

**MINNETONKA PLANNING COMMISSION
MINUTES**

FEBRUARY 19, 2004

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners Britain, Gallop, Maes, Periolat, Allendorf, Bonoff, and Hart were present.

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

3. APPROVAL OF AGENDA: The agenda was approved as submitted with modifications to the following items as listed in the Change Memo dated February 19, 2004:

- Item 8B, preliminary plat, with multiple variances, for three single family lots at 2081 Meeting Street for Bill and Lori Baron (04001.04a);
- Item 8D, concept plan review of a nine-story, 21-unit luxury condominium development at 1610 Hopkins Crossroads for Parkway Development, LLC (87103.04a); and
- Item 8E, Kathleen Nelson (03091.03a) was pulled from the agenda in response to the applicant's request to postpone review until the March 4, 2004 meeting.

4. ELECTIONS

Maes moved, second by Allendorf, to elect Hart to serve as the chair of the planning commission for the remainder of 2004.

Britain, Gallop, Maes, Periolat, Allendorf, Bonoff, and Hart voted yes. Motion carried.

Bonoff moved, second by Hart, to elect Maes to serve as vice-chair for the remainder of 2004.

Britain, Gallop, Maes, Periolat, Allendorf, Bonoff, and Hart voted yes. Motion carried.

5. APPROVAL OF MINUTES: February 5, 2004

Gallop moved, second by Maes, to approve the February 5, 2004, meeting minutes as submitted.

Britain, Gallop, Maes, Bonoff, and Hart voted yes. Allendorf and Periolat abstained. Motion carried.

6. REPORT FROM STAFF

Olson briefed the commission on land use applications considered by the city council at its meeting of February 9, 2004:

- Adopted a resolution vacating a right-of-way, and approved a preliminary and final plat, with lot area variances, for a two-lot subdivision at 4836 Woodridge Court, for Jim and Jane Guyn.
- Adopted a resolution approving a guide plan amendment from office to medium density residential; an ordinance approving a rezoning from B-1 (office) and R-1 (low density residential) to R-3 (low and medium density residential); preliminary plat, with variances; and site and building plan review, with variances, for a 13-unit townhome development called "The Glen" at 14201, 14213, and 14225 Excelsior Boulevard for GL Development LLC. Councilmembers credited Allendorf, then acting as a councilmember, with working out issues prior to the review process of the application for making the process go much smoother than it would have otherwise.

Olson announced that on March 3, 2004, at 7:30 a.m., Mayor Anderson is scheduled to give the *State of the City Address* in the Community Room of the Community Center. On March 17, 2003, from 6 p.m. to 9 p.m., a training session will be held in the Community Center for boards and commissions members.

Olson informed commissioners that special instructions will be provided before commissioners visit a fenced application site owned by Jim Cargill, located on Crosby Road.

7. REPORT FROM PLANNING COMMISSION MEMBERS: None

8. PUBLIC HEARINGS

A. Items concerning Minnetonka Townhomes at 11907 and 11901 Minnetonka Boulevard for Dean Gannon and the City of Minnetonka (03087.04a):

- 1) ordinance rezoning 11901 Minnetonka Boulevard from R-1 (low density residential) to PUD (planned unit development) and adopting a master development plan, with side yard setback variances, for 11907 and 11901 Minnetonka Boulevard;
- 2) final site and building plans, with sideyard setback variance for 11907 Minnetonka Boulevard; and
- 3) preliminary plat for 11907 Minnetonka Boulevard

Chair Hart 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.

Allendorf asked what was happening with the 18-foot conservation easement. Olson explained that the conservation easement would preserve the slope and trees on the south end of the property. Mr. Gannon agreed to the easement.

Gallop asked if the driveway proposed to be constructed at 11907 Minnetonka Boulevard, and later abandoned when the driveway to the east would be constructed, could be eliminated if the driveway on the east was constructed right away. Olson agreed that would make sense, but Mr. Gannon does not own the property on the east where the future driveway would be located. The owner of the property on the east had no immediate plans to sell.

Chair Hart asked if there could be a requirement in the master development plan that would require the future development to use a single driveway for all eight units. She was concerned that the other property owner would not agree to the condition. Olson stated that stipulations requiring common access easements would be included in the current application and, if a future project developed, a common access easement would be a condition of approval as well. A condition of approval of the current application would require the establishment of a homeowners' association that would be responsible for all common drives. The language may be changed to include future common drives as well.

Allendorf pointed out a requirement that would address the common access easement and driveway location concerns.

Gallop asked if the commission could require the design of the property on the east side to be similar to the Gannon town homes. Olson answered in the affirmative.

Dean Gannon, 5821 Irving Avenue South, Minneapolis, applicant, stated that the project architect and attorney were also present to answer questions. He stated improvements to the plan included:

- Increased number of parking stalls. The new plan proposes three stalls per unit. The turn-around areas would accommodate garbage trucks.
- Reduction of the driveway slope, widened driveway at its mouth, positioned to be more perpendicular to the main driveway, and would now match the road grade. He provided an additional color rendering of the proposal.
- The design of the building was enhanced architecturally.

Allendorf asked what architectural changes were made from the previous plan. Mary Houston, 6253 Ginger Drive, Eden Prairie, architect for the project, stated that since the meeting in December, the following changes were made to the plan:

- the lower level would have stone facing;
- the siding above would be two shades of siding;
- the shingles on the roof would be asphalt;
- the windows would be Marvin windows;
- the garage doors would also have windows; and
- the two end elevations would have a stucco finish.

Maes appreciated the changes, especially the parking stall additions and turn around for larger vehicles.

Gallop asked if 11901 Minnetonka Boulevard would be required to resemble 11907 Minnetonka Boulevard. Olson stated that a specific condition was not included. A quality building similar in style would be preferable, but it would have to wait to be reviewed until the developer submitted a plan. The master development plan could require 11901 Minnetonka Boulevard to be of similar quality and design to 11907 Minnetonka Boulevard.

Bonoff appreciated the design changes. She asked how the proposal was changed to blend more with Windmill Ridge than the previous plan. Ms. Houston stated that the siding materials would be similar and the colors could be compatible. Those specifics have not been determined yet, but the applicant would be willing to use Windmill Ridge as a starting point.

Bonoff noted that the property to the east should also be developed with an effort to keep its appearance similar to Windmill Ridge.

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

Britain thought the plan had greatly improved since the commission last saw it. The driveway and access to the site was the biggest issue. The design was also improved. The applicant worked with staff and addressed the neighbors' issues.

Britain moved, second by Gallop, to recommend that the city council adopt the following items concerning Minnetonka Townhomes at 11907 and 11901 Minnetonka Boulevard for Dean Gannon and the City of Minnetonka (03087.04a).

Gallop concurred with Britain.

Allendorf agreed that the project had improved. He would support an amendment to the motion that would require the design of the property to the east be at least of equivalent quality to the Gannon townhouse plan.

Allendorf moved, second by Maes to amend the motion to require the design of the property to the east to be of equivalent quality to the Gannon townhouse plan.

Britain, Gallop, Maes, Periolat, Allendorf, Bonoff, and Hart voted yes. Motion carried.

Britain moved, second by Gallop, to recommend that the city council adopt the following items concerning Minnetonka Townhomes at 11907 and 11901 Minnetonka Boulevard for Dean Gannon and the City of Minnetonka (03087.04a) with the addition of a condition to require the design of the property to the east to be of equivalent quality to the Gannon townhouse plan:

A. *Recommend that the city council adopt the ordinance on pages A1–A3 of the staff report, which rezones 11901 Minnetonka Boulevard from R-1 (low density residential) to PUD (planned unit development) and adopts a master development plan, with sideyard setback variances from 35 feet to 15 feet from the easterly and westerly property lines for 11907 and 11901 Minnetonka Boulevard. This ordinance is based on the following findings:*

1. The proposal would meet the required standards and ordinances for a site and building plan approval.

2. The proposal would meet the required standards for a variance because:
 - a. There is a unique hardship to the property; and
 - b. The variance would meet the intent of the ordinance
3. The rezoning would be consistent with the city's guide plan;
4. The rezoning would be consistent with the public health, safety, and welfare.
5. The rezoning would better reflect the development potential of both sites.

Approval is subject to the conditions of the site and building plan review and substantial conformance to the master plan, date-stamped February 4, 2004.

B. Recommend that the city council approve final site and building plans. Approval is based on the finding that, apart from the side yard setback variances, the plans meet the required standards and ordinances. 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:
 - a. Site plan, date-stamped February 4, 2004
 - b. Grading plan, date-stamped February 4, 2004
 - c. Landscaping plan, date-stamped November 14, 2003
 - d. Building elevations, date-stamped February 2, 2004
- 2) The following work 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 protection fencing for each lot must be installed, subject to review by the city's environmental resources coordinator.
 - b. Submit final site, grading, drainage, utility, landscape, and erosion control plans for staff approval. Final plans must include the following revisions:
 - (1) The grading plan must be amended, acceptable to the city engineer and Environmental Resources Coordinator:
 - (a) The driveway must be graded so that water does not flow onto the driving surface of Minnetonka Boulevard.

- (b) The plan must be amended to reduce impact to the critical root zone of trees to be saved.
 - (2) The utility plan must be amended to include:
 - (a) individual utility lines to individual units;
 - (b) sanitary services must be 6 inch diameter;
 - (c) water services must be 1.5 inch diameter.
 - (3) The landscaping plan must be amended, acceptable to staff, to include additional landscaping along the east property line.
 - c. 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.
 - d. All trees and vegetation 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.
- 3) The following must be completed before the city issues a building permit:
- a. Either provide verification that the 30-foot roadway easement is a private easement or if it is a public easement the council must vacate the easement.
 - 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.
 - e. An access permit from Hennepin County, allowing access to Minnetonka Boulevard.
- 4) All structures must meet the minimum setback and height requirements.

- 5) The property owner is responsible for replacing any required landscaping that dies.
- 6) The buildings must be constructed with automatic fire sprinklers.
- 7) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- 8) The property owner must pave additional parking if the city determines that on-site parking is not adequate.
- 9) Construction must begin by December 31, 2005, unless the planning commission grants a time extension.
- 10) The property to the east be at least of equivalent quality to the Gannon townhouse plan.

C. Recommend that the city council give preliminary approval to the Minnetonka Townhomes, 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 other exterior lot lines
 - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (3) Dedication of 7 feet of road right-of-way along Minnetonka Boulevard.
- 2) The following items must be submitted to the city before the city releases the final plat:
 - a. An electronic CAD file of the final plat in microstation or DXF.
 - b. Pay the city a park dedication fee of \$7,125.
 - c. 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) Documents establishing a homeowners' association. The association must be responsible for maintaining any common areas and common drives.
- (3) Common access easements for each lot. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.
- (4) Cross access easement from 11901 Minnetonka Boulevard to proposed driveway.
- (5) Provide a restrictive covenant that the current development and any future development of 11901 Minnetonka Boulevard share a common access drive. If the driveway is from 11901 Minnetonka Boulevard, the currently proposed drive must be removed. The city would determine the appropriate location of the future drive.

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

- 3) 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, Gallop, Maes, Periolat, Allendorf, Bonoff, and Hart voted yes. Motion carried.

Chair Hart stated that the application is tentatively scheduled for city council review at its March 15, 2004 meeting.

B. Preliminary plat, with multiple variances, for three single-family lots at 2081 Meeting Street for Bill and Lori Baron (04001.04a)

- **lot width at right-of-way variance from 80 feet to 40 feet for Lot 1;**
- **lot width at right-of-way variance from 80 feet to 0 feet for Lot 2;**
- **lot width at right-of-way variance from 80 feet to 0 feet for Lot 3;**
- **a wetland setback variance from 20 feet to 10 feet for the private drive; and**
- **a wetland buffer variance from 25 feet to 10 feet for the private drive.**

Chair Hart 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.

Maes asked Thomas how many additional feet were removed from the conservation easement.

Chair Hart asked if the hook-up fees referred to public utilities being connected from the stub to the residences. Thomas stated that the hook-up fee refers to hooking-up to public services. It does not include any extension of public utilities beyond the stubbed in point. Thomas confirmed that the hook-up fee would still be required if public utilities were extended into the site. The extension of public utilities would be at an additional cost.

Gallop questioned if staff had any concerns with the compromise line for the conservation easement. Thomas stated that staff met with the applicant on site and found that the line would be acceptable. Lot 2 is the most difficult site. A specific condition of approval addressed grading for Lot 2. Engineering and environmental staff would review all building permits before grading. Lot 2 would receive special attention.

Bonoff appreciated that staff and the applicant made the extra effort to find a compromise line for the conservation easement. Thomas indicated that the conservation easement meanders through the property. The greatest distance would be a forty-foot separation between staff's recommendation at the last meeting and what staff found acceptable after the site inspection.

Lori Baron, applicant, appreciated that staff met on site and reduced the size of the conservation easement. Backyards would be feasible with the current proposal. Subdivision of the site was necessary to help share the cost of paying for the utilities. Engineering staff now agreed that the public utilities could remain in their existing location; an extension of the existing stub would not be necessary. She was concerned with the sprinklering requirement. She agreed to pay the increase in the park dedication fee. She thanked Thomas for all of her work on the reports.

Ms. Baron objected to the high cost of the hook-up fees. She was told her property was grandfathered in and would be charged the old fees, but that the newly created lots would have additional charges. She received correspondence from the city indicating that the fees for the hook-ups for city and water would be \$57,563.27 for Lot 1, \$65,000 for Lot 2, and \$78,000 for Lot 3. She would also be responsible for construction fees. She could not fathom the cost of the hook-up fees. Ms. Baron

spoke to Assistant City Engineer Jennifer Posma and learned that new development would not be grandfathered in. She read from staff's report from the February 5, 2004 planning commission meeting, that stated that the hook-up fee for Lot 2 would be \$29,501 plus interest from November 30, 2000, and Lots 1 and 3 would include additional charges. She was concerned with the change in the cost.

Ms. Baron clarified that she never said that the city "promised" that it would extend sewer and water to her home. At the time, engineer Mike Johnson said to her that the city would consider looking at doing so. She understood that the fee was not the planning commission's area. Ms. Baron was in agreement with staff regarding the other issues. The increase in fees would be phenomenal. She could have withdrawn the application and completed 50,000 square feet of grading without a permit, but she favored conserving the wetlands and reaching a compromise with staff.

Ms. Baron stated that residents would not find out about the phenomenal hook-up fee until he or she applied for a building permit. She did not know to ask about the fee sooner. She relied on the information she received in the letter she received in 1999. She preferred to have city sewer and water, but it would not be feasible with such a high cost. She felt landowners were forced to sell their property to people who could afford to develop the property.

Chair Hart noted that the commission does not make decisions regarding hook-up fees. The planning commission had jurisdiction to act on recommending approval or denial of the application to the city council. Chair Hart was sympathetic to the amount of the fees, but she referred Ms. Baron to work with engineering staff.

Gallop stated that Ms. Baron could challenge the fees at the city council level. Ms. Baron understood.

Bonoff asked if the change in fees from the last meeting was correct. Thomas stated that the engineering department recalculated the fees. The fees are included as conditions of approval.

Chair Hart asked about the sprinklering condition. Thomas stated that the fire marshal generally requires sprinklering in houses without direct frontage on a public street. The residences would be a significant distance from a fire hydrant. Sprinklering is strictly the fire marshals decision.

Ms. Baron stated that homes constructed on Meeting Street after the ordinance requiring a sprinklering system was in place were not required to have sprinklering systems. Ms. Baron stated that there was at least one other property located a

similar distance from the street that did not have a sprinklering system. She pointed out the location of a hydrant and where the unsprinklered residence was located.

Allendorf asked staff to review the sprinklering issue with the proper authorities prior to the city council meeting.

Ms. Baron stated that she should be compensated for giving the city the conservation easement land. It would be close to half of her property.

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

Chair Hart reviewed the primary issues.

Britain approved of the compromises. He felt sorry for the applicant in regard to the fees, but the planning commission had no control over them. The three lots are large, valuable pieces of property. It would be a good development and should be approved.

Gallop echoed Britain's thoughts. He was happy that staff and the applicant reached a compromise. He suggested that the planning commission take action on the application and that the applicant address the fees with the city council. He supported the current proposal.

Allendorf supported the primary issues in the staff report. He was glad to see the additional language limiting the amount of grading and tree loss for Lot 2 included in the change memo. Keeping the private drive in its current location would be wise from a resource standpoint. He supported the application.

Maes concurred with Allendorf. She supported the Lot 2 language change. There is a lot of learning and give and take during the process of reviewing a subdivision. She appreciated Ms. Baron's work to get to this point.

Gallop moved, second by Bonoff, to recommend that the city council give preliminary approval of the plat with the following variances and modification included in the Change Memo dated February 19, 2004:

- 1) lot width at right-of-way variance from 80 feet to 40 feet for Lot 1;***
 - 2) lot width at right-of-way variance from 80 feet to 0 feet for Lot 2;***
 - 3) lot width at right-of-way variance from 80 feet to 0 feet for Lot 3;***
 - 4) a wetland setback variance from 20 feet to 10 feet for the private drive;***
- and***

5) a wetland buffer variance from 25 feet to 10 feet for the private drive.

Approval is based on the following findings:

- 1) Except for the variances, 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).
 - a. Given the property's width along Meeting Street and the large wetland on the site, it is neither feasible nor desirable to construct a public street to access the proposed development.
- 3) The proposal meets the required standards for wetland setback and wetland buffer variances, because:
 - a. The location of the existing drive presents a practical difficulty, as the wetland setback and wetland buffer along the drive are non-conforming. To protect area trees that would be lost through relocation of the drive, staff believes a new or upgraded drive in the existing location is reasonable.
 - b. The proposal would not alter the essential character of the neighborhood. As proposed, the drive would be placed in essentially the existing location.

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) A 30-foot drainage and utility easement over public utilities.
 - (3) Drainage and utility easements over the 966.0 elevation, which is the 100 year stormwater elevation in this area.
 - b. Pay the City a park dedication fee of \$4,750.

- c. If the developer is petitioning the City to construct public improvements, the city council must order the improvements.
- 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. 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 as illustrated and submitted in the staff report dated February 5, 2004. Grading activity is prohibited in the easement. Tree removal is likewise prohibited, unless necessary to remove diseased or evasive species. The easement and a drawing of the easements must be submitted for the approval of the city attorney. The easements and drawing must be recorded with the final plat.
 - (3) A 34-foot 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. The minimum driveway width shall be as required by the fire marshal.
 - (4) If private utilities are used, a private utility easement across Lot 1 to provide services to Lot 2 and Lot 3.

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. Submit a final utility plan. The location of public and private utilities and size and location of private utilities services must be acceptable to the city engineer. Soil borings must be provided as required by the city engineer for installation of public utilities.

- b. 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. Final grading, drainage and erosion control plans must be submitted for staff approval. If the developer is building the public utilities, the developer must submit final driveway 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 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.
 - d. The conservation easement must be fenced and signed in the field for staff approval.
 - e. Erosion control measures must be installed for staff approval.
 - f. A construction management plan must be submitted for staff approval.
- 4) The following must be submitted to the City before the City issues a building permit:
- a. The sewer and water services must be shown to minimize impact to the significant trees.
 - b. A grading and tree preservation plan for each lot, subject to staff approval.
 - 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 and approval of the City's environmental resources coordinator.
 - d. A copy of the recorded plat and any easements or covenants required to be recorded.

- e. A hookup fee for sanitary sewer and water on Lot 2 of \$29,501.00 plus interest from November 30, 2000.
 - f. Hookup fees for sanitary sewer and water on Lots 1 and 3.
 - 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. Prior to issuance of a building permit on Lot 2, the builder/homeowner must submit for staff review and approval a plan for permanent stabilization of the slope if grading is proposed within 20 feet of the conservation easement.
- 5) If private utility lines are used to service the development, all of the houses must be sprinklered with systems acceptable to the fire marshall.
 - 6) Minimum basement elevation for all homes is 968.0 or as determined by the city engineer.
 - 7) Minimum driveway elevation of 967.0.
 - 8) In locations of public utilities, the driveway must be constructed to a minimum width of 20 feet and other City engineering standards, including a vehicle turn around.
 - 9) Any new or upgraded driveway must maintain a 10-foot setback from the wetland edge.
 - 10) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 - 11) 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.
 - 12) 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, Gallop, Maes, Periolat, Allendorf, Bonoff, and Hart voted yes. Motion carried.

Chair Hart stated that the city council is tentatively scheduled to review the application at its March 15, 2004 meeting. Chair Hart noted that the fees and the sprinklering requirement would be reviewed by the city council. She thanked the applicant and staff for all of their time on the successful conclusion to the planning commission's phase of the project.

C. Preliminary plat, with lot width at the right-of-way variance from 80 feet to 0 feet for Lot 2, for a two-lot subdivision at 13418 Excelsior Boulevard for Thomas L. Dyvig (04003.04a)

Chair Hart 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.

Maes asked if there are similar lots behind lots in the neighborhood. Teague responded in the negative. There are some further south, but none in the immediate neighborhood. Maes confirmed with Teague that the site is nearly twice the size of other lots in the area. Teague stated that there is another oversize lot in the area, but it would be undividable because it houses a large storm water drainage easement.

Maes asked if 13500 Excelsior Boulevard intended to subdivide. Teague stated that he was unaware of plans to do so in the short term.

Bonoff pointed out that the adjacent homes are old and setback further from the street. She thought the subdivision would alter the character of the street.

Britain asked if the adjacent owner was consulted regarding the cul-de-sac plan. Teague answered in the negative. He was aware that the applicant had spoken with her regarding the project. He stated that if staff recommended including a cul-de-sac, half of the street would need to be plated and the neighbor would be required to plat the half of the street on her side. Britain supported saving trees, but acknowledged that the cul-de-sac would be an attractive development. He reiterated that the trees are an issue.

Gallop asked if the cul-de-sac could be redesigned to avoid the trees. Teague illustrated that the cul-de-sac could be redesigned, but it would result in an unequal dedication of right-of-way.

Allendorf felt that a city street and cul-de-sac would be out of character with the neighborhood. One driveway per lot was the character of the neighborhood. A house on the new lot would line up with other houses on Excelsior Boulevard. He felt the application would fit the character of the neighborhood, but a city street and cul-de-sac would not.

Tom Dyvig, 13418 Excelsior Boulevard, applicant, stated that the cul-de-sac would use approximately one quarter of an acre of land. He would have to construct a new driveway to service the existing garage. He is trying to improve the look of the neighborhood. His home has been there since 1954. It currently appears as if there is a vacant lot in the front. The proposal would improve the aesthetics of the site. He provided a map illustrating the location of 21 homes that are flag lots or have no frontages within a half-mile radius. The home values range from \$97,000 to \$400,000. The size of the lots ranges from .2 of an acre to 2.5 acres within the area. He is trying to make good use of the property that is seldom utilized.

Bonoff asked what type of house is being proposed. Mr. Dyvig stated that he was currently interviewing builders.

Bonoff agreed with Allendorf that a cul-de-sac would be out of character. Mr. Dyvig stated that a cul-de-sac would create approximately ten problems. He stated that his neighbor would have to be involved and she is not planning to develop. His proposal would preserve his existing home value. He was planning on constructing a 3,000-square-foot home, similar to the size of his current home, with similar architectural style to the other homes in the area. The building pad area would be 7,500 square feet. He provided an illustration of one proposed style, a one and-a-half story residence that would match the architectural style. No variance would be needed to construct the residence.

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

Chair Hart reviewed the primary issue.

Allendorf viewed the only negative aspect to be the lot behind a lot. A 3,000 square foot, story and-a-half residence would fit the character of the neighborhood. He supported the project.

Gallop reluctantly supported the subdivision. He generally did not support lots behind lots, but the proposal seemed to fit well with the area because the existing home is already in the back. Saving the trees is a priority. He agreed that a cul-de-sac would not be a good fit for the particular site.

Periolat stated that the existing residence does not fit in the neighborhood. The lot to the west is well used and visually appealing, while the applicant's lot is not as well used because of the house's location in the back. She supported the application because if the residence would be constructed in a manner visually keeping with the area, it would be a better use of the property.

Britain appreciated staff's effort in considering a cul-de-sac, although he was now convinced that it would not fit in this case.

Chair Hart felt the proposal was reasonable and encouraged the applicant to construct a residence similar to the one he presented.

Allendorf moved, second by Periolat, to recommend that the city council approve the two-lot preliminary plat with lot width at the right-of-way variance from 80 feet to 0 feet for Lot 2. 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) Lot 1 must be adjusted so it meets the minimum lot size requirement of 22,000 square feet.

- 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.
- 2) The following items must be completed before the city releases the final plat:
- a. 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 a 34-foot private driveway easement between the street right-of-way and Lot 1 that is acceptable to the city attorney. The easement shall state the maintenance responsibilities of each owner. The minimum driveway width shall be as required by the fire marshal.
 - (3) A private utility easement across Lot 1 to provide services to Lot 2.
- 3) The following must be submitted to the city before the city issues a building permit:
- a. A grading and tree preservation plan subject to staff approval. The plans must be in substantial compliance with the agreed building areas as required with the final plat. The sewer and water services must be shown to minimize impact to the significant trees.
 - b. All trees to be preserved must be fenced and erosion control measures must be installed for staff approval.
 - c. Hook up fee.
 - d. a copy of the recorded plat and any easements or covenants required to be recorded.
 - 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.
 - f. The existing home on Lot 2 must maintain at least a 40-foot setback from the north lot line.

- 4) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing and erosion control fencing must be maintained.
- 5) 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.
- 6) If required, an access permit from Hennepin County for the shared driveway.
- 7) The city must approve the final plat within one year of preliminary approval or receive a written application for a time extension or the preliminary approval shall be void.

Bonoff, Britain, Gallop, Maes, Periolat, Allendorf, and Hart voted yes. Motion carried.

Chair Hart called a five-minute recess. The meeting was reconvened.

D. Concept plan review of a nine-story, 21-unit luxury condominium development at 1610 Hopkins Crossroads for Parkway Development, LLC (87103.04a)

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

Teague reported. He recommended that the commission provide the applicant with comments on the concept plan.

Britain asked if another hearing would be held to review the formal application. Teague explained that this application is a special situation. The proposal is located in the Interstate 394 zoning district. A public hearing would be held to address a specific plan.

Maes questioned why the developer would ask for high density rather than medium density. Teague stated that that would be a good question for the applicant.

Chair Hart asked how density is calculated when a wetland is included on the site. Teague explained that each site receives two units per acre of wetland. The site received three unit credits for the wetland area.

Chair Hart confirmed with Teague that the definition of medium density is 4.1 units to 12 units per acre.

Carl Robertson, St. Louis Park, architect for the applicant, calculated the residential density of the area to equal the high-density classification. There would be less of a traffic impact and less hard surface for a residential use than an office use. The neighbors were concerned with increase traffic at the neighborhood meeting. When the developer presented the initial proposal, it contained additional units. There would be three units per level. The site meets the textbook definition of hardship because of the wetland, floodplain and shoreland setbacks and the irregular shape of the lot. Just because the building would be highly visible, does not mean it would be aesthetically unpleasant.

Mr. Robertson pointed-out that the most critical requirement to meet would be the parking requirement. They agreed on 22 units by looking at the parking requirements. The goal was high-end residential housing. The height would be relative to the setback from the street and the setback from the street would be relative to the height. The site has practical difficulties to provide reasonable use. The site has difficulties that qualify as unique circumstances. He compared the buildable area of the site if it did not contain the wetland. That qualified as a hardship. The site is unique. The building would be a landmark, a visible, high-quality development located in the Interstate 394 corridor. It would be tall, but buffered by distance. He recited the definition of a buffer. A 1,000-foot buffer would be sufficient.

Mr. Robertson noted that the ordinance stated it would discourage a tall building if it would not have a compact footprint, which the proposal does; have stepped building heights, which the proposal does; and have proximity to an interchanges, Interstate 394 and Hopkins Crossroads would be right there. The proposal would fit in the neighborhood. The view would be Interstate 394, Galyans, and high-density housing. A lower building would lose the character of the building. He would not want to market a fifth story penthouse. The entire caliber of the project would suffer. He requested the commissioners' comments regarding a high-density residential use for the site; the scale of it; and if five stories would be acceptable.

Maes questioned if affordable housing was considered as compensation for additional units. Mr. Robertson stated that affordable housing would be considered along with creative alternatives. There would be a large discrepancy between the prices of the units. Maes stated that because of the site's proximity to park and ride metro transit service and shopping, it would be a perfect location for affordable

housing. Mr. Robinson questioned if a couple affordable housing units could be added without additional parking stalls. The park and ride is right there.

Gallop stated that the proposed height is a significant concern. A structure so tall would be more appropriate on the north side of Interstate 394. He asked if the site could be developed without a variance. Mr. Robertson estimated the buildable area at 11,000 square feet with a minimum 50-foot setback. Teague stated that the reasonable use standard is an unqualified issue.

Gallop asked how a five-story building would affect the proposal. Teague stated that a 50-foot setback would be required from both streets.

Periolat asked why the high-density classification was needed. Mr. Robertson stated that he calculated the density to be in the high-density range. Teague agreed that if the density was over 12 units per acre, it would be considered high-density, and the floor area ratio requirement would be 75 percent.

Bonoff supported including affordable housing. A guide plan change should be based on gaining affordable housing. She questioned if the high density was utilized to expand the number of units. Mr. Robertson stated that additional units would require more parking stalls.

Allendorf stated that Mr. Robertson was concerned that higher priced units located in a nine-story building would be too much of a price difference in competition with affordable units. A five-story building would have lower price points and less disparity between the market rate and affordable units.

Maes asked if five stories would work. Mr. Robertson stated that nine stories would work, seven stories would be tight, and five stories probably would be functional.

Maes pointed out that many projects had been done combining high-end units and affordable housing units. Affordable housing units are not cheap or subsidized housing. Mr. Robertson stated that average unit would consist of 2,500 square feet.

Joshua Aaron, 7600 West 14 Street, chief manager for Parkway Development, LLC., applicant, stated that the average price would be around \$500,000 and up per unit. He stated that the number of parking stalls would limit the number of housing units. There may be a way to add a couple of units, but in order to do that and keep a meaningful spread in what would be presented to the market, the developer would request additional square feet. A wide variety of units would be preferred. At the max, 25 units could be squeezed into the site.

Chair Hart stated that the design of the building was not an issue. It was aesthetically elegant.

Maes clarified that if the building's height would be lowered, it would need to be widened. Mr. Aaron answered in the affirmative. Mr. Robertson stated that it would not be as elegant and there would be parking located in the front instead of a garden. Landscaping in the front would be lost.

Britain noted that the 1993 proposal included the parking lot to the south. He asked if the ownership was the same for both lots. Mr. Robertson stated that numerous variances would have been needed for the other site.

The public hearing was opened.

Jonus Answer, 11329 Timberline Road, stated that he strongly opposed the project because of numerous negatives connected to the project:

- The proposal would look nice in a different spot, not the proposed location.
- It would lower the property value for surrounding neighborhoods.
- The topography and shoreline is perfectly suited for a park. A park is badly needed in the area.
- The project would create air pollution by clearing the trees and allow emissions to pollute the surrounding residential area.
- It would harm the environment by reducing the wildlife habitat and migration patterns for animals and birds.
- The noise barrier would be removed and noise pollution would rise above that allowed. Sirens of emergency vehicles would be increased in sound and in frequency to travel to the site.
- The traffic on Hopkins Crossroads is already hazardous. The Timberline Road intersection is dangerous.
- The Department of Natural Resources established a 50-foot setback to the rear of the proposed building. Overcrowding of the site and a violation of the building code regulations indicate that a multi-level structure would be out of place.
- On behalf of several Sherwood Forest homeowners, he requested that the application be denied.

Chair Hart confirmed with Teague that the site is currently guided for office use. She noted that a residential use would create less traffic than an office use. She appreciated Mr. Answer's comments.

Julie Kohl, 11014 Oak Knoll Terrace North, lives five houses east of the proposed project. She referred to her letter in the agenda packet. A lot of her issues were addressed in the council letter. A number of findings were still true for this project. She stated:

- The building height should not exceed three stories.
- The parcel is too small to have anything on it.
- It would impact the surrounding properties.
- The area to the north of her property would be more likely to be developed into a building higher than three stories if the proposal would be approved.

In response to Chair Hart's question, Teague explained that there is a specific requirement in the planned Interstate 394 zoning district that restricts the height of buildings on property on the east side of Hopkins Crossroads to 3 stories.

Joe Slater, 10917 Oak Knoll Terrace South, felt the applicant had no idea of the context of the area. He conveniently omitted referencing the true neighborhood, which includes the Oak Knoll Terrace area. Zoning laws serve a few distinct functions. The most important includes protecting the citizens in a mature, residential area. The proposal would significantly change the character of the area. The proposed development neither benefits the area nor maintains the character of the area. The local residents lose on both counts. The property is unique and not suitable for substantial development. Approval of the application would equal "utter contempt" for the integrity for the purpose of the zoning ordinances. He hoped the proposal would be set aside or, at a minimum, scaled back substantially.

Mr. Flavor, 1823 Timberline Trail, has lived there 21 years. He reviewed projects in the past where he provided the city with his comments. The proposal would not fit into the neighborhood. The accessibility caused problems, it was too tall, and too wide. The proposal would cause traffic accidents. He requested the application be turned down or indicate that the proposal should not be done at that site.

Gordon Olson, resident, stated that his e-mails and letters to the city were included in the agenda packet. He felt the building would cause darkness outside his residence. He indicated an area of affordable housing condominiums. Chair Hart stated that less than 15 percent of the units are affordable units. He wanted that to be pointed out. The proposal's units would cost two to three times more than what would be considered affordable housing standards. There is already a traffic safety hazard on Oak Knoll Terrace North and Oak Knoll Terrace South. Between 60 cars and 100 cars per day use that area as a turn-around. The intersection is the poorest designed intersection in Minnesota. The police regularly visit the intersection for accidents. His wife sits for 15 minutes waiting to enter the street from their driveway.

The motorists travel at 60 miles per area. The parcel should be developed into a park with a "welcome to Minnetonka" sign on it.

Gallop noted that it would be unwise to locate a park in a high traffic area. Mr. Olson agreed, but stated that primarily the traffic occurred during rush hour.

George McGiven, 11500 Timberline Road, lived there for 48 years. He had seen a lot of changes. He agreed with the previous comments, but the building would not be an amenity for his neighborhood. He wished the developer all the luck in the world at a different site.

No additional testimony was submitted and the hearing was closed.

Chair Hart stated that the site is developable, but that the proposed building would be too tall.

Allendorf stated that affordability could be a basis for higher density. He could not support this building in the proposed location under any circumstances, but he could support a residential guide plan change if it would result in less traffic than an office use. He saw an access and egress problem with the property that would have to be resolved for him to support the project.

Bonoff asked what the residents could do to have their traffic concerns addressed. Chair Hart stated that Hopkins Crossroads is a county road.

Britain stated that the location would not be functional as a park because of the traffic. A residential development would be preferred over an office use. He favored the developer meeting with the neighbors to achieve a compromise. He would consider five stories a possible compromise, but nine stories did not seem practical.

Maes was concerned with providing safe access to the site. She asked if a path could connect the site to the city trail. She supported affordable and senior housing possibilities.

Perolat concurred with Allendorf and Britain. She stated that the proposed site was not the location for a nine-story building. She understood the economics, but the lot would not work for that type of project. She was also concerned with access to the lake. She lives in the area and agreed with the traffic problems. The traffic problem included more than the high traffic volume. She agreed that the poor design of the intersection creates the hazard.

Gallop concurred with the commissioners' comments.

Chair Hart summarized the consensus of the commissioners regarding the preapplication:

- A residential use would be preferable.
- The inclusion of affordable housing would be supported and would be a tool to justify an increase in the number of units.
- A public access to the city trail system would be favorable.
- The building should be shorter in height.
- The traffic access concerns would need to be addressed.

E. Multiple variances to tear down and rebuild a home at 2504 Bantas Point Lane for Kathleen Nelson (03091.03a):

Item 8E, multiple variances to tear down and rebuild a home at 2504 Bantas Point Lane for Kathleen Nelson (03091.03a), was removed from the agenda at the applicant's request. It has been postponed until March 4, 2004.

9. ADJOURNMENT

Gallop moved, second by Maes, to adjourn the meeting at 9:55 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary