

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**MAY 11, 2006**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Frisque, Adams, Brandt, Britain, Cheleen, Dahl, and Hart were present.

Staff members present: Planning Director Geoff Olson, Principal Planner Cary Teague, Planner Susan Thomas, Natural Resource Manager Jo Colleran, Planning Intern Jeff Thompson, and Community Development Director Ron Rankin.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with changes and additional comments provided in the change memo dated April 20, 2006.

- 4. APPROVAL OF MINUTES:** April 20, 2006

*Dahl moved, second by Cheleen, to approve the April 20, 2006 meeting minutes as submitted.*

*Adams, Cheleen, Dahl, and Hart voted yes. Frisque, Brandt, and Britain were absent. Motion carried.*

**5. REPORT FROM STAFF**

Olson briefed the commission on land use applications considered by the city council at its meeting of May 8, 2006:

- Adopted a resolution approving a conditional use permit for an outdoor garden center at 17507 Minnetonka Boulevard for Great Gardens by Grandma.
- Adopted an ordinance changing the definition of lot to exclude land under lakes or streams.
- Adopted a resolution approving items concerning the existing Dairy Queen Restaurant at 12940 Minnetonka Blvd for Sandness Construction.

- Continued until the next planning commission meeting a lot division, with variances, at 5808 Louis Avenue for Home Reflections, Incorporated. Creating additional space between the homes by moving the home back and increasing the side setbacks was discussed. Creating a regulation to restrict the size of a house located in an established neighborhood was discussed.

Olson invited commissioners to attend a study session regarding understanding community change May 15, 2006 at 6:30 p.m. He announced that the next planning commission meeting will be held May 25, 2006.

**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.

***Cheleen moved, second by Dahl, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:***

**A. Side yard setback variance to build an addition to the home at 3677 Steele Street for Thomas Lutz (06011.06a)**

Approve the resolution on pages A1–A3 of the staff report, which approves the aggregate side yard setback variance from 30 to 25 feet at 3677 Steele Street. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
  - a. The location of the existing home.
- 2) The variance would meet the intent of the ordinance since:
  - a. The variance request is for a reasonable use of the property.
  - b. The addition would be located 140 feet from the home to the south.
  - c. The proposed addition would not alter neighborhood character.

Staff approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with Hennepin County before the city issues a building permit.
- 2) The installation and maintenance of erosion control and tree protection fencing, subject to review by the city's natural resources manager.
- 3) The building material and color must match the existing home.
- 4) The minimum low floor elevation must be 936.0.
- 5) This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

**B. Sign setback variance for a tenant identification sign at 11550 and 11541 Encore Circle for Encore Park Associates. (06013.06a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves the proposed variance from 10 feet to 0 feet to construct a monument sign for 11550 and 11541 Encore Circle. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
  - a. The lot line that separates the two sites is the most appropriate location for signage. A sign could not be located in that area and meet the required setback.
- 2) The variance would meet the intent of the ordinance since:
  - a. The two sites would utilize shared signage, rather than a separate sign for each site.
  - b. The proposed sign would not alter neighborhood character.
  - c. The signage would meet all size requirements.

Staff approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with Hennepin County before the city issues a sign permit.
- 2) This variance will end on December 31, 2007, unless the city has issued a

sign permit for the project covered by this variance or approved a time extension.

**C. Front yard setback variance for a two-car garage addition at 16425 Norwood for Daniel and Susan Turzinski. (06014.06a)**

Adopt the resolution on pages A1–A3 of the staff report, which approves a front yard setback variance from 25 feet to 15 feet to build an addition to the home at 16425 Norwood Drive. This resolution is based on the following findings:

- 1) There is a unique hardship to the property caused by:
  - a. The location of the existing home in relation to the lot lines.
  - b. A two-car garage could not be built on either side of the home and meet the required setbacks.
- 2) The variance would meet the intent of the ordinance since:
  - a. The variance request is for a reasonable use of the property.
  - b. The proposed addition would not alter the neighborhood character.

Approval is based on the following conditions:

- 1) Submit proof of having recorded this resolution with the county before the city issues a building permit.
- 2) The installation and maintenance of erosion control and tree protection, and wetland protection fencing must be installed, subject to review by the city's natural resources staff.
- 3) The building material and color of the addition must match the existing home.
- 4) This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

**D. Conditional use permit for a telecommunications facility at 4801 County Road 101 for Cingular Wireless. (88012.06a)**

Recommend that the city council adopt the resolution on pages A1–A3 of the staff report, which approves the telecommunications pole and equipment at 4801 County Road 101. This resolution is based on the following findings:

- 1) The proposal meets the conditional use permit standards.

Approval is subject to the following conditions:

- 1) Record this resolution with the county before the city issues a building permit.
- 2) The site must be developed and maintained in substantial conformance with the plans dated stamped March 30, 2006.
- 3) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 4) The applicant must agree to the above conditions in writing.

**E. Conditional use permit for an outdoor plant display/sales area at 17501 Minnetonka Blvd for Lakewinds Natural Foods. (87074.06a)**

Dahl asked if the current proposal is the same as a previous plan. Thomas explained the applicable display area.

Recommend that the city council adopt the resolution on pages A1–A5 of the staff report. This resolution approves a conditional use permit for an outdoor plant display/sales area at Lakewinds Natural Foods at 17507 Minnetonka Boulevard. Approval is based on the finding that the proposal meets the required conditional use permit standards and is subject to the following conditions:

- 1) The display area may include plants and plant-related items only.
- 2) The display/sales area may be open 45 days annually.
- 3) No more than four signs, which do not exceed 32 square feet in aggregate, are allowed for the plant display/sales area.
- 4) Incidental product or pricing signs placed directly next to the appropriate product. Product advertising is permitted, but must be included in the maximum allowed sign area. The signs shall have a professional appearance and shall be securely mounted or erected in a safe location.

These limitations apply to all signs associated with the use, including those affixed to vehicles.

- 5) The conditional use permit is issued in the name, Lakewinds Natural Foods, and is for an outdoor plant display area specified in the application. Any change in the person, location or items sold shall render the permit invalid.
- 6) Violation of the conditional use permit standards outlined in City Code 300.21.4(o) or conditions placed upon the conditional use permit shall result in immediate revocation of the conditional use permit.
- 7) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 8) 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.
- 9) The applicant must agree to the above conditions in writing and record this resolution with the county.
- 10) No exterior storage of any items not directly related to the plant display/sales area is allowed. Before release of this resolution, items outside on the east side of the building must be removed.

**F. Preliminary plat to divide 13801 Spring Lake Road into two lots for Lawrence Olson. (06017.06a)**

Recommend that the city council approve the preliminary plat for Devisser Addition, date stamped April 5, 2006. Approval is based on the finding that the plat meets the required standards and ordinances. Approval is subject to the following conditions:

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

- (2) Utility easements over existing or proposed public utilities, as determined by the city engineer.
    - (3) Drainage and utility easements over wetlands, floodplains, and 100-year stormwater area, as determined by the city engineer.
    - (4) Dedication of five feet of right-of-way along Spring Lake Road.
  - b. Pay the city a park dedication fee of \$2,375.00
- 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 on a CD disk.
  - b. The following documents for the city attorney's approval:
    - (1) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
    - (2) Conservation easements over the area 25 feet outward from the edge of the wetland, and a drawing of the easements for the approval of the city attorney. The easements and drawings must be recorded with the final plat.
    - (3) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

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

- c. Any other requirements included with final plat approval.
  - 3) The following must be completed before the city issues a building permit:

- a. City approval of a grading and tree preservation plan for each lot. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
  - b. The installation and maintenance of a temporary rock driveway, erosion control, tree protection, and wetland protection fencing must be installed subject to review and approval of the city's natural resources staff. The large Oaks on Lot 1 must be protected from construction damage. No grading may occur within the critical root zones of these trees.
  - c. Grading plans must not include ponding within the 100-year stormwater elevation
  - d. Submit a copy of the recorded plat and any easement or covenants required to be recorded.
  - e. Pay a hookup fee for sanitary sewer and water.
  - f. The fill placed within the wetland must be removed.
  - g. Minimum low basement elevation of 960.6 for both lots.
  - h. Submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.
- 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 ½ 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 will be void.

**G. Preliminary plat, with variances, for a four-lot subdivision at 5342/5356 Picha Road for Steve Lipe. (06012.06a)**

Recommend that the city council give preliminary approval to the Lipe Addition plat, date stamped March 20, 2006, with lot area and lot width at setback variances. Approval is based on the following findings:

- 1) Except for the requested variances, the proposal meets the required standards and ordinance for a preliminary plat.
- 2) The proposal meets the required standards for a variance, because:
  - a. The requested variances are reasonable in the context of the immediate neighborhood. The existing lots are both larger and wider than other properties in the immediate area. The proposed subdivision would result in four properties more characteristic of the neighborhood.
  - b. As the existing properties are unique in the neighborhood, approval of the variances would not result in similar variance requests.
  - c. Given the sizes of the other properties in the Picha and Holiday Road areas, the variances would not alter the character of the neighborhood.

Approval is subject to the following conditions:

- 1) Complete the following before final plat approval:
  - a. Show the following on the final plat:
    - (1) Dedication of 10-feet of additional right-of-way along Picha Road.
    - (2) At least ten-foot-wide drainage and utility easements along the front property lines and at least seven-foot-wide drainage and utility easements along all other lot lines.

- (3) A drainage and utility easement over the 957.5 elevation.
    - (4) A revised plat showing three lots: 5342 Picha Road in its current configuration and 5356 Picha Road divided into two lots as originally proposed.
  - b. Pay the city a park dedication fee of \$4,750.
  - c. Submit final utility plans
- 2) Complete the following before release of the final plat:
  - a. Submit an electronic CAD file of the final plat in microstation or DXF on a CD disk.
  - b. 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-wide driveway easement across Lot 3 to access the two single-family homes to the west.
    - (3) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

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

- c. Any other requirements included with final plat approval.
      - d. Remove from the 5342 Picha Road all items in violation of the nuisance ordinance as required by environmental health staff.
  - 4) The following must be completed before the city issues a building permit:
    - a. The building pads must be in substantial conformance with the pads shown on the preliminary plat.

- b. City approval of a grading and tree preservation plan for each lot. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
  - c. City approval of the installation of a temporary rock driveway, erosion control, and tree protection fencing for each lot.
  - d. Submit a copy of the recorded plat and any easement or covenants required to be recorded.
  - e. Pay a hookup fee for sanitary sewer and water.
  - f. Submit 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.
- 5) The minimum floor elevation for any new house is 959.5.
  - 6) The lot areas of Lots 3 and 4 may be revised to accommodate the required driveway easement.
  - 6) During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
  - 7) 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 ½ 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.
  - 8) 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.

***Frisque, Adams, Brandt, Britain, Cheleen, Dahl, and Hart voted yes. Motion carried and the items on the consent agenda were approved as submitted.***

Chair Hart explained that items with final approval may be appealed to the city council by providing written notice to the planning director within 10 days. Items recommended to the city council are tentatively scheduled to be reviewed on May 22, 2006 meeting.

## **8. PUBLIC HEARINGS**

### **A. Rear yard setback variance for a sunroom addition to the existing house at 3078 St. Albans Hollow Circle for Marilyn Vinokour. (06015.06a)**

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.

Chair Hart asked about the tree mitigation process. Colleran explained that the removal of a 25-foot spruce would require the homeowner to plant two 6-foot spruces.

Marilyn Vinokour, 3078 St. Albans Hollow Circle, applicant, thanked staff for their recommendation. Her architect was also present to answer questions. Ms. Vinokour stated that:

- The plan was designed to enhance, not detract from, the rear of her home.
- She would be willing to plant two trees to replace the one tree.
- She would also do additional landscaping.
- She has lived in her house 15 years.
- She would like the trees to screen her view of the condominium parking lot.

The public hearing was opened.

Merrill Stiles, 3030 St. Alban's Mill Road, stated that:

- The proposal would be invasive to the corner condominium unit.
- At least four condominium residents opposed the variance.

Linda Dahl, 3056 St. Alban's Mill Road, stated that:

- She is excited about the applicant's plans.
- The additional landscaping and sunroom will make the view from the condominiums even more pleasing.
- Her neighbors are excited as well.
- It is a good plan.

No additional testimony was submitted and the hearing was closed.

Chair Hart reviewed the primary issues.

Dahl felt the request was reasonable because one tree would be replaced with two trees. The design is beautiful and not intrusive. He agreed with staff's recommendation.

Cheleen acknowledged that the proposed site is over 80 feet from the condominiums. The neighborhood consists of single-family residences. A large driveway and parking lot would separate the proposal from the condominiums. The applicant is willing to plant two trees. The project is attractive. He supported staff's recommendation.

Britain concurred with Dahl and Cheleen. The city received 45 letters of support for the project. The design is well done. He supported the project.

Chair Hart liked the design and felt it would add architectural interest to the house.

***Dahl moved, second by Adams, to adopt the resolution on pages A1–A3 of the staff report, which approves a rear yard setback variance from 35-feet to 24-feet for a sunroom addition at 3078 St. Albans Hollow Circle with the modification provided in the change memo dated May 11, 2006. Approval is based on the following findings:***

- 1) Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
  - a. The proposed use is reasonable. If this single-family property was zoned R-1, a 21-foot rear yard setback variance would be required and no variance would be needed.

- 2) The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
  - a. The subject property is directly east of the driveway and parking lot. Therefore, the proposed sunroom would not encroach on the living space of any neighboring building.
  - b. The addition would be separated from the nearby condominium building by: 80 feet, a driveway and parking lot, grade change, and new trees to be planted.
  - c. The St. Albans area is characterized by single-family and multi-family homes. The proposed addition would not alter this character.

Approval is subject to the following conditions:

- 1) Before the city issues a building permit:
  - a. Submit proof of having recorded this resolution with the county.
  - b. Install a temporary rock driveway, erosion control, and tree protection as required by natural resources staff. These items must be maintained throughout the course of construction.
  - c. Submit proof of homeowners' association approval.
- 2) Two trees must be planted as required by natural resources staff.
- 3) This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

***Frisque, Adams, Brandt, Britain, Cheleen, Dahl, and Hart voted yes. Motion carried.***

Chair Hart stated that an appeal of the planning commission's decision must be made in writing to the planning director within 10 days.

**B. Items concerning a three lot subdivision of 3212 Wentworth Trail for Dennis Zylla. (06001.06a)**

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.

Dahl asked if the public street would extend to Lot 3. Teague answered in the affirmative.

In response to Dahl's question, Teague stated that the city engineer reviewed the plan and was comfortable with the Wentworth Trail pond. Olson explained that over-sizing of the storm water pipe in the street would be done to provide an outlet for the pond. Funding would be split between the developer and the city.

Adams asked if a significant amount of fill would be needed to raise the street level. Teague explained that the existing grade would be followed. The proposed location for the street would be the best one for the site.

Adams asked about the lots shown on the Denton property. Teague stated that the illustration demonstrated what could happen in the future. All of the lots in the illustration would meet R-1 district requirements.

Dennis Zylla, applicant, clarified that he does not represent Mr. Denton. Mr. Zylla stated that:

- The Fischer plat was the largest hurdle in designing the current plat.
- He supported staff's recommendation. He views it as a compromise plan. Staff's recommendation is acceptable to staff; it is acceptable to the applicant because the property owner wants to continue with the project.
- The conservation easement would be substantial. The applicant was fine with that.
- He supported the change memo conditions.
- He requested the planning commission's approval.

Dahl asked if an agreement had been reach with Mr. Spillane. Mr. Zylla stated that they are still in negotiations.

The public hearing was opened.

Bill Denton, 13531 Wentworth Trail, was happy that Mr. Chope would be able to develop his property. He strongly supported the proposal. His only concern was

the proposed change in zoning. He preferred the property stay zoned R-1, single-family residential.

Teague clarified that there are no variances associated with the project. The change in zoning to a planned unit development would make the setbacks flexible to save trees and minimize the intrusion into the steep slope.

Mr. Denton wanted assurance that group homes and multiple-unit dwellings would not be allowed. Chair Hart explained that any change to the planned unit development would have to be reviewed and approved by the city council.

No additional testimony was submitted and the hearing was closed.

Cheleen asked if both sides of the street would be five feet less in width, then would Mr. Denton's property gain five feet of green space. Teague explained that the property line and right-of-way would stay the same.

Chair Hart reviewed the primary issues. She felt a consensus had been reached regarding the rezoning.

Britain commended staff for the plan. The proposal would save trees and work better with the slope. A planned unit development district would allow for a better plan than R-1 zoning.

Chair Hart thanked the applicant for working through the process.

***Britain moved, second by Frisque, to recommend that the city council adopt a resolution approving the following items concerning a three lot subdivision of 3212 Wentworth Trail for Dennis Zylla with the modifications provided in the change memo dated May 11, 2006:***

*REZONING*

- 1) *Recommend that the city council adopt the ordinance on pages A1–A3 of the staff report. This ordinance approves the following for Wentworth Woods at 3212 Wentworth Trail:*
  - A rezoning from R-1, low-density residential to PUD, planned unit development, and
  - A master development plan.

The ordinance is based on the following findings:

- a. The rezoning would be consistent with the city's guide plan.
- b. The rezoning would be consistent with the public health, safety, and welfare.
- c. The rezoning would save more significant trees and larger area of steep slope than a plat meeting R-1 standards.

This rezoning is subject to the following conditions:

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Preliminary Plat, date stamped April 26, 2006.
  - Grading and Drainage Plan, date stamped April 26, 2006.
  - Utility Plan, date stamped April 26, 2006.
  - Street Plan, date stamped April 26, 2006.
  - Conservation Easement Map, date stamped April 26, 2006.

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

*PRELIMINARY PLAT*

- 2) *Recommend that the city council give preliminary approval to the Wentworth Woods plat, date stamped April 26, 2006. Approval is based on the finding that the plat meets the required standards and ordinances.*

Approval is subject to the following conditions:

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

- (b) Utility easements over existing or proposed public utilities, as determined by the city engineer.
  - (2) Pay the city a park dedication fee of \$7,125.00, less the value of the land dedicated for the trail.
  - (3) The developer must ensure public access to West Eldorado Trail. If the developer is petitioning the city to construct the public improvements, the city council must order the improvements.
- b. The following items must be submitted to the city before the city releases the final plat:
- (1) An engineering/utility inspection fee.
  - (2) Payment for traffic signs and installation, as required by the city engineer.
  - (3) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
  - (4) 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.
  - (5) The following documents for the city attorney's approval:
    - (a) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
    - (b) Conservation easements over the mature trees and steep slope areas per the plans date stamped April 26, 2006, and a drawing of the easements for the

approval of the city attorney. The easements and drawings must be recorded with the final plat.

- (c) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.
- (d) Public right-of-way or easement over 13535 Wentworth Trail and 13533 Wentworth Trail to provide necessary right-of-way to build the public street.
- (e) A trail easement to provide a connection from the property to the north to the property to the south. Final trail location and size would be determined by the city council.

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

- (6) Any other requirements included with final plat approval.
- c. The following must be completed before the city issues a grading permit or any site work is started.
- (1) Approval of final grading, drainage, and erosion control plans by the city engineer. If the developer is building the streets and utilities, the developer must submit final street and utility plans for the city engineer's approval. Individual lots must be custom graded. The following changes must be included on the utility plans:
    - (a) Catch basins and a storm sewer must be added in the new streets, including at the intersection with Wentworth Trail.
    - (b) A sump catch basin must be added at the downstream-most point in the street.
    - (c) Sewer lines must be 8 inches and the water lines 6 inches.

- (d) Existing public sanitary sewer must be lowered to serve the property.
  - (e) Storm sewer design and installation must include provisions for pond outlet from the existing pond basin on Wentworth Trail, per the city's water resources management plan. The developer may construct the storm sewer or petition the city for its construction. The city will pay for the additional costs required to include the storm water pond outlet, as determined by the city engineer, that are over and above the normal costs for the developer to install storm sewer for his subdivision.
- (2) The maximum street grade may be 7 percent.
  - (3) 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.
  - (4) All trees to be preserved must be fenced and erosion control measures installed, as approved by the city.
  - (5) Approval of a construction management plan by the planning director.
  - (6) If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
- d. The following must be completed before the city issues a building permit:
- (1) City approval of a grading and tree preservation plan for each lot. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of

preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.

- (2) City approval of the installation of a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot.
  - (3) Submit a copy of the recorded plat and any easement or covenants required to be recorded.
  - (4) Pay a hookup fee for sanitary sewer and water.
  - (5) Submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
  - (6) In addition to the standard PUD setback requirements, the side yard setback requirements for Lot 1 are 10 feet from the north lot line and 50 feet from the south lot line. This would ensure minimal encroachment into the steep slope area.
  - (7) A fire flow test must be conducted on the new water main. If the fire hydrant flow is less than the minimum NFPA fire flow requirement of 2750 GPM, homes must be built with a sprinkler system.
- e. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
  - f. The Outlot must remain in conservation easement and must not be developed.
  - g. 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 ½ 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.

- h. 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.

***Frisque, Adams, Brandt, Britain, Cheleen, Dahl, and Hart voted yes. Motion carried.***

**C. Items concerning the remodeling and expansion of the home at 5235 Woodhill Road for West Suburban Alano Society and expansion of Glen Lake Park for the City of Minnetonka. (06020.06a)**

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.

Adams felt the proposal would address the relocation of Alano and the need for additional parking. His only concern was the loss of mature trees between the Alano parking lot and Woodhill Road. Rankin explained that the large maple tree in front would be preserved, but the trees on the south would be removed for grading and landscaping.

Dahl questioned if Lot 2 could be combined with the park. Teague answered in the affirmative.

Rankin noted areas on the plan where new landscaping would be done. He was available to answer questions.

Brandt asked if Alano would share the parking lot. Rankin explained that Alano would need extensive use of the parking lot approximately three times each week. Alano would share the parking lot with park users.

The public hearing was opened.

Carol Ruzinski, 5221 Woodhill Road, stated that:

- A 70-foot addition would be too large; a 30-foot addition would be acceptable.

- It was a waste of time to come to the hearing because the decision has already been made.
- She requested the addition be reduced in size by 20 feet.

Teague discussed the setbacks and addition size with Chair Hart. Chair Hart stated that plans are often modified by the planning commission and city council.

Ms. Ruzinski understood that the city would use the property for a park and soccer fields when it obtained ownership.

Delane Anderson, 5229 Woodhill Road, stated that:

- She liked the idea of the park, but did not realize that a large building and parking lot would be her neighbor when she bought her home nine years ago.
- She would not have bought the property if there was a parking lot next to it.
- She wants to ensure adequate screening to her home.
- She is pretty happy with how the plans have been addressing screening on her property line.

Chair Hart stated that, unfortunately, part of parks is parking. Street parking makes an area unsafe.

Ms. Anderson agreed that street parking made it difficult for her to access her driveway. She understood the need for the parking lot. It would be beneficial.

No additional testimony was submitted and the hearing was closed.

Chair Hart asked if the lots were included in the tax increment finance district. Rankin explained that the properties had just been included in the project area. He provided a site elevation drawing that showed the existing structure and the proposed addition. He pointed out the structures accesses. It would follow the topography of the lot on the front and back. The structure would look the same from Woodhill Road.

In response to Dahl's question, Rankin explained that the proposed structure would provide slightly more square footage than Alano's current building.

Firsque asked if the city would be leasing the site to Alano. Rankin explained that the city would own the east lot. Alano would own their building. There would be parking easements between the properties.

Brandt asked if increasing the height of the building to two stories in the back and reducing the footprint was considered. Rankin was not involved in the building design. An architect developed a layout that would work well for the applicant.

Chair Hart reviewed the primary issues.

Britain felt that the project is reasonable. He understood the neighbors' concerns. The profile of the building is reasonable. He supported staff's recommendation.

Adams agreed. He noted that the current parking on Woodhill Road is dangerous. The parking lot would enhance the use of the athletic facilities. He would like a view of the proposal from the north, but he was relieved to see that it tapered off with the contour of the land to allow sun to reach the north side.

Chair Hart confirmed with Teague that the new structure would be no closer than the current structure is to the north lot line.

Cheleen added that there would be good screening. Parking stalls have been added because some will be lost in the parking lot across the street. It is a good, proactive project.

Frisque liked that the building retained its residential look when viewed from Woodhill Road. It would not appear to be a large structure. She supported staff's recommendation.

***Frisque moved, second by Britain, to recommend that the city council approve the following items concerning the remodeling and expansion of the home at 5235 Woodhill Road for West Suburban Alano Society and expansion of Glen Lake park for the city of Minnetonka:***

**PRELIMINARY PLAT**

- 1) *Recommend that the city council give preliminary approval to the Glen View Park 3<sup>rd</sup> Addition, date stamped April 14, 2006, with a lot width at the right-of-way variance from 80 feet to 0 feet. Approval is based on the following findings:*
  - a. The proposal meets the required standards and ordinances for a preliminary plat.

- b. 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:

- a. Complete the following before final plat approval:
  - (1) Show the following on the final plat:
    - (a) 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.
    - (b) Utility easements over existing or proposed public utilities, as determined by the city engineer.
- b. The following items must be submitted to the city before the city releases the final plat:
  - (1) An electronic CAD file of the final plat in microstation or DXF on a CD disk.
  - (2) The following documents for the city attorney's approval:
    - (a) Title evidence that is acceptable to the city attorney. Title evidence must be current within thirty days before release of the final plat.
    - (b) A private driveway easement between the street right-of-way and Lot 2. The easement must state the maintenance responsibilities of each owner. The minimum driveway width must be as required by the fire marshal.
    - (c) Provide restrictive covenants to be recorded against the individual lots with the plat. The covenants must include the conditions that have not been met as of the release of the plat. These covenants must first be submitted for the city attorney's approval.

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

- (3) Any other requirements included with final plat approval.
- c. The following must be completed before the city issues a grading permit or any site work is started.
  - (1) Approval of final grading, drainage and erosion control plans by the city engineer.
  - (2) All trees to be preserved must be fenced and erosion control measures installed, as approved by the city.
  - (3) Approval of a construction management plan by the planning director.
  - (4) If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
- d. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
- e. 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.

#### **CONDITIONAL USE PERMIT**

- 2) *Recommend that the city council adopt the resolution on pages A1–A4 of the staff report, which approves the conditional use permit for the West Suburban Alano Society with a building setback variance of 50 feet to 34 feet and 12 feet at 5235 Woodhill Road. This resolution is based on the following findings:*
  - a. The proposal meets the required conditional use permit standards.
  - b. The proposal meets the required standards for a variance, because:

- (1) There is a unique hardship to the property caused by the existing location of the home.
- (2) The variance would meet the intent of the ordinance because the structure looks like a single-family home, and would be setback 35 feet from the north lot line. A single-family home could be setback 10 feet from the north lot line.

Approval is subject to the following conditions:

- a. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- b. 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.
- c. A shared maintenance and utility agreement with the city for the driveway, parking lot, and lighting. The agreement is subject to review and approval of the city attorney.
- d. Before the city issues a building permit, the applicant must agree to the above conditions in writing and record this resolution with the county.

#### ***SITE AND BUILDING PLAN REVIEW***

- 3) *Recommend that the city council approve the site and building plan review with drive-aisle and parking lot setback variances from 20 feet to 4 feet from the south lot line, from 20 feet to 18 feet from the east lot line.*

Approval is based on the following findings:

- a. The proposal would meet the required standards and ordinances for a site and building plan approval.
- b. The proposal would meet the required standards for a variance, because:
  - (1) The drive-aisle setback variance for the driveway would be adjacent to the Glen Lake Park. The driveway would serve

as an entrance to the park; therefore, visually there would be no impact.

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

- a. Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Site plan date stamped April 14, 2006.
  - Grading plan date stamped April 14, 2006.
  - Landscaping plan date stamped May 1, 2006.
  - Building elevations date stamped April 14, 2006.
- b. Before starting any site work or obtaining a grading permit, complete the following work:
  - (1) The installation and maintenance of temporary rock driveways, erosion control, tree protection, and wetland protection fencing for each lot must be installed, subject to review by the city's natural resources staff.
  - (2) Submit final site, grading, drainage, utility, and erosion control plans for staff approval.
  - (3) Submit a construction management plan for staff approval.
- c. The following must be submitted to the city before the city issues a building permit:
  - (1) A final landscape and irrigation plan for staff approval
- d. A 6-foot trail segment must be added on the west side of the batting cages.
- e. The property owner is responsible for replacing any required landscaping that dies.
- f. 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.

- g. Approval does not include the signs shown on the drawings. Separate permits are required from staff.
- h. Construction must begin by December 31, 2007, unless the planning commission grants a time extension.

***Frisque, Adams, Brandt, Britain, Cheleen, Dahl, and Hart voted yes. Motion carried.***

**D. Items concerning construction of a new house at 10402 34th Circle West for Dana Orr, represented by Curt Fretham. (06010.06a)**

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.

Thomas clarified that the applicant's proposal requested a variance to allow a 10-foot setback instead of the required 20-foot setback. Staff felt that a 10-foot setback would be unreasonable, because it would be based on house design. However, a 13-foot setback would be reasonable, because it would be based on the shift in the pond's location. She has spoken to the applicant, the builder, and Curt Fretham. Strong opposition had not been expressed. Staff recommends that the wetland setback be denied.

In response to Dahl's request, Thomas highlighted the wetland areas.

Curt Fretham, 15400 State Highway Number 7, representing the applicant, stated that:

- The horizontal setback ordinance requirement was changed after the plat was approved two years ago.
- He sold the lot without knowing about the ordinance change.
- The pond was moved to the south seven feet. The city engineer suggested the property owner apply for the variance rather than move the pond.

In response to Chair Hart's question, Thomas clarified that the applicant did not intentionally locate the residence to not meet the wetland setback requirement.

The home may be redesigned to eliminate the corner of the structure from encroaching into the wetland setback. That would also move the residence further away from the pond.

Dahl asked if the applicant is agreeable to staff's recommendation. Mr. Fretham believed that it would be okay, but he had not had direct contact from the property owner. He was trying to assist with sorting out the horizontal pond setback requirement.

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

Cheleen asked if the proposed house could be moved southeast to fit in the buildable area. Thomas explained that that had been considered. The south side of the property includes a drainage and utility easement.

Chair Hart reviewed the primary issues.

***Dahl moved, second by Brandt, to adopt the following resolutions concerning construction of a new house at 10402 34<sup>th</sup> Circle West for Dana Orr.***

- 1) *Adopt the resolution on pages A1–A3 of the staff report, which denies a stormwater setback variance from 20 feet to 10 feet and a wetland setback variance from 35 feet to 25 feet for a new house at 10402 34<sup>th</sup> Circle West. Denial is based on the following findings:*

*Stormwater*

- a. The 10-foot setback is not based on a unique circumstance related to the property. Rather, it is based on the specific building plans submitted.
- b. A reasonably sized house could be built on the property with a greater stormwater setback.

*Wetland*

- a. Neither the location of the wetland nor the wetland setback requirements have changed since the approval of Fretham's 4th Addition.

- b. A builder has previously submitted building plans for this property that meet the required wetland setback.
- 2) *Adopt the resolution on pages A4–A7 of the staff report, which approves a 100-year stormwater setback variance from 20 feet to 13 feet for a new house on 10402 34th Circle West. This resolution is based on the following findings:*
- a. Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
    - (1) Following plat approval, the buildable area of the property was impacted by a required reconfiguration of a stormwater pond and the new floodplain setback requirement.
    - (2) Over half of the property is not buildable due to a wetland, stormwater pond, drainage and utility easements and associated setbacks. The only buildable area is located in the narrowest area of the lot.
  - b. The variance would be consistent with the spirit and intent of this ordinance for the following reasons:
    - (1) The 7-foot variance reflects the 7-foot shift in the location of the stormwater pond due to soil conditions.
    - (2) The proposed house would meet the required vertical separation from 100-year stormwater elevation.
    - (3) The immediate 34th Circle area is characterized by recently built houses and vacant lots. The setback variance itself would not alter the neighborhood character.

Approval is subject to the following conditions:

- a. Before the city issues a building permit:
  - (1) Submit a revised survey. The house must meet lowest floor elevation requirements, wetland setback of 35 feet, a stormwater setback of 13 feet, and all property line setbacks outlined in the PUD.

- (2) Submit revised building plans. The dimensions on these plans must correspond to the dimensions on the survey.
  - (3) Submit a driveway easement for the city attorney's review and approval. The easement must provide access across Lot 2 Block 2 to serve Lot 3 Block 2 and must state the maintenance responsibilities of each owner. The easement must be recorded with the county and a copy of the recorded easement returned to the city.
  - (4) Submit proof of having recorded this resolution with the county.
  - (5) Install a temporary rock driveway and erosion control fencing for staff review and approval. These items must be maintained throughout the course of construction.
- b. This variance will end on December 31, 2007, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

***Frisque, Adams, Brandt, Britain, Cheleen, Dahl, and Hart voted yes. Motion carried.***

## 9. ADJOURNMENT

***Cheleen moved, second by Brandt, to adjourn the meeting at 8:06 p.m. Motion carried unanimously.***

By: \_\_\_\_\_  
Lois T. Mason  
Planning Secretary