

CITY OF BLOOMINGTON
2215 WEST OLD SHAKOPEE ROAD
HENNEPIN COUNTY, MINNESOTA 55431

CITY COUNCIL MEETING

Approved Minutes
Regular Meeting
Meeting #19

7:00 p.m.
July 15, 2002
Council Chamber

Call to Order and
Presentation of Colors

Mayor Gene Winstead called the meeting to order and Boy Scout Troop #294 presented the colors and led the Council and audience in the pledge of allegiance to the flag. At the Mayor's request, the scouts introduced themselves and indicated what school they would be attending in the fall.

Roll Call

Present: Mayor Winstead, Councilmembers D. Abrams, M. Fossum, H. Harden,
S. Peterson, and V. Wilcox.

Absent: S. Elkins

Recognition of the
Ridgeview Elementary
School Safety Patrol

Officer Jim Caauwe provided history on school safety patrol programs and introduced Roger Truesdale, teacher and director of the Ridgeview Elementary School Safety Patrol.

Truesdale explained that this is the seventh year in a row that Ridgeview Elementary has won the Minnesota Safety Council's Outstanding Achievement Award for promoting school traffic safety. He identified the Ridgeview Safety Patrol members who proceeded to demonstrate how they safely cross students at school. Each of the participants introduced themselves and indicated where they would be attending school in the fall.

Opened Public
Comment Period

The Mayor declared the public comment period open for those wishing to address the Council on matters other than items included on the agenda. No one came forward to speak so the Council returned to its regular agenda.

Set Schedule for 2002
Assessment Rolls 4
and 5
Item 6.1

Motion was made by Peterson, seconded by Harden, and all voting aye, to set the schedule for the 2002 Assessment Rolls 4 (dealing with special assessments for 2001-103 Change Order work performed in the area of Green Valley Drive) and 5 (dealing with assessments for part of the 2001-103 Street Improvement Project for the new development of Conrade Addition). Both assessment rolls are for improvements that were petitioned by the owner or developer.

Approved Renewal
Agreement with
McCrary Janitorial, Inc.
for Sage Women's Clinic
at Mall of America
Item 6.2

Motion was made by Peterson, seconded by Harden, and all voting aye, to approve a renewal agreement with McCrary Janitorial, Inc. for continuation of janitorial services at the Sage Women's Clinic at the Mall of America.

No budget adjustments are necessary, as City expenses incurred for this agreement will be reimbursed by the State of Minnesota through their agreement with the City for clinic operations.

Approved Purchase of
Microsoft Licenses
Item 6.3

Motion was made by Peterson, seconded by Harden, and all voting aye, to approve the purchase of Microsoft Licenses in the Software Assurance and Upgrade Advantage Program in the amount of \$117,957.00.

Funds are available in the 2002 Information Systems Budget, 615-8603-418.62-09.

Approved Purchase
Agreement for
Acquisition of
840 West 79th Street
from Ray and
Kathleen Hames
Item 6.4

Motion was made by Peterson, seconded by Harden, and all voting aye, to approve a purchase agreement for the acquisition of the property at 840 West 79th Street from Ray and Kathleen Hames, involving a package settlement for \$240,000.00, which includes the acquisition price for the real estate and fixtures, relocation benefits, and reimbursement of expenditures for purposes of future right-of-way improvements along West 79th Street.

Funding to come from State Aid Fund 830-9156-431.70.11, Project 98-302.

<p>Authorized Staff to Set Just Compensation Figures, Make Offers, and Engage Outside Counsel in Conjunction with the Lyndale Avenue/79th Street Improvement Project Item 6.5</p>	<p>Motion was made by Peterson, seconded by Harden, and all voting aye, to authorize staff to set the Just Compensation figures for the takings based on the certified appraisals of value and to make offers to affected owners in those amounts and to engage outside counsel to assist in the acquisition and eminent domain process in conjunction with the Lyndale Avenue/79th Street Improvement Project.</p>
<p>Approved Contract with Senior Community Services H.O.M.E. Program Item 6.6</p>	<p>Motion was made by Peterson, seconded by Harden, and all voting aye, to approve a contract with Senior Community Services H.O.M.E. Program to provide homemaker and chore/maintenance services (minor home repairs, energy conservation measures, lawn care, snow removal, and housecleaning) to persons who are elderly and/or disabled and living within the city of Bloomington. The term of the agreement is July 1, 2002 - June 30, 2003. Services are provided on a sliding scale basis to customers.</p> <p>The City agrees to pay the H.O.M.E. Program up to \$20,000 for documented fixed and indirect costs applicable to the services rendered through the Community Development Block Grant Program as indicated by the 2002 Human Services Request for Proposal recommendations approved by the City Council on November 5, 2000.</p>
<p>Accepted and Thanked Donors for Donations to Various City Activities Item 6.7</p>	<p>Motion was made by Peterson, seconded by Harden, and all voting aye, to accept and thank the following donors for their donations made to various City of Bloomington activities: Bloomington Eagles #3208 donated \$4,000 to the Police K-9 Unit, \$1,500 to Fire Prevention, \$2,500 to Fire Department Capital Equipment, and \$1,000 to Parks & Recreation Pond House repairs and supplies; and the Wal-Mart Foundation donated \$600 to the Police K-9 Unit.</p> <p>Included in Council's motion was the approval to amend the revenue and expenditure budget, as noted in the agenda materials, to facilitate the appropriate use of the donations.</p>
<p>Adopted a Resolution Granting Approval for an Administrative Variance for a Garage at 8527 10th Avenue South for Joe Haeg Case 10504A-02 Item 6.8 R-2002-92</p>	<p>Motion was made by Peterson, seconded by Harden, and all voting aye, to adopt a resolution granting approval of an administrative variance to reduce the required five-foot side yard setback to 1' 8" for a garage at 8527 10th Avenue South, Case 10504A-02, for Joe Haeg, subject to the following 3 conditions as set forth by the Hearing Examiner:</p> <ol style="list-style-type: none"> 1. The variance shall only apply to the garage and location as shown on the plans in Case 10504A-02; 2. A new driveway shall be allowed to replace the existing driveway with a setback of not less than 1' 8" from the south lot line without a variance as accessory to the approved garage and only after the garage is built; and 3. The applicant adequately identify the property line adjacent to the proposed garage, and location of proposed garage floor be inspected and approved by the Building and Inspection Division, prior to pouring the garage floor. If the property line is not adequately identified, then a registered land surveyor shall identify the property line at the applicant's expense.
<p>Approved Change Orders to the City Hall/Police/Fine Arts Center Project Item 6.9</p>	<p>Motion was made by Peterson, seconded by Harden, and all voting aye, to approve the following Change Orders to the City Hall/Police/Fine Arts Center Project recommended by the Project Architect (Ankeny Kell) and the City's Construction Manager (M.A. Mortenson): Veit Companies (\$4,460), Twin Cities Acoustics (\$5,529), Doody Mechanical (\$13,372), Kelleher Construction (\$27,397), Ridgedale Electric (\$74,309), M.A. Mortenson (Arts Center - \$1,247 and City Hall - \$5,776).</p> <p>The total amount of the Change Orders will add \$132,090 for a total construction cost of \$23,494,330. Funding is available in the Contingency Budget adopted for this project. The combined contingency for Police, City Hall, and Fine Arts has a balance of \$776,163 after the change orders.</p>

Approved Relocation
Payment to Ax-man
Item 6.10

Motion was made by Peterson, seconded by Harden, and all voting aye, to approve the relocation payment in the amount of \$370,495 to Ax-man, based on the request from Conworth, the City's relocation consultant. Storage costs for relocated materials from the Ax-man store caused the payment to exceed the Council's adopted Relocation Budget by \$20,495.

Sufficient funds are available in the overall Relocation Budget to cover this expense.

Awarded a Contract to
Century Fence Company
to Install Fencing
Around the Perimeter of
Two Soccer Fields at
9340 France Avenue
South
Item 6.11

Motion was made by Peterson, seconded by Harden, and all voting aye, to award a contract to Century Fence Company of Forest Lake, MN in the amount of \$51,801.00 to furnish and install fencing around the perimeter of two of the Normandale Soccer Fields located at 9340 France Avenue South and reappropriate this amount from the 2002 Park Maintenance Budget, Activity 101-7722-452.63-41 to 101-7722-452.70-31.

Approved the Schedule
for Request for Proposals
for Photogrammetric
Services
Item 6.12

Motion was made by Peterson, seconded by Harden, and all voting aye, to approve the schedule for Request for Proposals for updating the City's existing digital mapping of physical features and the collection of new orthophoto imagery (photography corrected for scale). The Scope of Services requested includes the update of existing planimetric features, the collection of additional photovisible features on designated parkland, the collection of features in a limited buffer area, the development of color orthophoto imagery, and an updated digital terrain model.

Funding for these services is available in the 2002 Information Systems Fund, Activity 615-8603-418.62-09 (\$250,000.00) and the 2002 Storm Water Utility Fund, Activity 530-8301-433.62.03 (\$50,000.00).

Approved Purchase of a
Four-Wheel Pickup
Street Sweeper for Street
Maintenance Division
Item 6.13

Motion was made by Peterson, seconded by Harden, and all voting aye, to approve the purchase of a Tennant Centurion dual brush sweeper from Tennant Sales and Services Company for use by the Street Maintenance Division under State of Minnesota Contract #429061 at a cost of \$180,726.05. This unit is the only mechanical sweeper available with a vacuum system and will help meet new storm sewer discharge requirements and reduce resident complaints regarding the dust generated from the sweeping program. It replaces City Unit #61, a 1995 Athey Mobile Sweeper that currently has 5,263 hours of use.

Funds for this purchase are available in the 2002 Equipment Replacement Fund, Activity 617-0618-499.70-42.

<Mayor announced that Elkins was absent due to business out of town.>

Accepted Withdrawal of
Walser Automotive
Group's Comprehensive
Plan Amendment
Application
Item 4.5

Motion was made by Abrams, seconded by Peterson, and all voting aye, to accept the withdrawal by Walser Automotive Group of their application to amend the Comprehensive Plan Land Use Designation from Community Commercial to Regional Commercial for property located at 4301 West 80th Street dated July 8, 2002, and to table the resolution of denial indefinitely.

City Attorney Dave Ornstein recommended that the because Walser Automotive Group requested the Council withdraw its application to amend the Comprehensive Plan, that it do so and table the resolution of denial that it previously ordered for action indefinitely.

No public testimony was received.

Adopted a Resolution
Supporting a Livable
Communities Grant
Application for the
Bloomington Corporate
Center Project
Item 4.6
R-2002-90

Motion was made by Peterson, seconded by Abrams, and all voting aye, to adopt a resolution of support for a grant application to the Metropolitan Council for Livable Communities Demonstration Account (LCDA) that would be used to writedown the market cost of housing to provide affordable housing units as part of the redevelopment at the Control Data/Ceridian Campus for McGough Development, dba Bloomington Corporate Center LLC.

Item 4.6 continued

Community Development Director Larry Lee explained that although this grant is to help writedown affordable housing for a project being developed by McGough Corporation, it needs to come from the City of Bloomington. He stated that the Metropolitan Council has funds set aside in a pool for this purpose. McGough representatives were present had the Council had any questions.

No public testimony was received.

Appointed Doug Bruce to Fill a Vacancy on the Planning Commission Created by the Resignation of Lou Iacovo that Expires on December 31, 2003
Item 3.1

Motion was made by Peterson, seconded by Harden, and all voting aye, to appoint Doug Bruce to the vacancy on the Planning Commission that will expire on December 31, 2003, created by the resignation of Lou Iacovo. Two rounds of voting by the Council resulted in the following:

Round 1 Voting: Doug Bruce (Peterson and Harden), Whitney Groth (Abrams and Winstead), and Grant Petersen (Wilcox and Fossum).

After the three-way tie, Harden suggested that each council member state the reasons for their vote.

Wilcox stated that his vote was to gain more representation on the east side of Bloomington.

Harden explained her vote went to Doug Bruce because of his hard work on the study of the commuter rail line that was proposed to run through west Bloomington. She stated that upon his completion of the commuter rail study, she requested that he serve on the I-35W Solutions Alliance to utilize his understanding of transportation issues and that Mr. Bruce would continue to serve the Alliance even if appointed to the Planning Commission.

Winstead stated that he has known Chip Groth for a long time and that he is a former member of the Chamber of Commerce who possesses a good understanding of the business issues facing Bloomington. In addition, Groth has previously applied for commission appointments and continues to indicate an interest to do so.

Wilcox requested that those candidates available in the audience be given the opportunity to introduce themselves to the Council.

Doug Bruce explained that he previously worked on the Cable Television Advisory Committee with the City of Minneapolis and that he has worked with the Met Council. He believes there will be important budgetary issues in the future to deal with and would like to be involved.

Grant Petersen introduced himself and stated that he has been a Bloomington resident for 49 years and is interested in serving his community and now has the time to do so.

Peterson explained that because he prefers to see experienced commissioners get appointed to the Planning Commission, he would vote for Doug Bruce based on his previous involvement with commuter rail.

Round 2 Voting: Doug Bruce (Peterson, Harden, Abrams, and Winstead), Grant Petersen (Wilcox and Fossum).

Closed Public Comment Period

The Mayor asked if anyone else wished to address the Council during the public comment period or it would be closed. No one came forward to speak and the public comment period was closed.

Approved New Therapeutic Massage Enterprise License for Alive and Well Massage at 7700 West Old Shakopee Road
Item 4.1A

Motion was made by Abrams, seconded by Fossum, and all voting aye, to approve a new therapeutic massage enterprise license for the period expiring August 31, 2003, for Laura Kushnir, dba Alive and Well Massage located at 7700 West Old Shakopee Road.

No public testimony was received.

<p>Approved Amendment to the Liquor Licensed Premise for the Richfield-Bloomington Eagles at 9152 Old Cedar Avenue South Item 4.1B</p>	<p>Motion was made by Abrams, seconded by Fossum, and all voting aye, to approve an amendment to the liquor licensed premise for the Richfield-Bloomington Eagles, 9152 Old Cedar Avenue South, to include liquor service in a tent area for a members and guests only picnic on Saturday, August 17, 2002, from 12:00 noon to 5:00 p.m.</p> <p>No public testimony was received.</p>
<p>Approved Amendment to the Liquor Licensed Premise for the TGI Friday's Inc. at 2201 Killebrew Drive Item 4.1C</p>	<p>Motion was made by Wilcox, seconded by Abrams, and all voting aye, to approve an amendment to the liquor licensed premise for the TGI Friday's Inc., 2201 Killebrew Drive, to include liquor service in a tent area during normal business hours to accommodate customers during the PGA Championship Tournament event being held between August 11 through August 18, 2002.</p> <p>No public testimony was received.</p>
<p>Approved an On-Sale Beer 3.2% "Special Event" License for a Baseball Tournament at Dred Scott Playfield at 10820 Bloomington Ferry Road Item 4.1D</p>	<p>Motion was made by Abrams, seconded by Wilcox, and all voting aye, to approve an on-sale beer 3.2% "Special Event" license application for the Recreation Sports Officials Association for a baseball tournament to be held at the Dred Scott Playfield, 10820 Bloomington Ferry Road, on Saturday, July 27 from 8:00 a.m. - 10:00 p.m. and on Sunday, July 28, 2002 from 12:01 p.m. - 10:00 p.m.</p> <p>No public testimony was received.</p>
<p>Accepted the Preliminary Report/Feasibility Report and the Petition of Waiver of Hearing and Adopted a Resolution Ordering the 2001-202 Cedar Circle Sanitary Sewer Project Item 4.2 R-2002-87</p>	<p>Motion was made by Fossum, seconded by Abrams, and all voting aye, to accept the Preliminary Report/Feasibility Report and the Petition of Waiver of Hearing and to adopt a resolution ordering the 2001-202 Cedar Circle Sanitary Sewer Project consisting of sanitary sewer laterals on Cedar Circle to be completed by 2003.</p> <p>Funding for the improvements will be from special assessment to properties abutting Cedar Circle and from the Sanitary Sewer Utility Fund.</p> <p>Stormwater Engineer Scott Anderson, using a map, indicated the location of Cedar Circle and explained that the City received a petition for sanitary sewer improvements in July 2000 from the residents at 9325 Cedar Circle to address a failing septic system. He stated that two parcels on the south side of Cedar Circle along with the potential of three lots to the north would be served by the system and would consist of an 8" gravity sanitary sewer lateral from the east terminus of Cedar Circle to the intersection of Cedar Circle and Old Cedar and that there would be a small lift station and a 2" force main north along Old Cedar in existing right-of-way to the existing sanitary sewer on Meadowview. He stated that two neighborhood informational meetings were held at Public Works to discuss the proposed improvements and that there were no neighborhood objections.</p> <p>Peterson inquired why connection to new sanitary sewer is assessed by front lot footage.</p> <p>Public Works Director Charlie Honchell explained that most of the City's assessments are calculated on an adjusted front footage basis with the exception of storm sewer, where less water runs off smaller lots compared to the amount that runs off of larger lots. He stated that adjustments are made if the property is on a corner or is odd shaped. He stated that the general rationale is that the value of a very large lot will increase by having paving, sanitary sewer, etc. in comparison to smaller lots that have a smaller value. Therefore, the assessment for the improvement that affects the property value is proportioned based on the front footage.</p> <p>No public testimony was received.</p>

Adopted a Resolution Granting Final Plat Approval for Wajco Addition at 10736 and 10740 Normandale Boulevard Case 985H-02 Item 4.3A R-2002-88

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to approve the preliminary plat of Wajco Addition located at 10736 and 10740 Normandale Boulevard, Case 985H-02, and to adopt a resolution granting final plat approval and approval of the subdivision agreement subject to the following conditions and a review of the title by the City Attorney, and receipt of the necessary documents and deposits. The property is to be replatted to combine two existing lots into one new lot for development.

1. Standard 10-foot drainage and utility easement be provided along the frontages and interior property lines respectively as approved by the City Engineer.
2. A 10-foot sidewalk/bikeway easement shall be provided along all public street frontages.
3. Right-of-way be dedicated on West Old Shakopee Road and Normandale as shown on the proposed plat dated July 9, 2002.
4. A common driveway/access/parking agreement/easement be provided as approved by the City Traffic Engineer.
5. A 10-foot non-access easement be provided along Old Shakopee Road and Normandale Avenue except at driveway locations shown on the proposed construction plan as approved by the City Traffic Engineer.
6. Existing drainage and utility and sign easements be vacated and proof of filing provided to the City Engineer.
7. Connection charges be satisfied prior to issuance of utility permits.
8. Sewer Availability Charge (SAC) be satisfied.
9. Alterations to utilities shall be at the developer's expense.
10. A common utility easement agreement for the existing storm sewer be provided as approved by the City Engineer.
11. Grading, drainage, utility and erosion control plans shall be reviewed and approved by the City Engineer.

and the following Code requirements:

1. Unused water services shall be properly abandoned (Sec. 11.15).
2. Park Dedication shall be in cash at the time of platting.
3. The approved final plat shall be filed with Hennepin County, a certified copy provided to the Engineering Department.

No public testimony was received.

Adopted an Ordinance Vacating Utility and Sign Easements on Property at 10736 and 10740 Normandale Boulevard Item 4.3B O-2002-29

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to adopt an ordinance vacating utility and sign easements on property located at 10736 and 10740 Normandale Boulevard in order to clear title and replat existing two parcels into one lot.

No public or private utilities are affected by this vacation.

No public testimony was received.

Adopted a Resolution Approving a Setback Variance at 8983 Mariabo Circle for Steven and Jan Kirchner Case 10583BC-02 Item 4.4BC R-2002-89

Motion was made by Harden, seconded by Abrams, and all voting aye, to adopt a resolution approving a variance to reduce the front yard setback from 65 feet to 40 feet from the water's edge for a swimming pool at 8983 Mariabo Circle, Case 10583BC-02, for Steven and Jan Kirchner due to the unusual circumstances relating to this lot with the orientation of the front and back yard.

City Manager Mark Bernhardson explained that Item 4.C is the same item that was presented to Council on June 17. He explained that as a result of the discussion at the June 17 Council meeting, he recommended that staff look at an alternative variance that would rotate the swimming pool. He stated that the Planning Staff could not make the findings to grant the variance based on the tests according to the Land Use Guidelines and therefore recommended denial of the application. He stated that the Planning Commission chose to recommend, "No Recommendation" and referred it back to Council. He explained the reorientation of the pool results in the applicant's request for a variance to the front yard setback from 65' to 40' from the water's edge and a variance to allow the pool to be located in the front yard.

Item 4.4BC continued	<p>Senior Planner Bob Hawbaker stated that after a lengthy discussion at the Planning Commission, the Commission could not make Finding C, “that the special condition or circumstance is not the result of actions of the applicant.” He stated that staff believes the hardship is due to the actions of the applicant.</p> <p>Harden stated that the Kirchner’s are building a large home in a low-residential neighborhood and that the access to their home is along a private road, Mariabo Circle, which is used by the residents as the one and only access to their property. Therefore, those yards act as the front yard and that the yards facing West Bush Lake Road act as their backyards. She added that there is a 23-foot cliff from West Bush Lake Road up to the access of the Kirchner property that is designated as a scenic setback and that trees would not be cut down. She agreed that staff and the Planning Commission made the right decision within the context of the City Code and that only the Council can apply flexibility to that. She stated that she recommends that the Council allow Kirchner to build the pool in what is Code-wise their front yard, but in reality, is in the nearly inaccessible back yard.</p> <p>No public testimony was received.</p>
<p>Adopted a Resolution Permitting a Swimming Pool in the Front Yard at 8983 Mariabo Circle for Steven and Jan Kirchner Case 10583BC-02 Item 4.4BC R-2002-89</p>	<p>Motion was made by Harden, seconded by Abrams, and all voting aye, to adopt a resolution to permit a swimming pool to be located in the front yard at 8983 Mariabo Circle, Case 10583BC-02, for Steven and Jan Kirchner.</p> <p>No public testimony was received.</p>
<p>Accepted Withdrawal of an Application for a Side Yard Setback at 8983 Mariabo Circle for Steven and Jan Kirchner Case 10583A-02 Item 4.4C</p>	<p>Motion was made by Abrams, seconded by Harden, and all voting aye, to accept the withdrawal of an application for a variance to reduce the side yard setback from 18 feet to 12 feet from the water’s edge for a swimming pool at 8983 Mariabo Circle, Case 10583A-02, for Steven and Jan Kirchner.</p> <p>Speaker #1: Steven Kirchner, 8983 Mariabo Circle He stated for the record that he appreciated the Council’s action on the previous two motions and that he was formally withdrawing Item 4.4C.</p>
<p>Boards/Commissions Communications Item 7.1</p>	<p>No boards/commissions communications reported.</p>
<p>Status of Action Items Item 7.2</p>	<p>Bernhardson inquired if the Council had any comments regarding the draft letter that was included with last week’s Manager’s Information pertaining to the bike path along the Minnesota River located out west near the South Dakota border.</p> <p>Abrams commented that it is a good letter and that the communities that will more directly benefit from this project should be made aware of Bloomington’s support in this matter.</p>
<p>Approval of Minutes</p>	<p>Motion was made by Wilcox, seconded by Abrams, to approve the minutes of the May 28, 2002, Study meeting, as presented. Motion passed 5-0-1 (Harden temporarily absent.)</p> <p>Motion was made by Wilcox, seconded by Abrams, to approve the minutes of the June 17, 2002, Regular Council meeting, as presented. Motion passed 4-0-2 (Fossum abstaining and Harden temporarily absent.)</p> <p><Council took a 5-minute recess.></p>

Closed the Public
Hearing for the
Transfiguration Lutheran
Church Applications
Case 5786ABC-02
Item 5.1AB
R-2002-91

Motion was made by Peterson, seconded by Abrams, and all voting aye, to close the public hearing on the applications for Transfiguration Lutheran Church, 11000 France Avenue South, Case 5786ABC-02.

Planner Galen Doyle explained that this item was continued from the July 1, 2002, Council meeting in order to allow the applicant to address the concerns that were expressed by the Council and neighbors at that meeting. He stated that since July 1, the applicant has met several times with staff and that some modifications have been made to applicant's design and that Council received a copy of their letter stating their intentions. He stated that three revised conditions have been suggested by staff to deal with the issues of noise, site lighting in the south yard area, and rock mulch on the southerly part of the site. In addition, two comment letters received since the last Council meeting were included in the agenda materials for Council's consideration. He added that a possible Condition #20, "A covenant approved by the City Attorney which provides that the surface area of the 40-foot wide strip lying south of the building addition be used and maintained solely for sidewalk, drainage, utility, landscaping and yard purposes. The covenant shall be filed on record with title to the property and proof of filing be provided to the Manager of Building and Inspection" could be added to control the use of the 40-foot south yard area and limit the activities that could take place in that area.

Winstead inquired if the covenant would preclude the Church from future requests to use the 40-foot strip for parking.

Bernhardson stated that the Church could always request it but that the added condition of the covenant would require the Council's approval to amend it.

Wilcox, referring to revised Condition #12, inquired if it would be a costly addition and suggested that it might be better to plant some additional landscaping, as it may be the visual closeness of the addition that will be worse for the neighbors rather than the audio closeness. He also inquired if there had been any type of sit-down with the neighbors regarding these issues.

Doyle responded that the STC of 55, as stated in Condition #12, came from the Building Code based on noise transmission on interior walls in common units. He stated that the wall as structurally designed will probably meet that regulation, but that the architect could respond to the related cost issue.

Speaker #1: Jim Sorum, Representing Transfiguration Lutheran Church

He stated that as a result of the discussion that took place at the July 1 Council meeting, the Church has worked to address the primary concerns expressed by the neighbors on Goodrich Circle such as noise, landscaping, lighting, and the rainwater drainage on the south side. He announced the individuals associated with the project who were present in the audience were ready to address the Council if needed. He stated that the proposal the Church has presented appears to be best option for combining enhanced program and meeting space, a new addition compatible with the rest of the church, appropriate landscaping on the south lawn area, no increased parking lot spaces, and a relocated main entrance. He stated that the Church has met with staff, Church leaders, and some of the affected neighbors in an attempt to refine the master plan. He described the following areas could be better expedited as follows:

1. Landscaping (existing trees on the south side will be trimmed and removed if necessary).
2. Removal of two lighting poles, the decorative stone around the facility, and parking lots.
3. Existing fence will be repaired and replaced where needed.
4. Noise (Church staff has been reminded and will continue to monitor the activities and will remind the daycare customers and visitors of the policy of no south area activities).
5. Activity Center (will not be a gymnasium but will be large enough to allow games and activities for all ages with appropriate insulation and wall covering to reduce sound).
6. Air conditioning unit will be relocated to the roof to help reduce noise.
7. Lighting (security light from the power pole will be removed and new security lights to go above the doors will meet Code with appropriate sensing devices).

8. Drainage (will work with City engineers to ensure adequate drainage).
9. "Good Neighbor Policy" (as the Church has existed for over 40 years, it has historically responded with a physical change to its facilities or programs in order to address neighborhood complaints).

Speaker #2: Don Jacobson, Building Committee

As is stated in the revised report that the Church furnished to the City, he stated that the Church has the capability, per City regulations, of going to the second floor addition and that the four options available to the Church were explained to the neighbors as follows:

1. Extend a one-story addition to the south.
2. Add a second floor with balconies and windows.
3. Extend to the east or west with an addition that would require the relocation of parking to the south side.
4. Current proposal that the Church believes is the best for the neighborhood.

He stated that the Church is agreeable to the revised conditions and the added Condition #20 as suggested by staff.

Speaker #3: Mike Oslund, Church Council President

He stated that the south area is intended to be a landscaped area and that after two years of planning, the Building Committee believes the current plan is the best for the neighbors and the Church. He stated for the record, that this building project is the last one on that site, as they have nowhere else to go.

Speaker #4: Gigi Jensen, 11032 Goodrich Circle

She stated for the record that the south neighbors of the Church are not excited about this proposal. However, the variance will be easier to accept than the two-story option with balconies. She questioned whether this will be end of the requests by the Church for variances and inquired about the driveway along the fence that was mentioned. She presented a photo looking into the neighbor's properties from the stakes in the ground marking where the corner of the church addition will be to illustrate how close the building will be to the neighbors. The other photo was taken to show the topography of the land and inquired if Bloomington taxpayers would end up responsible if the drainage is a problem and needs to be fixed.

Wilcox inquired of Jensen which alternative would be the most acceptable to her as far as a sound insulated wall or additional landscaping that might soften it visually.

Jensen replied that probably vegetation, i.e. evergreens that wouldn't shed its leaves in the wintertime.

Speaker #5: Phyl Frantsen, 11025 Goodrich Circle

She requested maximum assurance in regard to the landscaping and noise barriers (thicker walls and windows). She is still concerned about the potential of noise coming from the proposed addition. She remarked that past concerns that were brought to the Church's attention were not always corrected and that she has been the recipient of retaliation by Church members and fears it could happen again.

Mayor Winstead instructed Frantsen to call 911 if it should happen in the future.

Speaker #6: Lynn Dvorak, 11024 Goodrich Circle

She requested a copy of the revised conditions and additional Condition #20 that were referenced by staff. She stated that the pastor of the Church did visit her at home during the past week and that he promised the fence would be repaired within a month to make it safer. She commended the Church for their latest actions.

The public hearing was closed and discussion took place among the Council.

Item 5.1AB continued

Peterson thanked the Church for listening to the Council and the neighbors on how to improve its plan. He explained that when the City Code was written in the 1950s, schools and churches were permitted uses in residential neighborhoods because the Council at the time believed it would be beneficial to locate those two uses within residential areas. He stated that he agrees with that philosophy and believes the Church has worked to address the neighbors' concerns, in particular the future use of the land on the south side of the church. Therefore, he supports the Church's application.

Wilcox also thanked the Church for their agreeing to the additional conditions and for working with the neighbors. He stated that he didn't mean to portray that the Church was not neighborhood friendly and stated that he is not as concerned with the noise issue, as the sounds from children should not be a bad thing. Lighting and landscaping and greater concerns and he suggested that evergreens could be added to the plan in the higher areas of the church to try and soften the effects of the lighting. He stated he would support the plan and requested that the Planning Manager consider using taller plantings to help screen the light from the neighbors.

Harden reminded the audience that the City-imposed conditions that the Church must follow if the plan is approved are part of the agenda materials and that copies are available in the back of the room for anyone interested. She explained that she is confident all of the concerns of neighbors have been addressed in the conditions that have been set forth by the City and because many of them require approval by the Planning Manager. As churches are important to the community, she supports their plan to expand.

Adopted a Resolution Approving Variances to Increase Site Coverage and Reduce Side Yard Setback for Transfiguration Lutheran Church at 11000 France Avenue South Case 5786AB-02 Item 5.1AB R-2002-91

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to adopt a resolution approving variances to increase allowed site coverage by building from 15 percent to 16.2 percent for an addition to an existing church and to reduce the required side yard setback from 60 feet to 40 feet for an addition to an existing church at 11000 France Avenue, Case 5786AB-02, for Transfiguration Lutheran Church, subject to the following 2 conditions as set forth by the Planning Division Staff and the Planning Commission:

1. The variances shall be valid only for the site and building plans approved in Case 5786C-02; and
2. The variances shall expire as per Section 19.23.01 of the City Code.

Approved Revised Final Site Plans and Building Plans for a Church Addition at 11000 France Avenue South for Transfiguration Lutheran Church Case 5786C-02 Item 5.1C

Motion was made by Peterson, seconded by Abrams, and all voting aye, to approve the revised final site plans and building plans for an addition to an existing church at 11000 France Avenue, Case 5786C-02, for Transfiguration Lutheran Church, subject to the following 20 conditions of approval and 10 Code requirements as set forth by the Planning Commission and Planning Division Staff:

1. The variances approved in Case 5786AB-02 are valid only with the site and building plans approved in Case 5786C-02;
2. Exterior building materials be approved by the Planning Manager;
3. EIFS shall be used as trim and accent material rather than full exterior wall surface material;
4. Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the appropriate watershed district;
5. Access, circulation and parking plans be approved by the City Engineer;
6. A 10-foot drainage and utility easement be provided by document along France Avenue, West 110th Street and Harrison Avenue as approved by the City Engineer and proof of filing be provided to the Manager of Building and Inspection;
7. A 5-foot drainage and utility easement be provided by document along the south line of the church property as approved by the City Engineer;
8. A 10-foot sidewalk easement be provided by document along France Avenue, West 110th Street and Harrison Avenue as approved by the City Engineer;
9. Connection charges be determined and be satisfied;
10. A SAC questionnaire be completed and submitted to the Department of Public Works;

Item 5.1C continued

11. All windows at both levels in the south elevation of the addition shall be non-opening;
12. The addition and windows shall provide an STC of 55 in order to reduce sound transmission;
13. The exterior lighting on the south side of the addition shall be minimized as approved by the Planning Manager in order to reduce impact on abutting properties to the south;
14. Supplemental landscaping shall be provided in the yard area south of the addition as approved by the Planning Manager;

and subject to the following additional conditions:

15. The existing rock mulch in the island and plant beds in the south 120 feet of the site shall be replaced with an alternative material as approved by the Planning Manager on the landscape plan;
16. Existing screening fence be repaired and maintained in good condition;
17. Alterations to utilities be at the developer's expense;
18. All pickup and drop-off occur on site and off of public streets;
19. The exit doors in the south elevation of the addition shall be used for emergency exits only; and
20. A covenant approved by the City Attorney which provides that the surface area of the 40-foot wide strip lying south of the building addition be used and maintained solely for sidewalk, drainage, utility, landscaping and yard purposes. The covenant shall be filed on record with title to the property and proof of filing provided to the Manager of Building and Inspection.

and subject to the following Code requirements:

1. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52);
2. Erosion control measures be in place and bond be filed;
3. All rooftop equipment be fully screened (Sec. 19.52.01);
4. All trash and recyclable materials be stored inside the principal building (Sec. 19.51);
5. Building be provided with an automatic fire sprinkler system as approved by the Fire Marshal (Mn Bldg. Code Sec. 904.1, Mn. Rules Chapter 1306; Uniform Fire Code Sec. 1003);
6. Fire lanes be posted as approved by the Fire Marshal (Uniform Fire Code Sec. 901.4);
7. Utility plan showing location of existing and proposed water main and fire hydrant locations be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, Uniform Fire Code Sec. 903);
8. Water line serving fire hydrants be looped as approved by the Fire Marshal and Utilities Engineer (Mn. Fire Code, Sec. 903.2);
9. Food service plans be approved by the Environmental Services Division (City Code Sec. 14.360);
10. Parking lot and building security lighting for the west pick-up/drop-off area, building addition, and east and west entries shall satisfy the requirements of Section 19.54 of the City Code.

Adjourn Meeting

Mayor Winstead adjourned the meeting at 8:48 p.m.

Barbara Clawson
Council Secretary