

Regular Meeting #23
Monday, August 21, 2006, 7:00 p.m.
Bloomington Civic Plaza
1800 West Old Shakopee Road,
Bloomington, Minnesota 55431-3027

**Call to Order and
Pledge to Flag**

Mayor Gene Winstead called the meeting to order at 7:00 p.m. and led the audience in the pledge of allegiance to the flag.

Roll Call

Present: Mayor Winstead, Councilmembers R. Axtell, S. Elkins, A. Grady, K. Nordstrom, S. Peterson, and V. Wilcox.

**Swearing In of
Police Officers**

Police Chief Laux introduced the following four new police officers and City Clerk Tom Ferber administered the Oath of Office:

Michael Lawrence Perron (Brooklyn Park area)
Benjamin John Mansur-George (Roseville area)
Kristin Sara Molstad (St. Louis Park area)
Jared Michael Taylor (Morristown area)

**Adopted Resolution
Authorizing
Acceptance of
Public Safety Grant
ITEM 2.3
R-2006-91**

Motion was made by Wilcox, seconded by Peterson, and all voting aye, to adopt a resolution authorizing the acceptance of a traffic safety award from the Minnesota Department of Public Safety as part of their Safe & Sober Challenge.

Chief Laux explained that the City participates in several traffic partnerships annually, including this event, and that it will partner with the City of Eden Prairie on this one. The agreement is from October 1, 2006 to September 30, 2007, and the funding provided will pay for police officer overtime.

**Approved Amendment
to Cingular Wireless
Agreement
ITEM 3.1**

Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve an amendment to an annual agreement with Cingular Wireless, which would allow three additional collocated antennas (at the same height as the existing antennas) to a ball field light pole located at Dred Scott Playfields at 10810 Bloomington Ferry Road and one additional equipment cabinet (within the existing fenced equipment area). The negotiated increase to their annual lease rate of \$16,207 for the additional antennas and equipment is \$4,000 per year with a 5% annual inflator.

**Approved Increase
in Ice Garden Fees
ITEM 3.2**

Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve an increase in Ice Garden fees, effective September 1, 2006, as presented in the agenda materials.

**Approved Purchase
of Law Enforcement
Training Equipment
ITEM 3.4**

Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve the purchase of law enforcement training equipment in the amount of \$12,618.00 from the balance in the following Drug Forfeiture Fund: 240-2401-499.67-95. The funds will be utilized to purchase Bloomington's share of a firearms combat simulator which will be housed at the South Metro Training Facility in Edina of which Bloomington is a member.

**Adopted Resolution
Approving a Variance
at 8144 2nd Avenue So.
Case 10733AB-06
ITEM 3.5
R-2006-92**

Motion was made by Elkins, seconded by Axtell, and all voting aye, to adopt a resolution approving a variance to reduce the required front yard (side yard adjoining a street) from 30 feet to 20.5 feet for a new open front porch (Case 10733A-06) and to reduce the required front yard (side yard adjoining a street) from 30 feet to 22.5 feet for two bay windows (Case 10733B-06) for Constance and Robert Felkner at 8144 2nd Avenue South subject to the following 3 conditions of approval as set forth by the Hearing Examiner and staff:

- ITEM 3.5 continued**
1. The variance will apply only to the plans shown in Case 10733AB-06;
 2. Exterior finish and materials will be compatible with existing building materials; and
 3. The open front porch will not be screened or enclosed.
- Set December 4 for Truth In Taxation Public Hearing
ITEM 3.6**
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to set the initial Truth In Taxation public hearing to discuss the 2007 Proposed Budget and Tax Levy on Monday, December 4, 2006 at 6:00 p.m. with Monday, December 11, 2006 at 6:00 p.m. as a date for a continued hearing if needed.
- Approved Funding for the Minnesota River Valley Hiking and Biking Trails
ITEM 3.7**
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve \$9,321.31 from the Parks Capital Replacement Fund #411 for improvements to Minnesota River Valley hiking and biking trails below the Pond-Dakota Mission Park.
- Adopted Resolution Supporting an Application to MnDOT for City Project 2006-201
ITEM 3.8
R-2006-93**
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to adopt a resolution supporting the application to the Minnesota Department of Transportation (MnDOT) State Aid for Local Transportation Improvement Program for its Local Road Improvement Program Routes of Regional Significance for the 84th Street and East Bush Lake Road Improvement Project (City Project 2006-201) in which staff will be requesting \$500,000 in grant funds.
- Approved Concurrence of MnDOT's Mitigation of Permanent Parkland Impacts Along TH 169
ITEM 3.9**
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve concurrence for mitigation of permanent parkland impacts on the east side of T.H. 169 per MnDOT's letter of July 27, 2006, to Mayor Winstead regarding their proposal for operational improvements along T.H. 169 from Anderson Lakes Parkway to approximately ¼ mile north of Valley View Road in which a portion of parkland (Tierney's Wood Unit of Hyland-Bush-Anderson Lakes Park Preserve) might be impacted. MnDOT to proceed with a draft Memorandum of Understanding for the City's consideration.
- Approved Changes to Easements Provided to City by MAC
ITEM 3.10**
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve changes to the easements to be provided to the City by the Metropolitan Airports Commission (MAC) pursuant to the parties' Memorandum of Understanding dated March 22, 2005, regarding the easements to be provided over Parcel 5 (7901 24th Avenue) and Parcels 9 and 10 (2901 and 3001 Metro Drive).
- Approved Council Member Travel
ITEM 3.11**
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve travel expenses for the following Council members:
- Mayor Winstead, Steve Elkins, and Steve Peterson
(National League of Cities Congress of Cities & Exposition in Reno, NV from December 5-9, 2006: Approximate expenses of \$1,445.00 per person.)
 - Vern Wilcox
(National Organization to Insure a Sound-controlled Environment Conference in San Francisco, CA from September 20-23, 2006: Approximate expense of \$1,506.00.)
- Approved Relocation Benefits to Kevin Patterson/Neoteknic Computer at 836 W. American Boulevard
ITEM 3.12**
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve payment of \$850 (residential moving costs) and \$18,772.06 (business moving costs) in relocation benefits to Kevin Patterson/Neoteknic Computer in connection with the City's acquisition of the property at 836 American Boulevard West from Mr. Patterson's landlord, Joyce Kenow.
- Approved Minutes
ITEM 3.13**
- Motion was made by Elkins, seconded by Axtell to approve the minutes of the June 19, 2006, Regular meeting as presented. Motion passed 6-0-1 (Grady abstaining).

**Accepted Donations
ITEM 3.3**

Motion was made by Elkins, seconded by Nordstrom, and all voting aye, to accept the following donations made to various City activities: Kitchen items valued up to \$350 donated to Creekside Community Center by the Memorial Trust Fund Creekside Community Center, \$200 donated by the Eagles #3208 to Fire Prevention, \$75 donated by Lawrence Stoller to Park Maintenance, \$12,734 donated from various individuals to Summer Fete, and \$7,700 donated by Bloomington Crime Prevention Association to Police Pro-Active Services for National Night Out.

**Adopted Resolution
Approving Issuance of
Bonds by City of Inver
Grove Heights
ITEM 5.5A
R-2006- 97**

Motion was made by Grady, seconded by Wilcox, and all voting aye, to adopt a resolution approving the issuance of revenue refunding bonds by the City of Inver Grove Heights to be used for the refinancing of a facility consisting of 98 skilled-care nursing home beds, 18 assisted living/memory care units and an amenity space of approximately 33,000 square feet located at 9901 Penn Avenue South (Presbyterian Homes).

Lori Economy-Scholler, Chief Financial Officer explained that the City of Bloomington is granting host city Inver Grove Heights approval to issue bonds for the refinancing of the Presbyterian Homes' facility at 9901 Penn Avenue South. She stated the Port Authority and the Housing & Redevelopment Authority (HRA) originally issued bonds for this project. This constitutes no obligation to the City of Bloomington.

**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.

Speaker #1: Leo Fair, 8127 Fremont Avenue South

He thanked Mayor Winstead, the City Council, and staff for providing the neighborhood with information on the curb and barrier to be installed on West 80½ Street and inquired about the following:

1. Regarding the 12" curb down the middle of the street – does the curb start below the road surface?
2. How high is the barrier – 3 feet? He thought it was supposed to be 4 feet.
3. How high will it be at the end of the median and why does it taper? He inquired if it could be a uniform height throughout.

Winstead suggested Mr. Fair could put his questions in writing for staff or he could check with the City's Public Works staff to see if they could provide him an answer tonight.

Julie Long, Engineer explained that the first two inches of a 12-inch median is below grade so 10 inches is exposed, which is still higher than a normal curb. With regard to the 3-foot vs. 4-foot barrier, she explained when the appropriate easements could not be obtained from GN ReSound, the median ended up being narrower than planned in order to prevent encroachment onto GN's private land. She stated the tapering of the median is for safety reasons and to assist plow drivers and prevent damage to vehicles. Staff does not propose any changes to the planned median. The center median will be 10 inches high.

Bernhardson stated that the real concern is near GN ReSound's entrance and that if a number of vehicles end up going over the median, more enforcement could be used or other alternatives could be explored.

Long reported that the contractor is to start some time after Labor Day with an anticipated two-month long construction period.

Speaker #2: Roberta Rand, 9200 Collegeview Circle

She commented on the helpfulness of City staff since her move to Bloomington. She also mentioned that she had been looking forward to attending the Jazz Festival advertised at the Bandshell and was disappointed when she arrived to find no concert and no information explaining what had happened. When she called the Park & Rec hotline, she discovered the recording was not current. She suggested in the future, the City have a backup plan for rainouts and that the public be informed of that plan prior to the event being moved or cancelled.

**PUBLIC COMMENT
PERIOD continued**

Bernhardson apologized and stated staff would find out what happened.

**Liquor License
Violations
ITEM 5.1A**

Sandra Johnson, Associate City Attorney presented the staff report involving the following three liquor license violations that occurred as a result of the State mandated alcohol compliance check that was conducted by the Bloomington Police Department on July 18, 2006. She stated signed stipulations were received for all three violations and explained the two votes necessary by Council; to determine the willfulness of the violation and the civil penalty.

- Steak and Ale, 2801 Southtown Drive
Johnson reported no identification was requested by the server when the sale was made.

Speaker #1: Tom Radio, Representing Steak and Ale

He requested the Council find the violation nonwillfull. He stated Steak & Ale treats liquor license violations very seriously and that as all employees have been warned of the company's "no tolerance" policy with regard to selling alcohol to minors, the server in this incident was terminated. He stated this was their first violation since opening in 1975 and assured Council they thoroughly train all of their employees in alcohol awareness and enforce company policies.

Motion was made by Peterson, seconded by Grady, and all voting aye, to deem the violation nonwillfull.

Motion was made by Peterson, seconded by Grady, and all voting aye, to assess a \$1,000 civil penalty.

- Kokomo Island Café/Old Met BBQ, 319 South Avenue – Mall of America
Johnson reported no identification was requested when the sale was made.

Speaker #1: Patricia Buffham, Representing Kokomo Island Cafe

She stated this violation involved a bartender serving a minor. She explained that every employee receives a copy of their written policy, which states they have "zero tolerance" for serving minors alcohol. She stated it is their policy to card anyone who appears under the age of 40 in the bar and/or restaurant area. All of their managers, lead wait staff and bartenders have received training in alcohol awareness. Due to their "no tolerance" policy, the bartender in this incident was terminated. She stated she was embarrassed they didn't pass this compliance check.

Winstead commented on the "zero tolerance" policy of this establishment and of Steak & Ale and wondered if employees might become more valuable if they were written up rather than terminated following a violation.

Motion was made by Peterson, seconded by Grady, and all voting aye, to deem this violation nonwillfull.

Motion was made by Peterson, seconded by Grady, and all voting aye, to impose a \$1,000 civil penalty.

- Le Bourget Aero Suites, 7770 Johnson Avenue South
Johnson stated that no identification was requested when the minor was served alcohol.

Speaker #3: Kirk Schultz & Jim Johnson, Representing Le Bourget Aero Suites

Mr. Schultz stated he was embarrassed. He explained that the server was busy, asked for identification but served the minor anyway. He stated the server is a stellar employee and feels very bad for what happened and has accepted full responsibility. He explained they chose disciplinary action rather than termination. He stated they train all of their staff and apologized to the Council for this violation.

ITEM 5.1A continued Winstead stated that the server carded and served the alcohol but a manager collected the money. Mr. Schultz assured Council that type of situation would never occur again.

Motion was made by Peterson, seconded by Grady, and all voting aye, to deem this violation nonwillful.

Motion was made by Peterson, seconded by Grady, and all voting aye, to impose a \$1,000 civil penalty.

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 so the public comment period was closed.

Approved a 3.2 % Beer On-Sale “Special Event” License for Nativity of Mary
ITEM 5.1B

Motion was made by Elkins, seconded by Axtell and all voting aye, to approve a 3.2% Beer On-Sale “Special Event” license for Nativity of Mary Parish at 9900 Lyndale Avenue South for their golf and dinner fundraiser to be held on Tuesday, September 12 from 5:00 – 10:00 p.m.

No public testimony was received.

Approved Amendment to On-Sale Liquor License at Sheraton Bloomington Hotel
ITEM 5.1C

Motion was made by Axtell, seconded by Elkins, and all voting aye, to approve an amendment to the On-Sale liquor license for the Sheraton Bloomington Hotel at 7800 Normandale Boulevard for the Supervalu Corporate Reception that will be held on Monday, August 28 from 5:30 – 9:00 p.m.

No public testimony was received.

Approved a 3.2% Beer On-Sale “Special Event” License for St. Bonaventure Church
ITEM 5.1D

Motion was made by Wilcox, seconded by Elkins, and all voting aye, to approve a 3.2% Beer On-Sale “Special Event” license for St. Bonaventure Church at 901 East 90th Street for their church festival to be held on Friday, September 8 from 4:30 – 8:00 p.m. and on Saturday, September 9 from 9:00 a.m. – 8:00 p.m.

No public testimony was received.

Approved Three-Year Interim Use Permit at 8130 Pillsbury Ave. for Star Plumbing & Excavating
Case 6262A-06
ITEM 5.2A

No staff report was presented.

Speaker #1: Joe Kack, Star Plumbing & Excavating (Applicant)

He stated he was in agreement with all of the conditions set forth by staff and the Planning Commission.

Motion was made by Axtell, seconded by Peterson, and all voting aye, to approve a three-year interim use permit for the outdoor storage of construction equipment at 8130 Pillsbury Avenue South, Case 6262A-06, for Star Plumbing & Excavating, subject to the following 6 conditions of approval as set forth by the Planning Division staff and the Planning Commission:

1. The existing screen fence be maintained;
2. No on-street parking allowed;
3. No exterior storage of construction debris allowed;
4. No parking allowed in the 20 foot yard along Pillsbury Avenue;
5. The area between the street and the fence be established as grass except for the area where the driveway enters the property; and
6. All loading and unloading occur within the fenced area and off of public streets.

Approved Three-Year Interim Use Permit at 9033 & 9053 Grand Avenue for Dalsin Industries, Inc.
Case 8742B-06
ITEM 5.2B

No staff report was provided.

Speaker #1: Keith Diekmann, Dalsin Industries, Inc.

He approved of the conditions recommended by staff and the Planning Commission.

Motion was made by Peterson, seconded by Elkins, and all voting aye, to approve a three-year interim use permit for the open storage of auto dealership vehicle inventory consisting of new cars and vans on the properties at 9033 and 9053 Grand Avenue, Case 8742B-06, for Dalsin Industries, Inc. subject to the following 7 conditions of approval as set forth by the Planning Division staff and the Planning Commission:

ITEM 5.2B continued

1. Used vehicle inventory storage is prohibited;
2. No advertising signs shall be allowed;
3. A sign with a 24-hour emergency number shall be posted at the driveway into the storage lot at 9033 Grand Avenue, the site access and that sign shall also state that all inventory vehicle unloading and loading must take place either inside the property or on the Dalsin Industry property to the south;
4. The storage area shall not be used as an off-site vehicle show area and no sale of vehicles shall be permitted on site;
5. All stored vehicles shall be kept only in the approved storage area in an orderly manner and stored inventory shall not exceed a total of 480 vehicles;
6. No on-street loading, unloading, or parking of stored vehicles; and
7. The open storage area and property be maintained in a manner free of weeds and trash.

**Approved Preliminary
Plat & Adopted
Resolution Approving
Final Plat of Kelly Field
Addition at 300
Norman Ridge Drive
Case 9577A-06
ITEM 5.2C1, 2
R-2006-94**

Bob Hawbaker, Planning Manager presented the staff report. Using a map, he indicated the proposed plat would divide the property into two single-family lots. He explained that under Council's current discussions regarding subdivisions, the lot line would have to change to accommodate the other lot.

Grady inquired about the letter the City received from the neighbor to the north.

Hawbaker explained that all water runoff issues have been addressed by Engineering.

Nordstrom inquired about the condition relating to park dedication.

Winstead explained that for residential lots, Park Dedication is provided in cash to the Park Fund.

Motion was made by Grady, seconded by Peterson, and all voting aye, to approve the Preliminary Plat and adopted a resolution granting Final Plat approval of KELLY FIELD ADDITION located at 300 Norman Ridge Drive, Case 9577A-06 subject to the following 16 conditions of approval and 1 Code requirement on the Preliminary Plat and the following 11 conditions of approval and 2 Code requirements on the Final Plat, receipt of the title opinion, necessary documents and deposits; and a review of all documents by the City Attorney.

1. Grading, drainage, utility and erosion control plans must be approved by the City Engineer following review by the Nine Mile Creek Watershed District;
2. Connection charges be determined and satisfied;
3. Erosion control surety shall be provided to the Building and Inspections Manager;
4. Sewer Availability Charge (SAC) be determined and satisfied;
5. After acceptance by the Department of Public Works and prior to signing by the Mayor and City Manager, the final plat, all easement documents, and all other documents required as part of the subdivision be reviewed by the Planning Manager and City Attorney to assure compliance with conditions of approval adopted by the City Council;
6. Park dedication shall be in cash for one lot;
7. Fence along Normandale Boulevard be removed from the right-of-way;
8. Standard 10-foot and 5-foot drainage and utility easement be shown along the frontage(s) and interior property lines respectively as approved by the City Engineer;
9. Non-access easement be provided along Normandale Boulevard;
10. Provide a signed copy of the common driveway easement and common utility easement (if necessary);
11. Provide signed petition and waiver for sidewalk assessment for future construction;

and subject to the following additional conditions:

12. The front setback for each lot is 50 feet from Normandale Boulevard;
13. Surveyor to provide monumentation letter certifying that all monuments shall be placed within one year of platting;
14. Approved erosion control barriers must be installed prior to construction, maintained throughout the construction period and not be removed until authorized by the City Engineer;
15. Alterations and additions to utilities shall be at the developer's expense;
16. Temporary addresses shall be provided during construction; and

**ITEM 5.2C1, 2
continued**

and subject to the following Code requirements:

1. The approved Final Plat shall be filed with Hennepin County, a certified copy provided to the Engineering Department.

Conditions for the Final Plat:

1. Title opinion or title commitment dated within the past 6 months shall be provided.
2. Connection charges shall be due prior to issuance of utility permits.
3. Standard drainage and utility easements, 10 feet along street frontages and 5 feet along internal lot lines, shall be provided.
4. A 10-foot sidewalk/bikeway easement shall be provided along all street frontages.
5. A signed copy of private common driveway/parking/access easement agreement shall be provided.
6. A signed copy of private common utility easement agreement, if utilities are shared, shall be provided.
7. The revised Grading, Drainage, and Erosion Control plans shall be approved by the City Engineer prior to issuance of permits.
8. Temporary street signs, lighting, and addresses shall be provided during construction.
9. Surveyor shall provide monumentation letter certifying that all monuments shall be placed within one year of filing the plat, unless set before filing.
10. Deed of Access Rights (non-access) shall be provided along Normandale Boulevard.
11. Following construction, developer shall submit electronic utility as-builts to the Public Works Department.

and subject to the following Code requirements:

1. The approved Final Plat shall be filed with Hennepin County (Section 16.05.01). A certified copy shall be provided to the Engineering Division prior to the issuance of building permits (Section 16.10).
2. All development setbacks shall be based on planned widened rights-of-way for the abutting public street(s) (Section 19.42).

No public testimony was received.

**Adopted a Resolution
Approving Conditional
Use Permit for Parking
at Northwestern Health
Sciences University
2501 West 84th Street
Case 4720B-06
ITEM 5.2D
R-2006-95**

Hawbaker provided staff report explaining that Northwestern Health Sciences University has had large campus events where they needed overflow parking. He stated the proposed parking for the new library wing will temporarily remove approximately 30-40 parking spaces during construction. He stated even though they have had parking issues during events in the past, staff has put conditions in place to decrease the face time between Northwestern Health Sciences and the Council by approving a permanent use permit that could be triggered by request to the staff at such times they feel it is necessary. This way staff can control the details regarding when and where the parking can occur. This should handle the overload parking while giving the City control so that there are remedies in place to deal with any future violations.

Grady inquired if this application received the same public notice as others.

Hawbaker replied the notice was provided to the neighborhood and those most directly affected.

Wilcox inquired if the School had been actively purchasing residential properties for rental.

Speaker #1: Jim McDonald, 8401 Penn Avenue South

He stated the parking is to be used for visiting professors and visiting alumni and that the property is owned by the parents of one of the faculty members who decided to let the school use it. He stated they have no intention of buying any more properties and will try to dispel any rumors to that effect at their upcoming open house.

ITEM 5.2D continued

Motion was made by Axtell, seconded by Nordstrom, and all voting aye, to adopt a resolution approving a Conditional Use Permit for temporary and overflow parking at Northwestern Health Sciences University at 2501 West 84th Street, Case 4720B-06, subject to the following 7 conditions of approval as set forth by City staff:

1. The temporary and overflow parking area shall not exceed the designated area as shown on the approved plans in Case 4720B-06;
2. The temporary parking area shall only be used upon approval by the Planning Manager of a submitted request by the applicant that shall include, but not to be limited to, reason for use, length of time to be used (start/end dates), projected number of vehicles to be parked, installation of barrier fencing, plan showing parking layout and temporary controls, restoration of the area, and any other pertinent information as may be required;
3. The permanent fence required along the West 85th Street frontage in Case 4720A-06 shall be installed as approved by the Planning Manager prior to any use of the temporary parking area;
4. A permanent gate shall be installed across the curb cut into the temporary parking area as approved by the Planning Manager prior to any use of the temporary parking area;
5. The evergreen shrubs, as approved by the Planning Manager, shall be planted at no more than five-foot on-center intervals as shown on the approved site plan in Case 4720B-06 by no later than June 1, 2007;
6. The applicant shall submit a plan for restoration of the temporary parking area by May 1 of each year for approval by the Planning Manager and shall implement the approved plan by June 1 of that year; and
7. The documentation of Case 4720B-06 shall serve as the request for the first use of the parking area during construction of the new east parking lot and shall cease upon completion of that parking lot unless further application is made.

**Adopted Resolution
Ordering the
Reconstruction of Lea
Road & Marth Road
2007-101 PMP Street
Improvement Project
ITEM 5.3A
R-2006-96**

Julie Long, Engineering provided the staff report relating to the 2007-101 Pavement Management Program (PMP) Street Improvement Project on Lea Road and Marth Road. She explained that three informational meetings and an informal meeting were held with the neighborhood and surveys were sent out. Using a map, she stated no grade cuts are proposed so as not to make the driveway grades any worse than they are now. She showed where parking would be prohibited. She explained that two cul-de-sacs are proposed on Marth Road. She stated 60% of residents preferred Option D. She stated a verbal commitment has been received from the Minnesota Department of Transportation (MnDOT) that the cul-de-sacs will not bother the retaining wall. A break-away gate is to be located on the path. She stated this is the alternative that was discussed by Council and had the greatest amount of acceptance by the neighborhoods.

Grady inquired about signage.

Long replied that the signage issue will be brought to Council at a future date and that the City will still need to get approval from MnDOT and Met Council regarding the 4F parkland. Staff, however, needs Council's approval on the design before they submit the paperwork.

Grady inquired about the option of using gray surmountable curb.

Long replied that there was no outcry from the neighborhood for a bituminous curb. If the neighborhood decides they want surmountable curb prior to the City's bidding the project for construction next year, it could be changed.

Nordstrom inquired about the proposed parking restrictions.

Long replied that currently there are no signs restricting parking.

Speaker #1: Rick Schendel, 8124 Lea Road

He supported Option D as proposed but questioned the fence element, and in particular, the gate. He inquired if berms would be added and stated his support for B16 curb.

Long replied that staff would look at possibly building a berm on one side.

ITEM 5.3A continued

Speaker #2: Marie Leisenheimer, 7335 Marth Road

She stated she does not support this improvement. She stated her home was built in 1890 and that it and the land it sits on has been recognized as having historical value. She requested the City not cut into the sides of the road, which could change its historic value. She urged Council not to take away any of the historic value.

Speaker #3: Steve Anderson, 7300 Marth Road

He stated his opposition to the project. He doesn't understand why curbs are necessary and questioned the timing of the project. He disagreed with cutting off Marth Road with a circle and a fence across it. He is a retired Bloomington firefighter and reminisced about a fire call they went to on Lea Road approximately 20 years ago in which they ended up taking a shortcut from Fire Station #4, which was located at 84th Street & Johnson, by going up Highwood Drive to 83rd Street where they jumped across the cul-de-sac. He stated that shortcut saved them between 5-10 minutes, which is critical when responding to a fire. He stated it was later made into a street and believes that from a safety issue, there should always be two ways in and out of a place, especially in that area. Lea Road is a hilly, windy area and believes a cul-de-sac would make it very difficult to get to Marth Road. He doesn't believe it will be feasible for the fire trucks to plow through the fence in the wintertime, as there will be snow piled up against it and they won't be able to get through. He requested the Council hold off on this decision.

Winstead inquired if fire trucks would be the only emergency vehicles to have access to pass through the gates or would ambulances and police cars have access also.

Long replied that all of them would have the standard key that is used elsewhere around the city but she did not know if all of those responders would have the same access but would find out. She stated the City plans to plow the cul-de-sac with the gate in place.

Bernhardson explained that there are other locations around the city similar to this where the residents have made trade-offs to not having a through-street so as to lessen the cut-through traffic.

Motion was made by Elkins, seconded by Grady, and all voting aye, to adopt a resolution ordering the reconstruction of Lea Road and Marth Road as presented by staff for inclusion in the 2007-101 PMP Street Improvement Project:

<u>Ref. No.</u>	<u>Street</u>	<u>From</u>	<u>To</u>
1	Lea Road	Marth Road	West 82 nd Street
2	Marth Road	Lea Road	500' west of West Bush Lake Road

**Adopted Ordinance
Establishing New Plat
Findings, Residential
Lot Width Standards,
& Residential Tree
Preservation
Standards
ITEM 5.4A
O-2006-33**

Glen Markegard, Senior Planner reviewed the following changes suggested by Council following their discussion of the proposed ordinance establishing new plat findings, residential lot width standards, building height standards and residential tree preservation standards at the public hearing held on August 7:

Tree preservation standards: Drip line vs. critical root zone. (All references to drip lines were removed and the critical root zone to be considered instead.)

Prevailing lot width standard: Based on Council's previous discussion, they requested staff consider the impacts of reducing the standards to 80% or 90% of the median for the neighborhood. He analyzed five recent Council subdivision approvals using 80%, 90% and 100% of the median lot width. He explained the lot width options for Council to consider, stating the current width is 80 feet. He stated staff recommends adopting the prevailing lot width standard capped at 120 feet with an 80% median in the neighborhood in order to balance property rights with the concerns of neighboring property owners. The lot width couldn't be less than 80 feet.

Winstead requested staff's rationale for the cap.

ITEM 5.4A1 continued Markegard stated the 120-foot cap resulted from discussions between the City's consultant and staff. He stated 120 feet would curb the number of allowable subdivisions - it's 50% larger than the existing minimum lot width of 80 feet. He stated Edina does not have such a cap.

Peterson stated it's a matter of trying to balance property rights that allow people to do what they want to do with their property against a person's right to buy a home in a neighborhood that will remain as it was when they bought it.

Nordstrom commented that she observed while on a trip to Oak Park, Illinois that no new home can be built larger than the largest existing home on the block.

Axtell commented that he is very pleased with staff's direction regarding lot width.

Elkins stated he agrees with staff's 2C recommendation.

Peterson stated he supports the 80% median and believes a 120-foot cap minimum is reasonable.

Markegard explained that the Planning Commission's recommendation plus the changes suggested by Council have been incorporated into the draft ordinance and that staff recommends adoption of those five amendments plus the one discussed tonight. He stated all of the amendments except the minimum lot width are included in the draft ordinance and that Council should provide direction related to minimum lot width if a motion is made to adopt the ordinance as proposed.

A motion was made by Peterson, seconded by Elkins, to adopt the proposed ordinance establishing new plat findings, residential lot width standards, building height standards and residential tree preservation standards substituting the language in the memo from Markegard setting the prevailing lot width standard to 80% of the neighborhood median. No vote was taken at this time.

Speaker #1: Homeowner of 171 Norman Ridge Drive and Her Daughter

The homeowner stated she is trying to sell her property and strongly opposes the proposed ordinance. She questioned how her lot would be affected if this ordinance is adopted and inquired if it would result in it only being divisible by two.

Winstead stated that as the Council had previously heard issues similar to the ones expressed regarding the Norman Ridge Drive development, they determined they had to deal with it and directed staff to develop a prevailing lot width standard that would balance the property rights of the homeowner with the surrounding neighborhood.

Speaking directly to the homeowner at 171 Norman Ridge Drive, City Manager Mark Bernhardson explained that to the extent their subdivision was approved, if their plat is filed within one year of receiving final plat approval, they could subdivide it as it was approved. However, if the final plat doesn't get filed within the one year time period, they would have the option of requesting an extension for one more year from the City Council. If it wasn't granted or filed within the two year time period, they would only be able to subdivide under this amendment into two lots or more under a Planned Unit Development (PUD).

The daughter explained that her mother is still trying to sell the property. She stated the neighborhood has changed a lot and inquired why they are facing so many roadblocks regarding this subdivision.

Wilcox stated their approval was for a four-lot subdivision and inquired if the approval was granted to the property owner or the developer.

City Attorney Dave Ornstein stated that he would need to review this particular subdivision agreement. He stated the applicant, who had the authority of the land owner, presented the application and that if the plat is filed, it can then go forward. If it isn't filed due to some legal issues relating to the developer, this homeowner might have to come back with a different plat.

Axtell inquired if this would go from a four-lot subdivision to a two-lot subdivision.

ITEM 5.4A1 continued Winstead stated that the Council was under the impression that this application had already sailed. Bernhardson stated there are others who feel as they do regarding the next type of zoning changes being considered and that the decisions are not based on the identity of the property owner but what is the best standard for the community.

The homeowner inquired if she could continue to tell perspective buyers that her lot could be divided into either four lots or two.

Bernhardson replied that she should talk to whoever has the plat. The plat has been approved but it needs to get filed.

Winstead commented that this homeowner has an issue with her developer or whoever holds the plat. He stated if the proposed ordinances passes, variances and/or a Neighborhood Unit Development could be applied for if it turns out they don't have rights to the plat.

The daughter expressed concern that they didn't get any specific notice regarding this proposed ordinance.

Bernhardson explained that a citywide legal notice was published in Bloomington's newspaper, and that by law, it is the only notice the City is required to publish.

Axtell stated it's not realistic to expect those who might be affected by this change would have read it.

Winstead called the vote on the motion that was made by Peterson and seconded by Elkins to adopt the proposed ordinance establishing new plat findings, residential lot width standards at 80% of the neighborhood median capped at 120 feet, building height standards, and residential tree preservation standards as discussed by Council. The vote was unanimous.

Adopted a Resolution Directing Summary Publication of O-2006-33 ITEM 5.4A2 R-2006-98

A motion was made by Peterson, seconded by Elkins, and all voting aye, to adopt a resolution directing summary publication of O-2006-33, as described above.

Council Recess

<Council took a 10-minute recess.>

Actions Related to the Zoning Ordinance Amendment Cont. to Sept. 11 ITEM 5.4B-F

Markegard provided the staff report explaining that this is the Council's fourth public hearing on the proposed zoning ordinance to establish new commercial zoning districts and standards. He stated Council discussed six issues at previous public hearings and summarized the three for which Council reached a consensus:

1. Not to expand the definition of "Class I Motor Vehicle Sales" to include used car sales, which are currently defined separately as "Class II Motor Vehicle Sales."
2. Not to create a process through which nonconforming uses could expand.
3. Adopted hours limitations for new restaurant drive-throughs near residential property but not for other, less intense types of drive-throughs such as bank ATMs or pharmacies.

Markegard described the three remaining issues for Council consideration:

4. Lot width standards for corner lots: He explained there are three options for Council consideration and that staff recommends Option #1, which would require greater lot widths for corner lots and explained why.

Axtell requested a comparison regarding how the current zoning compares to the proposed districts.

ITEM 5.4B-F continued Markegard explained that in the B-2 District, which affects most parcels in the city, there is a current lot width standard of 100 feet, which doesn't vary between corner and internal lots, it's just a standard lot width requirement. He stated some commercial districts have no lot width standard requirement and some of the freeway districts do have lot width requirements, which are being retained and in some cases may actually see a decrease in the lot width requirement upon completion of the strategic planning process from what they are today.

Peterson inquired as to the impact of requiring greater lot widths for corner lots when the marketplace appears to be pushing things in the direction of assembling lots rather than subdivision. He used the example of the Pierce Art Center property on the southeast corner of 98th & Nicollet. It is clearly a substandard lot with parking issues. In order to make some development feasible there, he stated it appears it would need to be combined with some other nearby parcel.

Winstead stated it's logical and makes good traffic engineering sense to adopt the lot width standards for corner lots as proposed by staff.

Wilcox stated he is bothered by the example of the Pierce property at 98th Street & Nicollet where even if the owner could find a use for his lot, if he couldn't assemble more properties, he would be left with a property that he couldn't develop.

Bernhardson explained that as in the case of the Johnson Hardware building, the building could still be used even if the standards change but there could be implications regarding the financing of nonconforming characteristics.

Peterson suggested deleting the corner lot side requirement.

With regard to the Pierce property at 98th & Nicollet, Markegard used the GIS system to determine that it did not appear that the property met the 150-foot, two-sided dimension.

Bernhardson inquired if from an engineering perspective objectives would be achieved on collector streets if there was a certain setback in which they couldn't have an access. No new access could be developed to a property within a particular distance from major corners.

Peterson stated he would prefer to delete the 150-foot dimensional requirement.

Elkins stated that the purpose of the requirement is to prevent any more of this type of lot from being created.

Nordstrom inquired about the Mhiripiri Gallery parcel at the corner of 90th Street & Penn Avenue.

Markegard replied that it is probably under the lot width and the proposed minimum site area requirements. He stated the City is fortunate that this gallery use worked on this site.

Winstead and Elkins supported being proactive and putting requirements on these types of lots so that the City doesn't end up with parcels that can't be developed in the future.

A motion was made by Peterson, seconded by Wilcox, to delete the 150-ft. lot width minimum in the B-1 and B-2 Districts in the table under Sec. 21.301.01 on page 30 of the proposed ordinance. Motion failed 3-4 (Elkins, Winstead, Axtell, and Grady opposing).

Issue #5: Exceptions for Floor Area Ratio Standards for Motor Vehicle Sales

Markegard reviewed the options for Council to consider regarding the Floor Area Ratio standards for Motor Vehicle Sales. He stated staff recommends Option #1 (to adopt the originally proposed language with no exceptions for auto dealers) and the Planning Commission recommended Option #2 (to include exceptions for expansions to existing auto dealerships). He referenced a letter that was received from an attorney representing Luther Automotive

ITEM 5.4B-F continued Bernhardson stated that the language being proposed pertains to the C-1 District for motor vehicles and inquired how this would apply to auto dealerships in other districts.

Markegard replied that following the strategic planning process an effort would be made to decide how all of the existing freeway corridor and neighborhood commercial areas would be rezoned to the new zoning districts and that at that time, it would be determined into which zone each of the auto dealerships would fall into. He stated the only proposed district that would allow motor vehicle sales is the C-1 District and that staff anticipates the vast majority of auto dealerships would fall in the C-1 District subject to both the minimum Floor Area Ratio requirements of that district and to any exception the Council desires to add into the ordinance.

Grady stated her concern is that the .04 FAR would make it difficult for existing dealerships to remain in Bloomington and inquired if existing dealerships could be grandfathered in. She doesn't object to trying to get more density on some of those sites in the future but doesn't want it to negatively affect existing businesses.

Winstead stated that he could support Option #3, which would require auto dealerships to increase their FAR at a time when they would expand, as that is the direction he believes the Council desired to see the C-1 District go when they initially developed the guiding principles for development in the various districts.

Elkins stated that if the Council doesn't encourage adequate densification of this area in particular, transit service will die, as utilization of higher density and mixed uses in the area will drive better transit service. He stated if the land uses aren't supportive of transit, it won't work.

Axtell stated he appreciates the service auto dealerships provide to the community but struggles with requiring them to increase the size of their dealerships by adding more service bays stating he is somewhere between Option #3 and #4.

Bernhardson explained that the C-1 District includes a range of uses in addition to auto dealerships but the intent is to make them more intense. He stated the proposed zoning would create a C-1 District with a .04 FAR and it's the only district to allow auto dealerships but that could change. The question for Council is do they want auto dealers to have a .04 FAR and do they want to make an exception for existing dealerships. He stated the other issue for Council to consider is whether they want to wait until after the strategic planning process to apply them. He stated Winstead and Elkins desire Option #4 with: A) No FAR requirements for existing dealerships, B) Expansion on site would result in no decrease in FAR, and C) Any expansion of the site, particularly the portion that is expanded, would have to go to a .04 FAR blended with the existing site.

Peterson stated he could support the concept whereby there were two equal size parcels and an auto dealer had a .02 FAR on his lot, then purchased a parcel at .04 FAR so that the average of the two lots resulted in a .03 FAR and that this could be the target FAR for the combined lots. It would allow the zoning to move in a direction Council desires without requiring an expansion go right to the .04 FAR.

Motion was made by Wilcox, seconded by Nordstrom, to propose text Option #4 with regard to Section 21.302.01 requiring no FAR requirements for existing dealerships, no decrease in FAR when an existing building is expanded on an existing site, and that the .04 FAR could be a combination of the existing property and the additional land acquisition. No vote was taken at this time.

Speaker #1: Rob Lunz

He stated that the trend is to do structured parking but according to the City's Zoning Code, it wouldn't count towards the FAR. In other words, if an auto dealer adds structured parking, more density is being added to the site but he isn't getting any credit for it. He sees Option #3 and #4 as virtually the same.

ITEM 5.4B-F continued Speaker #2: Peter Beck

He stated District C-1 allows other uses but it's the only one that allows auto dealers. He believes .17 FAR makes more sense for existing dealerships and that Options #3 and #4 only gives them two options, remain as they are or leave Bloomington.

Bernhardson summarized that new motor vehicles sales would only be permitted in the new C-1 District but they wouldn't be precluded from being a permitted, a conditional, or an accessory use in some of the other zones. He encouraged Council to adopt the text of the zoning districts realizing that they may be amended and wouldn't need to be applied until after the strategic planning process.

Larry Lee, Community Development Director clarified that the C-4 District is basically the C-1 District without car dealerships. He stated the C-1 District is a commercial/freeway type of district that has car dealerships in it and that following strategic planning, Council might say this is where car dealerships should be located or where they could be contemplated in the future and where the C-1 District will eventually be applied.

Bernhardson clarified the process by stating there are 30 some existing commercial zoning districts and another 10 districts will be added. All of the districts will be available in the Zoning Code and that after the strategic planning process has concluded, Council will decide where to apply them. Notification would be given to all of the individual property owners as the zoning is applied to certain areas.

Council agreed they could support the of the zoning text with the understanding that the application of the zoning wouldn't occur until after conclusion of the strategic planning process.

Markegard read the following text he drafted to be added onto the end of Option #4 language per Council's request based on their earlier discussion: "When an existing motor vehicle sales site in the C-1 District expands beyond its site boundaries, the Floor Area Ratio on the added site area must meet or exceed .04. The cumulative required FAR for the combined site may be spread throughout the full site."

Wilcox withdrew his original motion.

Motion was made by Elkins, seconded by Peterson, to approve the following text in Section 21.302.01 relating to Floor Area Ratio and Motor Vehicle Sales: "(j) Minimum Floor Area Ratio. Notwithstanding any District requirements to the contrary, the minimum Floor Area Ratio in the C-1 District shall be 0.0 for existing Motor Vehicle Sales uses and sites and 0.4 for newly created Motor Vehicle Sales uses and sites. When existing Motor Vehicle Sales uses and sites are modified or expanded, the Floor Area Ratio for the site must not decrease. When an existing motor vehicle sales site in the C-1 District expands beyond its site boundaries, the Floor Area Ratio on the added site area must meet or exceed .04. The cumulative required FAR for the combined site may be spread throughout the full site." Motion passed 4-3 (Axtell, Grady and Wilcox opposing).

Issue #6: Residential Requirements in the C-5 District

Markegard reviewed the options relating to the issue of requiring residential in the C-5 District. Using a map, he indicated where the proposed C-5 District would be located. As Option #4 would require residential uses only on sites over 2.5 acres, he indicated where 4 out of the 11 parcels that size are located: Dodge Dealership, Mitsubishi Dealership, Savers, and the Home Valu site. He made reference to the letter the City received from C.B. Ellis on behalf of the Peerless Land Company.

Motion was made by Peterson, seconded by Wilcox, to support the concept of Option #3 with regard to residential requirements in the C-5 District to encourage residential uses through Floor Area Ratio bonuses while not requiring it. They continued the detailed formula to the September 11 meeting so staff can provide detailed numbers for Council to review. Motion passed 5-2 (Elkins & Winstead opposing).

- ITEM 5.4B-F continued** Elkins provided photos of various developments where the developer created a beautiful place, an amenity that was included as part of the planned development. Some of the development examples included: Park @ Excelsior & Grand, Park in the Heart of the City (Burnsville), Park @ Highland Ranch (outside of Denver), Stapleton Development's main street (Denver), Englewood, CO, etc. He stated these are similar to the Bloomington Central Station.
- Winstead stated perhaps there should be language requiring common space be included.
- Motion was made by Peterson, seconded by Elkins, to approve the concept of the text of the zoning ordinance amendment to establish new commercial zoning districts and standards as discussed by Council subject to agreeable language on the encouragement of the bonus for housing in the C-5 District with the full ordinance approval continued to the September 11, 2006, Regular Council meeting. Motion passed 6-1 (AG opposed).
- Postponed to Sept. 11 the Rezoning of 9200 Old Cedar Avenue So. Case 10002A-06 ITEM 5.4C** Motion made by Peterson, seconded by Wilcox, and all voting aye, to postpone the ordinance to rezone 9200 Old Cedar Avenue South, Case 10002A-06, for the City of Bloomington from B-3 General Business to B-2 General Commercial to the September 11, 2006, Regular Council meeting.
- Postponed to Sept. 11 the Rezoning of 8820 Lyndale Avenue South Case 10002B-06 ITEM 5.4D** Motion was made by Peterson, seconded by Wilcox, and all voting aye, to postpone the ordinance to rezone 8820 Lyndale Avenue South, Case 10002B-06, for the City of Bloomington from B-3 General Business to B-2 General Commercial to the September 11, 2006, Regular Council meeting.
- Withdrew Rezoning Applications ITEM 5.4E** Motion was made by Peterson, seconded by Wilcox, and all voting aye, to withdraw the application to rezone the primary zoning districts from B-2 Retail Business and B-3 General Business to C-1 Freeway Office and Service and C-5 Freeway Mixed Use, with the understanding that Council would be reviewing this tool during the strategic planning process.
- Postponed to Sept. 11 an Ordinance Establishing a Moratorium Relating to Pawnshops & Secondhand Dealers ITEM 5.4F** Motion was made by Peterson, seconded by Wilcox, and all voting aye, to postpone to the September 11, 2006, Regular Council meeting an ordinance establishing an 8-month moratorium on construction and/or operation of additional pawnshops and secondhand dealers.
- City Council Policy & Issue Update ITEM 6.1** Bernhardson reminded the Council of the strategic planning workshop scheduled for Wednesday, August 23 at Fire Station #1 from 3-9 p.m. He inquired if any Council members wouldn't be available to attend a study session at 5:30 p.m. on August 28 ahead of the regular meeting. All Council members indicated they could attend.
- With regard to the scheduled Council meeting on October 16, Bernhardson stated that as four Council members will be gone that evening, the regular meeting might need to be moved to October 23 in order to have a quorum. Council to discuss further at their August 28 study meeting.
- Adjourn Meeting** Mayor Winstead adjourned the meeting at 11:48 p.m.

Barbara Clawson
Council Secretary