

**MINNETONKA PLANNING COMMISSION
MINUTES**

DECEMBER 3, 2009

1. CALL TO ORDER

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

2. ROLL CALL

Commissioners A. Thomas, Adams, Blatz, Lehman, Sjeklocha, and Cheleen were present. Walker was absent.

Staff members present: City Planner Loren Gordon, Principal Planner Susan Thomas, Natural Resources Manager Jo Colleran, and Assistant City Engineer Will Manchester.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with changes for item 8a, items concerning a 7-lot subdivision of existing properties at 16611 Black Oaks Lane, as provided in the change memo dated December 3, 2009.

- 4. APPROVAL OF MINUTES:** November 19, 2009

Lehman moved, second by Adams, to approve the November 19, 2009 meeting minutes with the following change:

Page 18: ~~Sjeklocha~~ Blatz moved, second by Adams, to adjourn . . .

A. Thomas, Adams, Blatz, Lehman, Sjeklocha, and Cheleen voted yes. Walker was absent. Motion carried.

5. REPORT FROM STAFF

Gordon briefed the commission on the land use application considered by the city council at its meeting of November 23, 2009:

Action was postponed until the December 7, 2009 meeting for items concerning a parking lot expansion at Minnetonka High School located at 18301 Highway 7. Council directed staff to bring back a resolution approving a 27 parking space expansion.

Gordon announced that the metropolitan council approved the Minnetonka Comprehensive Guide Plan on October 28, 2009. Some of the official controls in

the document need to be updated within 9 months of the comprehensive guide plan being adopted. The planning commission will be reviewing revisions of the zoning code in 2010.

Gordon noted the next meeting of the planning commission will be December 17, 2009.

6. REPORT FROM PLANNING COMMISSION MEMBERS: None

7. PUBLIC HEARINGS: CONSENT AGENDA: None

8. PUBLIC HEARINGS

A. Items concerning a 7-lot subdivision of existing properties at 16611 Black Oaks Lane. (09024.09a)

Chair Cheleen 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.

Adams asked for the rationale behind having multiple rain gardens instead of a central collection point. Colleran explained that any storm water that is discharged has to be pretreated. One cannot take new impervious surface, install a pipe, and deliver the water to an existing wetland. The water would have to be pretreated first by utilizing a storm water pond, rain garden, or another type of pretreatment. The applicant looked at a central storm water pond and came up with the proposed design. Manchester stated that the site is very flat which makes installing storm sewer very difficult in this instance due to the grade. There is no topography to put pipes underground. That is why the applicant has proposed the ribbon curb. It would allow the water to channel off of the street and work its way into isolated rain gardens throughout the site.

Adams questioned if the property currently utilizes city water and sewer services. S. Thomas responded affirmatively. Adams saw a reference from a letter from a neighbor who wrote that the applicant has a well and septic system. S. Thomas explained that the property on the north-west side of the site is served by a private septic system. The applicant's site does have public water service which is provided by Wayzata and public sanitary sewer service. Full utility lines have never been run further to the west. A condition of approval suggests that public utilities be provided to the edge of the development. Whether that would occur using directional boring within the city's right of way on Black Oaks Lane to

preserve the trees or internal to the site from the cul-de-sac has not been determined. Staff hopes that public utilities in the future could be extended to adjacent neighbors.

Adams noted a reference to a culvert under Black Oaks Lane. There are concerns whether it could handle additional storm water. Manchester responded that the storm water rules would require the site to not increase the rate of storm water runoff. The culvert is sized adequately to handle the storm water.

Sjeklocha asked for more information regarding city versus privately held conservation easements. S. Thomas answered that the differences occur in the rules regarding inspection and enforcement. City held conservation easements are monitored and enforced by the city. It does take a considerable amount of staff time to visit the sites and educate residents to make sure there are no violations. The city would be reluctant to release a conservation easement. A privately held conservation easement would be monitored and rules enforced by the holder of the easement to whatever extent that entity would choose. The holder of the easement could at some time in the future rescind the conservation easement.

Sjeklocha asked what a conservation easement sign would look like. S. Thomas explained that there are several different types of conservation easement signs throughout the city. Staff works with the developer to determine what type of sign would be most appropriate. Some large conservation developments have a fairly substantial monument that outlines when the easement was established and what is allowed and prohibited in the easement. There are also very small signs that are low to the ground that establish a buffer. S. Thomas provided a diagram of different types of signs. Colleran added that the words "conservation easement" are on every sign. This indicates a legal obligation. Colleran identified the location of the signs in the diagram.

Sjeklocha asked if the developer agreed to repair the public and private roads if there is any damage caused during the initial construction and from construction of the residences. S. Thomas explained that it is common for staff to review the condition of public roads prior to construction. If there is damage that would require resurfacing, then the city would take action to recoup that cost. A private agreement between the developer and owners of the private street would have to be reached if the owners chose to provide access.

Sjeklocha asked who regulates the docks on Gleason Lake. S. Thomas recalled that the shoreland district ordinance regulates the maximum width of a dock to be

eight feet wide. Any rule beyond that is regulated by the lake association and the Department of Natural Resources (DNR). Collieran agreed.

Chair Cheleen asked if the rain gardens would be created at the same time the grading is done for the road or would they be created when the custom grading occurs for each lot. S. Thomas said that the rain gardens servicing the new impervious surface of the road would be required to be constructed at the same time as the road in order to handle the new runoff. The individual rain gardens would be created at the time of home construction. A design for the rain garden would be included in the building permit review process to ensure its appropriate size.

Chair Cheleen asked if the utility boring would occur under Black Oaks Lane. He thought the boring would take place off to the side so the street would not have to be torn up. S. Thomas agreed. The public utilities that would serve the development would be off of the new Black Oaks Lane. Staff would like utilities extended to service other properties in the area. Engineering staff is determining the best way to do that. Staff is concerned that the utilities not impact the trees in the area. Directionally-bored utilities would be located under the critical root zone of the trees.

Roy Lecy, Minnetrista resident, developer and applicant, thanked staff for their hard work. He provided a rendition of the proposed project. He stated that:

- The letter that was in the packet is quite old. There are no controversial issues regarding the wetland. It is a wetland because there are historic photos that show it was a wetland and it also has wetland vegetation. It is unusual because there is no surface water and there is no water down to 12 feet below the wetland.
- He will be talking with staff regarding enhancing the wetland. Right now, the grass is canary grass which is an invasive species.
- The number 1 concern of neighbors is drainage. That has been explained. Rain gardens are the new way for small developments to handle and purify water before it drains off of a property. The development would not put any water on the neighboring properties to the north or south. The drainage would be reduced to the neighbors to the south. The culvert under the driveway which runs water to the south would be removed.
- The proposal would save approximately 70 percent of the high-priority trees and 62 percent of the significant trees. Many pine trees would be transplanted. He has had success transplanting trees by using the proper size tree spade and transplanting trees to

- like soils. He described methods to enhance the root growth on trees. He hoped to even beat the tree preservation requirements.
- Site grading of Lots 5, 6, and 7 would be walk-out sites. The basement floor needs to be 2 feet higher than the wetland. Since this is a flat area, those lots are automatically walk outs. He agreed with staff that the residences would be built as full walk outs on three sides. There would be no fill added on the rear and sides of the homes.
- The soil conditions on Lots 5, 6, and 7 are not the greatest, so screw-anchor construction would be used. That would prevent the need for soil-correction work and disruption of the site.
- The alternate driveway would be necessary if an agreement cannot be reached with the association.
- He proposed that there be a 10-foot conservation easement to provide privacy for the neighbor directly on the south. The trees that are located up the drive would be on city property. The north side would have a 10-foot easement up the entire length to Black Oaks Lane.
- Updating the existing residence is, unfortunately, not cost effective. It will be demolished.
- There is a 37.5-foot buffer on the lake shore. The 4 homes on the lake would each have its own dock.
- He has met with the 4 residents south of the property. Their number 1 concern was drainage. Drainage would be reduced to the south. A 10-foot buffer would be all along Lot 1. He did not care if it would be a private or city-held conservation easement. He also agreed to increase the setback from 75 feet to 100 feet to help the view from the property adjacent on the south side.
- He met with the residents on the north side. The letter in the file was written prior to the meeting. Their number 1 concern is drainage. The developer is prohibited from putting water onto someone else's property. He agreed to put a 10-foot buffer along the entire property line and to transplant more pine trees on their side of the property line to provide more of a buffer. Mr. Lecy is planning to live on Lot 4, so he wants to take good care of the neighbors on the north.
- Sewer and water would be stubbed in the cul-de-sac.

Blatz asked how many additional trees could be saved if he would be able to access Black Oaks Lane directly. Mr. Lecy has not made a count. The area is a

solid, wooded area. It does not contain a lot of significant or high-priority trees. It provides a natural buffer.

The public hearing was opened.

Mike Braun, 100 Black Oaks Lane, thanked staff for spending time with him and answering his questions. He thanked Mr. Lecy for listening to the concerns. He was concerned with drainage. Black Oaks Lane is mushy and moves up and down. It cannot handle any additional water. He asked if the volume of water would increase over time. On the other side of the road are houses, including his own, that all have septic systems and wells. The wetland has been encroached upon over the years by Wayzata Public Schools so the water level is rising. He did not need a sump pump for 10 years, but had to get one 5 years ago and now it runs all of the time. The soil is very mushy. He asked if rain gardens have been done successfully in other parts of Minnetonka. There is concern with the grading that would occur on Lots 6 and 7. Some of the houses are located 5 feet to 10 feet above 955. That is a lot of grading for 2 small rain gardens. He requested a condition of approval require Mr. Lecy to fix the private road if something happens to it. He questioned what would happen if the filtering ponds do not work as effectively as predicted. The soil is already highly saturated right now. There is an existing natural barrier on the north side.

In response to Mr. Braun's question, S. Thomas explained that the alternate driveway location would be prohibited from being located within the public right of way which extends 25 feet south of the existing private drive. Staff would not approve a grading plan that would disturb that area.

Mr. Braun asked about the right of way. S. Thomas said that the city's right-of-way specialist discovered that a portion of Black Oaks Lane is not within public right of way. The public right of way ends 250 feet east of the property. The city has been maintaining that portion of the public road. That would in no way impact the private road that is currently maintained by the owners. That portion of the street is located in Plymouth. Mr. Braun questioned if a Plymouth representative should be taking action. S. Thomas stated that Minnetonka City Attorney Desyl Peterson has advised that Minnetonka, as the maintainer of the road, is legally authorized.

Mr. Braun said that many people walk through his neighborhood because of the beautiful trees and private road. The trees along the road are a hallmark of the neighborhood. He was concerned that the trees remain and the wetland not be negatively impacted by runoff.

No additional testimony was submitted and the hearing was closed.

Chair Cheleen confirmed with S. Thomas that construction traffic does not need to drive on the private road and the road owners can prohibit construction traffic.

Manchester stated that the volume of water would not increase based on the preliminary layout. The numbers would be reviewed during the final design of the project to make sure nothing has changed. Rain gardens have been used throughout the city. Stone Trace, Meadowoods, and Braeburn Woods are some successful examples. When an applicant proposes a rain garden, soil borings are required to account for the type of soil that is there. He has seen the soil borings for the site. Knowing the type of soil allows anticipation of how fast the water would infiltrate.

Adams asked how developers who cause damage to roads during construction are dealt with. S. Thomas explained that while the road is located in Plymouth, it is maintained by Minnetonka. The infrastructure is under Minnetonka's authority. In terms of ensuring that happens, the city would require the developer to fix the road or the city fix the road and access the cost to the developer. The planning commission can include the inspections of the road prior to and after construction as a condition of approval. The road was upgraded in 2007.

Lehman asked what recourse the city or neighbor would have down the road if something would go wrong or a condition would not be met. S. Thomas explained that natural resource and engineering staff inspect the site to determine compliance with approved plans. If the developer would not do something, then the city could take legal action against them. It is a misdemeanor to violate a condition of approval. If a property owner regrades their back yard in a manner that causes a drainage issue onto a neighboring property, then that would be a private property issue.

Lehman asked what would happen if the rain gardens were created as required and did not perform as well as was anticipated. Gordon responded that conditions can change over time. That is an ongoing issue with any development or property. The conditions that would contribute to the need for a sump pump after 10 years could relate to a change in the ground-water level or a culmination of a number of things. It would be difficult for staff to look specifically at one item as the reason, but one of many possible contributing factors.

Lehman felt Mr. Braun's question was trying to get at if the developer did everything according to the plans and the proposal met conditions of approval, but something went wrong, then what would be the recourse. Manchester

explained that city staff would monitor the rain gardens on an annual basis. If the numbers at the time of approval do not do what they are supposed to, then the city would recognize the problem. That is why the city has an easement over the rain gardens. The city would correct the problem according to that agreement.

Sjeklocha followed up by asking who would correct the problem and who would pay. Manchester responded that the maintenance agreement would be controlled by the property owners. Based on a typical agreement, the owners of the property would be responsible. S. Thomas stated that if the city recognizes that there is an issue, then staff would inspect the site. If an issue is found, then staff would talk with the owner and come to a resolution as is outlined in the maintenance agreement. That can be worded in several different ways. The city would follow up to ensure the property owner would abide by the maintenance agreement.

Sjeklocha supported adding a condition to inspect the road prior to construction and require Mr. Lecy to fix any damage to the road.

Chair Cheleen noted that Black Oaks Lane would extend past the entrance to the new cul-de-sac. Mr. Lecy would not need to run any construction vehicles over the private part of the road. Beyond that, it would just be water damage if drainage would not be adequate. Mr. Lecy stated that if the proposal would be constructed and the alternate driveway used, then there is no reason for a truck or construction equipment to touch the private driveway going to the north.

Mr. Lecy provided that the reason that people do not often hear that there is a case where these projects fail is because they are engineered to water runoff standards that have a safety factor that make it very difficult for the engineers to be wrong. That is a fact. In his opinion, a project is engineered to a point where one would not see problems. Lehman agreed 100 percent.

S. Thomas clarified that Sjeklocha's suggestion related to the public portion of the street. Sjeklocha agreed. Lehman asked if that condition is already covered by city ordinance or developer's agreement. S. Thomas responded that similar conditions have been included for other projects. Lehman asked if adding the condition to make the developer responsible for street damage for this approval could open the door for another project that did not have the condition to use the lack of having the condition as a reason to fight being held responsible for fixing damage. S. Thomas will check with the city engineer and city attorney to provide the best answer before the city council meeting. Lehman supported the concept, but wanted to make sure it would not cause a problem somewhere else.

Adams felt some comfort knowing Mr. Lecy would be living on the property, driving on the road, and living with his neighbors. Whether it is a condition or not, he would end up bearing some responsibility if there is damage to the street. He supports the recommendation to the city council. He hates to see the old estates disappear one by one, but change is inevitable. Mr. Lecy has done a good job of responding to the concerns of the neighbors and staff.

Adams moved, second by Blatz, to recommend the city council approve the following items concerning a 7-lot subdivision of existing properties at 16611 Black Oaks Lane with the modifications provided in the change memo dated December 3, 2009 and direct staff to provide the city council with information regarding whether there should be a condition regarding road maintenance (09024.09a):

REZONING

- 1) *Recommend that the city council adopt the ordinance on pages A25–A27 of the staff report, which approves rezoning the subject property from R-1, low-density residential, to PUD, planned unit development. This ordinance is based on the following findings:*
 - a. The rezoning would be consistent with the city's guide plan; and
 - b. The rezoning would be consistent with the public health, safety, and welfare.

PRELIMINARY PLAT, WITH EXTENDED CUL-DE-SAC LENGTH, REDUCED WIDTH PUBLIC STREET AND WETLAND SETBACK VARIANCE

- 2) *Recommend that the city council adopt the resolution on pages A28–A37 of the staff report which grants preliminary plat approval to Black Oaks Estates, date-stamped November 9, 2009, with cul-de-sac in excess of 500 feet. Approval includes the following variance:*
 - a. Road setback variance from 20 feet to 13 feet.

Approval is based on the following findings:

- a. Aside from the wetland setback variance, the proposal meets the required standards and ordinances for a preliminary plat.

- b. A reduced width public street and ribbon curb are appropriate in this specific situation as their use:
 - (1) Would reduce grading associated with street construction and stormsewer installation, affording protection of High-Priority and Significant Trees on the site, most notably existing silver maple trees lining the existing site entrance.
 - (2) Would afford the opportunity to use a “natural” stormwater system.
 - (3) Would maintain the current width of the existing Black Oaks Lane, which is 22 feet wide.
- c. The setback variance is reasonable. The location and setback of the proposed private road reflects the location and setback of the existing driveway on the site.
- d. The pattern of existing development and available roadway access requires that the only practical method of providing public access to the site is a long cul-de-sac.

Approval is subject to the following conditions:

- a. Prior to final plat approval, complete the following:
 - (1) Show the following on the final plat:
 - A 40 foot right-of-way along the neck portion of the cul-de-sac and minimum 100-foot right-of-way for the cul-de-sac bulb.
 - A minimum 10-foot wide drainage and utility easements adjacent to the public right-of-way(s) and minimum 7-foot wide drainage and utility easements along all other lot lines. These easements are not required in the immediate areas of the accessory building existing at the time of this approval.
 - Utility easements over existing or proposed public utilities, as determined by the city engineer.

- Drainage and utility easements over wetlands, floodplains, and rain gardens required for construction of the public street, as determined by the city engineer.
 - (2) Pay a park dedication fee of \$30,000.
 - (3) The city must vacate existing right-of-way on the subject property.
 - (4) 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 electronic CAD file of the final plat in microstation or DXF.
 - (2) Payment for traffic signs and installation, as required by the city engineer.
 - (3) The following documents must be prepared by an attorney knowledgeable in the area of real estate and must be submitted for the city attorney's approval:
 - (a) Title evidence that is current within thirty days before release of the final plat.
 - (b) Conservation easements and a drawing of the following easements.
 - Wetland Buffer easement 16.5 feet upland of the delineated wetland edge. This easement must allow co-location of the public right-of-way.
 - Shore Impact Zone easement 37.5 feet upland of the established ordinary high water level of Gleason Lake.

The easements and drawings must be recorded with the final plat.

- (c) Documents establishing a homeowners' association. The association must be responsible for maintaining common areas, infiltration areas, rain gardens, 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 rain gardens and any adjacent drainage ditches, keeping a vegetative cover within the ditches and rain gardens, and removing any blockage of the swale or culvert that may impede the drainage of the site, as approved with the building permits.

- (d) Restrictive covenants to be recorded against the individual lots with the plat. The covenants must include:
 - (i) Grading on each lot, to accommodate principal and accessory structures, is limited to that area established on the Preliminary Grading, Drainage, and Erosion Control Plan date-stamped November 9, 2009. City staff may allow grading outside of these limits if the total percentage of the site graded is less than or equal to the percentage of the site graded as indicated on the Preliminary Grading, Drainage, and Erosion Control Plan date stamped November 9, 2009.
 - (ii) Tree removal on each lot, to accommodate principal and accessory structures, is limited to those trees shown for removal on Tree Plans date stamped November 20, 2009. City staff may allow tree removal other than that shown on these plans if the total percentage of tree removal is less than or equal to the percentage of the removal as indicated on the Tree Plans date stamped November 20, 2009.
 - (iii) Conditions that have not been met as of the release of the plat.

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

- (4) Any other requirements included with final plat approval.
- c. A grading permit is required. Unless authorized by appropriate staff, no site work may begin until a complete grading permit application has been submitted, reviewed by staff, and approved.
- (1) The following must be submitted for the grading permit to be considered complete.

- (a) Final grading, stormwater and erosion control plans must be submitted for staff approval. Final plans must show:
 - (i) A public road of 22 feet in width, which includes ribbon curb as required by the city engineer.
 - (ii) No retaining walls within required city right-of-way.
 - (iii) Extension of public utilities to the edge of the Black Oaks Estates development in a location to be determined by the city engineer. This location may require directional drilling.
- (b) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, wetland restoration, landscaping requirements, and to restore the site. The developer may submit one itemized letter of credit, if approved by staff. The city will not release or reduce the letters of credit or cash escrow until work has been completed according to the plans approved by the city.
- (c) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the discretion of natural resources staff, mitigation inches may be decreased based on: the health of trees removed; the ability to appropriately install trees on the steep slope; and/or installation of under-story shrubbery.
- (d) If the developer is constructing any public improvements, the following must be submitted for staff review and approval:
 - (i) Final street and utility plans.

- (ii) A signed agreement with the city. This agreement must guarantee that the developer will complete all public improvements and meet all city requirements.
 - (iii) A letter of credit or cash escrow in the amount of 125% of a bid cost or 150% of an estimated cost of the improvements.
 - (iv) The city will only reduce or release the letter of credit or cash escrow upon receipt of as-built drawings and a letter certifying that the streets and utilities have been completed according to the plans approved by the city.
- (e) A construction management plan. The plan must be in a city approved format and must outline minimum site management practices and penalties for non-compliance.
- (f) All proposed rain gardens must be constructed at the time of street construction or all rain gardens must be fully covered by the grading letter of credit to ensure the ultimate construction.
- (2) Prior to issuance of a grading permit:
- (a) The City of Wayzata must approve additional water service connections.
 - (b) Submit an engineering/utility inspection fee.
 - (c) Install a temporary rock driveway, erosion control, and tree and wetland protection fencing for staff inspection. These items must be maintained throughout the course of construction.
 - (d) The final plat must be released by the city and filed with Hennepin County for recording.

- (3) Any lift station improvements required by Black Oaks Estates must be completed by the developer in conjunction with the grading permit.
- d. Prior to issuance of a building permit for any of the lots within the development:
 - (1) Submit the following for items staff review and approval:
 - (a) A construction management plan. This plan must be in a city approved format and outline minimum site management practices and penalties for non-compliance.
 - (b) Final grading and tree preservation plan for the lot:
 - (i) Grading on each lot, to accommodate principal and accessory structures, is limited to that area established on the Preliminary Grading, Drainage, and Erosion Control Plan date-stamped November 9, 2009. City staff may allow grading outside of these limits if the total percentage of the site graded is less than or equal to the percentage of the site graded as indicated on the Preliminary Grading, Drainage, and Erosion Control Plan date stamped November 9, 2009.
 - (ii) Tree removal on each lot, to accommodate principal and accessory structures, is limited to those trees shown for removal on Tree Plans date stamped November 20, 2009. City staff may allow tree removal other than that shown on these plans if the total percentage of tree removal is less than or equal to the percentage of the removal as indicated on the Tree Plans date stamped November 20, 2009.
 - (iii) Location of sewer and water services must minimize impact to any significant trees. No trees may be removed specifically for

installation of services. One set of new services must be installed.

- (c) A tree mitigation plan. The plan must meet minimum mitigation requirements as outlined in the ordinance. However, at the discretion of natural resources staff, mitigation inches may be decreased based on: the health of trees removed; the ability to appropriately install trees on the steep slope; and/or installation of under-story shrubbery.
 - (d) Submit cash escrow in the amount to be determined by city staff. This escrow must be accompanied by a document prepared by the city attorney and signed by the builder and property owner. Through this document the builder and property owner will acknowledge: (1) the property will be brought into compliance within 48 hours of notification of a violation of the construction management plan, other conditions of approval, or city code standards; and (2) if compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
 - (e) An appropriately size rain garden, or other infiltration system approved by the city engineer, must be constructed on each residential property in conjunction with home construction. The required rain garden must be fully contained on the property it is servicing. Grading plans and any required stormwater calculations for the rain gardens must be submitted together with building permit application materials.
- (2) Submit the following documents:
- (a) A recorded copy of the preliminary plat, all required easements, and restrictive covenants.
 - (b) A letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance.

- (c) A letter of credit or cash escrow in the amount of 150% of an estimated cost or 125% of a bid cost to complete required tree mitigation. Individual letters of credit are required for each lot.
 - (d) A drainage and utility easement over the required rain garden. This easement must be reviewed, approved, and recorded by the property owner prior to final building inspection.
 - (3) Schedule and hold a preconstruction meeting with engineering, planning, and natural resources staff.
 - (4) Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot. These items must be maintained throughout the course of construction.
 - (5) Install heavy-duty fencing, which may include chain-link fencing, at the conservation easement. This fencing must be maintained throughout the course of construction.
 - (6) Pay a hookup fee for sanitary sewer and water.
 - (7) If required rain garden(s) is constructed in conjunction with the building permit, a drainage and utility easement must be dedicated over the rain garden prior to final inspection.
- e. Notwithstanding the requirements outlined above, all lots and structures within the development are subject to all R-1 zoning standards. In addition:
- (1) Required principal structure setbacks are as follows:

	REQUIRED SETBACK
Front Property Line	25 feet
Side Property Line Exterior to the Development	15 feet
Side Property Line Interior to the Development	10 feet

Rear Property Line	20% of lot depth or 40 feet whichever is less
Ordinary High Water Level	75 feet
100-Year Floodplain	20 feet
Delineated Wetland Edge	35 feet

- (2) Required front yard setback for accessory structures existing at the time of this approval is 6 feet. This setback will accommodate the existing barn on the site.
 - (3) Minimum floor elevation is 955.0.
 - (4) All portions of first-story walls as measured by an approved route around the exterior of the house must be within 150 feet of the street. If access requirements cannot be met, the house must be protected with 13D automatic fire sprinklers.
- f. Prior to demolition of the existing house, city staff must be allowed into the house for photo documentation of the structure.
 - g. Signage must be installed and maintained which delineates the edge of any required conservation easement. This signage is subject to the review and approval of city staff.
 - h. During construction, the streets must be kept free of debris and sediment.
 - i. 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.

ESTABLISH RIGHT-OF-WAY

- 3) *Recommend that the city council adopt the resolution on pages A38–A41 of the staff report which establishes right-of-way along Black Oaks Lane. Approval is based on the findings that the City of Minnetonka has used and maintained this existing roadway as a public road for at least six continuous years as required by Minnesota Statute No. 160.05.*

A. Thomas, Adams, Blatz, Lehman, Sjeklocha, and Cheleen voted yes. Walker was absent. Motion carried.

The item is tentatively scheduled to be reviewed by the city council December 21, 2009.

9. ADJOURNMENT

Sjeklocha moved, second by Lehman, to adjourn the meeting at 8 p.m. Motion carried unanimously.

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