

**MINNETONKA PLANNING COMMISSION  
MINUTES**

**JULY 21, 2011**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

Commissioners Daeges, Lehman, Magney, A. Thomas, Adams, and Cheleen were present. Sjeklocha was absent.

Staff members present: Community Development Director Julie Wischnack, City Planner Loren Gordon, Principal Planner Susan Thomas, Planner Jeff Thomson, Natural Resources Manager Jo Colleran, and Water Resource Engineer Liz Stout.

- 3. APPROVAL OF AGENDA:** The agenda was approved as submitted with modifications and additional comments provided in the change memo dated July 21, 2011.

- 4. APPROVAL OF MINUTES:** July 7, 2011

*Lehman moved, second by Adams, to approve the July 7, 2011, meeting minutes as submitted.*

*Daeges, Lehman, Magney, A. Thomas, Adams, and Cheleen voted yes. Sjeklocha was absent. Motion carried.*

**5. REPORT FROM STAFF**

Gordon briefed the commission on land use applications considered by the city council at its meeting of July 11, 2011:

- Adopted a resolution approving the final plat for the Coyote Song development.
- Introduced the Southwest Light Rail Transit Overlay District Ordinance which will be reviewed by the planning commission at its next meeting along with an Interim Use Ordinance.
- Adopted a resolution approving vacation of easements in the Eldorado Trail area to rearrange a lot line.
- Concept plan for the CVS pharmacy received comments regarding keeping development moving and rail planning incorporated into

the project.

Gordon stated that the second neighborhood meeting for the YMCA project was held on Tuesday. The YMCA is still researching incorporating mixed uses on the site. A number of opportunities will be considered before submitting a formal plan to the city. A study session will be held August 1, 2011 with the city council. Most of those present who live south of the YMCA support the YMCA's mission and use. Their concerns dealt with providing enough buffering along the commercial and residential edges on the north side of the neighborhood. Those present support the project as a whole and issues were addressed.

The next planning commission meeting will be August 4, 2011.

**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.

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

**A. A front yard setback variance and a wetland setback variance for a second floor addition over the garage at 18008 Powderhorn Drive (10045.11a)**

Adopt the resolution on pages A11–A14 of the staff report, which approves the proposed front yard setback variance from 35 to 29 feet and the proposed wetland setback variance from 35 to 15 feet at 18008 Powderhorn Drive. Approval is based on the following findings:

- 1) There are practical difficulties in complying with the front yard setback and wetland setback requirements:
  - a) **REASONABLENESS:** The requests for a front yard setback variance and wetland setback variance are reasonable. The proposed addition will maintain the existing, non-conforming front yard setback of the existing house and will not intrude further into the required setbacks from the front property line and the wetland. It is reasonable to expand the second floor of an existing house within the existing building footprint.

- b) **UNIQUE CIRCUMSTANCE:** Built in 1980, the house has non-conforming front yard and wetland setbacks. The proposed expansion will not expand further into the required setback areas.
  - c) **CHARACTER OF LOCALITY:** The proposed second floor addition will be consistent with the existing house, which already has a second floor, as well as with the other homes in the general area which also have second floors. The proposed addition would not negatively impact neighboring properties as the house sits across the street from a wetland and the nearest neighbor to the west side of the house where the addition is going is almost 300 feet away.
- 2) The proposal is in harmony with the general purposes and intent of the zoning ordinance.
- a. Front Yard Setback: The intent of the front yard setback requirement in the zoning ordinance is to ensure consistency of front building lines and to provide for a degree of separation of uses from the public right-of-way. The proposal meets this intent as it will maintain the front building line of the existing home and will not encroach further into the front yard setback.
  - b. Wetland Setback: The intent of the wetland ordinance setback regulations is to protect wetlands to the maximum extent possible while allowing a reasonable use of the property. The proposed second floor addition will be consistent with the existing non-conforming setback of the existing house and will not intrude further into the required wetland setback. Furthermore, the addition will not add any new impervious surface to the site, only replace and increase vertically in height the roof that is already in place. Thus, the second floor addition will not cause any additional negative impacts to the adjacent wetland.
- 3) The proposed variance is consistent with the comprehensive plan.
- a. Front Yard Setback: The guiding principles in the comprehensive plan provide for maintaining, preserving, and enhancing existing single-family neighborhoods. The proposed addition would preserve the single-family neighborhood and provide investment in the property.

- b. Wetland Setback: The city's goals for wetland areas as stated in the comprehensive plan are to protect wetlands to the maximum extent possible while allowing a reasonable use of the property. The proposed second floor addition will be consistent with the existing non-conforming setback of the existing house and will not intrude further into the required wetland setback. Furthermore, the addition will not add any new impervious surface to the site, only replace and increase vertically in height the roof that is already in place. Thus, the second floor addition will not cause any additional negative impacts to the adjacent wetland.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  - b. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
  - c. The front property line must be located and staked in the field and the setback verified by the city.
- 2) This variance will end on December 31, 2012, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

**B. Shoreland setback variance and floodplain setback variance for the construction of a deck at 5658 Seven Oaks Court (10017.11a)**

Adopt the resolution on pages A56–A59 of the staff report, approving the proposed shoreland setback variance from 44 to 25 feet and the proposed floodplain setback variance from 10 to 8 feet at 5658 Seven Oaks Court. Approval is based on the following findings:

- 1) There are practical difficulties in complying with the required shoreland and floodplain setbacks:

- a. **REASONABLE USE:** It is reasonable to have a deck on a residential property.
  - b. **UNIQUE CIRCUMSTANCE:** There are several circumstances unique to the property that was not caused by the current property owner:
    - (1) The existing home was built in 2002 by previous property owners. Shoreland and floodplain setback variances were approved for the construction of the new home.
    - (2) The approved plans for the house showed a second story deck or balcony. While the patio doors on the second floor were installed by the previous property owner in anticipation of the construction of a deck or balcony, a deck or balcony was never actually built.
    - (3) The requested setback variance is not based on economic considerations. A proposed deck in the area where the existing patio doors were installed by previous owners could not be built without a variance.
  - c. **CHARACTER OF LOCALITY:** The requested setback variance would not alter the essential character of the area. A deck is a common feature on a residential property. The adjacent residential homes in the neighborhood also have decks.
- 4) The proposal is in harmony with the general purposes and intent of the zoning ordinance.
- a. A deck on a residential property is consistent with the residential character of a low density area.
  - b. The proposed deck would not impede the functions of the adjacent floodplain and shoreland on the property
- 5) The proposed deck would not negatively impact the surrounding, existing residential neighborhood. Rather, it would be consistent with the surrounding homes, which all have decks.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  - b. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
- 2) This variance will end on December 31, 2012, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

***Daeges, Lehman, Magney, A. Thomas, Adams, and Cheleen voted yes. Sjeklocha was absent. Motion carried and the items on the consent agenda were approved as submitted.***

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

## **8. PUBLIC HEARINGS**

### **A. Setback variance to construct an addition to the home at 15244 Wild Wings. (11017.11a)**

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

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

The applicant was present for questions.

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

Chair Cheleen felt the application is cut and dry. Adams thought the slope is steep.

***Adams moved, second by A. Thomas, to adopt the resolution on pages A13-A16 of the staff report with the change to 29 feet included in the change memorandum, which approves the proposed lot-behind-lot setback***

***variance from 37 feet to 29 feet at 15244 Wild Wings. Approval is based on the following findings:***

- 1) There are practical difficulties in complying with the lot-behind-lot setback requirements:
  - a) REASONABLENESS: The proposed setback variance is reasonable. It is reasonable to decrease the slope of the driveway from 24 to 15 percent to provide for a safer and more functional driveway during adverse weather conditions. The proposed addition is a reasonable design to decrease the slope while maintaining a functional design and floor plan for the house.
  - b) UNIQUE CIRCUMSTANCES: The topography of the site and the slope of the existing driveway are circumstances unique to the property. These circumstances were not created by the property owner and are not based on economic factors.
  - c) CHARACTER OF LOCALITY: The addition would not adversely impact the character of the locality. The addition would not be highly visible from surrounding properties, and would be screened by the existing topographic changes and vegetation. The addition would only extend closer to the east property line, but would still be located over 85 feet from the house to the east.
- 2) The proposal is in harmony with the general purposes and intent of the zoning ordinance. The intent of the lot-behind-lot setback requirement is to provide orderly location of homes, and to ensure that homes are located such that they do not have a greater visual impact on surrounding properties. In this case, the subject property fronts Wild Wings and the east side of the property abuts the rear yards of the homes located on Vining Point Road. The addition maintains the orderly development of the neighborhood, and would not be visible from the adjacent homes.
- 3) The proposed variance is consistent with the comprehensive plan. The property is guided for low density residential uses. The guiding principles in the comprehensive plan provide for maintaining, preserving and enhancing existing single family neighborhoods. The variance would preserve the residential character of the neighborhood and would provide investment in the property to enhance its use.

Approval is subject to the following conditions:

- 1) Prior to issuance of a building permit:
  - a. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  - b. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.
- 2) The applicant shall verify the location of the existing water and sewer service lines, and also verify that the services have adequate cover to prevent freezing. If the lowering of the driveway grade will reduce ground cover over the service, the applicant will be required to take measures to protect or lower the services to prevent freezing.
- 3) This variance will end on December 31, 2012, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

***Daeges, Lehman, Magney, A. Thomas, Adams, and Cheleen voted yes. Sjeklocha was absent. Motion carried.***

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

**B. Floodplain separation variance for a home addition at 4108 Skyview Road. (11016.11a)**

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

S. Thomas reported. She recommended denial of the variance application and approval of an expansion permit based on the findings and subject to the conditions listed in the staff report.

Adams asked how much further into the floodplain the extension would extend. S. Thomas explained that the addition meets the horizontal setback. It would not extend into the floodplain. It would not meet the 2-foot separation requirement. Adams said it appeared it would be roughly 20 feet closer to the floodplain. S. Thomas agreed.

Magney asked how the overflow elevation is determined. Stout explained that topographic maps created by aerial photographs are used to determine the open-channel overflow elevation. Water would flow to the west and north to Minnehaha Creek.

Lehman asked if an alternative preventive measure could be used such as a berm so the property would meet the overflow elevation by preventing the water from encroaching on the property. Stout responded that the city's ordinances do provide for above-grade, fully-enclosed, non-basement areas such as crawl spaces or other uninhabited spaces to be flood proofed. It would allow for internal flooding of those areas. The provision is used where a crawl space is used to elevate the low floor of a structure above the floodplain. It does specifically use the term "uninhabited spaces." A berm would be a possibility for the property, but only the applicant's property. If the water would rise to the overflow elevation, then it would do an end run around the berm and increase the flood potential on adjacent properties.

Chair Cheleen asked for the elevation for the basement at 4124 Skyview Road. S. Thomas explained that the basement of 4124 Skyview Road sits lower than the proposal's basement.

Steve Jansen, owner of 4108 Skyview Road, and Tom Kerber, remodeling contractor working with the Jansen's, 15429 Skyview Circle West, introduced themselves. Mr. Kerber stated that the floor elevation for 4124 Skyview Road is 959.8. The current proposal would locate the floor at 960.8 which would be a foot higher than the one approved for 4124 Skyview Road. His argument is the over-channel overflow at 961. He had questioned where the 2 feet requirement came from. He now knows it is a city ordinance requirement. The proposed floor would be 960.8; 2.8 higher than the 100-year floodplain. He understood the concern with the overflow. Lowering the floor would allow livable ceiling height of 7 feet. That is the minimum height allowed by the building code.

Mr. Jansen thanked everyone for working on the proposal. Several of the commissioners visited the property. He appreciated that. There are three houses lower than the proposed elevation. He grew up in Minnetonka. He knew where all of the swamps, slews, and bogs were. There are banks, houses, and shopping malls on places he thought there would be no way anyone could build on. He did not understand the risk. The pond is at 958. There would need to be 6 to 8 feet of water in one season before it would even come near the house. He did not know the math for that. He has lived here a long time and has seen a lot of rain. He looked at 65 houses in the area. This is the only home that did not smell musty. He did not see any mold or water damage and there was no dehumidifier. He did

not understand the risk. It is a great opportunity to build a more livable space to add on as he gets older and the kids get bigger. He appreciated everyone's time.

Adams asked Mr. Jansen if the area ever experienced flooding. Mr. Jansen answered in the negative. He stated that the ground drains well. Mr. Kerber lives in the area. He stated that the area did not flood in 1979.

Adams asked Mr. Jansen if he has an interior draining system and sump pump. Mr. Jansen answered in the negative. One could be included in the addition if it would help.

Magney asked if the basement slab would be built at the same elevation as the existing house, then how close would it be to the seven-foot clearance. Mr. Kerber responded about 6 inches. He stated that the existing ceiling is 6'9". That does not include beams or duct work.

Chair Cheleen did not think a berm would make sense in this situation. He has a poured, concrete foundation and the basement floor is low. He has a drain that goes to a sump pump. One must walk up two stairs to get to the ground level. He asked if that would be a feasible way to deal with the situation. Mr. Kerber did not know if that would be necessary. The grade, as it slopes away from the house, slopes away fairly significantly. The basement would not be lower than the grade itself.

Chair Cheleen's only concern is that it would still be two feet below the flood overflow height. Mr. Kerber mentioned to the property owners installing with the frost footings a drain plain and an interior and exterior sump basket and drain system. Then any water that would get to the foundation would be pumped out of the sump pump and back into the yard. It would be a revolving cycle.

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

***Adams moved, second by A. Thomas, to recommend that the city council adopt the resolution denying the variance and adopt the resolution approving an expansion permit for items related to a home addition at 4108 Skyview Road as follows:***

#### **VARIANCE**

- 1) *Adopt the resolution on pages A14–A16 of the staff report, which denies a vertical floodplain separation variance for a two-story addition at 4108 Skyview Road. Denial is based on the following findings:*
  - a. By City Code §300.07, a variance is only permitted when it is in harmony with the general purpose and intent of the ordinance and when the variance is consistent with the comprehensive plan.
  - b. The intent of the vertical separation – or low floor elevation – requirement in the floodplain ordinance is to minimize the potential for property damage due to flooding. The requested variance does not meet this intent. The existing home has a non-conforming low floor elevation and the requested variance would exacerbate this non-conformity. As requested, the low floor elevation would be further reduced; not minimizing but actually increasing the potential for property damage due to flooding.

#### **EXPANSION PERMIT**

- 2) *Adopt the resolution on pages A17–A20, which approves an expansion permit for a two story addition at 4108 Skyview Road. Approval is based on the following findings:*
  - a. The proposed addition would meet the standards outlined in City Code §300.29 Subd. 7(c):
    1. **REASONABLE EXPANSION:** Generally, it is reasonable to construct an addition that maintains the low floor elevation of an existing structure. In the case of the specific subject property and proposal, but for the low-floor elevation, the proposed addition would meet all minimum standards of the zoning ordinance.
    2. **CIRCUMSTANCE UNIQUE TO THE PROPERTY:** The existing home was constructed prior to adoption of the city's first zoning ordinance. Adoption of the ordinance and subsequent additions and changes to it have rendered the existing home non-conforming. This is a circumstance not common to all residential properties in the community.
    3. **NEIGHBORHOOD CHARACTER:** An addition maintaining the low-floor elevation of the existing home would have no

negative visual or physical impact on the residential character of the surrounding area.

Approval is subject to the following conditions:

- a. The two-story addition must maintain the existing, 962.0 low-floor elevation of the home.
- b. Prior to issuance of a building permit:
  1. A copy of this resolution must be recorded with the County and a copy of the recorded document returned to the city.
  2. Install a temporary rock driveway, erosion control, tree protection and wetland protection fencing as required by natural resources staff for inspection and approval. These items must be maintained throughout the course of construction.

This expansion permit approval will end on December 31, 2012, unless the city has issued a building permit for the project covered by this resolution or approved a time extension.

***Daeges, Lehman, A. Thomas, and Adams voted yes. Sjeklocha was absent. Magney and Cheleen voted no. Motion carried.***

**C. Conditional use permit and site and building plan review for a parking lot expansion at 5609, 5621 and 5701 County Road 101 (86104.11a)**

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

S. Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Chair Cheleen noted that phase one could have been approved administratively. S. Thomas said that phase one would still go forward even if phase two did not receive support in order to decrease the stacking of vehicles on the street.

Chair Cheleen walked the present stacking area. He asked if it could be made longer. S. Thomas said it would be possible. It would require a shift of the sidewalk in the area. The city's traffic consultant indicated that he would like to

see the area for the drop off of students increased from its current length. Chair Cheleen felt it made sense to make the drop of area bigger.

Mike Condon, Supervisor of Buildings and Grounds for Minnetonka Schools, representing the applicant, provided a diagram showing the traffic circulation. He thanked staff for being great to work with. He stated that the city ordinance requirements for parking would be met, but there would not be enough to meet what I.T. would recommend. A middle ground regarding the amount of parking has been met with the city's traffic consultant. The city would require 140 parking stalls for the 2 sites. The proposal would provide 251 stalls. I.T. is recommending 363 parking stalls.

Mr. Condon explained that the service center has 66 full-time, 9-month employees. The community center houses 65 people throughout the day. There is a training room which houses 18 teachers. There are 6 conference rooms with a total capacity of 46. The additional 110 stalls are needed. There would still be times when there would not be enough parking. It would significantly prevent stacking on County Road 101.

Chair Cheleen asked if there would be room to create landscaping or a berm. Mr. Condon said there would be room to consider that. He preferred to go through the denial process with the county to make sure the district's efforts would be coordinated with the county road improvement project.

Chair Cheleen asked if there would be enough room for some decent-sized pine trees to provide shade. Mr. Condon believed that the landscaping plan includes 18-foot to 20-foot tall pine trees for those spaces. That would be true for the sides abutting residential neighborhoods.

Adams asked what percent of Minnetonka School District students open enroll as of the 2010-2011 school year. Mr. Condon stated 15 percent. Adams said it looked like 40 percent of Clear Springs' students open enroll. Adams stated that in 2002, the school district made a concerted effort to market to students living in surrounding districts. Adams stated that it seems to be a self-created problem. Adams said, "A lot of the students that we're building out this expansion for are non school-district residents and also non-Minnetonka residents. Would that be an accurate statement?" Mr. Condon explained that open enrollment is not only good for the school district of Minnetonka, it is also good for the City of Minnetonka as well as surrounding cities. He shared a personal example of parents looking for a residence in Minnetonka because their child open enrolled in a Minnetonka school.

Adams thought if 9 years ago, "we" would have been told that students from other school districts would be actively recruited and trees would be cut down and green space would be paved over and thousands of vehicles would be introduced into the district every day that he does not know if "we" would have gone along with it. Gradually, over the last 5 years he has been on the commission, there has been a "gradual bite here and there." More impervious surface is being added whether it is buildings or parking lots. He has a concern about continually accommodating the school district's aggressive expansion plans. He will look at this on its merits. Mr. Condon stated that the school district staff has listened to the planning commissioners, city staff, and city councilmembers. Commissioners and councilmembers have suggested that, because of the impervious surfaces, the school district should purchase additional land so the school district is able to do the projects and meet ordinance requirements instead of increasing the amount of impervious surfaces.

Magney asked if buses would take the new route. Mr. Condon pointed out the separate drop off and bus circulation routes.

Magney lives near Deephaven Elementary which did a similar drive pattern and it works well. Groveland Elementary also has had a positive experience with a similar improvement.

The public hearing was opened.

Donna Hicks, 5616 Mahoney Avenue, stated that her yard is adjacent to the rear part of the parking lot. She was concerned with drainage and how close a drainage ditch would be to her property. She did not want her property to become a swamp land from the drainage from the parking lot. That many parking spots probably are not needed. She was concerned with screening and berms. The parking lot is public; therefore, if there would be no fence or screening people would think that her land is public land, too.

Lane Raichert, 18313 Kathleene Drive, was concerned with the county road improvement plan saving the new school parking lot and taking all of the land from single-family property owners.

No additional testimony was submitted and the hearing was closed.

S. Thomas provided a diagram that illustrated where the parking lot would be located relative to their houses. There is a significant amount of treed space between the location of the parking lot and the east property line. The school plans show a decorative fence would be located along the northern edge of the

proposed parking lot, a chain-link fence on the west side of the parking lot, and a condition of approval would require a conservation easement to be located on the school district property to preserve some of the old trees. In terms of the separation, staff is confident that there would be a physical separation between that parking lot and the open area that can be seen on Ms. Hicks' property.

Stout explained that new and existing impervious surfaces proposed in phase two would have to meet the city's storm-water-management guidelines and requirements. The school district would be required to infiltrate one inch of storm water runoff off of all of the new and disturbed impervious surfaces as well as there could be no increase in the runoff rate from the site. That would be true for a one-year storm, a ten-year storm, and a 100-year storm event. What the school district is proposing is to construct an infiltration basin along the east side of the property, adjacent to Ms. Hicks' property. The infiltration basin would be designed to meet the one-inch-infiltration requirement as well as the runoff rate control. The infiltration basin would be designed to discharge to the south and into the existing wetland. The separation between Ms. Hicks' property and the school district is great enough at the infiltration swale so that there would be no impact to Ms. Hicks' property.

Cliff Buman, with Inspect, a consultant for the city, clarified that there would be no drainage outside of the drainage swales. He explained the direction in which the water would travel. All of the drainage would flow toward the south, but all of the water would infiltrate so there would be no water released from the site.

Ms. Hicks asked how many feet would be between her property and the drainage area. S. Thomas estimated 80 feet. Of the 80 feet, 60 feet would be placed in a conservation easement so it could not be developed in the future.

Chair Cheleen asked if staff had knowledge of Hennepin County's street improvement project. S. Thomas spoke with the city engineer and learned that the county has a project page on its website for this improvement, but no specific plans. Initial planning would not begin until fall of 2011. In terms of the process, the county will meet with city engineers to understand what would be happening in the area. The city engineer would raise the issue of the school zone at that time. S. Thomas invited specific comments to be provided to the city engineer.

A. Thomas is a proponent of green space rather than impervious surfaces. He understood Adams' comments, but, on the other hand, he pushed for the school district acquiring more property. He believes that the school district staff is listening. In some spots, the school district has hit the developable limit of some properties. He felt better supporting this proposal rather than trying to fit more

spots into a parcel that did not have enough room. He supports the project. In this time, in this instance, the project would fit the situation with the acquisition and buffering for the neighbor and distance in between. The conservation easement is a winning situation for everyone. The proposal makes sense and the school district did the right thing.

Lehman felt the request is reasonable. It has met the conditions for a conditional use permit. He is explicitly avoiding the policy issues that were brought up earlier about whether it is good for an entity to market their product to communities outside of the city or elsewhere. It would be a dangerous precedent for the planning commission to engage in those types of policy decisions. He will evaluate the application based on the conditions it would be required to meet set by ordinance.

Adams did not have a problem with phase one. He had a problem with phase two. The number of parking stalls being requested is excessive. He thought that could be scaled back. He did not support the proposal. He commended the school district for purchasing land and buffering.

Magney supports the proposal. It is a good idea. He has seen a lot of projects go on in the school district over the last 10 to 15 years. The school district really does its projects well.

Daeges echoed support for the school district purchasing additional land and maintaining a ratio of green space to pavement as the school district tries to meet its needs.

Chair Cheleen encouraged school district staff to contact Ms. Buettner to address her concerns regarding buffering that she shared in an email to city staff.

***Daeges moved, second by Magney, to recommend that the city council adopt the resolution on pages A28–A34 of the staff report which grants a conditional use permit and site plan approval for Phase 2 parking lot expansion 5609, 5621, and 5701 County Road 101 with the modifications provided in the July 21, 2011 change memorandum. Approval is based on the finding that the proposal meets all required standards and ordinances. Approval is subject to the following conditions:***

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

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance with the following plans, unless modified by the conditions below:
  - Traffic reconfiguration plan date-stamped June 6, 2011
  - Grading and Drainage plan
  - Landscaping plan date-stamped June 6, 2011
  
- 2) Unless a floodplain alteration permit and rezoning are obtained no more than 1,000 square feet or 20 cubic yards of floodplain may be filled to accommodate the parking lot. Site and grading plans may be modified subject to staff review and approval to ensure this condition is met.
  
- 3) 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.
  - a. The following must be submitted for the grading permit to be considered complete.
    - (1) An electronic PDF copy of all required plans and specifications.
    - (2) Two full size and three 11x17 sets of construction drawings and three sets of project specifications.
    - (3) Final site, grading, drainage, utility, landscape, and tree mitigation plans, and a stormwater pollution prevention plan (SWPPP) for staff approval.
      - a. No more than 1,000 square feet or 20 cubic yards of floodplain may be filled to accommodate the parking lot.
      - b. The final landscaping and tree mitigation plans must meet minimum landscaping and mitigation requirements as outlined in ordinance. However, at the sole discretion of natural resources staff, mitigation may be adjusted based on site conditions.

- c. The final landscape plan must illustrate a wetland buffer adjacent to and 25 feet upland of the delineated edge of the wetland.
  - (4) A stormwater management plan meeting Rule A Criteria from the city's Appendix A: design Guidelines and Standards for all areas of new or disturbed existing impervious surface. The plan must include a stormwater narrative documenting compliance with the city's Design Guidelines and Standards. This narrative needs to include how the applicant is proposing to meet the city's runoff rate control, runoff volume control and water quality treatment requirements.
  - (5) Soil borings and infiltrometer tests to determine if infiltration is a feasible option on this site.
  - (6) The infiltration practice must be designed and sized in compliance with the city's Design Guidelines and Standards and the MN Stormwater Manual.
  - (7) Landscaping design for the infiltration area.
  - (8) Individual letters of credit or cash escrow for 125% of a bid cost or 150% of an estimated cost to comply with grading permit, landscaping requirements, and to restore the site. The developer may submit one letter of credit, if fully itemized and 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 and recorded copies of any required easements have been returned to the city.
  - (9) 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.
- b. Prior to issuance of a grading permit:
- (1) Submit the following conservation easement documents and associated exhibits for review and approval of the city attorney.

- a. Conservation easement adjacent to and 25 feet upland of the delineated wetland boundary.
- b. Conservation easement over the easterly 65 feet of 5609 County Road 1010.

The easements must be prepared by an attorney knowledgeable in the area of real estate and, following approval of the city attorney, must be recorded with Hennepin County. A copy of the recorded easements must then be returned to the city.

- (2) Install a temporary rock driveway, erosion control, tree and wetland protection fencing and any other measures identified on the SWPPP for staff inspection. These items must be maintained throughout the course of construction.
- (3) Submit cash escrow in an 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:
  - 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
  - If compliance is not achieved, the city will use any or all of the escrow dollars to correct any erosion and/or grading problems.
- c. Permits may be required from other outside agencies including, Hennepin County and the MPCA. It is the applicant's and/or property owner's responsibility to obtain any necessary permits.
- 4) Fencing must be installed in substantial compliance with Traffic reconfiguration plan date-stamped June 6, 2011
- 5) The property owner is responsible for replacing any required landscaping that dies.

- 6) Construction must begin by December 31, 2012, unless the planning commission grants a time extension.

***Daeges, Lehman, Magney, A. Thomas, and Cheleen voted yes. Adams voted no. Sjeklocha was absent. Motion carried.***

**D. Items concerning a 2-lot subdivision of existing properties on Rutledge Circle at 12910, 12918 Rutledge Circle and a parcel with an unassigned address. (04005.11a)**

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

S. Thomas reported. She recommended denial of the application based on the findings listed in the staff report.

Adams asked how floodplain rezoning occurs. S. Thomas explained that it would occur just like any rezoning. The planning commission would make a recommendation to the city council. In this case, the rezoning is not to change the zoning classification, but to move the floodplain boundary. It would not involve the Minnehaha Creek Watershed District.

Lehman was concerned with the odd shape of the lots. He recalls previous staff recommendations that stated that lot lines should be intuitively obvious and should be able to be determined visually. He asked if the "growth" to the south and east were not part of the lot, then would the remaining portion of the lot meet lot size and setback requirements. S. Thomas stated that the lot with the south "growth" is quite large. Whether it would meet lot-size requirements would depend on property line placement. In the case Lehman referred to, the property owner was asking for a variance to meander the property line. Staff did not support the subdivision or variance because those lot lines were not intuitive. In this case, if the floodplain alteration and floodplain rezoning were not part of the discussion, then commissioners would consider ambiguous language included in the subdivision ordinance that says that side property lines should generally be perpendicular to front and rear property lines. That would be a subjective call by commissioners.

Lehman asked if the owner could sell off each of the three lots individually so that the new owners would not have common ownership. S. Thomas stated that the lots would still be nonconforming. She read from the ordinance that stated that a new buyer would not have the right to build on a nonconforming piece of property because it was previously held in joint ownership with a conforming lot. There is no statute of limitations.

Lehman asked if a future owner could claim a hardship not of their making. S. Thomas answered that a buyer purchasing a nonconforming lot is creating their own hardship. The city attorney has said on several occasions that an owner is entitled to reasonable use of their property. Reasonable use may simply mean comingling an unbuildable lot with adjacent property.

Wischnack described a case she was involved with where a property was held in common ownership, but had slopes and a wetland that made it unbuildable. That case was settled and the property was returned to the original owner.

Curt Fretham, applicant, stated that:

- The same application was reviewed by commissioners June of 2009. His engineer found that the city's nearly 30-year-old floodplain elevation lacked data and was a couple feet lower. The application was "heckled" for being premature and that modeling would take affect soon that would resolve the discrepancy on the piece of property. The recommendation was for denial and to wait. He was told that would take 1 to 2 years.
- It has been 2 years and the modeling has still not been completed. His property is being held hostage to the erroneous 921 100-year flood elevation. He found out recently that the proposal would not be completed and approved until 2013.
- He asked how long he will really have to wait.
- The project is funded through 2016. The results of the model would not be adopted until 2017. He asked if it is fair that he has to continue to wait for the application to be approved when data supports that the current elevation is erroneous and city staff acknowledges that it is erroneous.
- Minnehaha Watershed District has recently completed a study that states that the 100-year flood elevation for this area is 919.6; 1.4 feet lower than the city's 921. City engineering staff is aware of this study and agreed that the utilization of 919.6 would be appropriate and suitable for the application to move forward.
- He provided an e-mail from December 8, 2010 that said that the author agreed that the Rutledge Curve project could move forward utilizing 919.6. He took that information, spent more money, and submitted the application. This elevation does not require a fill permit or variances. It is a straight-forward, conforming application. With that information, he expects approval. The project does not need anything from the city. The proposal has a right to approval.

- City staff went ahead and prepared a staff report with a recommendation for approval in April. He got a call the day before. Staff said there was a problem and changed its mind. The city does not have a mechanism that would allow the city to use the 919.6 elevation. He felt he had two choices: go to the meeting with staff's recommendation for denial or meet and try to find a way to recommend approval of the project utilizing the 919.6 elevation. He chose the latter, met with staff, and the conclusion was staff recommending that the applicant apply for a floodplain alteration permit to achieve modification of the 100-year flood elevation. He agreed, redrew the plans, paid the fees for that application, and thought everyone was on the same page, but staff is recommending denial of the application.
- He referred to page one of the staff report which lists the requests for a floodplain alteration permit, floodplain rezoning, and preliminary plat. The recommendation is for the city council to deny the request.
- In regard to the preliminary plat, the application is a conforming application for two lots and meets all criteria without variances. It is straight forward and he expects approval.
- The floodplain alteration permit and floodplain rezoning was offered as a mechanism to allow the city to get through the hoop so the city did not have amend its erroneous 100-year floodplain elevation. This was him trying to work with the city. He was not asking the city for a favor. He feels he has meet all of the standards with respect to the floodplain alteration permit. Even if no one agrees with the 921, the application meets all the criteria for a floodplain alteration permit and he expects to get it as a matter of law and property owners' rights. There are no relevant facts to deny it.
- He provided an attorney opinion letter.
- He read the rest of the staff report and struggled with how confusing it is. Page one of the staff report states that Lots B and C are nonconforming. He disagrees. Besides, the application does not apply to Lots B and C. That is irrelevant.
- Page two of the staff reports talks about creating buildable area. The floodplain would not be filled to create buildable area. What is needed is a mechanism to put the 919.6 floodplain elevation in place. There is already enough buildable area. That has no bearing.
- Staff's recommendation of denial is based on irrelevant findings of fact. The minimum buildable lot size established in 1997 has nothing to do with his application. He questioned why Lots B and C

were mentioned. His application refers to Lots 1 and 2 that conform with standards set forth in city ordinances. These are not findings of fact for denial of the application.

- When Lots A, B, and C were purchased is irrelevant.
- He did not ask to develop Lots A, B, and C. That is irrelevant.
- He questioned if anyone who wrote the report read the submitted application.
- The proposal is not in the floodplain. That is staff's error. Fix it.
- The findings should have simply said, "As a matter of law, we have no basis to deny so we must approve."
- Staff has admitted that the city has no standards for denial.
- He has the right to fill, under the ordinance, and he wants the permit and approvals.
- The report is all kinds of confusion. He has waited and been patient. He has been damaged and spent way more than he should have on it. He has had repeated engineering fees, significant legal fees, lost opportunity costs, and made it through a down market because of the 921, unjustifiable restriction placed on his property. He has spent his time and his staff's time to the tune of several \$100,000s.
- He has been wronged.
- There is no engineering basis for denial of the application.
- This situation is similar to being wrongfully imprisoned for life for a crime he did not commit. And, after many years of imprisonment, somebody shows up and confesses that he did the crime and the imprisoned person is innocent and the jailer tells the prisoner that he is sorry for what happened and acknowledges that he was wrongfully imprisoned, but he has to stay in prison a year or two or three or four while the jailer gets a form that has not been created yet. The prisoner was harmed. This property has been held hostage in a similar manner. It had an unjust 921 elevation put on it. Staff agrees that the elevation is too high, but they do not have a mechanism to let it go. Commissioners are being asked to keep the property jailed and do not let it go because there is no mechanism in place. He questioned if that is right or fair.
- He requested approval of the application and staff be directed to provide findings of approval.

Adams asked if it is his position that what commissioners are considering is not what he requested from the city. Mr. Fretham said that most of the staff report talks about Lots A, B, and C. At the bottom of page 9, it talks about his

application. There are 8.5 pages of confusion before it. Adams looked at the April packet. At that time, the application was a 2-lot configuration. This is a 3-lot configuration. Mr. Fretham said the current application is the same as the one in April. The only difference is that staff said that there was no mechanism to use the 919.6 100-year flood elevation, so staff recommended that he use a floodplain alteration permit as a mechanism. The only change is to add a floodplain alteration permit.

Adams asked if he was lead to believe by staff that the preliminary findings of the watershed district would be abided by in terms of floodplain elevation. Mr. Fretham was told in an e-mail, meetings, and the April planning commission meeting packet. Adams was confused.

The public hearing was opened.

Joseph Steffel, 12936 Stanton Drive, thanked the commissioners for what they do and staff. Mr. Steffel read the comprehensive guide plan. He has lived on Stanton Drive for 35 years. He moved into the neighborhood because of its natural beauty. There is a character of Minnetonka that sets it off from other suburbs. He saw the plan as dividing one good lot into multiple-density housing. The proposal is contrary to the comprehensive guide plan totally. Staff's 8-page report can be taken apart and misinterpreted. The proposal defeats the comprehensive guide plan and the ordinances that are in place.

Ann Tremel, 12929 Stanton Drive, stated that the proposal is not a reasonable use of the lot. It would not be right to say that there are two lots being split. The project is proposing to add area to the other lots to make one area big enough to subdivide. All three pieces of property would be combined to get two pieces of property that may or may not be eligible to be subdivided. She appreciated staff researching, explaining, and dealing with the floodplain. The proposal would impact her property value and make her house less valuable. It would destroy the wildlife and nature of the neighborhood. She opposed the proposal.

Cynthia Devore, 12937 Stanton Drive, has lived there since 1999. She was concerned with changing the 100-year floodplain elevation. The back of her property has a raised garden that slopes so when it rains the water filtrates through the other properties to the wetland. If the properties would be developed, she was concerned her yard would flood and water would go into her basement. The proposal would impact the other two lots and how the water drains. The street at the cul-de-sac floods now. That water would back up into her property and into her basement. When she walks out onto her deck, she can see the

wildlife. Building a house there would block her view of the green space, natural wildlife, and everything good about the neighborhood.

No additional testimony was submitted and the hearing was closed.

Adams asked why the illustration shows three lots. S. Thomas pointed out the existing configuration of the properties. She pointed out existing Lots A, Lot B, and Lot C. The proposal combines the three lots and then subdivides them into two lots.

Lehman requested property owner's rights and opportunities regarding reconfiguring properties be reviewed. S. Thomas stated that a property owner who owns more than one property when there is only one residence on those properties has the right to combine the properties. It is easy to combine properties. One would fill out a form with the county. The property owner has the right to subdivide a property and the city has the obligation to approve a subdivision when that subdivision meets all minimum standards as outlined in the subdivision ordinance. In this case, the applicant contends that the preliminary plat meets all of the standards. Staff is telling commissioners that the preliminary plat does not meet the standards specifically because it does not meet buildable area requirements. Buildable area on the property can only be obtained through the filling of floodplain and rezoning or removal of the floodplain boundary. The property owner does not have a right inherent to two lots. Without the buildable area, the lots do not meet minimum standards. S. Thomas provided an example.

Lehman asked if the proof has been provided that "the applicant is innocent" and if there is a mechanism to fix the wrong being done. S. Thomas agrees with the history written in the staff report and reviewed by Mr. Fretham. City code states that the floodplain elevation is at 921. Staff has said that elevation is likely inaccurate because that elevation takes into consideration one culvert under Plymouth Road. There are actually two culverts under Plymouth Road. In all likelihood, that elevation is incorrect. Everyone has also agreed that the subwatershed is going to be remodeled. The applicant is understandably concerned that it is taking longer than anyone anticipated. The subwatershed district within which the applicant's properties are located contains over a thousand acres of the city. The model of this district may show that the elevation is far less or slightly less than the 921. The applicant's engineer noted that Minnehaha Creek has a newer update than the city has. The city's engineers looked at that and said that it would be accepted because it is the best information available right now, even though it is not a city study. The city attorney, however, recognized that city ordinances do not allow the city to accept a lower elevation. No one can guarantee that the city study will come back at

919.6. If approval would be granted now for an elevation of 919.6, if that is not the elevation, fill would have to be added to create buildable area.

In response to Lehman's comment, S. Thomas explained that the model may prove that the property has more buildable area than it has right now or it may not. Staff does not support floodplain rezoning or a variance to the buildable area requirement.

Adams suggested leveraging the watershed district to expedite the process of determining the flood plain elevation. S. Thomas answered that the modeling is being done by the city to create a model of the subwatershed districts in the community. The watershed district is not involved. Stout explained that the city-wide hydrologic model is included in the city's capital improvement plan. It has been funded from 2009 to 2016 and nearly \$1 million is being spent to look at water flowage hydrology as well as water quality throughout the city. Due to the large price tag, completion of part of the project has been sequenced each year. Minnehaha Creek Watershed is a priority because it encompasses a majority of the residential properties in the city. There are limitations to the city's existing model. Some of the data is incorrect and very old. Computer technology is light years ahead of what it was when completed. The city was concerned with doing the model in a fiscally responsible manner to protect taxpayers.

Adams asked if the advanced software would speed up the process. Stout answered that the biggest "time consumer" right now is field collecting all of the data. Pipe inverts and structures are being recorded with global positioning systems and this takes time. Getting the model done after accumulating the data will be a fairly quick process.

Adams asked how long it would take to complete the model for the Minnehaha Creek Watershed District. Stout said that the last estimate placed the time of completion near the end of 2011 and start of 2012. Adams asked if volunteers are used on the project. He felt badly that Mr. Fretham would have to wait through the whole process. He would like to get the application off the commission's agenda. S. Thomas noted that the model may show that the 100-year floodplain elevation is far below what it is listed at currently or it might not. It could go either way.

Mr. Fretham stated that the city could amend the floodplain ordinance right now. The right thing needs to be done. He questioned how long the approval process would take after the model is completed.

Chair Cheleen asked if the 919.6 elevation would be correct, then would Lot 2 have a buildable area. S. Thomas said that review of the proposal from the spring of 2011 with an elevation of 919.6 found that the buildable area would have met minimum standards.

Chair Cheleen asked what discretion the city has when combining three lots into two lots and then subdividing them. S. Thomas explained that if the combination and resubdivision meets all minimum standards, the city has no discretion and must approve. If minimum standards are not met, then the city has broad discretion on whether to approve or deny.

Chair Cheleen asked for an explanation of the 1997 ordinance that regulates what happens with adjacent lots owned by the same owner. S. Thomas explained that the subdivision task force said that each lot should have a minimum, buildable area of 3,500 square feet. Based on the minimum buildable area standard, Lots B and C do not meet the minimum standard and would be nonconforming lots. City ordinance states that a nonconforming lot, when held in joint ownership, does not have the right to be constructed on if held in joint ownership from the time that the ordinance was adopted that made it nonconforming. In other words, in 1997, Lots B and C became nonconforming. They were held in joint ownership, so now there is no right to build on them. Staff understands that the applicant is not trying to build on Lots B and C. Staff was trying to point out in the report that the applicant has the legal right to one, buildable lot because he has one conforming buildable lot. He does not have the legal right to more than one buildable lot.

Mr. Fretham clarified that Lots B and C may not have that right, but that is not what the application is applying to do. If it comes down to the point where the commission would recommend denial, then he would like each item voted on separately because the floodplain alteration permit should be granted. Wischnack suggested that if commissioners recommend action different from the recommendation then she suggested that the staff and city attorney look at what the commission intends to do with its action, write the proper documentation, and then the commission could vote. That would allow the record to be clear and keep Mr. Fretham's attorney informed of the action. S. Thomas clarified that if the commission is inclined to approve a portion of what is being requested, that staff should be directed of that inclination, and then staff and the city attorney would prepare separate resolutions that may be acted on separately.

Chair Cheleen asked Mr. Fretham why he would like to split up the commission's action on the floodplain alteration permit, floodplain rezoning, and preliminary plat. Mr. Fretham said that if the commission has mixed opinions and denies the

preliminary plat unanimously because it wants to adhere to the 921 elevation, then he would still seek to have the floodplain alteration permit approved. He would then move into action, fill, according to the floodplain permit, and come back on a second pass and request approval of the preliminary plat that now conforms. If he has to jump through two hoops to get there he is willing to do that.

S. Thomas explained that a floodplain alteration permit can be acted on. Someone can fill floodplain and mitigate for that floodplain independent of the proposal. The issue here is that the filling of the floodplain does not change the floodplain boundary so the setback requirements and buildable area would not change. Filling the floodplain could be approved, but the buildable area would only increase with rezoning and the preliminary plat would only meet minimum standard requirements with the rezoning.

Mr. Fretham's legal counsel said that if the floodplain permit is there and the property is not in the flood zone, then the city needs to rezone the floodplain because the property is no longer in the floodplain. Mr. Fretham requests a recommendation for approval of the floodplain alteration permit tonight. His application meets the criteria for the floodplain alteration permit. S. Thomas suggested that if commissioners are inclined to approve the floodplain alteration permit, then direct staff to put together a resolution for the next planning commission meeting. Staff did not want the issues to become a legal debate between parties who are not attorneys. The attorneys may have that debate. The city attorney can answer any legal questions at the city council level.

Chair Cheleen asked if staff recommends the commission recommend approval of the flood alteration permit to the city council. S. Thomas stated that staff recommends that the commission vote on the resolution included in the packet or table action and direct staff to provide separate resolutions at the next planning commission meeting.

A. Thomas remembered the initial denial in 2004 and again in 2009. A. Thomas felt the elevation is the main issue to decide if the two lots could happen and be conforming. He thought he had it figured out until the suggestion that the items be looked at piece meal. He understood the situation of being stuck waiting for completion of the model. The elevation of the 100-year floodplain is 921, but it may be less than that. If the number decreased, then the applicant would not need any variances or approval from the planning commission. S. Thomas clarified that the planning commission would review the application and would be required to approve a preliminary plat that meets all minimum standards. The elevation would need to be no greater than 919.6 to meet minimum standards.

A. Thomas asked if there is a way to model the one property. S. Thomas said that the order of completion of the model was determined to save money and be fair. The applicant could pay for the model, thereby moving it to the "front of the line" for completion, but the city is working in accordance with the capital improvement plan outline.

A. Thomas asked for an estimate of the cost to complete the model for this property. S. Thomas did not have that figure. The entire subwatershed district, which has to be modeled to determine the elevation on the property, is 1,500 acres. She guessed the cost would be fairly significant.

A. Thomas asked how long ago the city model was done. S. Thomas answered in the 1980s.

Adams could not find a good reason to deny the floodplain alteration permit. He would warn the applicant that he may be investing more in a property that may never be buildable.

Lehman concurred with Adams. He agreed with staff that the supporting documentation was not prepared, so he supported a motion to direct staff to provide a resolution recommending approval of the floodplain alteration permit. He sympathized with the applicant, but the proper process must be followed.

A. Thomas agreed. He did not know what would happen down the line with the rest of the issues. Speculation could continue, but on the floodplain alteration permit issue it seemed to make sense. He requested staff come back with a resolution. The developer has to make the decision of whether he wants to invest more time and money into the property. On this one issue, going forward seemed to make sense.

Daegas and Magney concurred.

Chair Cheleen asked if the lots continued to be unbuildable, then who would be responsible for putting it back into some type of shape. He worried a can of worms was being opened. Gordon said there are a lot of possible hypothetical situations. He agreed with commissioners tabling action until the next meeting. Wischnack noted that the applicant does not give staff direction. Lehman commented that if the applicant chose to withdraw the application, then the commission would not review it.

Wischnack reminded commissioners of the other approvals necessary to get done what the applicant wants to do. The city attorney will be invited to explain some of the nuances and provide legal advice. A. Thomas felt the whole situation is difficult because the floodplain alteration permit may be approved, but nothing else would. He did not want to provide an expectation that the city is dangling a carrot or anything. This is a piece of the pie that makes sense, but that does not mean anything else makes sense. He wanted to make that clear. That is the applicant's decision and the commission may see that one part making sense based on the current information, but nothing else may make sense when other issues are considered. He wanted that made clear to everyone. Approval of one part of an application does not mean that everything will happen.

***Lehman moved, second by Adams, to table action on the application until the August 4, 2011 planning commission meeting to allow time for staff to prepare a resolution recommending the city council approve the next action staff feels is appropriate.***

***Daeges, Lehman, Magney, A. Thomas, Adams, and Cheleen voted yes. Sjeklocha was absent. Motion carried.***

**E. Ordinance establishing the Southwest Light Rail Transit (SWLRT) overlay district. In addition, the city is also proposing an interim use ordinance to provide additional flexibility and control of uses in certain commercial and industrial areas of the city. (11018.11a)**

***Lehman moved, second by Daeges, to postpone review of this item until the August 4, 2011 planning commission meeting.***

***Daeges, Lehman, Magney, A. Thomas, Adams, and Cheleen voted yes. Sjeklocha was absent. Motion carried.***

## **9. ADJOURNMENT**

***Lehman moved, second by A. Thomas, to adjourn the meeting at 9:30 p.m. Motion carried unanimously.***

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

Planning Secretary