

**MINNETONKA PLANNING COMMISSION
MINUTES**

MARCH 4, 2004

1. CALL TO ORDER

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

2. ROLL CALL

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

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

- 3. APPROVAL OF AGENDA:** The agenda was approved with the removal of Item 8B: items concerning a proposed development of six single-family homes on the vacant property at the end of 34th Circle West for Curt Fretham (02018.03a). The applicant withdrew the item.

Olson stated that the order of Items 8C, items concerning Barnes and Noble Booksellers at Ridgehaven Mall, 13081–13185 Ridgedale Drive for Thrivent Financial for Lutherans (94034.04a), and 8D, ordinance amending the I-394 zoning district standards to allow fast-food restaurants in shopping centers and to add requirements for outdoor restaurant seating (04006.04a), will be switched to deal with the ordinance prior to the conditional use permit.

Olson provided changes to the tentative council dates provided in the agenda sheet. He stated that the Keith Waters' project was tentatively scheduled to be reviewed by the city council at its April 12, 2004 meeting. The Barnes and Noble application and code amendment for fast food restaurants were tentatively scheduled to be reviewed by the city council at its March 15, 2004 meeting.

Chair Hart presented former planning commission chair, Tony Wagner, with a gesture of appreciation from the commission, staff, and the city council. Councilmember Wagner appreciated the support and the work of the commissioners.

- 4. APPROVAL OF MINUTES:** February 19, 2004

Britain moved, second by Maes, to approve the October 2, 2003, meeting minutes as submitted with the changes from the change memo dated March 4, 2004:

- Page 5, paragraph 6, Item 8.A. Minnetonka Townhomes:

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.
- Page 21, voting on item 8.C.: Add commissioner Bonoff to the commissioners voting in favor of the project.
- Page 21, the second paragraph under item D (nine-story condo building) of:

Teague reported. He recommended that the commission provide the applicant with comments on the concept plan approval of the application based on the findings and subject to the conditions listed in the staff report.

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

5. REPORT FROM STAFF

Olson briefed the Commission on land use applications considered by the City Council at its meeting of February 23, 2004:

- Introduced an ordinance amending City Code Section 300.01, definitions of restaurant and fast food restaurant, and Section 300.31, subdivision 4.b)2) to allow fast food restaurants in multiple tenant centers and to add requirements for outdoor seating and in the I-394 district and referred it to the planning commission.
- Introduced ordinances concerning the Cargill Property development at 2201 Crosby Road for Keith Waters & Associates, Inc.

Olson stated that the city council provided recognition awards to former commissioners John Knight and Terry Egge.

Olson reminded those present of the change memo concerning several of the agenda items. Copies of the change memo were available.

Olson announced that the ECO Fair would take place on March 13, 2004, from 9 a.m.-12 p.m. in the Minnetonka Community Center. It is a free event hosting environmental speakers and displays relevant to residential homeowners. Information regarding native plants for home gardening, lawn care, water quality, managing suburban wildlife, and “busting” buckthorn and other evasive plants will be provided.

The annual boards and commissions training event will be held on March 17, 2004, at 6 p.m. in the community center featuring a facilitated discussion regarding working together as groups.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA

No items were removed from the Consent Agenda for discussion or separate action.

Periolat asked if the applicant, Gary Bebeau, Consent Agenda Item 7a, intended on selling the proposed lot, since he indicated that he would not be building a residence on the site. Thomas stated that the proposed division was being applied for with the intention to sell the newly created lot.

Allendorf moved, second by Bonoff, to approve the items listed on the Consent Agenda as recommended in the respective staff reports as follows:

A. Preliminary and final plat approval to divide one lot into two lots at 15509 Excelsior Boulevard for Gary D. Bebeau (04004.04a)

Recommend that the city council give preliminary and final approval to Bebeaus Deerwood Trails. Approval is based on the finding that the proposal meets the required standards and ordinances.

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
 - a. Show the following on the final plat:

- (1) Seven-foot-wide drainage and utility easements along the common property line.
 - (2) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (3) Remove a 14-foot-wide drainage and utility easement shown over the existing drive.
 - (4) Dedicate right-of-way along Excelsior Boulevard as required by the city engineer; Lot 1 must be adjusted so it meets the minimum lot size requirement of 22,000 square feet.
- 2) The following items must be completed before the city releases the final plat:
- a. Pay the park dedication fee of \$2,375.
 - b. Submit an electronic CAD file of the final plat in microstation or DXF.
 - c. Submit 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) A 34-foot private driveway easement between the street right-of-way and Lot 1. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.
 - (3) Private utility easements across Lot 1 to provide services to Lot 2.
 - (4) Private utility easement across Lot 2 to provide services to Lot 1, if required.
- 3) The following must be submitted to the city before issuance of a building permit:

- a. A grading plan for the vacant lot, subject to staff approval.
 - b. A tree preservation plan for the vacant lot, subject to staff approval. Tree protection fencing must be installed. The sewer and water services must be shown to minimize impact to the significant trees.
 - 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.
 - f. 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.
 - g. Any proposed home on Lot 1 must maintain at least a 97-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) 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.
- 7) All brush piles must be removed from the property.

Chair Hart stated that the city council is tentatively scheduled to review the item

at its March 29, 2004 meeting.

Gallop, Maes, Periolat, Allendorf, Bonoff, Britain, and Hart voted yes. Motion carried and the items on the Consent Agenda were approved as submitted.

Allendorf moved, second by Bonoff, to approve the items listed on the Consent Agenda as recommended in the respective staff reports as follows:

B. Site and building plan review for the expansion of the Immaculate Heart of Mary School at 13505 Excelsior Boulevard for Jerry Hagen (00013.04a)

Approve the site and building plans based on the following findings:

- 1) The proposed additions are consistent with the city's comprehensive plan and zoning ordinance.
- 2) The proposed additions are consistent with the existing building and the neighborhood, and will have no adverse effect on neighboring property.

Approval is based on the following conditions:

- 1) The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Grading, utility, and paving plan dated December 19, 2003;
 - Geometric and paving plan dated December 19, 2003;
 - Site plan dated December 19, 2003;
 - Building elevations dated December 22, 2003;
 - Landscaping plan dated January 2004.
- 2) The following work must be completed before the city issues a grading permit or before starting any site work:
 - a. Submit a construction management plan for staff approval.
 - b. Submit final drainage calculations to city engineering department for approval. Calculations should include soil samples to confirm that soils are suitable for infiltration.

- c. Fence all trees to be preserved and install erosion control measures. The critical root zone of the bur oak must remain undisturbed. Care must be taken not to allow siltation in the infiltration basin during construction.
 - d. Submit a letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site.
- 3) The following must be submitted before the city issues a building permit:
- a. A letter of credit or cash escrow for 150% of the estimated cost of all required landscaping.
- 4) The property owner is responsible for replacing any required landscaping that dies.

Gallop, Maes, Periolat, Allendorf, Bonoff, Britain, and Hart voted yes. Motion carried and the items on the Consent Agenda were approved as submitted.

8. PUBLIC HEARINGS

- A. Items concerning a proposed development of 25 single-family homes at 2201 Crosby Road (Cargill property) for Keith Waters & Associates, Inc. (92009.04a):**
- 1) Ordinance rezoning from R-1, low density residential, to PUD planned unit development, and approving a master development plan, with setback variances from the wetland and buffer requirements and final site and building plans;**
 - 2) Ordinance changing the wetland overlay district boundaries;**
 - 3) Wetland alteration permit;**
 - 4) Wetland Conservation Act replacement plan;**
 - 5) Preliminary plat;**
 - 6) Conditional use permit to allow accessory apartments for 17 units; and**
 - 7) Conditional use permit to allow a sidewalk within a wetland buffer area.**

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.

Chair Hart pointed out the modifications to the conditions listed in the change memo.

Maes wondered if the city had a specific number of life-cycle housing units it worked to create, similar to the affordable housing goal. Olson answered in the negative. It is part of the city's goals to achieve as much diversity in housing as possible.

Maes asked what would happen after the six minimum units would be constructed. Teague stated that a conditional use permit would be attached to the seventeen lots. It would be at the homeowners' discretion to use it now or in the future. The accessory apartment could be used as living space for the principal residence.

Perolat clarified with Teague that six accessory apartments would be constructed initially and that the other eleven may or may not be used as life-cycle housing.

Maes asked how the funds, paid with the homeowners association dues designated for long term ecological restoration and management of the conservation areas, would work, i.e. where would the money go, and how would the city be certain that the funds would be spent on the ecological development of the area? Teague stated that the homeowners association would collect the fees and be responsible for the restoration and upkeep of the conservation areas. It would be written into the agreements that the city could inspect and monitor the areas. Olson clarified that the city would be involved in an ongoing, annual basis in terms of managing the common areas with technical advice.

Chair Hart asked if the developer would provide an endowment to begin the ecological management fund. Teague answered in the affirmative. The amount had not been set yet.

Gallop had strong concerns regarding the size of the residence in comparison to the size of the lots.

In response to Gallop's question, Teague confirmed that the accessory apartments would be located above the garages.

Gallop asked if special landscaping would be planted on the outlots. Teague reviewed the landscape plan. The outlots would consist of grass. Colleran provided detailed information regarding the vegetation and woods restoration areas.

Bonoff commended the developer and staff for the overall concept to preserve a beautiful piece of land. To maintain fifty percent of the site as open space and provide lifestyle housing was an accomplishment.

Perolat questioned why “most” of the outlots were included in the permanent conservation easement. Teague explained that the areas outlined in red would be the conservation easement areas. He pointed out the areas that would not be included. City ordinance prohibits construction on an outlot without council approval. Chair Hart confirmed with Teague that the definition of an outlot is that it would be maintained as green space.

Keith Waters, 6859 Sheriff’s Court, Eden Prairie, represented the applicant. He stated that:

- The proposal met all of the goals for a planned unit development. The plan utilized conservation development, traditional neighborhood design, accessory apartments, and storm water treatment drains and houses to fit the lots.
- Preserving the great white pine tree, a row of spruce trees, and a group of hard woods was a priority.
- The accessory apartment requirement would require all of the homes to be constructed to provide the potential for an accessory apartment to be utilized if desired. Attic trusses would be included over the garages. He explained the process.
- The life expectancy of a house would include the need for the accessory apartment at certain times in a homeowners’ life. A stairway would be included. He would guess that during the life of the residence, all of the accessory apartments would be utilized at some time.
- The accessory apartment would not cause the footprint to be increased. The applicant would design and build the residences. He provided examples of developments he had worked on with narrow lots.
- He compared the proposal to the country club area in Edina, with sidewalks, big entries, and the garages tucked under the residence.
- No rambler plans would be accepted.
- Outlot A is not in the conservation easement because the developer wants to have grass around the big pine tree.

- A private ecological consultant was present to answer questions.

Allendorf asked what had been done to address the comments provided by neighbors concerned with the residence on Lot 9 and the proximity of the trail to the residential neighborhood to the north. Mr. Waters stated that the trail would be buffered from the homes to the north with berming and landscaping so that the trail would not be visible and a six-foot tall person walking on the proposed trail would not be visible from a residence.

Mr. Waters stated that the location of the proposed house on Lot 9 reflects the land available without losing significant trees or intruding on the wetland setback. He reviewed previously considered options. The proposed residence would enjoy good views and would not cause any environmental damage.

Allendorf confirmed with Mr. Waters that the house on Lot 9 was moved from 35 feet to 50 feet from the northerly property line and that additional berming and landscaping would be installed between the proposed residence and the trail.

Chair Hart asked if the trail originally traveled north of the proposed house, right along the property line. Mr. Waters agreed that approximately 12 years ago, the trail proposal traveled all along the north property line.

Gallop complimented Mr. Waters on the innovative design. His main concern was the size of the homes compared to the size of the lots. He asked which sizes would be on which lots. Mr. Waters estimated the size of the residences would be approximately 3,800 square feet. He provided pictures of the three types of residences. Mr. Waters approximated the residences would be 24 feet apart. The lots would be 80 feet in width. The Wayzata development's lots are 66 feet in width. He provided pictures of the Wayzata development and the interior house plans. He felt the key to locating a large house on a narrow lot was to tuck the garages under the residence. The porches would be approximately three feet above the sidewalk.

Maes asked for the approximate sale price. Mr. Waters stated that each would start at \$900,000. It would depend on the size and finish materials. All homes would be custom built. Ramblers and flat roofs would not be allowed. Garages would be limited to three stalls. A variety of stone, brick, or shingle style finishes would be preferred. All homes would be required to have a front porch. The cost of finishing an accessory apartment would run between \$60,000 to \$70,000.

Gallop asked if there would be model homes on the site. Mr. Waters answered in the negative. Only custom built homes would be constructed for the homebuyer.

Bonoff asked how the trail connected to a sidewalk, in front of residences in a pretty formal area, and if it would fit with the Minnetonka trail objective. Teague was unaware of any other trails located in front of residences in the city. The trail would be the same width to accommodate bikers and walkers. Bonoff was somewhat concerned that it would feel intrusive for the residents and awkward for the trail users. It may be the best possible solution, but she wanted to address it.

The public hearing was opened.

Joshua Wert, 15611 Sheridan Spur, represented approximately 20 neighbors. If it would make a difference, he would collect signatures for a petition. He stated that he is a fan of Keith Waters. He was not against the developer, the process, or development. He believed in good land use. He and his representatives supported three changes: Lot 9, the trail, and the buffer. He provided reasons why Lot 9 would not fit in the development:

- Lot 9 would have the only house that encroaches on the existing neighbors. It would be 33 percent closer to the existing residences than any of the other proposed residences.
- The trail would be located right next to the residence and on the private driveway for Lot 9.
- The proposed residence on Lot 9 does not fit with the village green concept.
- Access to the house would be through the wetland and the middle of a deer path.
- It would have a long driveway and make fire protection difficult.
- They proposed that the house be moved to another place on the site.
- He would prefer to see more high quality houses, than one that is hurtful.
- He was happy after talking to a staff person who did not like the placement of the proposed house on Lot 9. He understood that if all ordinance requirements are met, the city does not have as much control to restrict the placement of the residence.
- He requested the plan be redone.

Britain asked what the developer said about moving the house. Mr. Wert understood that Mr. Waters said that it could be moved and he felt it would be a good location.

Britain asked for Mr. Waters' understanding of the general opinion of the neighborhood regarding the rest of the development. Mr. Wert stated that it was a well thought-out development, but that changes should be made to perfect it.

Maes asked if sprinklering would be required. Teague stated that the fire chief reviewed the plans and did not require sprinklering for the proposed residence. He would confirm this with the fire chief since it would be a private drive.

Elizabeth McGiven, 15621 Sheridan Spur, stated that a neighbor who resides next to Lot 21 had not received notice of the public hearing. Chair Hart stated that property owners within 400 feet of the site would have been sent a notice. A survey was done in the neighborhood and determined that most favored a trail, but no one wanted it near them. She felt that there was not a cohesive plan for a safe trail. The trails near her home are just an extension of the road. The neighbors entered into a restrictive covenant to prevent a trail. There would be no public need for this trail. It would create a horrible precedent. The use of eminent domain would be inappropriate.

Chair Hart asked if the proposed location of the trail would violate the neighborhoods' covenant. Olson confirmed that the proposed trail would violate the restrictive covenant to prevent a trail. Mr. Waters spoke to some property owners who would favor the trail. Olson explained the use of a friendly condemnation, where the property owner supports the condemnation. Olson stated that there would be public value in the trail as part of the loop trail system that residents have utilized for many years.

Ms. McGiven challenged that conclusion because when the trail was originally laid out, the city was a very different place.

Allendorf asked staff to explain who has the authority to make a decision regarding the trail. Olson explained that the city council would make that determination and he encouraged residents to express their concerns to the city council. The planning commissioners should limit their comments to the design, location, and buffering of the trail, rather than whether there should be a trail.

Ms. McGiven asked if the residents should have been working with the city council prior to this meeting. Chair Hart stated that the commission would vote on the plan as it was presented. The issue may be presented to the city council when it reviews the plan.

Gallop asked if there was a plan to connect the existing trail with the site. Teague indicated the dotted area that illustrated a future trail. No timeline had been established. Gallop asked if the city would need to use a condemnation procedure to install a trail on the property between the proposed site and Interstate 394. Teague stated that it would be a possibility, as well as the possibility that the trail would not be completed. Olson stated that building even a segment of a trail would provide value to the property by providing a safe route to reach Linner Park and Crosby Road.

Bonoff stated that the application gave the city the opportunity to fulfill something that had been a long-term goal and that was why the trail was being considered.

Britain lives in the neighborhood. Twelve years ago, he had a significant role in surveying the area to determine the need for a trail in the area. He knows Jim Cargill, has respect for him, and knows that, at that time, Mr. Cargill did not want a trail through his property. Britain felt it unfortunate that nearly the entire trail, from the Linner interchange to Crosby Road, would be located in the back yards. He agreed with Ms. McGiven's statements that the residents were opposed to a trail in the backyards. The current proposal's design would be in the front yards and would provide the best possible scenario. He felt a debate on whether to have a trail or not would cause a battle.

Allendorf noted that each trail segment is part of the city's capital improvement program with a designated proposed construction date and cost. Residents who have a strong interest in the trail should get involved in that process. The city council reviews funding for each capital improvement when determining the budget for the next year.

Carl Hoffman, 15601 Sheridan Spur Road, resided in the northeast corner, facing the southwest. He thanked the previous speakers. He met with Mr. Waters and stated that the plan would cause the removal of many of the hard wood trees. There would not be a lot of tree preservation along the northern border. His residence is not buffered. He has no hard wood trees in his backyard. He has a clear view of the development. He had not removed any trees from his property. The hard woods are not a high quality forest. There would not be much of a buffer left if the buckthorn would be removed. Mr. Waters offered to provide additional buffering for the neighbors. He asked if there would be greenery all year long. Mr. Waters has been a good business person and he believes him, but he would like a more concrete agreement on the design of the berm and the trees.

Chair Hart asked Colleran to address how the proposal would affect the woods. Colleran stated that there are not a lot of trees behind Mr. Hoffman's residence. She stated that Mr. Chapman of Applied Ecological Services could address specific species and restoration.

Allendorf asked staff to address the city's policy on buffering single-family homes from single-family home developments. Olson appreciated Mr. Waters' willingness to provide and maintain a buffer, but the city does not require a buffer between single-family residences or single-family residences and trails.

Allendorf stated that if the neighbors are able to work with Mr. Waters to create a buffer, it would be wonderful, but a buffer between single-family residences or a trail would not be required by the city.

Jeff Kolstad, 16122 Ringer Road, discussed the character of the neighborhood consisting of houses tucked in around the wetlands. He stated:

- The lots are typically an acre or more.
- The site would meet ordinance requirements to be platted for 26 lots by R-1 single-family district standards.
- He questioned if the planned unit development would be really necessary.
- He argued that the site is now an R-1 district and does not qualify as a transitional area. The railroad tracks serve as a transition between the Cargill building and residential housing.
- The ordinance states that 15,000-square-foot lots would be preferable.
- He could not figure out the purpose for the gatehouse.
- The duplexes are just "stuck in" and are not allowed in an R-1 district.
- He had a lot of concerns.
- He preferred a wider lot width to be consistent with an R-1 district. The proposal asks for a different type of planned unit development than what would be appropriate for an R-1 subdivision. The proposal would change the area from an R-1 district to a high-density, planned unit development.

Teague stated that the part of the ordinance Mr. Kolstad referenced goes on to say that developments may be allowed on low density residential properties as designated in the comprehensive plan, if it can be demonstrated by the applicant that because of unique circumstances of the property that lots of 15,000 square

feet in size and that a cluster home development is the only feasible manner of utilizing the property. The city attorney advised that 11,000-square-foot lots were justified under the ordinance with the wetland constraints and desire to preserve trees and green space. There are no lot width requirements when utilizing the smaller lot size. The proposal is not intended to be a transitional area. A duplex is allowed in a planned unit development.

Mr. Kolstad stated that a variance would be required to install a driveway.

Britain asked if the Meadowwoods project had small lots. Teague stated that the Meadowwoods project lots were a minimum of 15,000 square feet.

Keen Meyer, 2113 Sheridan Hills Road, felt strongly that building the trail on the Cargill property would set a precedent for building the other sections of the trail.

Tom Ports, 2119 Sheridan Hills Road, was passionately opposed to the trail being connected through backyards because of the huge safety concern. What makes a neighborhood safe is knowing the neighbors and being able to recognize if a person belongs there with a good intent or not. It would dramatically contradict why most people in the area purchased their residences. The homes are basic residences, but they paid a premium for the backyard privacy.

Jeff Genre, 2310 Crosby Road, has lived there for 12 years, and he indicated his preference that the area not be changed. Crosby Road is very congested in the mornings and evenings. The proposed project would not help. He would prefer the loop trail be kept on the east side. He would like to see the duplexes mixed into the project versus all of them located in the front of the project. Chair Hart stated that one of the three duplexes would be located in the middle of the single-family residents.

Bob Crump, 3001 Bay Street, asked if the city was intending to open the door for apartments to be included in single-family areas. He stated that the city has been working to eliminate an apartment in his neighborhood. Teague clarified that accessory apartments are allowed with a conditional use permit. If certain conditions are met, the homeowner is entitled to that use. One of the main conditions entails the homeowner occupying one part of the residence. Homeowners who turn their single-family residences into duplexes and rent out both sides are not in compliance with the ordinance.

Mr. Crump was concerned with a renter. Chair Hart explained that if the conditional use permit standards are met, the use is already allowed in a single-

family residence. Chair Hart advised Mr. Crump to address individual situations in violation of the ordinance separately. Mr. Crump thought that the city was trying to eliminate the rental part from single-family residences in his neighborhood.

Mr. Genure asked if the renters would be required to park in a garage. Chair Hart stated that the garages would be restricted to no more than three stalls. One of them may be available to the accessory unit resident. Mr. Genure asked if covenants would restrict street parking. Chair Hart confirmed with Teague that a covenant could restrict parking in the driveways or the garage. The street would be public and regulated by the city's parking laws.

No additional testimony was submitted and the hearing was closed.

Chair Hart called for a short recess.

The meeting was reconvened.

Chair Hart reviewed the primary issues.

Britain thought that the Meadowwoods lots were too tight at 15,000 square feet. Colleran stated that 10.36 acres of the Meadowwoods project was included in a conservation easement. A little over 50 percent of the site was included in the conservation easement.

Gallop supported the use of a planned unit development for protecting the natural features of the site. He still had strong concerns with the size of the lots. He was concerned with the size of the homes versus the size of the lots.

Britain felt the location was excellent for a planned unit development, but favored the developer reducing the number of lots and increasing the size of each lot.

Bonoff was initially concerned with the lot sizes. She would like to see fewer homes and larger lot sizes, but she was taken with the opportunity to have accessory apartments and housing options. The population of Minnetonka is aging and the project would give residents a unique housing opportunity. If the numbers would not work to support this type of housing with a reduction in the number of units, she would favor providing the accessory unit housing.

Perolat asked if 11,000-square-foot lots would be allowed. Teague answered in the affirmative. Perolat favored the benefits of allowing the city more influence and gaining the conservation features utilized by using a planned unit

development as opposed to just platting the site as an R-1 district. The streets would not host a lot of through traffic. If a buyer would be willing to pay \$900,000 for a residence on an 11,000 square lot, the market need would set the price. It did not trouble her that the lots would be smaller, because it would not be located in a busy, visible area. She questioned if setting a precedent was considered an issue.

Allendorf felt the planned unit development was fine in protecting the natural features. The project's density would be well within the allowed density. The issue was how close the houses would be located to each other. He supported the village- green concept and believed that the footprints would not be too big, but he felt the location of some of the proposed houses would not be cohesive.

Maes supported the planned unit development. She felt it provided the best of all worlds to preserve the open space. She felt that residents craved the small-town feel.

Chair Hart noted that the conservation easements abut almost all of the adjacent properties, so she was not concerned with the lot sizes. The density would equal one house per acre.

Chair Hart reviewed the primary issues of wetland setback variances, buffer encroachments, grading, and drainage. The public trail would be the last issue.

Allendorf acknowledged that the existence of a trail is a city council issue. The commission's job is to address the trail location within this project. He felt the plan positioned the trail in the best location. Buyers would know where the trail would be located when they bought the property. The current trail location through the proposed site would provide protection for the houses located on the north, and would be better than if the trail were located along the north property line. The fact that the developer was willing to move the house on Lot 9 from the required 35 foot setback to a setback of 50 feet, he could not justify asking the developer to move the house.

Britain agreed with Allendorf in regard to the trail location. He felt that the residences on Lot 9 and Lot 21 would take away from the project. He favored the developer revising the plan, but keeping the planned unit development zoning. The plan was good, but there would be too many residences too close together.

Maes stated that the house on Lot 9 would not be a part of the neighborhood. It would not be enough for her to not approve the project, but she felt Lot 9 was an issue.

Bonoff stated that Lot 9 existed because it would have the most beautiful view. She encouraged the developer and neighbors to meet and discuss the merits of the project.

Periolat agreed with Allendorf. She could not require the house on Lot 9 to be moved because it meets ordinance standards. If she had a choice, she would purchase Lot 9 or Lot 21 because of the privacy they would provide. She liked the option of having choices in the residence locations. She supported the plan as it was presented.

Gallop agreed with Periolat that Lot 9 would be the first one to sell. He did not have a problem with the trail as it was proposed in the planned unit development.

Chair Hart agreed with the location of the house on Lot 9. It would meet the city's ordinance standards. Over 50 percent of the site would be included in the conservation easement. The project's total density would be one unit per acre. She liked the fact that the residences would be clustered. The plan was creative and there was not a reason that the commission should deny Lot 9, because it met all ordinance requirements.

Periolat gave kudos to Mr. Waters and Mr. Cargill. It was a brilliant use of the property. She was disappointed in trading life-cycle housing for affordable housing. This would be an enclave for the wealthy. She felt that the accessory units, if occupied, would always be occupied by family members.

Gallop opposed the accessory apartments because it would set a dangerous precedent to allow double dwellings in single-family areas. Chair Hart stated that the application met all of the ordinance requirements for accessory apartments. Gallop felt the project was a whole new issue since it would effect multiple, new housing units. He felt the commission was not thinking about the total issue.

Allendorf moved, second by Periolat, to recommend that the city council approve the items, with the exception of item 8A. 6), a conditional use permit to allow accessory apartments for 17 units, concerning a proposed development of 25 single-family homes at 2201 Crosby Road (Cargill property) for Keith Waters & Associates, Inc. (92009.04a).

Gallop was still concerned with the lot area sizes.

Britain felt the project was too similar to the Meadowwods project prior to the city council increasing the lot sizes to over 15,000 square feet. He felt the project had too many units. He did not support the project.

Maes, Periolat, Allendorf, Bonoff, and Hart voted yes. Gallop and Britain voted no. Motion carried.

Bonoff moved, second by Allendorf, to recommend that the city council approve Item 8A. 6), the conditional use permit to allow accessory apartments for 17 units, concerning a proposed development of 25 single-family homes at 2201 Crosby Road (Cargill property) for Keith Waters & Associates, Inc. (92009.04a):

- A. *Recommend that the city council adopt the ordinance on pages A1–A7 of the staff report, which approves the proposed rezoning to planned unit development (PUD), and a master development plan with the following:*
- 1) Wetland setback variances from 20 to 10 feet for the public street, and from 20 to 8 feet for the public trail;
 - 2) Wetland buffer variances from 50 to 30 feet from the preserve wetland, and from 25 to 15 feet for the driveway for Lot 21; and
 - 3) Final site and building plans;

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 is consistent with the guide plan designation.
- 3) The plans protect wetlands on the site; and provide large private open spaces through permanent conservation easements and platting of outlots.
- 4) The proposed development would not have an adverse impact on neighborhood traffic or property values.

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 January 16, 2004
 - Building elevations date-stamped January 16, 2004
 - Grading plan date-stamped February 18, 2004
 - Landscaping plan date-stamped January 16, 2004
 - Utility plan date-stamped February 18, 2004
 - Preliminary Plat date-stamped February 18, 2004
 - Ecological Restoration and Management Plan date-stamped January 16, 2004
 - Construction and Restoration Schedule date-stamped January 16, 2004
 - Tree Protection Plan date-stamped January 16, 2004
 - Wetland Buffer date-stamped February 18, 2004

- 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. Final site, grading, drainage, utility, and erosion control plans must be approved by city staff. Final plans must include the following revisions:
 - (1) A berm with ornamental shrubs must be included along the north side of the public trail in the northeast corner of the site.

 - (2) Use an 8-inch water main looped section between Crosby Road and Sheridan Hills Road. Use a 6-inch water main elsewhere.

 - (3) Cut an 8-inch x 8-inch tee at Crosby Road.

- (4) Remove sanitary sewer and water main from Outlots E and F areas. Loop water main around loop street and run sanitary sewer in the streets.
 - (5) Provide individual services to each lot.
 - (6) Sanitary sewer services must be 6 inches and water services must be 1 1/2 inches.
 - (7) A 300-foot maximum spacing on hydrants.
 - (8) There must be no curb boxes in driveways.
 - (9) The low floor elevation of all homes must be a minimum of 2 feet above the 100-year flood elevation of adjacent storm water treatment areas and/or wetlands.
- c. 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.
- d. 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. 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.
- e. Submit a letter of credit or cash escrow, or other form acceptable to the city attorney for the estimated cost to

restore the wetlands. 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 final landscape plan, tree mitigation plan, and irrigation plan for staff approval.
 - g. Submit a soils report and pavement recommendation for street construction.
 - h. Fence all trees and vegetation to be preserved and install erosion control measures for staff approval.
 - i. Submit a construction management plan for staff approval.
 - j. Submit copies of the watershed district permit.
 - k. The applicant must eliminate the deed restriction prohibiting a public trail and must then deed or dedicate a public trail easement to the city in the location shown on the approved plans. Alternatively, the applicant must agree in writing to cooperate with the city in a condemnation of the trail easement and to pay all of the city's costs in obtaining the easement. The trail easement must be 15 feet wide and the paved portion must be 8 feet wide. The applicant is responsible for grading and paving the trail per staff recommendation.
- 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) The low floor elevation of all homes must be a minimum of 2 feet above the 100-year flood elevation of adjacent storm water treatment areas and/or wetlands.
 - 5) A minimum of six units must be built with accessory apartments.
 - 6) All signs for the development must meet city code, including obtaining sign permits.
 - 7) The floor area ratio and hard surface coverage each may not exceed 50% of the site area.
 - 8) Construction must begin by December 31, 2005, unless the planning commission grants a time extension.
 - 9) During construction, the streets must be kept free of debris and sediment, and the tree and wetland protection fencing and erosion control fencing must be maintained.
 - 10) The maintenance of the stormwater ponds will be the responsibility of the homeowners association under the stewardship program.
 - 11) The homeowners' association may not restrict the renting of the accessory apartments.
 - 12) The homeowners association must maintain the sidewalks and the loop trail. The city will take over maintenance of the loop trail when it is connected to the rest of the trail system.
- B. Recommend that the city council adopt the ordinance on pages A8–A11 of the staff report, which approves the proposed change in the wetland overlay district boundaries. This ordinance is based on the following findings:*
- 1) The proposed fill will require the overall restoration and quality enhancement of the wetland.

- 2) The wetlands within the project will ultimately have higher functions and values.

Approval is subject to the following conditions:

- 1) Obtain a grading permit as part of the wetland restoration.
- 2) Must be developed per the plans dated February 9, 2004.

C. *Recommend that the city council approve the Wetland Conservation Act replacement plan and adopt the resolution on pages A12–A14 of the staff report, which approves the proposed wetland alteration permit. This resolution is based on the following findings:*

- 1) The proposed fill will require the overall restoration and quality enhancement of the wetland.
- 2) The wetlands within the project will ultimately have higher functions and values.

Approval is subject to the following conditions:

- 1) Obtain a grading permit as part of the wetland restoration.
- 2) Must be developed per the plans dated February 9, 2004.
- 3) The plan meets the criteria required by the WCA.
- 4) Obtain approval from all appropriate agencies, including the Technical Evaluation Panel (TEP), as assigned by the Wetland Conservation Act; and meet any conditions that would be required.

D. *Recommend that the city council give preliminary approval to the Cargill plat, date-stamped February 18, 2004.*

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) Minimum of 30-foot-wide drainage and utility easement must be dedicated over sewer and water lines outside of the public right-of-way.
 - (3) Provide a 20-foot-wide drainage and utility easement between Lots 16 and 17, and Lots 17 and 18.
 - (4) Utility easements over existing or proposed public utilities, as determined by the city engineer.
 - (5) Outlots I, J, and D must be combined into one outlot.
 - (6) Outlots A and B must be combined into one outlot.
 - (7) Outlot G must be platted as right-of-way for the public street.
- 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.
 - d. Pay the city a park dedication fee of \$2,375 per lot, less the value of the trail paving.
- 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 applicant must eliminate the deed restriction prohibiting a public trail and must then deed or dedicate a public trail easement to the city in the location shown on the approved plans. Alternatively, the applicant must agree in writing to cooperate with the city in a condemnation of the trail

easement and to pay all of the city's costs in obtaining the easement. The applicant is also responsible for grading and paving the trail.

- 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, 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. 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) Documents establishing a homeowners' association. The association must be responsible for trimming boulevard trees, maintaining sidewalks, 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. The homeowners' association documents must specify the 17 lots on which accessory apartments would be allowed. The homeowners' association may not restrict the renting of the accessory apartments.

- (5) Establish a stewardship plan and fund agreement for the long-term maintenance of the conservation easements within the plat. 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.
- (6) Provide declaration and restrictive covenants over all mitigated wetland areas per the WCA.
- (7) The applicant must eliminate the deed restriction prohibiting a public trail and must then deed or dedicate a public trail easement to the city in the location shown on the approved plans. Alternatively, the applicant must agree in writing to cooperate with the city in a condemnation of the trail easement and to pay all of the city's costs in obtaining the easement. The trail easement must be 15 feet wide and the paved portion must be 8 feet wide. The applicant is responsible for grading and paving the trail per staff recommendation.

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) Submittal of a street lighting plan subject to review and approval of staff.
- 5) 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.

E. Recommend that the city council adopt the resolution on pages A15–A18 of the staff report, which approves a conditional use permit for accessory apartments in 17 homes within the Cargill subdivision at 2201 Crosby Road. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Record this resolution with the county.
- 2) The homeowner's association documents must specify the 17 lots on which accessory apartments would be allowed.
- 3) Each home must meet the conditions outlined in Section 300.16.3.e. of the zoning ordinance.
- 4) Six homes must be constructed with finished accessory apartments.
- 5) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 6) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.

F. Recommend that the city council adopt the resolution on pages A19–A21 of the staff report, which approves conditional use permit to build a sidewalk within a wetland buffer area for the Cargill subdivision at 2201

Crosby Road. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) Record this resolution with the county.
- 2) The sidewalk must be constructed per the grading plan date stamped February 18, 2004.

Maes, Periolat, Allendorf, Bonoff, and Hart voted yes. Gallop and Britain voted no. Motion carried.

Chair Hart announced that the item would be reviewed by the city council at its April 12, 2004 meeting.

Allendorf echoed Chair Hart's comments regarding Mr. Wert's well done and effective presentation.

B. Items concerning a proposed development of six single-family homes on the vacant property at the end of 34th Circle West for Curt Fretham (02018.03a):

- 1) Rezoning from PURD, Planned Unit Residential District, to PUD, Planned Unit Development, with a master development plan;
- 2) Preliminary plat; and
- 3) Vacation of 34th Circle West right-of-way

Was withdrawn by the applicant from the agenda.

D. Ordinance amending the I-394 zoning district standards to allow fast-food restaurants in shopping centers and to add requirements for outdoor restaurant seating (04006.04a)

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

Olson reported. He recommended approval of the ordinance amendment.

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

In response to Chair Hart's inquiry, there were no comments or questions.

Britain moved, second by Maes, to recommend that the city council adopt the ordinance on pages A1–A4 of the staff report.

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

C. Items concerning Barnes and Noble Booksellers at Ridgehaven Mall, 13081–13185 Ridgedale Drive for Thrivent Financial for Lutherans (94034.04a):

- 1) Site and building plan review;**
- 2) Resolution approving a conditional use permit, with parking variance, for a coffee bar/café; and**
- 3) Resolution approving a variance to the master development plan requirement.**

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.

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

Allendorf asked for additional information regarding a letter staff received from a resident that was concerned with the applicant's previous lack of compliance with conditions.

Thomas explained that the letter reflected comments made two years ago in regard to deliveries, noise associated with the deliveries, and landscaping. The letter was received the day of the meeting and was the first complaint regarding Ridgehaven Mall received by planning staff since 2002. She invited the applicant to address steps taken to resolve the issues. Allendorf acknowledged that staff just received the correspondence and would follow up on it. Thomas answered in the affirmative.

Chair Hart asked if issues relating to the Barnes and Noble application for an expansion in the fall of 2002 were addressed. Thomas explained that Ridgehaven Mall management addressed the concerns received from neighbors. The management was to make a concerted effort to control delivery times and

noise and offered to improve landscaping. Chair Hart directed staff to follow-up with the author of the correspondence.

Britain moved, second by Maes, to recommend that the city council approve the site and building plan review; a resolution approving a conditional use permit, with parking variance, for a coffee bar/café; and a resolution approving a variance to the master development plan requirement concerning Barnes and Noble Booksellers at Ridgehaven Mall, 13081–13185 Ridgedale Drive, for Thrivent Financial for Lutherans (94034.04a):

- A. *Recommend that the city council approve the site and building plans for Barnes and Noble at Ridgehaven Mall, 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 dated January 2, 2004
 - Building elevations dated September 30, 2003 and February 11, 2004
 - Floor plans dated January 20, 2004
 - 2) All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.
 - 3) Approval does not include any signs. Separate sign permits must be submitted for staff review and approval.
 - 4) Construction must begin by December 31, 2005, unless the city council grants a time extension.
- B. *Recommend that the city council adopt the resolution on pages A1 to A6 of the staff report approving a conditional use permit, with parking variance from 1366 to 1218 spaces, for a coffee bar/café at the Barnes and Noble at Ridgehaven Mall.*

Approval is based on the following findings:

- 1) Apart from the requested parking variance, the proposal meets the required conditional use permit standards.
- 2) Strict enforcement of the ordinance would cause undue hardship because of circumstances unique to this property.
 - a. The applicant is proposing to use the property in a reasonable manner. The existing and proposed uses within Ridgehaven are generally considered reasonable within retail areas.
- 3) The variance would be consistent with the spirit and intent of city ordinance for the following reasons:
 - a. Parking is adequate given the specific uses of mall space, including retail, warehouse, office, and restaurant space.
 - b. The proposed coffee bar/café would not impose any negative impacts on existing parking conditions. The proposed coffee bar/café is intended to primarily serve bookstore customers.

Approval is subject to the following conditions:

- 1) The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan dated January 2, 2004
 - Floor plans dated January 20, 2004
- 2) This resolution does not approve any signs. Separate sign permit applications must be submitted for staff review.
- 3) Record this resolution with the county before the city issues a building permit.
- 4) The city council may reasonably add or revise conditions to address any future unforeseen problems.

- 5) Any change to the approved use that results in a significant increase in traffic or a significant change in character would require a revised conditional use permit.
 - 6) The applicant must agree to the above conditions in writing.
- C. *Recommend that the city council adopt the resolution on pages A7–A10 approving a variance to the master development plan requirement for Barnes and Noble Bookstore at Ridgehaven Mall. Approval is based on the following findings:*
- 1) Strict enforcement of the ordinance would cause undue hardship because of circumstances unique to this property.
 - a. The applicant is proposing to use their property in a reasonable manner. The proposed coffee bar/café would be a minor change to the existing use of the retail space.
 - 2) The variance would be consistent with the spirit and intent of City ordinance for the following reasons:
 - a. Given its size and its location within the bookstore, serving primarily bookstore customers, the proposed coffee bar/café would have no negative impact the existing Ridgehaven development.

Approval is subject to the following conditions:

- 1) The site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
 - Site plan dated January 2, 2004
 - Building elevations dated September 30, 2003 and February 11, 2004
 - Floor plans dated January 20, 2004
- 2) All rooftop and ground-mounted mechanical equipment, and exterior trash and recycling storage areas, must be enclosed with materials compatible with the principal structure, subject to staff approval. Low profile, self-contained mechanical units that blend in

with the building architecture are exempt from the screening requirement.

- 3) Approval does not include any signs. Separate sign permits must be submitted for staff review and approval.
- 4) Construction must begin by December 31, 2005, unless the city council grants a time extension.

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

9. ADJOURNMENT

***Bonoff moved, second by Gallop, to adjourn the meeting at 9:45 p.m.
Motion carried unanimously.***

By: _____
Lois T. Mason
Planning Secretary