. If the proposed trail was located on the east, soil corrections could be done for the trail at the same time as the street. A viable, well-constructed trail that would last for many years could be constructed. Staff agreed that the trail would not need to be eight feet wide. It could be six feet wide, because it would be located next to the street. The trail would also serve the Zimmerman property.

Gallop asked what would be done to accommodate the soil conditions. Mr. Aberg stated that the homes would not have basements. Digging would continue until a hard surface was reached for footings. A concrete slab would prevent moisture from coming-up into the house.

In response to Hart's question, Mr. Aberg explained what a rain garden is. Hart asked if the base material needed to be replenished from time to time. Mr. Aberg answered in the negative.

Chair Wagner asked if the Zimmerman property driveway would connect to the proposal. Olson stated that it could conceivably happen, but no plan was definite yet.

The public hearing was opened.

Connie Portless, 18327 Ridgewood Road, was glad to see that the berm would stay. She was very pleased to see the trail moved to the east side. She felt the intersection to the west was unsafe. It would be easier to maintain the trail on the east side. She asked where the trail's connection would be to Ridgewood Road. The east side would provide parking on the street and her private, half-circle drive. Every spring, they had to post their property "no parking" for golfers. She invited the traffic consultant to sit in her house. The speed motorists travel at is "incredible." She watches people roll through the Sparrow Road intersection.

Ms. Portless asked if signs would be included. Olson explained the sign ordinance. Mr. Portless did not like the sign at Tullamore Glen. She liked the one at Dunibar Ridge. Mr. Aberg described the proposed sign to be included at the entrance to the development.

Ms. Portless' big concern was the trail. She stated that parking is difficult on a cul-de-sac when company is over. She suggested reducing the number of residences located on the pinwheels by one.

Mark Worley, 4516 Sparrow Road, stated that he was emotionally attached to the property. He stated:

- The golf course is a Minnetonka treasure, not just a neighborhood treasure.
- Open space is important in Minnetonka.
- The site would be going from public access to private residences.
- The bike trail is being minimized now, too.
- He completed research regarding golf courses that are less than thirteen acres and found them to be viable. The owners did not choose to make it a successful golf course. He felt it was viable as a golf course. He questioned why the neighborhood was not involved when the City decided not to purchase the golf course.
- He considered the site to be the poster-child for open space preservation.
- He challenged the City to get ahead of the development curve and preserve “these pieces of property.”
- He asked Colleran to address the wetland setbacks.
- The wetland setbacks would not be allowed in a typical setting.

Colleran stated that the planned unit development has a different architectural feel. The overall proposed development has a totally different feel than any development she has ever seen. She described the city and state mitigation requirements. Colleran concluded that the proposed development could potentially be done and still meet the 35-foot setback requirement. She added that the technical evaluation panel decreased the amount of fill the applicant originally proposed. Mr. Worley would need to demonstrate a hardship to be granted a variance from the setback requirement, but he would be given the same consideration according to ordinance requirements.

Mark Stevenson, 4340 Windwood Way, commented on the different plats. He stated:

- He struggled with the idea of so many residences.
- Increasing the wetlands would be a positive step.
- He argued that the proposal was out of character with the neighborhood.
- He does not think the residences hiding behind the trees is such a good thing.
- The developer is counting every little piece of wetland to get to 71 percent.
- A pinwheel would be a significant change to the neighborhood.
- There is no architectural cohesion in the neighborhood. The proposal would look “jammed-in” on each other.
- He favored decreasing the number of residences on the pinwheels. The developer was trying to make the proposal profitable.
- Four residences on each pinwheel would “legitimately” increase the amount of wetland.

- The proposal is nice, the ideas are right, but it is too dense.
- Dunibar Ridge homes look too close together.

Daryl Ponder, 18320 Fernwood, was concerned with setting a precedent. The proposal would change the Comprehensive Guide Plan and the zoning to a planned unit development. The development was being “shoehorned in.” He stated:

- The Guide Plan change would better reflect the use under the current zoning.
- The ten-unit development would fit the area better than three elevated pods.
- The Army Corps of Engineers stated that the illegal draining of the wetland property could be mitigated. Adjacent property owners offered their property to the City to mitigate the golf course property.
- Eliminating ten acres of open space to get ten acres of open space is not a good reason.
- He favored affordable housing units, but it does not justify the density.
- He cannot address the water quality.
- The public trail access is very good and he supported it.
- The proposal would be the most dense development on Ridgewood.
- The three pods would be greatly out of character with the surrounding neighborhood.
- The planned unit development is justified, only if you believe that it is better to develop the property than leave it as open space.
- The Ridgewood and County Road 101 is rated as an “F”. The golf course traffic would run counter to where the problem was. He hoped someone else did not have to die because of someone from the development turning left onto County Road 101.
- He agreed that the development would not create an impact on surrounding properties.
- The development would continue the use of pesticides and herbicides. The vehicles would leak oil and windshield wiper fluid.
- There was no error in the Comprehensive Guide Plan. It should remain open space.

Barbara Kohler, 18517 Ridgewood Road. She stated:

- She was concerned with the number of proposed residences.
- She would not want to buy Lots 3 or Lots 4 because of the trail.
- She was concerned with the traffic impact. She does not walk her dog on Ridgewood because of the traffic. People go through the Sparrow Road intersection. It is not a safe street to walk on.
- She travels west at the intersection because she cannot make a left turn onto County Road 101.
- Ridgewood is the only through street between Highway 7 and County Road 101.

Beth Stellik, 4400 Sparrow Road, resides on the corner. She agreed that the proposal's density would be too high. Ten should be the maximum number of units allowed. Traffic is horrendous on Ridgewood Road. Each new development increases the traffic. The developments should not be allowed until the roads are improved. She encouraged the Planning Commission to listen to the people and read the comments the residents mailed them.

Tom McCloud, 18508 Timberidge Drive, was concerned with the traffic on Sparrow Road. He opposed widening Sparrow Road. He was concerned that the houses would be in view rather than the trees.

Gallop moved, seconded by Hart, to extend the meeting passed 11:00 p.m., until 12:00 p.m.

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

Ms. Portless asked if the ten-unit plan would include the driveways accessing Ridgewood Road. It is not safe to back-out onto Ridgewood Road. She could not imagine adding six more driveways onto Ridgewood Road. She explained that houses recently constructed were required to have their driveways access Sparrow Road. She favored one driveway accessing a circle. She added that the site currently looked awful. She liked that no chemicals were being used on the greens.

Mr. Ponder commented that all open space could be sold by an owner and developed. He felt that was no reason to change the Comprehensive Guide Plan. The Corps of Engineers agreed with other ways to mitigate the filled-in area other than flooding. Colleran agreed that there are other options. Colleran addressed Mr. Ponder's previous comment and explained that an adjacent property owner could not put his or her existing wetland in a conservation agreement to meet the requirement. She described an offer by another property owner who suggested flooding his oak forest to meet the requirement. While the offer may be considered, removing an oak forest to create a wetland would be a mismanagement of natural resources. She was unsure if those options were truly explored by the neighbors. Staff reacted to the application. The Army Corps of Engineer stated that the hydrology needed to be restored on the course and, for practical purposes, that equaled flooding the course.

Mr. Ponder and Colleran discussed the theoretical viable options.

Mr. Ponder stated:

- The site could be a golf course again.
- If the Planning Commission does not recommend approval to the City Council, it does not constitute condemning the property.

- We believe in open space. Go back to the drawing board and give us an economic plan for ten residences.
- The current use has a positive impact on the community. Hundreds of children use the course.
- He requested the Planning Commission reject the Comprehensive Guide Plan change, defend the open space and either allow a golf course or an R-1 development that would be more in keeping with the residential community.

No additional testimony was submitted and the hearing was closed.

Knight asked if staff saw an issue with parking if the trail would be located on the east side. Gustafson answered in the negative. If a problem did occur, there are mechanisms to address the problem. Staff would have concerns if motorists parked near the intersection. In that case, the area would be posted "no parking." There was no off-street parking included in the plan.

Knight asked if the Open Space Task Force recommended the site as a high priority to acquire. Olson stated that the City's Open Space Task Force listed the site as a high priority, however, the cons outweighed the pros.

Knight asked if the ten-lot plan would be feasible without accessing the driveways onto Ridgewood Road. Olson stated that the only other option would be to create a new road to connect the driveways behind the residences, which was not feasible. He agreed that the ten-lot plan would create a hazardous situation.

Britain did not see the City purchasing the property as a viable option any longer. He reviewed the sizes of the proposed lots. If one lot was removed from each of the two pods, he questioned if the half-an-acre size lot could be achieved. That would leave just the affordable housing units that would not meet standard lot requirements. He felt that would be more reasonable. He asked if that would be possible. Olson stated that the concept was contrary to half-acre lots. The proposal minimized lot areas, building pads, and street areas. Open space and wetland areas were maximized. The options provided were not engineered, they were provided as rough estimates of R-1 plats that the developer would be legally entitled to. The minimum lot size for a planned unit development is 15,000 feet.

Gallop felt that Pod 1 and Pod 2 seemed a little squeezed in. He asked how far apart they would be from each other. Olson stated that the homes were located as tight as possible in accordance with the concept. Gallop favored reducing each pod by two homes.

Mr. Aberg stated that the cost of the bridge, because of the wetland, the wetland and forestation restorations, and the affordable housing aspect required the number of proposed residences to make the proposal feasible. The plan illustrated the building envelopes, not the residences. The residences would be more square. Pod 3 has a slightly larger home, so it was

intended to be a mix of types. Gallop asked what the distance between the residences would be. Mr. Aberg stated that the average between Pods 1 and Pods 2 would be 40 feet apart at the widest point and 24 feet at the narrowest point near the cul-de-sac.

Gallop asked if the police department could patrol the area more to enforce the speed limit and stop sign. Olson stated that staff would take care of that.

Maes asked what the timing of the development would be. Mr. Aberg stated that some work restoring the wetland would begin this year, otherwise it would begin next spring. Stripping, excavating, and moving trees would be done next to prepare for the installation of the utilities. The beginning foundations would be done over a period of time.

Chair Wagner asked when the affordable housing units would be constructed. Mr. Aberg stated that they probably would not be the first ones built.

Egge asked how vehicles would park in the cul-de-sacs. Mr. Aberg stated that they planned on vehicles parking on the longer stems of the cul-de-sac. In addition, tandem parking would allow each unit to have three off-street parking spots. The notion for the project was to create a conservation easement. He completed projects all over the country with the concept. The building envelope and the presence of open space surrounding it created the concept.

Knight confirmed that the center of the pinwheel would be planted, so vehicles could not be parked there. Knight and Mr. Aberg discussed the positioning of building envelopes in-between trees and wetlands.

Maes asked how the bridge would be maintained. The bridge would be in the City right-of-way and would be maintained by the City.

Chair Wagner reviewed the primary issues.

Egge asked Olson if he was aware of a similar property that was currently zoned open-space. Egge was unable to locate a similar one. Olson was unable to locate other privately owned land that was zoned as open space. Olson stated that the open space classification was implemented after the Comprehensive Guide Plan.

Chair Wagner reviewed the applications history.

Knight related to the neighbors' frustration that the zoning and the Comprehensive Guide Plan do not match. He felt, in the future that the Comprehensive Guide Plan and zoning should match.

Chair Wagner liked golfing there, but the owner has the right to sell it. He supported the Comprehensive Guide Plan amendment because of the sub-issues relating to the restoration of the wetlands.

Chair Wagner felt that staff explained the density issues well.

Edge appreciated the neighbors' comments regarding density, but she heard nothing compelling to reduce the number of units from nineteen. The proposal included several benefits. The developer reacted to the trend in housing and created a proposal that she felt was really not that "out there." More people consider the ecological impact of the land they reside on. More people favor low maintenance of lawn care. She resides in a twelve-unit townhome development on twelve acres and it has been a very communal experience for her and her family. She knows her neighbors. She asked the residents to stretch their thinking of what the neighborhood could include. She felt the character of the neighborhood would not be altered that drastically. She did not see adding driveways on Ridgewood as a feasible idea. She found twenty units justified.

Hart stated that, excluding the affordable housing units, the lot sizes averaged between 15,000 square feet and 20,000 square feet. There is an alternative to the clustered housing that would include 19 units and not require anything except the Comprehensive Guide Plan resolution. She much preferred the current proposal. She liked the proposal. She concurred with Edge's comment that it is a smart development. Even with the 20 units, it would not be visible from Ridgewood. She found the number of units to be reasonable.

Maes supported the holistic plan. The number of units worked with the open space. The timing would be staggered and, hopefully, the improvements to the road would be completed within close timing of each other.

Gallop felt the proposal was unique and had an interesting design. He felt it would be positive for the City. He favored one less residence for each of the two lower pods. The traffic impact concerned him. He supported the project.

Knight favored decreasing each lower pod by one unit. He did not "buy" the "either or" argument. He questioned what the flexibility of the planned unit development was for. Was it to allow flexibility for environmental conservation or to allow more units. He questioned if the applicant would be able to have nineteen units without the Planning Commission's discretion. He was unsure how he was going to vote.

Britain liked the planners' original ideas tailored for the site. He supported the lower two pods being reduced by one unit each. He was torn. He felt it was a little too dense as it was presented.

Chair Wagner reviewed the City's framework that included public safety, recreation space, preserving open space, and increasing the life cycle of affordable housing. He would have struggled with the amount of density if the affordable housing was not included.

Egge pointed-out that life-cycle housing also includes empty-nesters who would prefer the units being proposed. Not everyone wants a big yard. She felt the proposal supported conservation rather than squeezing the amount of density.

Chair Wagner felt there was a consensus that the consideration of the ecological uniqueness of the site justified the planned unit development zoning. Knight did not exactly agree. He questioned how the recommendation for a planned unit development came about. Knight felt it was justified for the site, but he did not agree with the flexibility with the density.

Chair Wagner asked for comments regarding the traffic issue. Maes wondered if a condition could be included that could make Ridgewood safer by requiring the installation of speed bumps or stricter law enforcement for the area, as examples.

Chair Wagner and Maes agreed that staff could research the issue further and present its findings to the City Council. Maes requested traffic accident statistics for the area be included in staff's findings.

Gallop acknowledged that the traffic problem already exists. The current proposal may make it somewhat worse. He favored increased saturation of the area by law enforcement.

Knight favored having staff research the issue further.

Egge moved, seconded by Maes, to extend the meeting passed 12:00 p.m., until 12:15 p.m.

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

Egge stated that the proposal would not increase or decrease the water level.

Knight questioned what made the proposed units proximity to the wetland acceptable. Chair Wagner stated that the zero wetland buffer setback was such a unique situation that it could stand on its own and not cause a precedent. He noted that the Council will probably want to discuss this issue because it is a departure from past practice. The goal of the wetland setback variance to zero feet is to increase the wetland area. Colleran stated that the restoration of the wetlands is the overall goal of the proposal. Colleran did not believe that the wetland setback variance would have any adverse impact to the wetlands. An agreement would be entered into that would restrict the use of pesticides and chemicals. The type of purchasers who would buy one of the proposed units would police themselves, as well as the City and the homeowner's association.

Egge commended the design group and staff for putting the proposal together. The City is gaining a great benefit. Even with the removal of the affordable housing component, it would still be an excellent project. She supported it.

Egge moved, second by Gallop, to recommend that the City Council approve items concerning the Meadowwoods development at 18300 Ridgewood Road for Nedegaard Custom Homes, represented by Roger Humphrey, agent (90019.03a) and that more information be provided to the City Council regarding traffic concerns for Ridgewood Road:

A. Recommend that the City Council adopt the resolution on pages A1–A2 of the staff report, which amends the guide plan from Open Space to RL, low density residential. This resolution is based on the following findings:

1. The present open space designation was based on the use of the property as a golf course and was not intended to prevent other uses from developing on this site;
2. The surrounding land uses are already guided for low-density residential use;
3. The guide plan change would better reflect the use allowed under the existing zoning.
4. The proposal meets the ten findings in the comprehensive plan for a guide plan change.

B. Recommend that the City Council adopt the ordinance on pages A3–A9 of the staff report, which approves the proposed rezoning to Planned Unit Development, and master development plan with final site and building plans and variances. This ordinance is based on the following findings:

1. The proposed use is consistent with the existing land uses on adjacent properties.
2. The rezoning would be consistent with the proposed guide plan designation.
3. The plans restore the jurisdictional wetlands on the site; and provide large private open spaces through permanent conservation easement.
4. The proposed development would not have an adverse impact on neighborhood traffic or property values.

Approval includes the following variances:

1. Rear yard setback reductions from 20% of the lot depth to 10 feet.
2. Wetland setback reductions from 35 feet to zero feet.
3. Exclusion of wetland buffers.

This 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:
 - Site plan date-stamped May 28, 2003
 - Building elevations date-stamped May 28, 2003
 - Grading plan date-stamped July 10, 2003
 - Development Image Package for Meadowwoods, dated April 2003
 - Landscaping plan date-stamped May 13, 2003
 - Utility plan date-stamped May 16, 2003
 - Preliminary Plat date-stamped May 16, 2003
 - Restoration Plan date-stamped May 2, 2003
2. The following must be completed before the City issues a grading permit or before starting any site work:
 - a. The installation and maintenance of a temporary rock driveway, erosion control, and tree and wetland protection fencing for each lot, subject to review by the City's Environment Resources Coordinator.
 - b. Grading and drainage plans must be approved by Barr Engineering.
 - c. Final site, grading, drainage, utility and erosion control plans must be approved by City staff. Final plans must include the following revisions:
 - 1) must have a 1-1/2 inch water services and 6 inch sewer services;
 - 2) the sewer and water lines must be stubbed to the east to provide future service; and
 - 3) water must be looped to the east property line in the northern portion of the site.
 - d. If the developer is constructing any public improvements, the developer must submit a signed agreement with the City. This agreement must guarantee that the developer will complete all public improvements and meet all City requirements. This

- agreement must include an escrow to ensure that the developer completes all public improvements and complies with all City regulations. This escrow must be a letter of credit or cash deposit or other form acceptable to the City Attorney. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
- e. Submit a letter of credit, cash escrow, or other form acceptable to the City Attorney for the estimated cost to comply with grading permit requirements and restore the site. 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 grading has been completed according to the plans approved by the City. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
 - f. Submit a letter of credit or cash escrow, or other form acceptable to the City Attorney for the estimated cost to restore the wetlands, including the wetland plantings, the upland forest, and the rain gardens. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
 - g. Submit a final landscape and irrigation plan for staff approval. The plan must indicate wetland restoration and percent totals of tree sizes for the reforested area.
 - h. Fence all trees and vegetation to be preserved and install erosion control measures for staff approval.
 - i. Submit a construction management plan, including a phasing plan for staff approval.
 - j. Submit copies of the watershed district permit, NPDES permit and County permits for driveways and utility connections. The City may require revisions to the approved plans to meet these agencies' requirements.
 - k. Complete an archeological survey, subject to approval of the Army Corps of Engineers.
3. The following must be completed before the City issues a building permit:
- a. The installation and maintenance of a temporary rock driveway, erosion control, and tree and wetland protection fencing for each lot must be installed, subject to review and approval of the City's Environmental Resources Coordinator.
 - b. A hookup fee for sanitary sewer and water.

- c. 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.
- d. A copy of the recorded plat and any easements or covenants required to be recorded.
4. Retaining walls in the public right-of-way must be modular block or other, as certified by a licensed engineer and approved by the city engineer.
5. Minimum floor elevations as follows: Block 1 = 896.7; Block 2 = 900.00; Block 3 = 891.0.
6. The homeowners' association is responsible for replacing any required wetland plantings, woodland plantings, and landscaping that dies after the developer's guarantee period.
7. The three affordable units must be priced at \$170,000 or less and be subject to resale indexing covenants approved by the city council; or the units be sold to a housing organization designated by the City for no more than \$170,000. The City must approve specifications for the construction of the affordable units.
8. Rear yard setbacks for structure may be 10 feet.
9. Wetland setbacks for structures may be zero feet.
10. Construction of the trail is subject to City staff approval.
11. All signs for the development must meet city code, including obtaining sign permits.
12. Sprinkler systems must be installed in each home.
13. The floor area ratio and hard surface coverage each may not exceed 50% of the site area.
14. Construction must begin by December 31, 2004, unless the Planning Commission grants a time extension.
15. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
16. The maintenance of the stormwater ponds will be the responsibility of the homeowners association under the stewardship program.

17. All private garden areas must have a ten-foot transition area between them and the wetlands.

18. Each cul-de-sac shall have on mailbox bank rather than one on each lot.

C. Recommend that the City Council adopt the ordinance on pages A10–A12, which approves the proposed change in the wetland overlay district boundaries. This resolution is based on the following findings:

1. The proposed development would correct a wetland draining violation of Section 404 of the Federal Clean Water Act.
2. The proposed restoration would significantly enhance the wetland.
3. The rezoning would be consistent with the City's guide plan; and
4. The rezoning would be consistent with the public health, safety, and welfare.

Approval is subject to the following conditions:

1. Obtain a grading permit as part of the wetland restoration.
2. Must be developed per the grading plan date-stamped May 16, 2003 and the Restoration Plan date-stamped May 2, 2003 and May 13, 2003.

D. Recommend that the City Council adopt the resolution on pages A13–A14, which approves the proposed wetland alteration permit. This resolution is based on the following findings:

1. The proposed development would correct a wetland draining violation of Section 404 of the Federal Clean Water Act.
2. The jurisdictional wetlands consist of mowed turf grass, which have a low ecological wetland value.
3. The proposed restoration would significantly enhance the wetland.

Approval is subject to the following conditions:

1. Obtain a grading permit as part of the wetland restoration.

2. Must be developed per the grading plan date stamped May 16, 2003 and the Restoration Plan date stamped May 2, 2003 and May 13, 2003.

E. Recommend that the City Council approve the Wetland Conservation Act replacement plan. This approval is based on the following findings:

1. The proposed development would correct a wetland filling violation of Section 404 of the Federal Clean Water Act.
2. The proposed restoration would significantly enhance the wetland.

Approval is subject to the following conditions:

1. The plan meets the criteria required by the WCA
2. The TEP has received and reviewed the findings of fact and makes its recommendation to the City of Minnetonka.

F. Recommend that the City Council give preliminary approval to the Meadowwoods Addition plat, date-stamped May 16, 2003, with lot width at the setback variances for Lots 2-5, Blocks 1 and 2, and lot area variances for the further subdivision of Lot 6 Block 3. Approval is based on the following findings:

1. With the exception of the mentioned variances within the PUD, the proposal meets the required standards and ordinances for a preliminary plat.
2. The proposal would meet the required standards for a variance, because;
 - a. There is a unique hardship to the property caused by the public benefit of minimizing lot sizes to maximize wetland restoration and open space.
 - b. The variances would not alter the essential character of the neighborhood.

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 over Outlots 1 and 3.
 - (4) Drainage and utility easements over the rain gardens.
 - (5) Streets within the plat must be named. The names of the streets would be subject to review and approval of the City Engineer.
 - (6) The right-of-way at the intersection of each new cul-de-sac must be realigned to be parallel with the edge of the street.
 - (7) A 40-foot-wide right-of-way must be platted to provide access to the adjacent property to the east.
 - (8) A 10-foot-wide trail easement along Ridgewood Road.
 - (9) A 15-foot-wide trail easement over the public trail along the proposed public street and 30-feet wide from the end of the cul-de-sac to the regional trail.
 - (10) The center islands in the cul-de-sac must be removed, or platted as outlots to be owned and maintained by the homeowners association.
 - (11) Outlot 2 must be platted as part of Lot 6, which must be further split to accommodate separate lots for each affordable unit.
- b. If the developer is petitioning the City to construct the public improvements, the City Council must order the improvements.
 - c. Submit evidence of watershed district approval. The City may require revisions to the preliminary plat to meet the district's requirements.
2. 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 microstation or DXF.
 - c. A park dedication fee of \$47,500.

- d. If the developer is constructing any public improvements, the developer must submit a signed agreement with the City. This agreement must guarantee that the developer will complete all public improvements and meet all City requirements. This agreement must include an escrow to ensure that the developer completes all public improvements and complies with all City regulations. This escrow must be a letter of credit; cash deposit other form acceptable to the City Attorney. The amount must be 150% of the estimated cost of the improvements or 125% of the cost if based on actual bids.
- e. 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) 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.
 - (3) Conservation easements over the areas identified on the preliminary plat and a drawing of the easements.
 - (4) Conservation easements must be expanded to include the areas shown as private gardens and rain gardens on the restoration plan date-stamped May 2, 2003.
 - (5) Documents establishing a homeowners association. The association must be responsible for maintaining any common areas, the required drainage pond and any other required drainage improvements approved by the City. Maintenance will include, but not be limited to, the periodic removal of sedimentation at the base of the pond and any adjacent drainage ditches, keeping a vegetative cover within the ditches and pond, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits, and adhering to a conservation management plan approved by the city's environmental resources coordinator. Maintenance of the conservation easement must be paid through the homeowners' association fund, which would require an annual fee for each dwelling.
 - (6) Establish a stewardship plan and fund agreement for the long-term maintenance of the conservation easements within the plat and the area designated as Outlots 1, 2 and 3. The establishment and terms of the fund is subject to the city attorney's approval. The terms of the fund must

specify who is responsible for maintaining the conservation easements and buffer areas, and who is responsible for fiscally managing the endowment.

- (7) Provide declaration and restrictive covenants over all mitigated wetland areas per the WCA.

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

3. The conservation easements and transition areas must be maintained in accordance with a stewardship plan and fund agreement approved by the City.
4. 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 struggled with the decision and was disappointed that the City did not purchase the site as twenty acres of open space. He wanted the zoning and the Comprehensive Guide Plan to match in the future. He did not support the proposal.

Britain felt the site was a valuable resource to the City of Minnetonka as a golf course. He knew it was not the best configuration. He wish he knew more why the decision not to purchase the property was made. The proposal is a nice development, but he felt it would be too dense. He was opposed to the proposal.

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

Olson acknowledged that the Planning Commission directed staff to provide the City Council with traffic information, including accident statistics, for the area of Ridgewood Road. A traffic study may not be completed in time, but the City Council may request one be done.

9. ADJOURNMENT

Knight moved, second by Egge, to adjourn the meeting at 12:10 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary