

REGULAR COUNCIL MEETING – AGENDA #44

If due to a disability, you need auxiliary aids or services during a City Council Meeting, please provide the City with 72 hours notice by calling 493-8012 or TDD 493-8392 or FAX 493-8391.

Our Mission: An Attractive, Diverse, Healthy, Safe and Prosperous Community at a reasonable tax burden.

INVOCATION 6:55 p.m.

I. ORGANIZATIONAL BUSINESS

1. **CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE** -Boy Scout Troop #234, Palmer Lake VFW
2. **OPEN FORUM 7:00 – 7:15 p.m.** Provides an opportunity for the public to address the Council on items, which are not on the agenda. Open Forum will be limited to 15 minutes (*if no one is in attendance for the Open Forum, the Regular Meeting may begin*), and it may not be used to make personal attacks, to air personality grievances, to make political endorsements, or for political campaign purposes. Council Members will not enter into a dialogue with citizens. Questions from the Council will be for clarification only. Open Forum will not be used as a time for problem solving or reacting to the comments made but, rather, for hearing the citizen for informational purposes only.
- 3A. Approval of Agenda (Items specifically identified may be removed from Consent or added elsewhere on the agenda by request of any Council member.)
- 3B. **PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS**
 - 3B1 Mosaic Youth Center Presentation
 - 3B1 INFORMATION PACKET (*LIMITED DISTRIBUTION*)
 - 3B2 Resolution Acknowledging Presentation of Great Lakes Region Partnership Award for River Park
 - 3B2 RESOLUTION
 - 3B2 AWARD APPLICATION
 - 3B3 Recognition of Contributions of Retiring Police Captain Laura Johnson

II. STATUTORY BUSINESS AND/OR POLICY IMPLEMENTATION

4. **CONSENT (All items listed under Consent, unless removed from Consent in Agenda Item 3A shall be approved by one Council motion.) Consent Agenda consists of items delegated to city management or a commission but requires Council action by State, law, City Charter or City Code. These items must conform to a Council approved policy, plan, capital improvement project, ordinance, or contract. In addition, meeting minutes shall be included.**
 - 4.1 “Aspen Cove North” (Hanson Land Development & Team Fair, Incorporated) – Final Plat #05-137 for subdivision of 7.36 acres into 20 lots east of Champlin Park High School, west of Noble Avenue North and south of 109th Avenue North
 - 4.1 LOCATION MAP
 - 4.1 RESOLUTION
 - 4.1 FINAL PLAT DRAWING
 - 4.2 Letters of Credit/Bond Releases, Escrow/Cash Bond Releases
 - 4.3 REMOVED FROM AGENDA
 - 4.4 Amending Resolution #2004-7 to include a legal description
 - 4.4 RESOLUTION #2004-7
 - 4.4 EXHIBIT A
 - 4.5 Approval of Minutes
 - 4.5 REGULAR COUNCIL MEETING MINUTES, NOVEMBER 7, 2005
 - 4.5 SPECIAL COUNCIL MEETING MINUTES, NOVEMBER 14, 2005
 - 4.6 Second Reading of an Ordinance to Amend Chapter 112.001 (B) (3) of the City Code pertaining to insurance requirements for 3.2 percent and wine licenses
 - 4.6 ORDINANCE

The following items relate to the City Council's long-range policy-making responsibilities and are handled individually for appropriate debate and deliberation. (Those persons wishing to speak to any of the items listed in this section should fill out a speaker's form and give it to the City Clerk. Staff will present each item, following in which audience input is invited. Discussion will then be closed to the public and directed to the Council table for action.)

5. **Public Hearings**

- 5.1 Hearing for vacation of drainage and utility easements in Oxbow Commons, 101st Avenue and Welcome Avenue.
 - 5.1 RESOLUTION
 - 5.1 VICINITY MAP
 - 5.1 LOCATION MAP
- 5.2 Hearing for vacation of road easements in Aspen Cove North, 108th Avenue and Scott Avenue.
 - 5.2 RESOLUTION
 - 5.2 VICINITY MAP
 - 5.2 LOCATION MAP
- 5.3 Public Hearing to solicit testimony and consider the renewal of the Currency Exchange license for Minnesota Currency Exchange Corporation at 7646 Brooklyn Boulevard North.
- 5.4 Public Hearing to solicit testimony and consider the renewal of the Currency Exchange license for Brooklyn Park Check Cashers Inc. at 6319 Zane Avenue North.

6. **Land Use Actions**

- 6.1 Laurence A. Wheelock – Waiver of Platting #05-149 for a lot split at 8330 Fairfield Road
 - 6.1 LOCATION MAP
 - 6.1 RESOLUTION
 - 6.1 SURVEY
 - 6.1 PLANNING COMMISSION MINUTES
- 6.2 City of Brooklyn Park EDA – Waiver of Platting #05-150 for a zero lot line split and variance to lot width at 4525-29 83rd Circle North
 - 6.2 LOCATION MAP
 - 6.2 RESOLUTION
 - 6.2 DECLARATION OF COVENANTS
 - 6.2 SITE SURVEY
 - 6.2 NEIGHBOR LETTER
 - 6.2 PHOTOS
 - 6.2 PLANNING COMMISSION MINUTES

7. **General Action Items**

- 7.1 Appointments to the Budget Advisory Commission and the Citizen Long-range Improvement Committee

III. **REPORTS AND ANNOUNCEMENTS FROM COUNCIL MEMBERS**

IV. **DISCUSSION ITEMS-These items will be discussion items but the City Council may act upon them during the course of the meeting.**

- 8.1 2006 Budget Discussion
- 8.1 2006 BUDGET RECOMMENDATIONS

V. **ADJOURNMENT**

Since we do not have time to discuss every point presented, it may seem that decisions are preconceived. However, background information is provided for the City Council on each agenda item in advance from City staff and appointed commissions; and decisions are based on this information and past experiences. If you are aware of information that has not been discussed, please raise your hand to be recognized. Please speak from the podium. Comments that are pertinent are appreciated. Items requiring excessive time may be continued to another meeting.

City of Brooklyn Park Request for Council Action

Agenda Item No:	3B1	Meeting Date:	November 28, 2005
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	Originating Department:	Administration
Resolution:	N/A	Prepared By:	Douglas Reeder, City Manager
Ordinance:	N/A		
No. of Attachments:	1	Presented By:	Melodie Hanson, Executive Director for Friends of Mosaic, and Elyse Farnsworth, Mosaic Coordinator
Item:	Mosaic Youth Center Presentation		

City Manager's Proposed Action:

N/A

Overview:

Melodie Hanson, Executive Director for Friends of Mosaic, and Elyse Farnsworth, Mosaic Coordinator, will present information and answer any questions that Council may have regarding the Mosaic Youth Center.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

3B1 INFORMATION PACKET (LIMITED DISTRIBUTION)

City of Brooklyn Park Request for Council Action

Agenda Item No:	3B2	Meeting Date:	November 28, 2005
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	Originating Department:	Recreation & Parks
Resolution:	X	Prepared By:	Jay Lotthammer, Parks & Facilities Manager
Ordinance:	N/A		
No. of Attachments:	2	Presented By:	Linda St. John, Director, Recreation & Parks
Item:	Resolution Acknowledging Presentation of National Recreation and Parks Association's Great Lakes Region Partnership Award for River Park		

City Manager's Proposed Action:

MOTION _____, SECOND _____ TO WAIVE THE READING AND ADOPT RESOLUTION #2005-_____ TO ACKNOWLEDGE PRESENTATION OF RECOGNITION PLAQUE FOR THE NATIONAL RECREATION AND PARKS ASSOCIATION'S GREAT LAKES REGION PARTNERSHIP AWARD FOR RIVER PARK.

Overview:

The National Recreation and Parks Association – Great Lakes Region recognizes and awards projects for effectiveness and use of partnerships to accomplish positive results. In a competitive process, the City of Brooklyn Park was awarded first prize in our population category. The positive results that have been achieved at River Park would not have been possible without the many partnerships that city staff has fostered throughout the development process. The attached grant application highlights the many partners and details over \$350,000 in financial and in-kind contributions. In addition to the involvement of the groups and organizations, the involvement of the local residents and community members has played a large role in the improvements to the park.

Primary issues/alternatives to consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

- 3B2 RESOLUTION
- 3B2 AWARD APPLICATION

RESOLUTION #2005-
IN RECOGNITION OF THE NATIONAL RECREATION AND PARKS ASSOCIATION'S
GREAT LAKES REGION PARTNERSHIP AWARD FOR RIVER PARK
PRESENTED TO THE CITY OF BROOKLYN PARK

WHEREAS, River Park was one of the first developed parks in the community's park system; and

WHEREAS, River Park is recognized as being valuable and ecologically significant; and

WHEREAS, quality parks and recreation amenities enhance the quality of life and increase the property values in the community; and

WHEREAS, staff has fostered relationships with organizations that have been willing to contribute time, money and technical expertise to the project; and

WHEREAS, the City Council has recognized the value of this project and provided authorization and support along with helping hands during the planting events; and

WHEREAS, the residents of Brooklyn Park have embraced this project through their participation in the planning process and participation in two separate volunteer planting events; and

WHEREAS, the National Recreation and Parks Association has awarded first place to this project; and

WHEREAS, the award was presented to the City of Brooklyn Park and accepted by Linda St. John and Jay Lotthammer on October 21, 2005, at the National Recreation and Parks Association National Conference;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK that this prestigious award is gratefully and proudly accepted on behalf of all citizens of Brooklyn Park who are fortunate to have a high quality facility of this nature in their community.

GREAT LAKES REGION PARTNERSHIP AWARD

Project Name: River Park – City of Brooklyn Park, Mn. Community Park Collaborative

Project Description:

With a population now exceeding 72,000, the City of Brooklyn Park is the sixth largest city in Minnesota, located 15 minutes north of downtown Minneapolis and its River Park is a large community park located in a picturesque setting on the bank of the Mississippi River. The original 25 acres of this park served the city's residents for far ranging passive as well as active activities since the middle 1960's. The local Lions Club adopted this park in the 1970's and over 30 years has funded picnic pavilion improvements, tables and grills. In the year 2000, the largest play structure in the city was built collaboratively through the efforts of the City of Brooklyn Park and Landscape Structures, a playground manufacturer. In May of 1998, the City acquired a key 12.8 acre parcel directly north of the existing park. Originally a residential homestead, the purchase of this property through park improvement bond referendum funds secured this 12.8 acre parcel for public park purposes. When linked to the southern parcel, it then created a nearly 37 acre site abutting the Mississippi River. Prior to the 12.8 acre acquisition to the north, the southern portion of the park contained active park elements such as: tennis courts, picnicking areas, two ball fields, outdoor skating in the winter, the community's largest play structure and several walk paths. The next critical development step was the need to master plan the 12.8 acre site and constructively incorporate it into this river setting for community use.

In September of 1999, the City of Brooklyn Park Recreation and Parks Department was awarded a grant from the National Parks Service to restore the park property along the riverbank and to make improvements to the natural habitat of the park. In August of 2001, additional funding was received from the National Park Service to help address the trail along the riverbank and cap an aging artesian well adjacent to the picnic pavilion. In November of 2001, the City was awarded a Metro Environment Grant from the Metropolitan Council to supplement the previous grants from the National Park Service in addressing the artesian well and the river's edge pathway.

Informational planning meetings were held with local residents. Staffs from the City of Brooklyn Park and the National Park Service provided background information and received comments from residents. Staff clearly expressed the intent to do something uniquely different with the northern 12.8 acres by treating it as a passive area. It would help to enhance and foster environmental and educational opportunities in the community while maintaining an environmentally critical storm water treatment area. The southern portion of the park would remain as the active area with the new area offering a new type of park experience to its visitors.

In January of 2002, Recreation and Parks staff met with Great River Greening and National Park Service staff to present conceptual ideas for the northern 12.8 acres of the park and explore the possibilities for additional funding from Great River Greening and the National Park Service. Great River Greening is a non-profit, community-based organization that exists to help communities restore, manage and learn about their natural environment through volunteer involvement. Following the presentation, Great River Greening staff expressed an interest in becoming a partner of the River Park project through the use of their technical expertise and funding provided to them by the Legislative Commission on Minnesota Resources (LCMR). The National Park Service indicated at the meeting that they would request additional funding support for this project through their internal grant process. Great River Greening followed suit and indicated that they would be able to match the additional support of the National Parks Service funds. The first phase involved entering into an agreement with Great River Greening to implement a master plan of the northern 12.8 acre parcel and it was funded by the

National Parks Service Challenge Grant funds. The second phase would use the remaining funds to implement the initial phases recommended by the master plan. This funding would come from a combination of the National Park Service Challenge Grant and from Great River Greenings LCMR funds. Both agencies funded the master plan development and worked in concert with city staff to coordinate this planning tool.

A critical element to the environmental success of this project was undertaken in 2003 by the City of Brooklyn Park. Through a design engineered by Great River Greening and implemented by the City of Brooklyn Park, a major utility project was done to correct a storm water runoff problem going directly into the river by directly piping the runoff into a three pond filtration area which removed sediments before reaching the Mississippi River. A very special highlight along the road to developing this project came in 2003 when over 260 individuals volunteered for a planting event that spotlighted this unique community project. It brought together segments of our community from Council Members, scouting groups, environmental enthusiasts, the National Park Service and Metro Greening to community residents simply interested in giving back to their community. Together they gave a collaborative and energized jump start to this planting project. This coming fall of 2005, a 500 person volunteer planting event will help to complete the last phase of the planting plan.

Project Partnerships:

Initially, this critical park area along the Mississippi River corridor was identified by several organizations recognizing its importance to the local community and the health of the river. As each phase of the master plan became a reality, additional community partners have joined into this restoration, ecological stabilization and environmental protection plan. Primary partners such as the National Park Service, the Metropolitan Council and Great River Green and the City of Brooklyn Park provided initial project funding as well as expertise to restore and enhance portions of River Park.

Project Partners from the inception of this project include:

1997	\$301,000	City of Brooklyn Park-land purchase
1999	\$26,300	National Parks Service MNRA Grant
1999	\$10,000	WalMart Grant
2000	\$50,000	Landscape Structures
2001	\$30,000	Met Council Metro Environment Grant
2001	\$30,000	National Parks Service MNRA Grant
2002	\$25,000	National Parks Service Challenge Grant Funding
2003	\$46,000	National Parks Service Cyclic Maintenance Funds
2004	\$77,000	Great River Greening Planting of West Side of Park
2005	\$12,000	Hennepin County Environmental Services/prairie planting
2005	\$50,000	Great River Greening Planting of East Side of Park
1999-2005	\$140,000	City of Brooklyn Park

In the fall of 2005, after six years of phased development, the installation of the remaining prairie and river bank plantings will be completed through funding approved by Hennepin County and Great River Greening with a match from the City of Brooklyn Park. Then upon completion, a three year maintenance plan will be implemented to insure quality growth and development of this area. The current plan is to conduct with Great River Greening a 500 person volunteer planting event during the fall of 2005 to install the oak forest planting area, supplemental natural plant materials as well as complete the interpretive garden at River Park.

Project Summary:

A myriad of outstanding partnerships has fueled the recent development of River Park, one of the jewels in our community's park system. By its location on the banks of the Mississippi River and fueled by a vision to create

a new park area to serve present and future generations, this project heightened the interests of civic groups, non profit agencies, neighborhood groups, youth scouting groups, regional agencies and others. Together, they embraced the need for environmental stewardship and stepped up to volunteer opportunities. Together, they lent their vision, spirit, funding and human efforts as community partners to preserving a community asset, protecting the river and creating natural resources which will support and strengthen this area for future generations. The City of Brooklyn Park and its Recreation and Parks Department staff is proud of its many community partners and recognizes that the strengths that each brought this project made it a far better and more complete project. Without their efforts, shared vision and financial support, this project would have taken significantly longer and been developed in a reduced and perhaps less complete fashion. The Mississippi River, the environment, natural resources and our community park users are all winners as a result of the community partners who embraced this project.

City of Brooklyn Park Request for Council Action

Agenda Item No:	3B3	Meeting Date:	November 28, 2005
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	Originating Department:	Police Department
Resolution:	N/A	Prepared By:	Chief Wade R. Setter
Ordinance:	N/A		
No. of Attachments:	N/A	Presented By:	Chief Wade R. Setter
Item:	Recognition of Contributions of Retiring Police Captain Laura Johnson		

City Manager's Proposed Action: N/A

Overview:

Laura Johnson began her career as a police officer with the Brooklyn Park Police Department on April 30, 1979. She has served our City in many capacities as a patrol officer, sergeant, lieutenant, and her recent position of Captain of Special Operations. Captain Johnson has been a great asset to our City of Brooklyn Park. Some of her accomplishments include being an FBI National Academy Graduate, FBI Law Enforcement Executive Development Association Graduate, Northwestern Staff and Command School Graduate receiving the Kremel Leadership Award, as well as serving as a Peace Officers Standards and Training Board Member from 1997-2001.

As a testament to her leadership, Captain Johnson has served as the Brooklyn Park Police Department for over 26 years and the continued success of this department is due in great part to Laura's personal contributions.

Congratulations, Captain Laura Johnson! The City of Brooklyn Park and its residents join the Police Department in expressing our gratitude and appreciation for over 26 years of service.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park Request for Council Action

Agenda Item No:	4.1	Meeting Date:	11-28-2005
Agenda Section:	Consent	Originating Department:	Planning Division
Resolution:	X	Prepared By:	Nicole Peterson
Ordinance:	N/A		
No. of Attachments:	3	Presented By:	Cindy Sherman
Item:	“Aspen Cove North” (Hanson Land Development & Team Fair Inc.) Final Plat #05-137 for subdivision of 7.36 acres into 20 lots east of Champlin Park High School, west of Noble Avenue North and south of 109 th Avenue North.		

City Manager’s Proposed Action:

MOTION _____ SECOND _____ TO WAIVE THE READING AND ADOPT RESOLUTION #2005-____ APPROVING FINAL PLAT OF ASPEN COVE NORTH #05-137 FOR SUBDIVISION OF 7.36 ACRES INTO 20 LOTS EAST OF CHAMPLIN PARK HIGH SCHOOL, WEST OF NOBLE AVENUE NORTH AND SOUTH OF 109TH AVENUE NORTH.

Overview:

On October 3, 2005 the City Council approved the applications for Comprehensive Plan Amendment from L (Low Density) to M (Medium Density), Rezoning from R2B (Detached Single-Family Residential District) to R4B (Detached Townhouse) with Planned Development Overlay and Preliminary Plat for subdivision of 7.36 acres into 20 lots east of Champlin Park High School, west of Noble Avenue North and south of 109th Avenue North. All lots conform to the Zoning District standards and the final plat is consistent with the preliminary plat as approved.

Primary Issues/Alternatives to Consider:

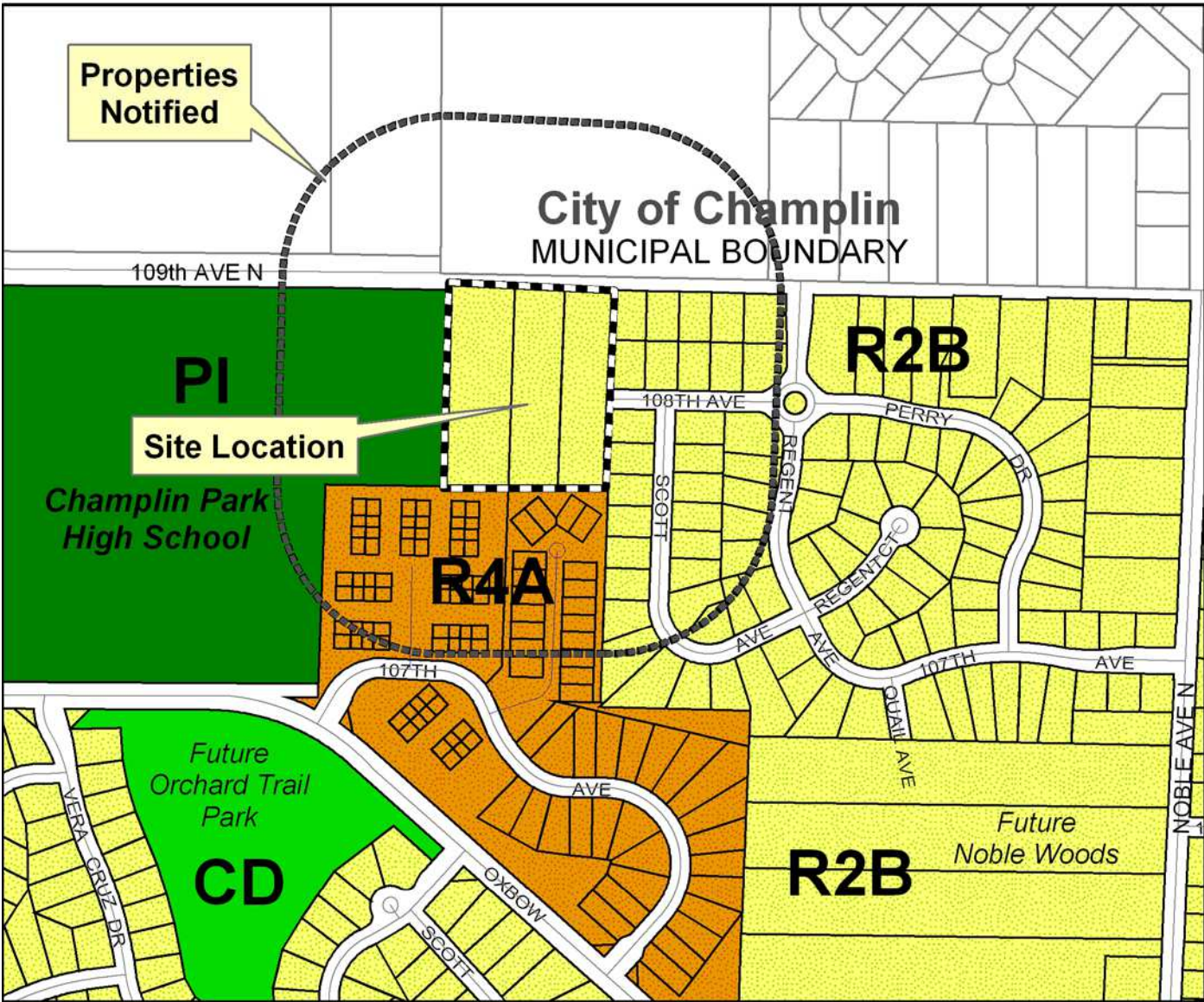
1. Approve the request with conditions as stated in the attached resolution.
2. Approve the request with modified conditions.
3. Deny the request and direct staff to draft a resolution to that effect.
4. Table or continue the request for further information.

Budgetary/Fiscal Issues: N/A

Attachments:

- 4.1 LOCATION MAP
- 4.1 RESOLUTION
- 4.1 FINAL PLAT DRAWING

Rezoning/Plat/Planned Development Overlay #05-137 "Aspen Cove North" Hanson Builders/Team Fair Inc.



Brooklyn Park

340 Feet

August 16, 2005

Legend	
Residential Districts	
	R1 - Urban Reserve
	R2 - Single Family Estate
	R2B - Single Family (85')
	R3 - Single Family (80')
	R3A - Single Family (75')
	R4 - Single and Two Family
	R4A - Townhouse
	R5 - Multiple Family
	R6 - Multiple Family
	R7 - Multiple Family
Overlay Districts	
	HO - Highway Overlay
Business Districts	
	B1 - Office Park
	B2 - Neighborhood Retail
	B3 - General Business
	B4 - Vehicle Sales & Showroom
	BP - Business Park
	I - General Industrial
Special Districts	
	PCDD - Planned Community Development District
	PUD - Planned Unit Development
	TC - Town Center
	CD - Concervancy District
	PI - Public Institution
	VR - Village Redevelopment



RESOLUTION #2005-____

RESOLUTION APPROVING FINAL PLAT OF ASPEN COVE NORTH
#05-137 FOR SUBDIVISION OF 7.36 ACRES INTO 20 LOTS
EAST OF CHAMPLIN PARK HIGH SCHOOL, WEST OF NOBLE AVENUE NORTH AND SOUTH OF
109TH AVENUE NORTH.

Planning Commission File #05-137

WHEREAS, the final plat of “ASPEN COVE NORTH” has been submitted in the manner required for platting of land under the Brooklyn Park Ordinance Code, Section 151.006, and under Chapter 462 of the Minnesota Statutes and all proceedings have been duly had thereunder, and

WHEREAS, said plat is in all respects consistent with the City plan and the regulations and requirements of the laws of the State of Minnesota and ordinances of the City of Brooklyn Park.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK:

1. Plat approval request #05-137, “ASPEN COVE NORTH” is approved upon compliance with the following requirements:
 - a. Title review by the City Attorney and all conditions therein.
 - b. Easement review by the City Engineer and all conditions therein.
 - c. Per requirements set forth in Resolution #2005-__ or as subsequently amended by motion, approving the preliminary plat of “ASPEN COVE NORTH” respectively, which is part of this resolution by reference and is on file and can be examined in the City Clerk's office.
 - d. Submission of a letter from the land surveyor or engineer indicating the square footage contained in each lot on the plat, per Section 151.043, Subdivision J, of the City Code.
 - e. Submission of a 1:200 scale mylar and an electronic copy of the plat.
 - f. Park dedication in the amount approved at the time of the final plat.
2. That the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the City or the prescribed thirty day period has elapsed without receipt of such comments and recommendations, as provided by Minnesota Statutes, Section 505:03, Subdivision 2.

3. That the City Clerk is hereby directed to supply a certified copy of this resolution to the above named owners and subdividers after completion of requirements for their use as required by M.S.A. 462.358.
4. That the Mayor and City Manager are hereby authorized to execute the certificate of approval on behalf of the City Council upon compliance with the foregoing provisions.
5. This final plat shall be filed and recorded within sixty days of the date of the signing of the hardshells by the Mayor and City Manager in accordance with Section 151.006, Subdivision J, of the City Code and shall be recorded within 180 days of the adoption date of this resolution.

BE IT FURTHER RESOLVED that such execution of the certificate upon said plat by the Mayor and City Manager shall be conclusive showing of proper compliance therewith by the subdivider and City officials and shall entitle such plat to be placed on record forthwith without further formality, all in compliance with M.S.A. 462 and the Ordinance of the City.

ASPEN COVE NORTH

R.T. DOC. _____

KNOW ALL MEN BY THESE PRESENTS: That Team Fair, Inc, a Minnesota corporation, fee owner of the following described property situated in the State of Minnesota, County of Hennepin, to wit:

The East 200 feet of the West 550 feet of the North Half of the Northwest Quarter of the Northeast Quarter of Section 4, Township 119, Range 21.

And

The East 150 feet of the West 700 feet of the North Half of the Northwest Quarter of the Northeast Quarter of Section 4, Township 119, Range 21.

And

The East 150 feet of the West 850 feet of the North Half of the Northwest Quarter of the Northeast Quarter of Section 4, Township 119, Range 21.

Has caused the same to be surveyed and platted as ASPEN COVE NORTH and does hereby donate and dedicate to the public for public use forever the Avenues and the easements for drainage and utility purposes as shown on this plat.

In witness whereof said Team Fair, Inc., a Minnesota corporation has caused these presents to be signed by its proper officer this _____ day of _____, 2005.

SIGNED: Team Fair, Inc.

Nathan Fair, President

STATE OF MINNESOTA
COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Nathan Fair, President of Team Fair, Inc., a Minnesota corporation, on behalf of the corporation.

Notary Public, Hennepin County, Minnesota
My Commission Expires: _____

I hereby certify that I have surveyed and platted the property described on this plat as ASPEN COVE NORTH; that the plat is a correct representation of the survey; that all distances are correctly shown on the plat in feet and hundredths of a foot; that all monuments have been correctly placed in the ground as shown, or will be placed as required by the local governmental unit; that the outside boundary lines are correctly designated on the plat, and that there are no wetlands as defined in MS 505.02 SUBD. 1 to be designated on the plat.

SATHRE-BERGQUIST, INC.
David B. Pemberton
Licensed Land Surveyor
Minnesota License No. 40344

STATE OF MINNESOTA
COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by David B. Pemberton, Licensed Land Surveyor, Minnesota License No. 40344.

Notary Public, Hennepin County, Minnesota
My Commission Expires: _____

BROOKLYN PARK, MINNESOTA

This plat of ASPEN COVE NORTH was approved and accepted by the City Council of Brooklyn Park, Minnesota at a regular meeting held this _____ day of _____, 2005. If applicable, the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the City or the prescribed 30 day period has elapsed without receipt of such comments and recommendations, as provided by Minnesota Statutes, Section 505.03, Subdivision 2.

CITY COUNCIL OF BROOKLYN PARK, MINNESOTA

By: _____, Mayor By: _____, City Manager

TAXPAYER SERVICES DEPARTMENT,
HENNEPIN COUNTY, MINNESOTA

I hereby certify that taxes payable in _____ and prior years have been paid for land described on this plat.

Dated this _____ day of _____, 2005.

PATRICK H. O'CONNOR, Hennepin County Auditor By: _____, Deputy

SURVEY DIVISION,
HENNEPIN COUNTY, MINNESOTA

Pursuant to Minnesota Statute Section 383B.565 (1969), this plat has been approved this _____ day of _____, 2005.

William P. Brown, Hennepin County Surveyor By: _____

REGISTRAR OF TITLES
HENNEPIN COUNTY, MINNESOTA

I hereby certify that the within plat of ASPEN COVE NORTH was filed in this office this _____ day of _____, 2005, at _____ o'clock _____ m.

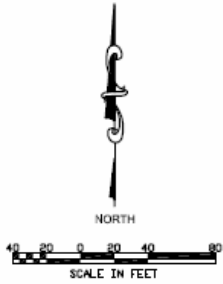
MICHAEL H. CUNNIFF, Registrar of Titles By: _____, Deputy



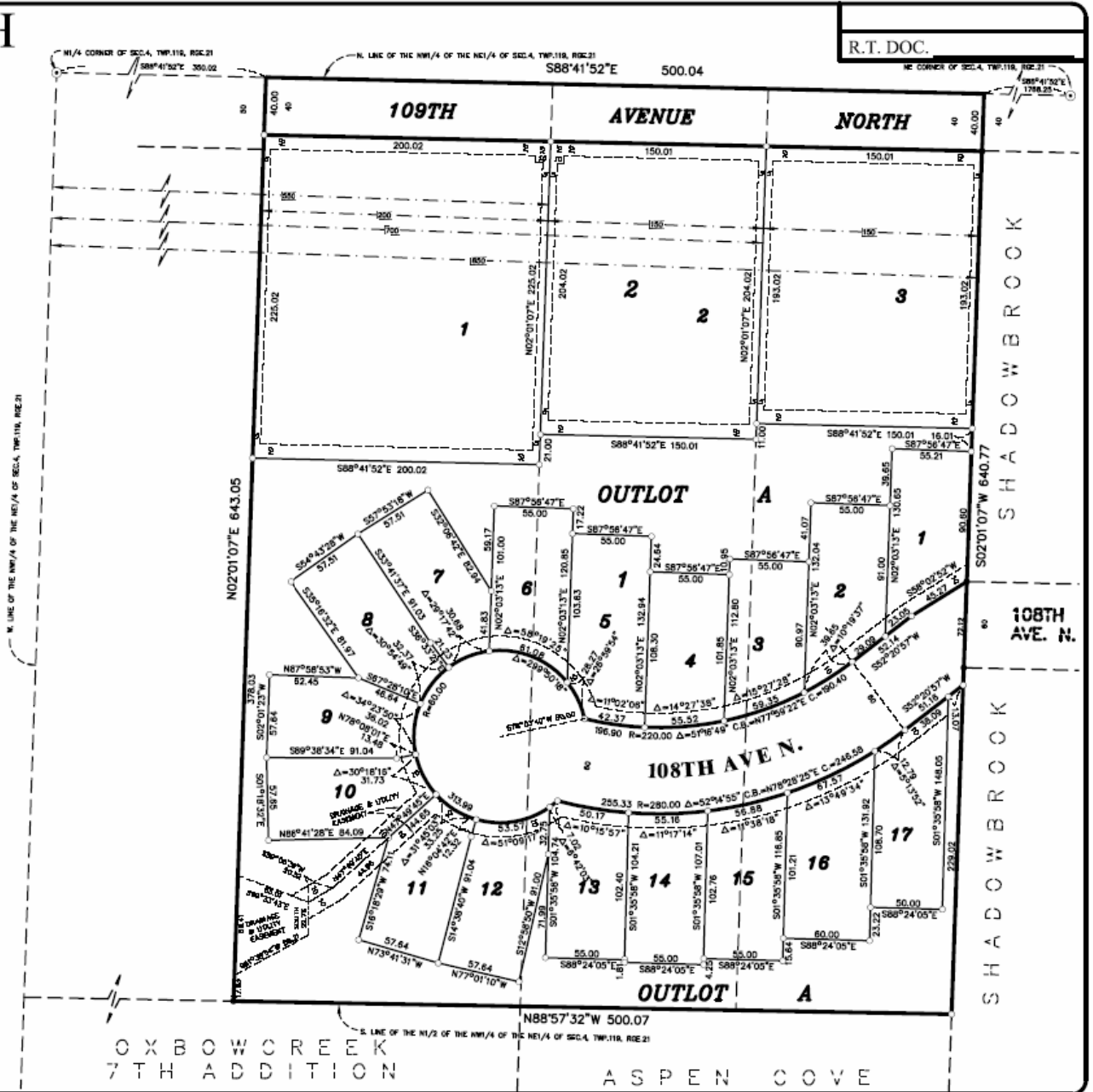
SATHRE-BERGQUIST, INC.

ASPEN COVE NORTH

R.T. DOC.



DRAINAGE AND UTILITY EASEMENTS ARE AS SHOWN:



The basis for the bearing system is the north line of the N.W. 1/4 of the N.E. 1/4 of Sec. 4, Twp. 119, Rge. 21, which is assumed to bear S88°41'52"E

- DENOTES 1/2 INCH BY 1/4 INCH IRON PIPE SET IN THE GROUND AND MARKED BY LICENSE NO. 40344
- DENOTES A FOUND IRON MONUMENT
- ⊙ DENOTES FOUND CIM - HENNEPIN COUNTY MONUMENT



SATHRE-BERGQUIST, INC.

OXBOW CREEK
7TH ADDITION

ASPEN COVE

City of Brooklyn Park Request for Council Action

Agenda Item No:	4.2	Meeting Date:	11-28-2005
Agenda Section:	Consent	Originating Department:	Community Development
Resolution:	N/A		
Ordinance:	N/A	Prepared By:	JoAnn Millette
No. of Attachments:	N/A	Presented By:	Cindy Sherman
Item:	Letters of Credit/Bond Releases, Escrow/Cash Bond Releases		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO RELEASE THE CASH BOND (\$40,000) AND ENGINEERING ESCROW (\$11,402.53) FOR SATISFACTORY COMPLETION OF THE PINEBROOK ESTATES PROJECT #00-155, LOCATED NORTH OF 97TH AT ALMOND AVENUE FOR NEWLAND COMMUNITIES.

MOTION _____, SECOND _____, TO RELEASE THE CASH BOND (\$28,200) AND ENGINEERING ESCROW (\$9,517.30) FOR SATISFACTORY COMPLETION OF THE NOBLE TRAIL PROJECT #02-114, LOCATED WEST OF NOBLE PARKWAY AND NORTH OF THE REGIONAL TRAIL SYSTEM FOR HENTGES-BROOKLYN PARK LLC.

MOTION _____, SECOND _____, TO RELEASE THE ON-SITE LETTER OF CREDIT #SLCMMSP03640 (\$102,300) BY US BANK, RELEASE THE CASH BOND (\$5,300) AND ENGINEERING ESCROW (\$3,000) FOR SATISFACTORY COMPLETION OF THE GLS (GENERAL LITHO) PROJECT #05-002, LOCATED AT 6845 WINNETKA CIRCLE FOR GLS.

MOTION _____, SECOND _____, TO RELEASE THE ENGINEERING ESCROW (\$9,041) FOR SATISFACTORY COMPLETION OF THE RASMUSSEN/CROSTOWN 10 PLAT #04-137, LOCATED EAST OF HIGHWAY 169 AND SOUTH OF 93RD AVENUE FOR DUKE REALTY CORPORATION.

MOTION _____, SECOND _____, TO REDUCE THE CASH BOND BY \$20,500 AND THE ENGINEERING ESCROW BY \$4,264.84 FOR SATISFACTORY PROGRESS OF THE NATUREVIEW VISTA PROJECT #99-119, LOCATED NORTH OF 101ST AT CHESTNUT LANE FOR HIDDEN OAKS LLC.

Hidden Oaks LLC has completed this project. However, the development had issues with the irrigation system and it was replaced in late fall. The association was unable to test the irrigation system because the water had been turned off. Also, the landscaping in the monument area has not been planted. Therefore, the City will retain \$2,000 in engineering escrow funds and \$10,000 in a cash bond until the irrigation system can be tested in the spring and the plantings are done in the monument area.

MOTION _____, SECOND _____, TO RELEASE THE ON-SITE SUBDIVISION BOND #104421820 (\$465,700) BY TRAVELERS CASUALTY, AND REDUCE THE CASH BOND BY \$14,500 AND THE ENGINEERING ESCROW BY \$30,000 FOR SATISFACTORY PROGRESS OF THE MODERN

MANUFACTURING PROJECT #05-105, LOCATED AT 9380 WINNETKA AVENUE FOR RYAN COMPANIES US, INC.

Ryan Companies has completed nearly all the improvements required for the Modern Manufacturing project located at 9380 Winnetka Avenue N. This warrants a reduction in the sureties held by the city for the project. The city will continue to hold a cash bond in the amount of \$10,000 and engineering escrow in the amount of approximately \$1,805 to ensure the landscaping that has recently been installed survives the winter.

MOTION _____, SECOND _____, TO RELEASE THE SUBDIVISION BOND #929344572 (\$500,000) BY WESTERN SURETY COMPANY, AND REDUCE THE CASH BOND BY \$60,800 AND THE ENGINEERING ESCROW BY \$21,411 FOR SATISFACTORY PROGRESS OF CROSSTOWN 10 PROJECT #03-176, LOCATED EAST OF HIGHWAY 169 AND SOUTH OF 93RD AVENUE FOR DUKE REALTY CORPORATION.

Duke Realty Corporation has completed nearly all the improvements required for the Crosstown 10 project located east of Highway 196 and south of 93rd Avenue. This warrants a reduction in the sureties held by the city for the project. The city will continue to hold a cash bond in the amount of \$10,000 and engineering escrow in the amount of \$5,000 to ensure the landscaping that has recently been installed survives the winter and that stop signs and street signs are installed.

MOTION _____, SECOND _____, TO RELEASE THE SUBDIVISION BOND #929344573 (\$384,200) BY WESTERN SURETY COMPANY, AND REDUCE THE CASH BOND BY \$12,500 AND THE ENGINEERING ESCROW BY \$7,756 FOR SATISFACTORY PROGRESS OF KELCO PROJECT #04-138, LOCATED AT 7700 SETZLER PARKWAY FOR DUKE REALTY COPRORATION.

Duke Realty Corporation has completed nearly all the improvements required for the Kelco project located at 7700 Setzler Parkway. This warrants a reduction in the sureties held by the city for the project. The city will continue to hold a cash bond in the amount of \$10,000 and engineering escrow in the amount of \$2,000 to ensure the landscaping that has recently been installed survives the winter.

MOTION _____, SECOND _____, TO RELEASE THE SUBDIVISION BOND #929344571 (\$427,500) BY WESTERN SURETY COMPANY, AND REDUCE THE CASH BOND BY \$12,500 AND THE ENGINEERING ESCROW BY \$8,805 FOR SATISFACTORY PROGRESS OF RASMUSSEN COLLEGE PROJECT #04-136, LOCATED AT 8301 93RD AVENUE FOR DUKE REALTY CORPORATION.

Duke Realty Corporation has completed nearly all the improvements required for the Rasmussen College project located at 8301 93rd Avenue N. This warrants a reduction in the sureties held by the city for the project. The city will continue to hold a cash bond in the amount of \$10,000 and engineering escrow in the amount of \$5,000 to ensure the landscaping that has recently been installed survives the winter and that stop signs and street signs are installed.

MOTION _____, SECOND _____, TO RELEASE THE SUBDIVISION BOND #92935549 (\$737,950) BY WESTERN SURETY COMPANY, AND REDUCE THE CASH BOND BY \$67,600 AND THE ENGINEERING ESCROW BY \$49,067 FOR SATISFACTORY PROGRESS OF CROSSTOWN NORTH BUSINESS CENTER – BUILDING #12, LOCATED AT 7601 SETZLER PARKWAY FOR DUKE REALTY CORPORATION.

Duke Realty Corporation has completed nearly all the improvements required for Building #12 project located

at 7601 Setzler Parkway. This warrants a reduction in the sureties held by the city for the project. The city will continue to hold a cash bond in the amount of \$10,000 and engineering escrow in the amount of \$5,000 to ensure the landscaping that has recently been installed survives the winter and that stop signs and street signs are installed.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park Request for Council Action

Agenda Item No:	4.4	Meeting Date:	November 28, 2005
Agenda Section:	Consent	Originating Department:	Planning Department
Resolution:	N/A	Prepared By:	Cindy Sherman, Planning Director
Ordinance:	N/A		
No. of Attachments:	2	Presented By:	Cindy Sherman, Planning Director
Item:	Amending Resolution #2004-7 to include a legal description		

City Manager's Proposed Action:

MOTION _____, SECOND _____ TO AMEND RESOLUTION #2004-7 TO INCLUDE THE LEGAL DESCRIPTION AS EXHIBIT A TO THE RESOLUTION.

Overview:

The certified resolution could not be recorded concerning the developmental plan, conditional user permit and site plan review for Liberty Glen of Brooklyn Park by Presbyterian Homes Housing and Assisted living at 97th Avenue North and Regent Avenue North. The Hennepin County Torrens office will not accept the resolution for recording without a legal description and representatives from Messerli & Kramer are requesting this amendment.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

- 4.4 RESOLUTION #2004-7
- 4.4 EXHIBIT A

RESOLUTION #2004-7

RESOLUTION APPROVING PRELIMINARY/FINAL DEVELOPMENT PLAN, CONDITIONAL USE
PERMIT, AND SITE PLAN #03-153
FOR "LIBERTY GLEN OF BROOKLYN PARK"
BY PRESBYTERIAN HOMES HOUSING AND ASSISTED LIVING
97TH AVENUE NORTH AND REGENT AVENUE NORTH

Planning Commission File #03-153

WHEREAS, the "Liberty Glen of Brooklyn Park" development has been submitted in the manner required for approval of a Preliminary/Final Development Plan, Conditional Use Permit and Site Plan Review for land, the legal description of which is attached as Exhibit A, under the Brooklyn Park Codes and under Chapter 462 of the Minnesota Statutes and all proceedings have been duly held thereunder, and

WHEREAS, the matter has been referred to the Planning Commission who have given their advice and recommendation to the City Council, and

WHEREAS, the effect of the proposed use upon the health, safety and welfare of surrounding lands, existing and anticipated traffic conditions and its effect on property values in the neighborhood have been considered, and

WHEREAS, said plan is in all respects consistent with the City plan and the regulations and requirements of the laws of the State of Minnesota and codes of the City of Brooklyn Park, Section 152.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK, Preliminary/Final Development Plan, Conditional Use Permit, and Site Plan Review #03-153 for development of a Senior Housing Campus located at the northwest corner of Regent and 97th Avenues in the Oxbow Commons development area shall be approved subject to the following conditions:

1.00 DRAWINGS

- 1.01 All site and building improvements must conform to plans on file in the City Clerk's office dated October 14 and 31, 2003, or as may be revised to meet city requirements, for a senior housing development upon compliance with the following requirements:

2.00 BONDS, ESCROWS AND DIRECT PAYMENTS

- 2.01 An "on-site" development bond or an irrevocable Letter of Credit in the amount equal to 150% of the estimated site improvements must be posted with the City of which 5% shall be a cash bond. The performance bond or irrevocable Letter of Credit must be dated to expire the same as the development contract and shall have a maintenance clause guaranteeing work for one year after acceptance. Security for the project include: Site Improvements \$524, 800 and \$27,650 cash; Landscaping \$111,150 and \$5,850 cash.
- 2.02 Together the security guarantees that the developer will construct or install the following per the plans and specifications approved by the Planning Director and the City Engineer.
- a. Installation of grading, gravel, and base for streets.
 - b. Paving of streets.
 - c. Installation of concrete curb and gutter.

- d. Construction of hard surface driveways.
- e. Construction of streetlights.
- f. Construction of mailboxes.
- g. Installation of water system.
- h. Installation of sanitary sewer system.
- i. Installation of storm sewer system.
- j. Installation of street and traffic control signs/signals.
- k. Installation of all landscaping on the approved landscape plan.
- l. Sodding of boulevards of the development.
- m. Shaping and sodding of drainage ways in accordance with the drainage development plan approved by the City Engineer.
- n. Adjustment and repair of new and existing utilities.

These requirements are all in conformance with City approved plans and specifications at the sole expense of the subdivider in conformance with Chapter 151 of the City Code; or if in lieu of the developer making said improvements, the City proceeds to install any or all of said improvements, under the provisions of Chapter 429 of the Minnesota Statutes, the City Council may reduce said performance bond by the amounts provided, upon the ordering, for those public improvements so undertaken. The bond or Letter of Credit must have the same expiration date as the Developer's Contract.

- 2.02 A Subdivider's Escrow in the amount \$29,000 shall be posted with the City's Finance Director to cover engineering, legal and administrative costs incurred by the City. If this account becomes deficient it shall be the developer's responsibility to deposit additional funds. This must be done before final bonding obligations are complete.
- 2.03 Payment of a park dedication fee based on the rate in effect at the time of final approval.

3.00 REQUIRED DOCUMENTS

- 3.01 Signing of the Subdivision Contract establishing performance, and if applicable, requiring that the date of completion of utilities and streets be set at a date not later than the first anticipated date of issuance of the first Certificate of Occupancy. If such certificate is anticipated to be issued during the winter months, construction must be completed by November 30th. In no event shall the term of contract exceed one year. A construction schedule approved by the City Engineer must be provided prior to recording of the plat.
- 3.02 All utility construction, drainage, grading and development plans must be approved by the City Engineer prior to receiving a building permit.
- 3.03 A comprehensive search shall be performed to identify any existing wells on the property. A licensed well driller shall properly abandon any unused wells in the plat. Such abandonment shall be reviewed and approved by the Minnesota Department of Health.

4.00 GENERAL CONDITIONS

- 4.01 A revised landscape plan must be submitted that provides the number of plantings as required by ordinance.
- 4.02 Any ground mechanicals should be identified and screened.

- 4.03 All requirements of the Fire and Engineering Department must be met.
- 4.04 Phase two will be subject to review of the building exteriors and landscaping by the Planning Commission and Council.
- 4.05 It shall be the developer's responsibility to keep active and up to date the developer's contract and financial surety (Letter of Credit, bonds, etc.). These documents must remain active until the developer has been released from any further obligation by City Council motion received in writing from the Engineering Department.
- 4.06 Before final bonding obligations are released, a certificate signed by a registered engineer must be provided. This certificate will state that all final lot and building grades are in conformance to drainage development plan(s) approved by the City Engineer.
- 4.07 Final covenants documents shall be subject to review and approval by the City Attorney.
- 4.08 No burying of construction debris shall be permitted on the site.
- 4.09 Adequate dumpsters must be on site during construction of streets, utilities, and homes. When full, they must be emptied immediately or replaced with an empty dumpster.
- 4.10 Adequate portable toilets must be on-site at all times during construction of utilities, roadways, and homes. At no time shall any home under constructions be more than 250 feet away from any portable toilet. Toilets must be regularly emptied.
- 4.11 During construction, streets must be passable, at all times, free of debris, materials, soils, snow, and other obstructions.
- 4.12 A silt fence and an orange snow fence must protect all wetlands and other areas that are not intended to be graded.
- 4.13 All ponding areas are considered private and will be maintained by the property owners.
- 4.14 The grading/development plan and preliminary plat must be reviewed and approved by the West Mississippi Watershed Management Commission and City Engineer prior to any grading of the site. Also the cash bond and cash escrow payments indicated above must be on deposit with the City prior to issuance of the grading permit.
- 4.15 Permits must be obtained for all signs.
- 4.16 That if phase 2 has not been started within 24 months of completion of phase 1 and receipt of an occupancy permit, then phase 1 entrance would be improved with appropriate, matching materials.
- 4.17 The Conditional Use Permit may be revoked or suspended if property is not in compliance with city codes and ordinances.

The foregoing resolution was introduced by Council Member Meyer and duly seconded by Council Member Haglund.

The following voted in favor of the resolution: Lampi, Draeger, Haglund, Meyer, Schmitz, Schnellman, and Simmons.

The following voted against: None.

The following were absent: None.

Where upon the resolution was adopted.

ADOPTED: January 5, 2004

STEVE LAMPI, MAYOR

CERTIFICATE

STATE OF MINNESOTA
COUNTY OF HENNEPIN
CITY OF BROOKLYN PARK

I, the undersigned, being the duly qualified City Clerk of the City of Brooklyn Park, Minnesota, hereby certify that the above resolution is a true and correct copy of the resolution as adopted by the City Council of the City of Brooklyn Park on January 5, 2004 and amended on November 28, 2005.

WITNESS my hand officially as such Clerk and the corporate seal of the City this 28th day of November 2005.

(SEAL)

DEVIN MONTERO, CITY CLERK

Exhibit A

Lot 4, Block 3 Oxbow Commons, Hennepin County, Minnesota

City of Brooklyn Park Request for Council Action

Agenda Item No:	4.5	Meeting Date	November 28, 2005
Agenda Section:	Consent	Originating Department:	City Clerk
Resolution	N/A	Prepared By:	Devin Montero, City Clerk
Ordinance	N/A		
No. of Attachments	2	Presented By:	Devin Montero, City Clerk
Item:	Approval of Minutes		

City Manager's Proposed Action:

MOTION _____, SECOND _____ TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF NOVEMBER 7, 2005 AS PRESENTED BY THE CITY CLERK.

MOTION _____, SECOND _____ TO APPROVE THE MINUTES OF THE BROOKLYN PARK SPECIAL CITY COUNCIL MEETING OF NOVEMBER 14, 2005 AS PRESENTED BY THE CITY CLERK.

Overview: N/A

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

- 4.5 REGULAR COUNCIL MEETING MINUTES, NOVEMBER 7, 2005
- 4.5 SPECIAL COUNCIL MEETING MINUTES, NOVEMBER 14, 2005

REGULAR BROOKLYN PARK CITY COUNCIL MEETING

Monday, November 7, 2005
7 p.m.

Brooklyn Park Council Chambers
5200 85th Avenue North

CALL TO ORDER - Mayor Lampi

PRESENT: Mayor Steve Lampi; Council Members Terry Gearin, Mark Mata (arrived at 7:05 p.m.), Jeanette Meyer, Mason Schmitz, Scott Simmons and Mike Trepanier; City Manager Doug Reeder; City Attorney Jim Thomson; Community Development Director Robert Schreier; and City Clerk Devin Montero.

ABSENT: NONE

Mayor Lampi opened the meeting with the Pledge of Allegiance.

3A MOTION SIMMONS, SECOND TREPANIER TO APPROVE THE AGENDA AS SUBMITTED BY THE CITY CLERK WITH REMOVAL OF ITEMS 4.9 AND 4.11.

3A MOTION MEYER, SECOND GEARIN TO AMEND MOTION TO REMOVE ITEM 7.6
MOTION FAILED. (5 TO 2)

3A VOTE ON MAIN MOTION PASSED UNANIMOUSLY.

3B1 Mayor Lampi read a resolution commending the Minnesota State Department of Transportation for their efforts in response to the September 21, 2005 storm.

3B1 MOTION LAMPI, SECOND MEYER TO WAIVE THE READING AND ADOPT RESOLUTION #2005-308 COMMENDING THE MINNESOTA DEPARTMENT OF TRANSPORTATION FOR THE VERY TIMELY AND IMPORTANT ASSISTANCE GIVEN TO THE CITY OF BROOKLYN PARK IN RESPONSE TO THE SEPTEMBER 21, 2005, STORM WHICH DEVASTATED BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

3B1 MOTION LAMPI, SECOND MEYER, TO WAIVE THE READING AND ADOPT RESOLUTION #2005-309 COMMENDING THE CITY OF GOLDEN VALLEY FOR THE VERY TIMELY AND IMPORTANT ASSISTANCE GIVEN TO THE CITY OF BROOKLYN PARK IN RESPONSE TO THE SEPTEMBER 21, 2005, STORM WHICH DEVASTATED BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

3B1 MOTION LAMPI, SECOND SIMMONS TO WAIVE THE READING AND ADOPT RESOLUTION #2005-310 COMMENDING THE CITY OF MAPLE GROVE FOR THE VERY TIMELY AND IMPORTANT ASSISTANCE GIVEN TO THE CITY OF BROOKLYN PARK IN RESPONSE TO THE SEPTEMBER 21, 2005, STORM WHICH DEVASTATED BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

3B1 MOTION LAMPI, SECOND MEYER TO WAIVE THE READING AND ADOPT RESOLUTION #2005-311 COMMENDING THE CITY OF MINNEAPOLIS FOR THE VERY TIMELY AND IMPORTANT ASSISTANCE GIVEN TO THE CITY OF BROOKLYN PARK IN RESPONSE TO THE SEPTEMBER 21, 2005, STORM WHICH DEVASTATED BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

3B1 MOTION LAMPI, SECOND MATA TO WAIVE THE READING AND ADOPT RESOLUTION #2005-312 COMMENDING THE CITY OF NEW HOPE FOR THE VERY TIMELY AND IMPORTANT

ASSISTANCE GIVEN TO THE CITY OF BROOKLYN PARK IN RESPONSE TO THE SEPTEMBER 21, 2005, STORM WHICH DEVASTATED BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

3B1 MOTION LAMPI, SECOND SIMMONS TO WAIVE THE READING AND ADOPT RESOLUTION #2005-313 COMMENDING THE CITY OF PLYMOUTH FOR THE VERY TIMELY AND IMPORTANT ASSISTANCE GIVEN TO THE CITY OF BROOKLYN PARK IN RESPONSE TO THE SEPTEMBER 21, 2005, STORM WHICH DEVASTATED BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

3B1 MOTION LAMPI, SECOND MATA TO WAIVE THE READING AND ADOPT RESOLUTION #2005-314 COMMENDING THE CITY OF ST. LOUIS PARK FOR THE VERY TIMELY AND IMPORTANT ASSISTANCE GIVEN TO THE CITY OF BROOKLYN PARK IN RESPONSE TO THE SEPTEMBER 21, 2005, STORM WHICH DEVASTATED BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

3B1 MOTION LAMPI, SECOND SIMMONS TO WAIVE THE READING AND ADOPT RESOLUTION #2005-315 COMMENDING HENNEPIN COUNTY FOR THE VERY TIMELY AND IMPORTANT ASSISTANCE GIVEN TO THE CITY OF BROOKLYN PARK IN RESPONSE TO THE SEPTEMBER 21, 2005, STORM WHICH DEVASTATED BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

3B2 Police Chief Wade Setter introduced officers Charles Cudd, Jr. and Emily Haywood as new members to the Police Department.

3B3 MOTION MEYER, SECOND LAMPI TO WAIVE THE READING AND ADOPT RESOLUTION #2005-316 ACKNOWLEDGING CONTRIBUTIONS TO THE CITY OF BROOKLYN PARK. MOTION PASSED UNANIMOUSLY.

4.0 MOTION MEYER, SECOND SCHMITZ TO APPROVE THE FOLLOWING ADMINISTRATIVE CONSENT ITEM: (Items 4.9 and 4.11 were removed.)

4.1 TO WAIVE THE READING AND ADOPT RESOLUTION #2005-317 REQUESTING THAT THE STATE OF MINNESOTA CHARITABLE GAMBLING CONTROL BOARD APPROVE THE RENEWAL OF A LAWFUL GAMBLING LICENSE FOR THE BABE RUTH LEAGUE ST. THERESE CHARITABLE SERVICES AT CAROUSEL BINGO, 7324A LAKELAND AVENUE NORTH, BROOKLYN PARK AND AT BLONDIES SPORTS GRILL & BAR AT 7495 BROOKLYN BOULEVARD NORTH, BROOKLYN PARK.

4.2 TO WAIVE THE READING AND ADOPT RESOLUTION #2005-318 REQUESTING THAT THE STATE OF MINNESOTA CHARITABLE GAMBLING CONTROL BOARD APPROVE THE RENEWAL OF A LAWFUL GAMBLING LICENSE FOR THE ELKS LODGE #44 AT 2875 BROOKDALE DRIVE NORTH, BROOKLYN PARK.

4.3 TO SET A PUBLIC HEARING ON NOVEMBER 28, 2005, TO SOLICIT TESTIMONY AND CONSIDER THE RENEWAL OF THE CURRENCY EXCHANGE LICENSE FOR MINNESOTA CURRENCY EXCHANGE CORPORATION AT 7646 BROOKLYN BOULEVARD NORTH.

4.4 TO SET A PUBLIC HEARING ON NOVEMBER 28, 2005, TO SOLICIT TESTIMONY AND CONSIDER THE RENEWAL OF THE CURRENCY EXCHANGE LICENSE FOR BROOKLYN PARK CHECK CASHERS INC. AT 6319 ZANE AVENUE NORTH.

4.5 TO RECEIVE AND PLACE ON FILE THE VACATION PETITION FOR DRAINAGE AND UTILITY EASEMENTS IN OXBOW COMMONS.

4.5 TO WAIVE THE READING AND ADOPT RESOLUTION #2005-319 ORDERING HEARING FOR THE VACATION OF DRAINAGE AND UTILITY EASEMENTS IN OXBOW COMMONS.

4.6 TO WAIVE THE READING AND ADOPT RESOLUTION #2005-320 REQUESTING MUNICIPAL AGREEMENT FUNDING FROM MNDOT FOR AN ADDITIONAL SOUTHBOUND THROUGH LANE ALONG T.H. 252 BETWEEN BROOKDALE DRIVE AND 73RD AVENUE.

4.7 TO RECEIVE AND PLACE ON FILE THE VACATION PETITION FOR ROAD EASEMENTS IN ASPEN COVE NORTH.

4.7 TO WAIVE THE READING AND ADOPT RESOLUTION #2005-321 ORDERING HEARING FOR THE VACATION OF ROAD EASEMENTS IN ASPEN COVE NORTH.

4.8 TO WAIVE THE READING AND ADOPT RESOLUTION #2005-322 TO ACQUIRE THE TAX FORFEITED PARCEL PROPERTY IDENTIFICATION NUMBER 30-119-21-13-0006 FOR THE PUBLIC USE OF STORM WATER RETENTION AREA, STREET, UTILITY AND BRIDGE.

4.10 TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF OCTOBER 17, 2005 AS PRESENTED BY THE CITY CLERK.

4.10 TO APPROVE THE MINUTES OF THE BROOKLYN PARK CITY COUNCIL MEETING OF OCTOBER 24, 2005 AS PRESENTED BY THE CITY CLERK.

4.12 TO WAIVE THE READING AND ADOPT RESOLUTION #2005-323 APPROVING FINAL PLAT #05-136 OF "VILLAS AT OXBOW LAKE" FOR SUBDIVISION OF 10.18 ACRES INTO 70 TOWNHOME LOTS AND ONE COMMON LOT AT 101ST AND WELCOME AVENUES.

MOTION PASSED UNANIMOUSLY.

5.1 Mayor Lampi opened the hearing to the public to consider vacation of drainage and utility easement in Oxbow Creek 5th Addition (5711 105th Avenue). No one addressed the Council.

5.1 Mayor Lampi closed the hearing to the public and returned this item to the Council table for consideration.

5.1 MOTION TREPANIER, SECOND SCHMITZ TO WAIVE THE READING AND ADOPT RESOLUTION #2005-324 VACATING DRAINAGE AND UTILITY EASEMENT IN OXBOW CREEK 5TH ADDITION. MOTION PASSED UNANIMOUSLY.

Discussions were held on: Planning Commission's reason for denial-opportunity for a land use analysis for the area-would delay project-spring would be the time it would be looked at; other auto businesses that are not allowed outside storage for similar uses; look at area on similar uses; fixing traffic issues of the "devil's" triangle realignment; and number of stalls for inside parking.

Planning Commissioner Steve Schulte stated other issues of concern by the Planning Commission other than the conditional use were the density and massing of automobile shops and automobile dealerships along the

corridor. He stated since the Brooklyn Park Dome was destroyed and only weeks before the Planning Commission addressed the issue, the thought was to place a moratorium or place a study in the area to determine the best use because there wouldn't be another opportunity to review the area. He stated a conditional use meant to grant the conditions for the development area and Council had discretion on that.

Council Member Meyer asked the City Attorney to comment on the conditional use issue. City Attorney Thomson stated that Commissioner Schulte was correct that when uses like the one before the Planning Commission or City Council, could impose conditions, however, the law was when the city established its zoning ordinance and listed uses as conditional uses, what it said was those uses were permitted in the zoning district. He stated unlike normal permitted uses, however, Council could impose reasonable conditions relating to the proposed conditional use, i.e., screening, site planning, etc., those types Council had a lot of discretion and why it came before the Planning Commission and Council what types of conditions were allowed, but because the law said conditional uses, the uses itself were permitted and not a proper legal basis to deny the applications simply because there was something about the use. He stated the proper remedy would be to amend the zoning ordinance to make the use no longer a conditional use in the zoning district.

Other discussions: Employment needs; what would happen to the other ABRA business in the city; outside storage within zone; 73rd Avenue and redesign of triangle area in transition; and better use for the area.

6.1 MOTION SIMMONS, SECOND MATA TO WAIVE THE READING AND ADOPT RESOLUTION #2005-325 APPROVING CONDITIONAL USE PERMIT #05-143 FOR AN AUTO REPAIR USE (ABRA AUTO BODY) AND OUTDOOR STORAGE IN THE B3 GENERAL BUSINESS DISTRICT LOCATED AT 8216 LAKELAND AVENUE NORTH. MOTION PASSED UNANIMOUSLY.

6.2 MOTION MEYER, SECOND GEARIN TO WAIVE THE READING AND ADOPT RESOLUTION #2005-326 APPROVING CONDITIONAL USE PERMIT AMENDMENT TO ALLOW EXTENDED HOURS IN DECEMBER. MOTION PASSED UNANIMOUSLY.

6.3 MOTION TREPANIER, SECOND GEARIN TO WAIVE THE READING AND ADOPT RESOLUTION #2005-327 APPROVING PRELIMINARY PLAT OF "HOLLIDAY ESTATES" FOR SUBDIVISION OF 1.19 ACRES INTO THREE SINGLE-FAMILY LOTS AT 10510 FRANCE AVENUE NORTH. MOTION PASSED UNANIMOUSLY.

6.4 MOTION TREPANIER, SECOND MATA TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2005-1051 APPROVING ZONING CODE AMENDMENTS FOR THE PCDD TO ALLOW OUTDOOR DISPLAY AND SALES AT FULL SERVICE GROCERY STORES SUBJECT TO A CONDITIONAL USE PERMIT. MOTION PASSED. (6 TO 1)

6.4 MOTION TREPANIER, SECOND MATA TO WAIVE THE READING AND ADOPT RESOLUTION #2005-328 APPROVING CUP AMENDMENT TO ALLOW SEASONAL DISPLAY AND SALES AT FESTIVAL FOODS. MOTION PASSED. (6 TO 1)

6.5 Planning Director Cindy Sherman stated there were revisions to the resolutions and provided Council with the revised resolutions. She stated the first revision was on the resolution regarding the comprehensive plan amendment to include the three findings for the denial and the other two resolutions were revised to state "hereby denied because it is not consistent with the comprehensive land use designation." She stated that Council would have to act on the Comprehensive plan amendment and then the other two based on not being consistent.

6.5 Council Member Meyer read the revised resolution regarding the denial of the comprehensive plan amendment.

6.5 MOTION MEYER, SECOND GEARIN TO ADOPT RESOLUTION #2005-329 TO DENY COMPREHENSIVE PLAN AMENDMENT #05-144 TO REDESIGNATE PROPERTY FROM COMMERCIAL TO HIGH DENSITY RESIDENTIAL.

Discussions were held on: Rezoning for residential; reducing the number of units; commercial purposes prohibited next to the school; office versus residential use; price of units; vehicle traffic; commercial-permitted use can submit site plan with a public hearing process if requirements are met; Rum Runners property should be reviewed to change the characteristics of the neighborhood; and the differences between medium and high density.

Mayor Lampi asked if after the preliminary plat, if the density could be increased at a future point. City Attorney Thomson stated the findings were prepared for the comprehensive plan resolution because the request was for high density even though the use was on the low end of the high density and the actual guiding was for the high density. He stated in changing the maximum density the city code would have to be changed.

Mayor Lampi asked if the developer could increase the density once the designation went from commercial to high density. City Attorney Thomson stated if the city was to approve the Comprehensive Plan and rezoning and preliminary plat, nothing required the developer to go forward with the preliminary plat. He stated the developer could come back with an alternative plan.

Other Discussions: Commercial out of character in neighborhood; and downgrade zoning would provide more options.

6.5 VOTE ON MOTION PASSED UNANIMOUSLY.

6.5 Council Member Meyer read the revised resolution regarding the denial to rezone property from Neighborhood Retail Business District to Multiple Family Residential District.

6.5 MOTION MEYER, SECOND TREPANIER TO ADOPT RESOLUTION #2005-330 TO DENY REQUEST TO REZONE PROPERTY FROM NEIGHBORHOOD RETAIL BUSINESS DISTRICT (B2) TO MULTIPLE-FAMILY RESIDENTIAL DISTRICT (R5). MOTION PASSED UNANIMOUSLY.

6.5 Council Member Meyer read the revised resolution regarding the denial of the preliminary plat.

6.5 MOTION MEYER, SECOND TREPANIER TO ADOPT RESOLUTION #2005-331 TO DENY PRELIMINARY PLAT #05-144 FOR "RIVERVIEW COMMONS" TO SUBDIVIDE 2.15 ACRES INTO 16 LOTS EAST OF HIGHWAY 610, WEST OF WEST RIVER ROAD AND NORTH OF RIVERVIEW ELEMENTARY SCHOOL. MOTION PASSED. (6 TO 1)

At 9:01 p.m. Mayor Lampi called for a recess and reconvened the meeting at 9:10 p.m.

Discussion: Plan B chosen by the citizens and Parks Advisory Commission; cost of both plans; reduction of tennis courts; playground equipment by the pond in Plan B would need fencing; use of baseball field; basketball court; modify Plan A to keep basketball and tennis courts; access

point to ice rink; baseball backstop realignment; and schedule of parks to be renovated.

7.1 MOTION TREPANIER, SECOND MATA TO WAIVE THE READING AND ADOPT A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH SCHEMATIC "B" TO DEVELOP PLANS AND SPECIFICATIONS FOR BIDDING PURPOSES. MOTION FAILED. ROLL CALL VOTE: YES: LAMPI, MATA, TREPANIER; NO: GEARIN, SIMMONS, MEYER, SCHMITZ.

7.1 MOTION SCHMITZ, SECOND TREPANIER TO WAIVE THE READING AND ADOPT RESOLUTION #2005-332 AUTHORIZING STAFF TO PROCEED WITH SCHEMATIC "A" TO DEVELOP PLANS AND SPECIFICATIONS FOR BIDDING PRURPOSES.

7.1 MOTION MEYER, SECOND SCHMITZ TO AMEND MOTION TO NOT INCLUDE THE HALF BASKETBALL COURT AND BOTH TENNIS COURTS REMAIN.

Council Member Trepanier made a friendly amendment to the amended motion to relocate the half basketball court without tearing up the tennis courts and accepted by Council Members Meyer and Schmitz.

7.1 VOTE ON AMENDMENT PASSED TO RELOCATE THE HALF BASKETBALL COURT AND BOTH TENNIS COURTS TO REMAIN. (4 to 3)

7.1 VOTE ON MAIN MOTION PASSED. (4 to 3)

7.2 MOTION SCHMITZ, SECOND MEYER TO WAIVE THE READING AND ADOPT RESOLUTION #2005-333 APPROVING TRANFERS FOR ENGINEERING PROJECTS. MOTION PASSED UNANIMOUSLY.

7.3 MOTION TREPANIER, SECOND GEARIN TO APPROVE RESOLUTION #2005-334 A RESOLUTION INCREASING THE 2006 CITY HEALTH INSURANCE WAIVER RATE TO \$300 PER MONTH. MOTION PASSED UNANIMOUSLY.

7.4 MOTION TREPANIER, SECOND SCHMITZ TO WAIVE THE READING AND ADOPT RESOLUTION #2005-335 DESIGNATING AN ADDITIONAL 5.23 MILES TO THE CITY'S MUNICIPAL STATE AID SYSTEM. MOTION PASSED UNANIMOUSLY.

7.5 MOTION SCHMITZ, SECOND MEYER TO WAIVE THE READING AND ADOPT RESOLUTION #2005-336 DETERMINING VALIDITY AND SUFFICIENCY OF PETITION AND ORDERING PREPARATION OF FEASIBILITY REPORT FOR PROJECTS ST-1464, S-1465 AND SS-1459, STREET AND TRUNK UTILITY EXTENSIONS FOR OXBOW CREEK DRIVE, PHASE II. MOTION PASSED UNANIMOUSLY.

City Manager Reeder briefed on the purchase of the purchase of domain names.

Discussions were held on: Other uses for the \$10,000; purchasing other domain names; value in purchasing domain names; and traffic volume on city website.

7.6 MOTION TREPANIER, SECOND MATA TO WAIVE THE READING AND ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH JOHN JORDAN TO PURCHASE WWW.BROOKLYNPARK.COM, WWW.BROOKLYNPARK.NET AND TATERDAZE.COM FOR \$10,000.

Other discussions: Adding a non-compete clause for a certain number of years to the agreement.

City Attorney Thomson stated that a provision could be negotiated but the law restricted the length of covenants not to compete and the general rule of thumb was one to two years. He stated the law said it had to be a reasonable time frame but the context was different than a typical commercial transaction but would look into it more if Council wanted to include that provision.

7.6 MOTION SCHMITZ, SECOND MEYER TO AMEND MOTION TO ADD A NON-COMPETE CLAUSE WITH THE GREATEST NUMBER UP TO FIVE YEARS AS PROVIDED BY THE CITY ATTORNEY.

7.6 VOTE ON AMENDMENT PASSED: ROLL CALL VOTE: YES: SIMMONS, LAMPI, MEYER, SCHMITZ; NO: MATA, TREPANIER, GEARIN.

7.6 VOTE ON MAIN MOTION FAILED. ROLL CALL VOTE: YES: LAMPI, MATA, TREPANIER; NO: MEYER, SCHMITZ, GEARIN, SIMMONS.

8.2 City Manager Reeder briefed on the 2006 Council meeting and EDA meeting dates and on the recommended canceled dates. He also stated that he had a new concept on having a work session before a council meeting at the 3rd meetings to have the discussion items briefed prior to the council meeting.

Discussions were held on: Length of meetings with the work session added; and the dates were needed for printing the city calendar.

8.2 MOTION SCHMITZ, SECOND TREPANIER TO APPROVE THE COUNCIL MEETING SCHEDULE FOR 2006. MOTION PASSED UNANIMOUSLY.

8.3 City Manager Reeder stated Council Member Gearing requested discussion on an investigation being conducted regarding Fire Department member. He stated his concerns were that the investigation was not budgeted. He stated it was discussed at staff level and concluded the best way was to have a non-staff member or contract through the City Attorney's office because the person was known by staff and there would be no biases and would be completed in an appropriate manner. He stated the City Attorney obtained an outside investigator since it involved a city employee and the cost would be charged to the city attorney's budget and not overrun the budget of 2005.

Discussions were held on: Unbudgeted expense; not brought to Council prior to the investigation; staff investigating the matter; and cost of the investigation.

City Attorney Thomson stated what was public information was there was a complaint made and an ongoing investigation and urged Council not to go beyond that and put the Council in a difficult position in a public meeting and that was the public information available. He stated the city received a complaint and consulted with the city manager and both concurred to insure there were no appearances that it was less than impartial to use an outside investigator. He stated whether using his office or some other office there still would be outside fees involved.

He also stated that the name of the complainant was typically public information unless it was a city employee or a city official and without their consent his recommendation was that it be private data and not disclosed.

The following residents addressed the Council regarding the investigation: Rand Haglund, Jay Johnson and Steve Schulte.

8.3 MOTION SIMMONS, SECOND TREPANIER TO CALL THE QUESTION AND END THE DEBATE AND PROCEED WITH THE ANALYSIS.MOTION PASSED. ROLL CALL VOTE: YES: SIMMONS, LAMPI, MATA, TREPANIER; NO: GEARIN, MEYER, SCHMITZ.

8.4 2006 City Manager Reeder briefed Council on the latest recommendations on reductions on the proposed levy of \$1.5 million with a PowerPoint presentation. Areas covered were: Revenue Increase/Changes-Eliminate Delinquent Tax Allowance; Increase engineering fee for additional projects; Code Enforcement fee increase; Police Cadet Grant; Gang Task Force Grant; Engineering fees for Village Creek; Police town aid; Fire inspection fee with Osseo; Expenditure Decreases-Eliminate Contingency, Delinquent Tax Allowance, 2007 City Calendar; reduce EDA levy; eliminate Click-to-Gov software, Webstreaming, police captain position, ½ engineer position, ½ program assistant position.

He stated the revenue increase and changes were \$208,500 and expenditure decreases were \$1,162,000 with a grand total tax levy reduction of \$1,370,500. He stated the general fund levy was reduced by \$1,070,500 and the EDA levy by \$300,000 and the new Tax Capacity rate was 38.302% a reduction from 41.0%.

He stated the revised city tax on media home value of \$206,100 for 2006 was \$832.85 and was \$823.84 for 2005, a \$9.01 increase which was a 1.1% tax increase for the same value home.

He stated that he agreed with the Operations and Maintenance staff that another \$47,000 for utilities was needed to be budgeted due to increase in gas taxes and electric fees and that IT staff would trade off of other items for the Click-to-Gov software as they felt the expenditure was more important that other IT items and they would equal the same amount.

He stated the Budget Advisory Commission would provide their report at 6:30 p.m. prior to the EDA meeting on November 14, 2005 and the Truth In Taxation meeting would be on December 5th.

Discussions were held on: Comparisons of the Council and City Manger recommendations with the Budget Advisory Commission's recommendations; proposed reorganization by Council Member Meyer and savings to the city; cascading IT items; proposed Truth in Taxation letter included with Hennepin County letter; tax rate and market value rate; and goal to get a zero rate increase-what would happen.

ADJOURNMENT - With consensus of the Council, Mayor Lampi adjourned the meeting at 11:54 p.m.

STEVE LAMPI, MAYOR

DEVIN MONTERO, CITY CLERK

SPECIAL BROOKLYN PARK CITY COUNCIL MEETING

Monday, November 14, 2005
6:32 p.m.

Brooklyn Park Council Chambers
5200 85th Avenue North

CALL TO ORDER - Mayor Lampi

PRESENT: Mayor Steve Lampi; Council Members Terry Gearin, Jeanette Meyer, Mike Trepanier, Mark Mata (arrived at 6:49 p.m.), and Mason Schmitz, Scott Simmons; City Manager Doug Reeder; and City Clerk Devin Montero.

ABSENT: None.

Budget Advisory Commission members present: Jason Landkamer and Warren Maas.

Mayor Lampi opened the meeting with the Pledge of Allegiance.

Budget Advisory Commission Report:

Jason Landkamer, Chairman, Budget Advisory Commission, (BAC), presented the Budget Advisory Commission report and recommendations relating to reductions in the City Manager's proposed budget.

He stated the proposed budget was received representing an aggressive initiative and committed to stabilizing and increasing city service levels. He stated a goal of 1.5 million was given on the reduction of spending and recommendations were asked from the City Manager's office and Council for reduction suggestions and also considered natural revenue increases beyond tax revenues. He stated as tax payers and residents they didn't want to see the tax burden increases and also recognized the commitment to the continuation and increase of city services.

Commissioner Landkamer stated based on their discussions they recommended the following reductions: Non Tax Revenue Increases; Elimination of Click2Gove and Web Streaming projects; not support funding Association of Metropolitan Municipalities, (AMM) dues because there were other lobbying groups approved and no noticeable affects from not belonging to the AMM; Delinquent Tax Allowance; no funding to the Contingency Allowance; Personnel Services and Department Reductions-the city manager to make the appropriate adjustments; EDA Levy Reduction-can still perform with reduction; Internal Services additional funding recommended.

Commissioner Landkamer stated the total spending reduction recommendation was \$1,454,447 and under the mandate set and the Commission's opinion best balance.

Council Member Simmons asked if the BAC discussed the issue of levying for the decertified TIF districts. He stated that discussion was held at the Joint Commission meeting held in June. Commissioner Landkamer stated it was discussed and the Commission was not in an informed position to make a decision due to the abbreviated schedule to analyze it and make recommendations.

Discussions were held on: The Commission process not working when an item came from council; to address the issue in December for the next budget; other items the BAC discussed and not selected; BAC to prepare a report by next May-report more useful if done prior to summer; BAC's work plan for 2007.

Commissioner Landkamer stated the Commission would be looking at how to budget overtime, Capital Equipment Plan, and Purchase of new equipment.

Other Discussions: Vacancies on the Commission; provide a report before the Commission's break in mid summer and track where the Council's is at for November 2006; report at the Joint Commission meeting; and report would be helpful for budget discussions in May.

ADJOURNMENT – At 6:56 p.m., with consensus of the Council, Mayor Lampi adjourned the meeting.

STEVE LAMPI, MAYOR

DEVIN MONTERO, CLERK

City of Brooklyn Park Request for Council Action

Agenda Item No:	4.6	Meeting Date:	November 28, 2005
Agenda Section:	Consent	Originating Department:	Engineering & Building Inspections
Resolution	N/A	Prepared By:	Betty Peterson
Ordinance	SECOND READING		
No. of Attachments	1	Presented By:	Betty Peterson
Item:	SECOND READING of an Ordinance to Amend Chapter 112.001 (B) (3) of the City Code pertaining to insurance requirements for 3.2% and wine licenses.		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2005-_____ AMENDING CHAPTER 112.001 (B) (3) OF THE CITY CODE PERTAINING TO INSURANCE REQUIREMENTS FOR 3.2% AND WINE LICENSES.

Overview:

The first reading of this ordinance change was on the Council agenda on November 21, 2005. This is the second reading on the amended City Code Chapter 112.001 (B) (3) pertaining to insurance requirements for 3.2% and wine licenses.

Minnesota State Statutes Section 340A.409 establishes the insurance requirements for retail liquor licenses. Subdivision 4 of that statute states that insurance is not required for 3.2. percent malt liquor licenses, on-sale wine licenses, and temporary wine licenses if those licensees' annual sales does not exceed the limit specified in the statute. After reviewing information received from the State of Minnesota it was noted that Section 340A.409 has been amended to increase the amount of sales to \$25,000 per year for on-sale 3.2% malt liquor and on-sale wine, and \$50,000 per year for off-sale 3.2% malt liquor. After consulting with City Attorney Jim Thomson, he recommended that we amend the city code to bring it into compliance with the state law and that the city code reference the state statute, rather than having to amend the code if the legislature changes the insurance exemption requirements again.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

4.6 ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 112.001 (B) (3) OF THE CITY
CODE PERTAINING TO INSURANCE REQUIREMENTS FOR 3.2% AND
WINE LICENSES

The City of Brooklyn Park Does Ordain:

Chapter 112.001 (B) (3) of the City Code is amended to read as follows:

(3) The City Clerk is authorized to waive the foregoing insurance requirements for 3.2 percent malt liquor and wine licenses ~~with sales of less than \$10,000 per year~~ if the licensee files an affidavit from a certified public accountant to show that sales are ~~under \$10,000 per year~~ less than the amounts set forth in Minnesota Statutes, Section 340A.409, Subdivision 4. The licensee must also file a written commitment with the City Clerk or designee that if sales exceed such amounts ~~reach \$10,000~~, the licensee will not continue to sell 3.2 percent malt liquor or wine until the licensee has filed a certificate of insurance meeting the requirements set forth in this section.

City of Brooklyn Park Request for Council Action

Agenda Item No:	5.1	Meeting Date	11-28-2005
Agenda Section:	Public Hearing	Originating Department:	Engineering
Resolution	X	Prepared By:	Gary Defries
Ordinance	N/A		
No. of Attachments	3	Presented By:	Gary Defries
Item:	Hearing for vacation of drainage and utility easements in Oxbow Commons, 101 st Avenue and Welcome Avenue		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2005-_____ VACATING DRAINAGE AND UTILITY EASEMENTS IN OXBOW COMMONS.

Overview:

Mr. Bill Ramsay, Hidden Oaks, LLC, submitted a vacation petition to the City Council on November 7, 2005, requesting the vacation of drainage and utility easements in Lots 1 and 2, Block 3, Oxbow Commons. Oxbow Commons is located southeasterly of the intersection of 101st Avenue and Welcome Avenue.

Mr. Ramsay's request for the vacation of the drainage and utility easements is as a result of the proposed replatting of Lots 1 and 2, Block 3, Oxbow Commons as Villas at Oxbow Lake. Villas at Oxbow Lake is a townhouse development. The existing drainage and utility easements are located along the perimeter of the two lots and also on the common lot line of these lots. These existing easements conflict with the Villas at Oxbow Lake development.

Staff sent letters to CenterPoint Energy, Sprint, Xcel Energy and Comcast requesting their input on the proposed vacation of the drainage and utility easements. Representatives from each of the utility companies responded indicating they do not have any facilities within the proposed easement vacation areas, thus they do not object to the proposed easement vacation. Accordingly, the City does not have any public utilities located within the proposed easement vacation areas.

There is a stipulation provided in the vacation resolution that the recording of the vacation resolution be accomplished prior to, but with the recording of Villas at Oxbow Lake plat, so there is no interruption of the public's interest in maintaining the easements.

It is recommended the City Council vacate the easements as proposed.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

- 5.1 RESOLUTION
- 5.1 VICINITY MAP
- 5.1 LOCATION MAP

RESOLUTION #2005-

RESOLUTION VACATING DRAINAGE AND UTILITY EASEMENTS
IN OXBOW COMMONS

WHEREAS, Section 14.07 of the City Charter provides that the City Council may by resolution vacate any street, alley, public grounds, or public way, or any part thereof, when it appears in the interest of the public to do so, and

WHEREAS, the City of Brooklyn Park has drainage and utility easements over the following described lands:

Parcel Descriptions:

Lots 1 and 2, Block 3, Oxbow Commons according to the recorded plat thereof, Hennepin County, Minnesota.

Easement Descriptions:

All drainage and utility easements dedicated to the public for public use within Lots 1 and 2, Block 3, Oxbow Commons according to the recorded plat thereof, Hennepin County, Minnesota.

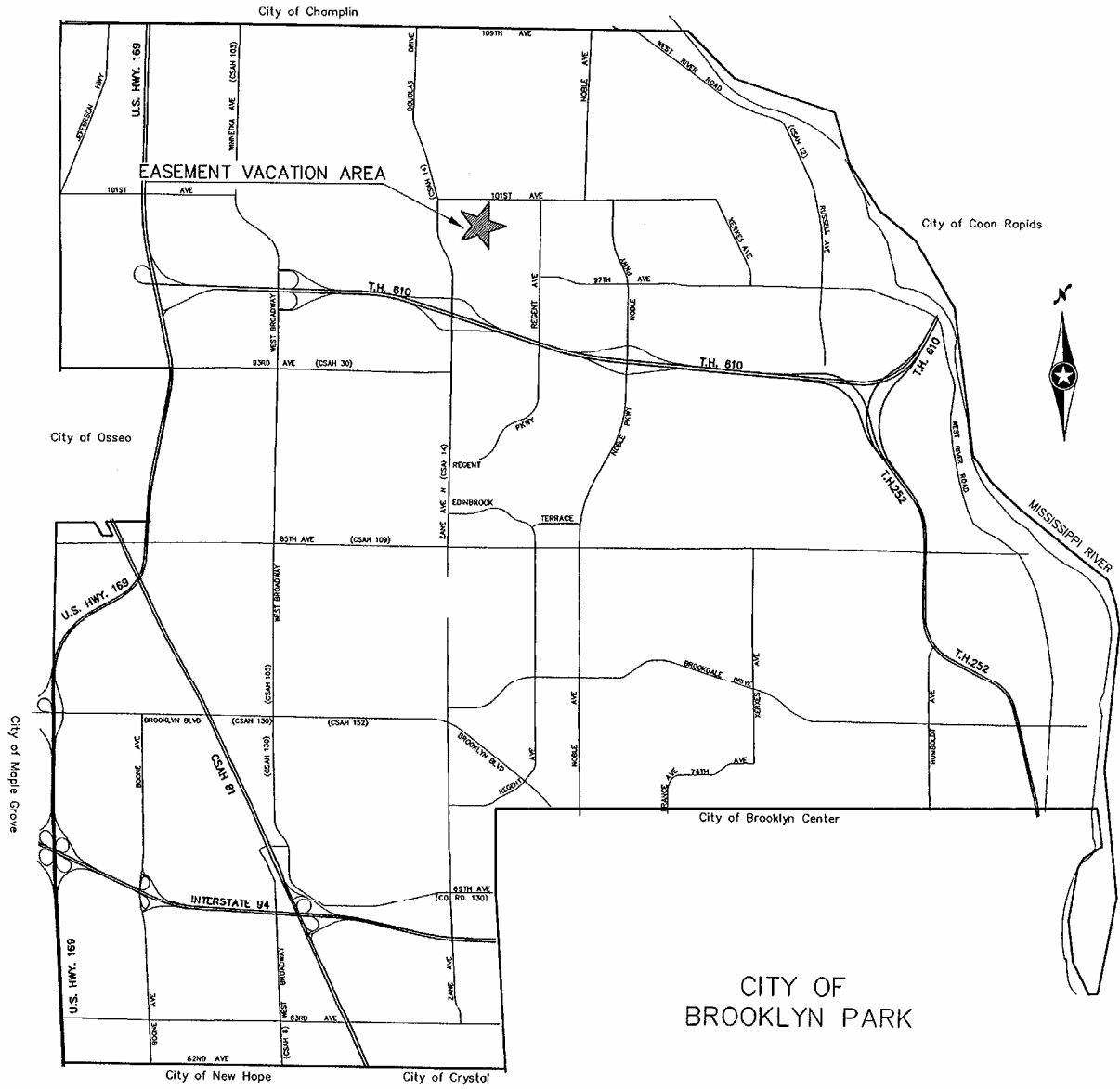
WHEREAS, a public hearing was held on November 28, 2005 as required by law, and

WHEREAS, it has been determined that good area planning requires that these easements be vacated and that it would be in the public interest to do so,

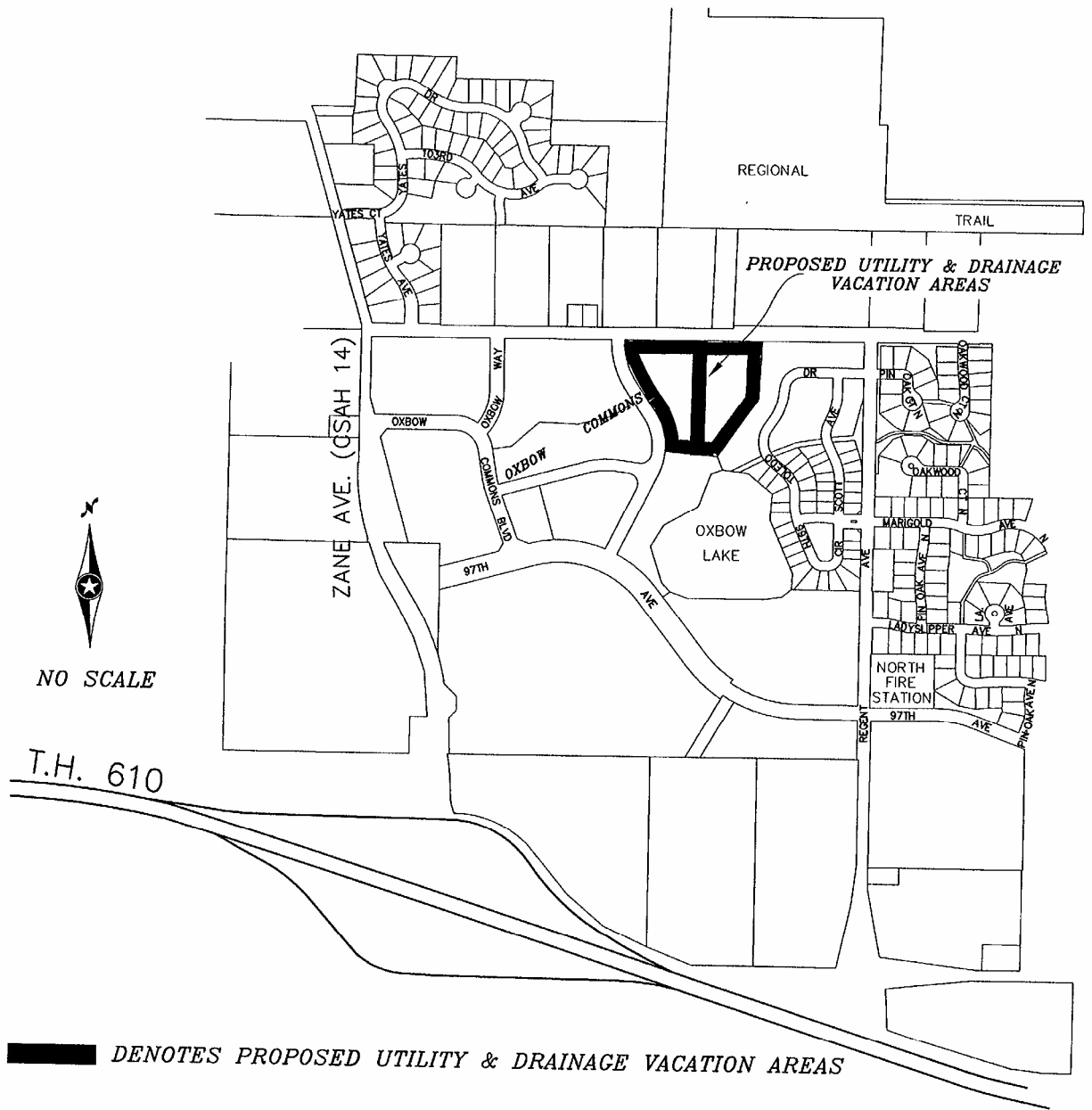
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK:

1. That the above described drainage and utility easements be vacated.
2. That the recording of this vacation resolution be accomplished prior to, but with the recording of Villas at Oxbow Lake plat, so there is no interruption of the public's interest in maintaining the easements.
3. A certified copy of this resolution shall be prepared by the City Clerk and shall be a notice of completion of the proceedings and shall be recorded in accordance with the provisions of Section 14.07 of Brooklyn Park City Charter.

VICINITY MAP



LOCATION MAP FOR UTILITY & DRAINAGE EASEMENT VACATION



City of Brooklyn Park Request for Council Action

Agenda Item No:	5.2	Meeting Date	11-28-2005
Agenda Section:	Public Hearing	Originating Department:	Engineering
Resolution	X	Prepared By:	Gary Defries
Ordinance	N/A		
No. of Attachments	3	Presented By:	Gary Defries
Item:	Hearing for vacation of road easements in Aspen Cove North, 108 th Avenue and Scott Avenue		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2005-_____ VACATING ROAD EASEMENTS IN ASPEN COVE NORTH.

Overview:

Mr. Nathan Fair submitted a vacation petition to the City Council on November 7, 2005, requesting the vacation of road easements in Aspen Cove North. Aspen Cove North is located southerly of 109th Avenue and easterly of the Champlin Park High School.

Mr. Fair's request for the vacation of the road easements is as a result of the Aspen Cove North plat, which provides for a new roadway alignment. The road easements requested to be vacated are located on the south edge of the plat and will conflict with the Aspen Cove North plat development.

Staff sent letters to CenterPoint Energy, Xcel Energy, Sprint and Comcast requesting their input on the proposed vacation of the road easements. Representatives from each of the utility companies responded indicating they do not have any facilities within the proposed easement vacation areas, thus they do not object. Accordingly, the City does not have any public facilities within the proposed vacation areas.

Therefore, it is recommended the City Council vacate the easements as proposed.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

- 5.2 RESOLUTION
- 5.2 VICINITY MAP
- 5.2 LOCATION MAP

RESOLUTION #2005-

RESOLUTION VACATING ROAD EASEMENTS
IN ASPEN COVE NORTH

WHEREAS, Section 14.07 of the City Charter provides that the City Council may by resolution vacate any street, alley, public grounds, or public way, or any part thereof, when it appears in the interest of the public to do so, and

WHEREAS, the City of Brooklyn Park has road easements over the following described lands:

Parcel and Easement Descriptions:

The East One Hundred Fifty (E 150) feet of the West Seven Hundred (W 700) feet of the North One-Half (N½) of the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of Section Four (4), Township One Hundred Nineteen (119), Range Twenty-one (21), Hennepin County, Minnesota, subject to easement for right-of-way for road purposes over the South two (2) rods of the premises first described and,

The East One Hundred Fifty (150) feet of the West Eight Hundred Fifty (850) feet of the North One-half (N½) of the Northwest Quarter (NW ¼) of the Northeast Quarter (NE ¼) of Section Four (4), Township One Hundred Nineteen (119), Range Twenty-one (21), Hennepin County, Minnesota, subject to easement for road purposes over the South Two (2) rods of the premises first described.

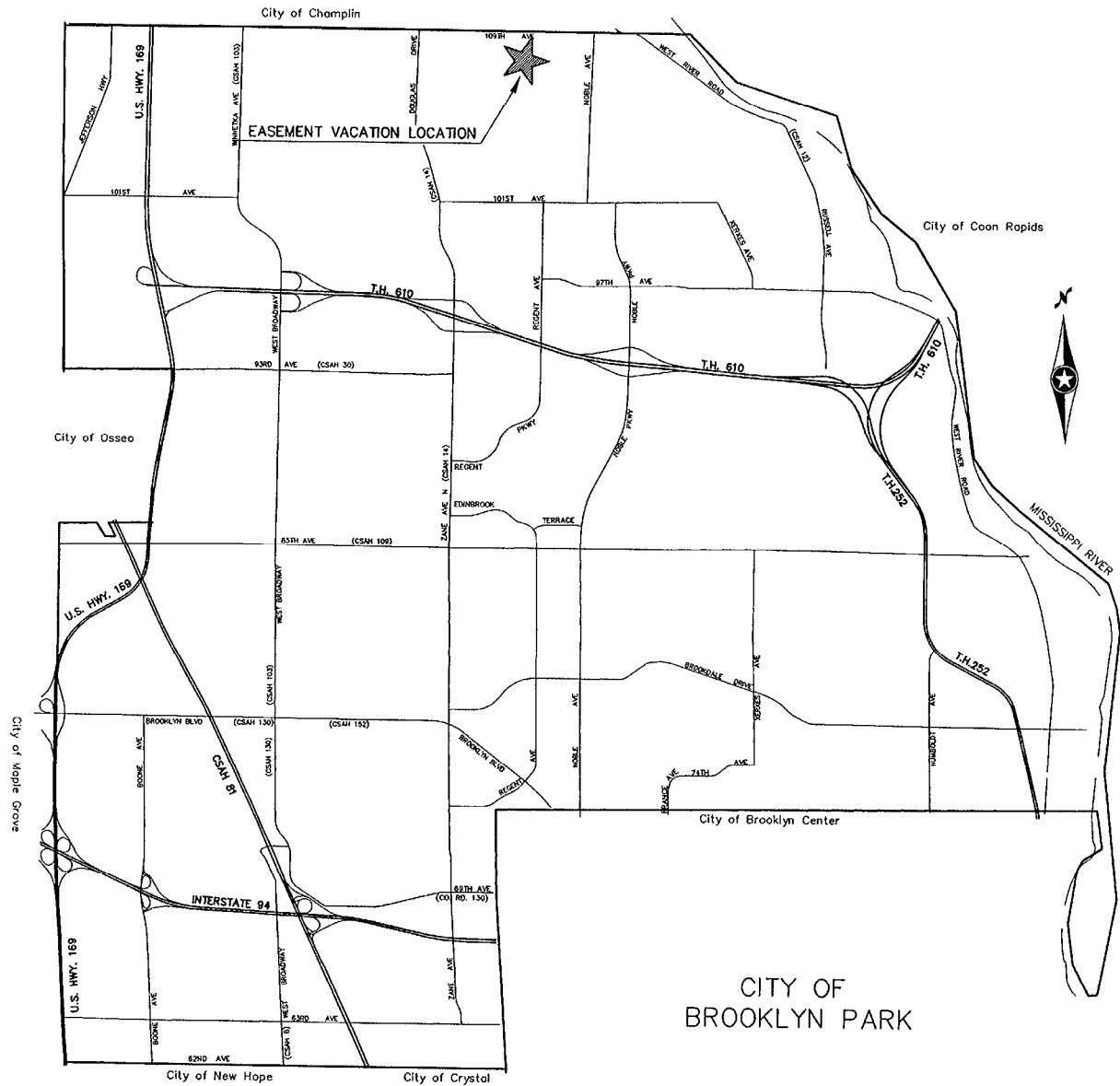
WHEREAS, a public hearing was held on November 28, 2005 as required by law, and

WHEREAS, it has been determined that good area planning requires that these easements be vacated and that it would be in the public interest to do so,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKLYN PARK:

1. That the above described road easements be vacated.
2. A certified copy of this resolution shall be prepared by the City Clerk and shall be a notice of completion of the proceedings and shall be recorded in accordance with the provisions of Section 14.07 of Brooklyn Park City Charter.

VICINITY MAP



City of Brooklyn Park Request for Council Action

Agenda Item No:	5.3	Meeting Date:	November 28, 2005
Agenda Section:	Public Hearing	Originating Department:	Engineering/Building Inspections
Resolution:	N/A	Prepared By:	Linda Norrbohm
Ordinance:	N/A		
No. of Attachments:	N/A	Presented By:	Betty Peterson
Item:	Public hearing to solicit testimony and consider the renewal of the Currency Exchange license for Minnesota Currency Exchange Corporation at 7646 Brooklyn Boulevard North.		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO RECOMMEND THE RENEWAL OF THE CURRENCY EXCHANGE LICENSE FOR MINNESOTA CURRENCY EXCHANGE CORPORATION AT 7646 BROOKLYN BOULEVARD NORTH TO THE COMMISSIONER OF COMMERCE.

Overview:

In April, 1992, the Governor signed a law that requires the City to hold a public hearing and publish a notice regarding the hearing for applications and renewals of currency exchange licenses.

The Commissioner of Commerce issues the license. The application or the renewal cannot be approved by the Commissioner without the concurrence of the governing body of the local unit of government.

The Community Development Department completed their inspection on October 10, 2005, the Police Department has completed their investigation of the applicant, and the Fire Department has inspected the property. The Community Development Department, Police Department, and the Fire Department find no reason that would preclude the approval of the Currency Exchange license. The City's approval would forward the application to the Commissioner of Commerce.

The Commissioner is required to have the applicant submit to a background investigation by the BCA (Bureau of Criminal apprehension). As part of the background investigation, the BCA will conduct criminal history checks of Minnesota records and they are authorized to exchange fingerprints with the FBI for the purpose of a criminal background check of the national files.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park Request for Council Action

Agenda Item No:	5.4	Meeting Date:	November 28, 2005
Agenda Section:	Public Hearing	Originating Department:	Engineering/Building Inspections
Resolution:	N/A	Prepared By:	Linda Norrbohm
Ordinance:	N/A		
No. of Attachments:	N/A	Presented By:	Betty Peterson
Item:	Public hearing to solicit testimony and consider the renewal of the Currency Exchange license for Brooklyn Park Check Cashers Inc. at 6319 Zane Avenue North.		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO RECOMMEND THE RENEWAL OF THE CURRENCY EXCHANGE LICENSE FOR BROOKLYN PARK CHECK CASHERS INC. AT 6319 ZANE AVENUE NORTH TO THE COMMISSIONER OF COMMERCE.

Overview:

In April, 1992, the Governor signed a law that requires the City to hold a public hearing and publish a notice regarding the hearing for applications and renewals of currency exchange licenses.

The Commissioner of Commerce issues the license. The application or the renewal cannot be approved by the Commissioner without the concurrence of the governing body of the local unit of government.

The Community Development Department completed their inspection on October 10, 2005, the Police Department has completed their investigation of the applicant, and the Fire Department has inspected the property. The Community Development Department, Police Department, and the Fire Department find no reason that would preclude the approval of the Currency Exchange license. The City's approval would forward the application to the Commissioner of Commerce.

The Commissioner is required to have the applicant submit to a background investigation by the BCA (Bureau of Criminal apprehension). As part of the background investigation, the BCA will conduct criminal history checks of Minnesota records and they are authorized to exchange fingerprints with the FBI for the purpose of a criminal background check of the national files.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park Request for Council Action

Agenda No.:	6.1	Meeting Date:	11-28-2005
Agenda Section:	Land Use Actions	Originating Department:	Planning Division
Resolution:	X	Prepared By:	Todd A. Larson
Ordinance:	N/A		
No. of Attachments:	4	Presented By:	Mark Hunter
Item:	Larry Wheelock Waiver of Platting #05-149 for a lot split at 8330 Fairfield Road		

City Manager's Proposed Action:

MOTION _____ SECOND _____ TO WAIVE THE READING AND ADOPT RESOLUTION #2005-____ APPROVING WAIVER OF PLATTING #05-149 FOR A LOT SPLIT AT 8330 FAIRFIELD ROAD NORTH.

Planning Commission Recommendation:

The Planning Commission unanimously recommended approval of the Waiver of Platting at its November 9, 2005 meeting.

Overview:

The applicant is proposing to subdivide an existing large lot in the eastern portion of the City into two lots—one containing the existing home and another for new single-family construction. Both lots meet the R3 Zoning District Requirements.

Budgetary/Fiscal Issues:

None.

Alternatives to Consider:

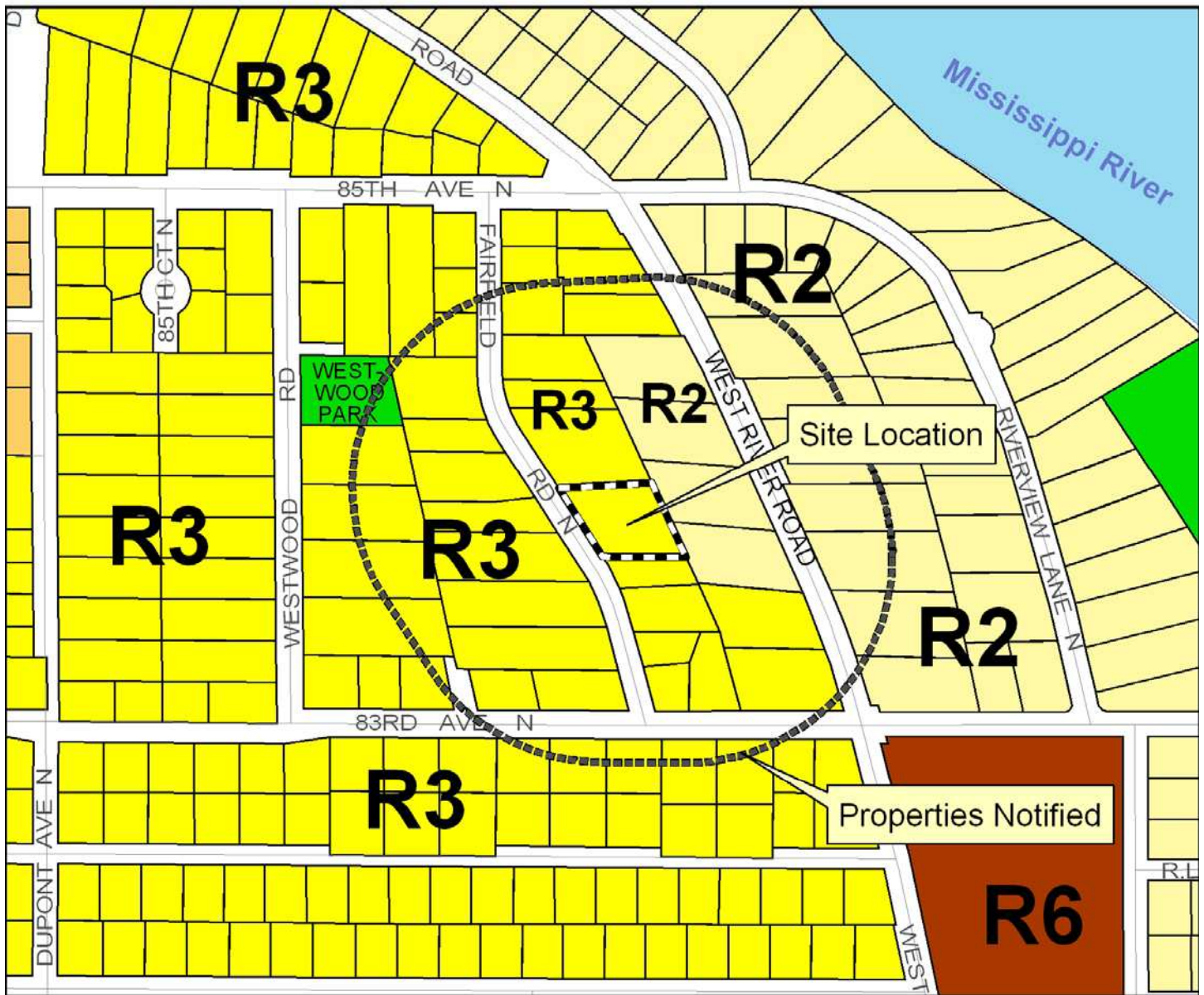
1. Approve the Waiver of Platting as recommended by the Planning Commission.
2. Request modifications to the plan.
3. Deny the Waiver of Platting based on certain findings.

Attachments:

- 6.1 LOCATION MAP
- 6.1 RESOLUTION
- 6.1 SURVEY
- 6.1 PLANNING COMMISSION MINUTES

Waiver of Platting #05-149

Larry Wheelock 8330 Fairfield Rd. N.



280

Feet

October 17, 2005

Residential Districts

- R1 - Urban Reserve
- R2 - Single Family Estate
- R2B - Single Family (85')
- R3 - Single Family (80')
- R3A - Single Family (75')
- R4 - Single and Two Family
- R4A - Townhouse
- R5 - Multiple Family
- R6 - Multiple Family
- R7 - Multiple Family

Overlay Districts

- HO - Highway Overlay

Business Districts

- B1 - Office Park
- B2 - Neighborhood Retail
- B3 - General Business
- B4 - Vehicle Sales & Showroom
- BP - Business Park
- I - General Industrial

Special Districts

- PCDD - Planned Community Development District
- PUD - Planned Unit Development
- TC - Town Center
- CD - Concervancy District
- PI - Public Institution
- VR - Village Redevelopment



Waiver of Platting #05-149
Larry Wheelock 8330 Fairfield Rd. N.



Spring 2004 Aerial Photo



70

Feet

October 17, 2005



<u>Planning & Zoning Information</u>			
Land Use Plan	Low Density Residential		
Current Zoning	R3, Detached Single-Family Residential District		
	Minimum Lot Area	10,800 ft ²	
	Minimum Lot Width	80 feet (at front setback)	
	Minimum Lot Frontage	60 feet (at front property line)	
	Front Setback	30 feet (or average of adjacent structures)	
	Rear Setback	30 feet (house)/5 feet (garage)	
	Side Setback	10 feet (house)/5 feet (garage)	
Surrounding Zoning	North, West, and South – R3, Detached Single-Family Residential District East – R2, Detached Single-Family Estate District		
	<u>Lot Area</u>	<u>Lot Width</u>	<u>Conforms to Zoning</u>
Existing Parcel	37,413 ft ²	203 feet	Yes
Parcel A	15,367 ft ²	118 feet	Yes
Parcel B	22,046 ft ²	85 feet	Yes
Conforms to:	Land Use Plan – Yes		
	Zoning Code – Yes		
	Variances Needed – Yes		

Lots

The applicant is proposing to split the oversized lot into two lots. One lot would contain the existing home and the new lot would be sold for new construction. Both proposed lots meet the R3 Zoning District requirements. Several other lots on Fairfield Road have been split in a similar fashion over the years with the last one occurring in 2000 on the adjacent lot to the south.

Homes

The existing rambler home was constructed in 1955 and is in good condition. The proposed lot line keeps the house in conformance with setback requirements. Nothing is proposed to be done with the existing home.

New homes in the R3 Zoning District must have a minimum of 960 square feet finished above grade with a 480 square-foot garage. Single-family homes are permitted uses in the R3 Zoning District and are subject to a building permit review.

The minimum front yard setback for homes in the R3 Zoning District is 30 feet; however, in-fill situations require that where the existing homes are greater than this distance, the setback becomes the average of the two adjacent homes’ front setbacks. For the proposed vacant lot, the front setback for the new home would be about 42 feet, which would be verified with the issuance of the building permit.

Landscaping

All lots with new construction must install black dirt, sod, five trees, and ten shrubs. The existing trees on the proposed lot can count towards these requirements, provided that the placement provisions of City Code are met.

Utilities

All utilities are available to the site. Water and sanitary sewer services were installed to both lots in the early 1970s. The property owner at that time paid off the assessments for that additional service.

Parks Advisory Commission

The Parks Advisory Commission reviewed the proposal at their November 16, 2005 meeting. They recommended that a cash payment be on the new lot. The current rate is \$3,400 per new lot created. Westwood Park, the nearest neighborhood park, is located one block west on Westwood Road.

Planning Commission Recommendation

The Planning Commission recommended that the Waiver of Platting be approved with the following conditions:

1. The new house front yard setback be the average of the two adjacent lots.
2. Park dedication be satisfied through a cash contribution of \$3,400.



Photo 1. Existing House that will remain. Photo Date 10-18-2005.



Photo 2. Proposed new lot area. Photo Date 10-18-2005.

RESOLUTION #2005-_____

RESOLUTION APPROVING
WAIVER OF PLATTING FOR A LOT SPLIT
AT 8330 FAIRFIELD ROAD NORTH

Planning Commission File #05-149

Be it resolved by the City Council of the City of Brooklyn Park:

That the requirements of the Ordinance of the City of Brooklyn Park, Section 151.010 (B), relating to conveyance of parcels of land less than twenty (20) acres in area are hereby waived to permit the conveyance as follows:

Parcel A (8330 Fairfield Road North):

That part of Lot 10, Block 1, FIELDSTON ACRES, according to the duly recorded plat thereof, lying northwesterly of a line drawn from a point on the east line of said lot distant 176.05 feet northwesterly of the southeast corner of said lot to a point on the west line of said lot distant 134.28 feet southeasterly of the northwest corner of said lot.

Parcel B (8328 Fairfield Road North):

That part of Lot 10, Block 1, FIELDSTON ACRES, according to the duly recorded plat thereof, lying southeasterly of a line drawn from a point on the east line of said lot distant 176.05 feet northwesterly of the southeast corner of said lot to a point on the west line of said lot distant 134.28 feet southeasterly of the northwest corner of said lot.

WHEREAS, the granting of this waiver will not be detrimental to the public welfare nor injurious to the other property in the neighborhood, and

WHEREAS, the granting of this waiver will not have an adverse effect upon traffic and traffic safety or pedestrians and pedestrian safety, and

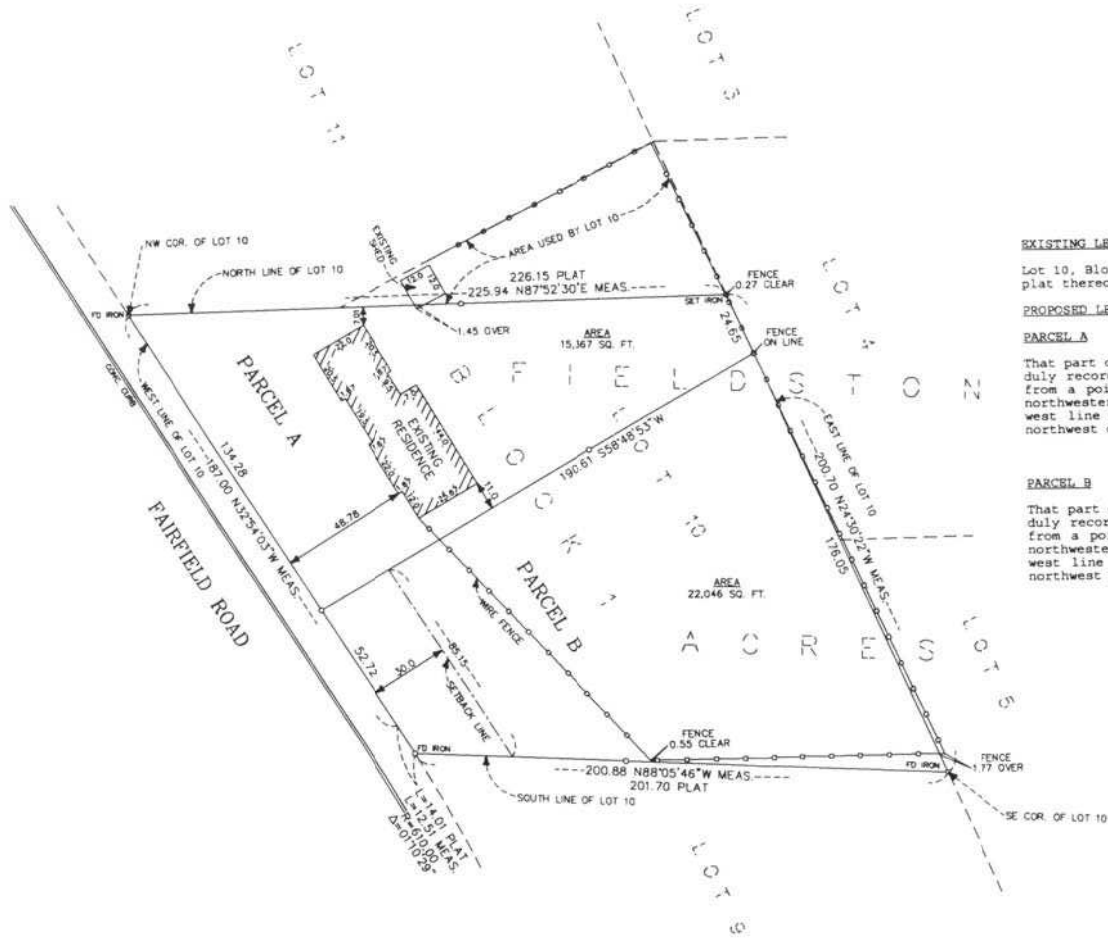
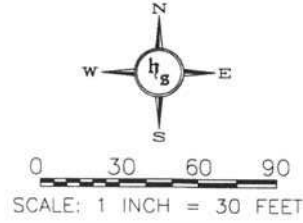
WHEREAS, the proposed development is a stable and desirable community development in harmony with adjacent areas,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that a waiver of platting, as described above, be granted as follows, subject to the following:

1. Payment of \$3,400 for park dedication on the new vacant lot.
2. The new house front yard setback be the average of the two adjacent lots per City Code Section 152.222(B)(1).
3. The petitioner shall be required to record a copy of this resolution with the Hennepin County Recorder and/or Register of Titles and to pay all fees for said recording and shall file proof of said recording with the City. The variance shall not be effective unless this recording is made within one year from the date of this approval.
4. If an applicant needs additional time to satisfy the requirements listed in this variance in order to get it released for recording, a one-year time extension must be requested. Time extension requests are subject to the conditions found in Subdivision Ordinance Section 151.007, Procedures for Time Extensions.

Failure on the part of the petitioner to record this resolution within one year from the date of this approval shall deem the resolution approval to be null and void.

LOT DIVISION FOR LARRY WHEELLOCK



EXISTING LEGAL DESCRIPTION

Lot 10, Block 1, "FIELDSTON ACRES", according to the duly recorded plat thereof.

PROPOSED LEGAL DESCRIPTION

PARCEL A

That part of Lot 10, Block 1, "FIELDSTON ACRES", according to the duly recorded plat thereof, lying northwesterly of a line drawn from a point on the east line of said lot distant 176.05 feet northwesterly of the southeast corner of said lot to a point on the west line of said lot distant 134.28 feet southeasterly of the northwest corner of said lot.

PARCEL B

That part of Lot 10, Block 1, "FIELDSTON ACRES", according to the duly recorded plat thereof, lying southeasterly of a line drawn from a point on the east line of said lot distant 176.05 feet northwesterly of the southeast corner of said lot to a point on the west line of said lot distant 134.28 feet southeasterly of the northwest corner of said lot.

LEGAL DESCRIPTION:
o - Denotes Iron Monument
DRAWN BY: MPS
INVOICE NO. 29746
FIELD BOOK NO. 309/3

SURVEYOR'S CERTIFICATION
I, the undersigned, being duly sworn, depose and say that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.
Surveyed by us this 6th day of October, 2005.
Reviewed: October 10th, 2005
Signed: Milton E. Hyland, Minn. Reg. No. 20262.

HY-LAND SURVEYING, P.A.
LAND SURVEYORS
8700 JEFFERSON HIGHWAY
OSSEO, MINNESOTA 55369
PHONE: 493-5761 FAX: 493-5781

**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION
REGULAR MEETING**

November 9, 2005

Unapproved Minutes

A. “Laurence A. Wheelock” Waiver of Platting to subdivide a 37,413 square foot lot into two separate parcels; 8330 Fairfield Road North.

Planner Larson summarized the Staff report, indicating Staff is recommending approval.

Laurence Wheelock, 5245 Camden Avenue N, indicated he is the owner, and would stand for questions.

The hearing was opened for public comment at 7:05 p.m.

There being no public comment and no one else appeared in favor or opposition, the hearing was closed at 7:05 p.m. and comments confined to the Planning Commission members.

Commissioners Hunter and Schulte indicated they had no problems with the request.

Commissioner Vosberg noted that on the aerial photo it shows the house going out of the property line. Planner Larson stated that the aerial photos and the property lines do not match up perfectly, but the survey is accurate and shows the home in the property line.

Commissioners Walker, Holm and Chair Agnes also indicated they had no problems with the request.

MOTION WALKER, SECOND VOSBERG TO RECOMMEND APPROVAL OF WAIVER OF PLATTING #05-149 FOR A LOT SPLIT AT 8330 FAIRFIELD ROAD NORTH.

MOTION CARRIED UNANIMOUSLY.

Planning Director Sherman noted this will go to the City Council on November 28, 2005.

City of Brooklyn Park Request for Council Action

Agenda Item No:	6.2	Meeting Date:	11-28-05
Agenda Section:	Land Use Actions	Originating Department:	Planning
Resolution:	X	Prepared By:	Nicole Peterson
Ordinance:	N/A		
No. of Attachments:	7	Presented By:	Marc Hunter
Item:	City of Brooklyn Park EDA – Waiver of Platting #05-150 for a zero lot line split and Variance to lot width at 4525-29 83 rd Circle North		

Planning Commission Recommendation:

The Planning Commission, at the November 9, 2005 hearing, voted 6-1 to recommend approval of the Waiver of Platting and Variance.

City Manager's Proposed Action:

MOTION _____ SECOND _____ TO WAIVE THE READING AND ADOPT RESOLUTION #2005-____ APPROVING WAIVER OF PLATTING #05-150 FOR A ZERO LOT LINE SPLIT AND VARIANCE TO LOT WIDTH AT 4525-29 83RD CIRCLE NORTH

Overview:

The subject property contains an existing side-by-side duplex. The City's Economic Development Authority (EDA) is currently remodeling the structure. The EDA has been renovating and subdividing existing duplexes since 1995. Ten duplexes have been revitalized and 20 owner occupied units have been created with the program. The purpose of this waiver is to subdivide the units so each can be sold separately. The covenants restrict the property to an owner-occupied single-family use and regulate the exteriors of the units. It has been the goal of the program to increase owner-occupied opportunities in the City.

Primary Issues/Alternatives to Consider:

1. Approve the request with conditions as stated in the attached resolution.
2. Approve the request with modified conditions.
3. Deny the request and direct staff to draft a resolution to that effect.
4. Table or continue the request for further information.

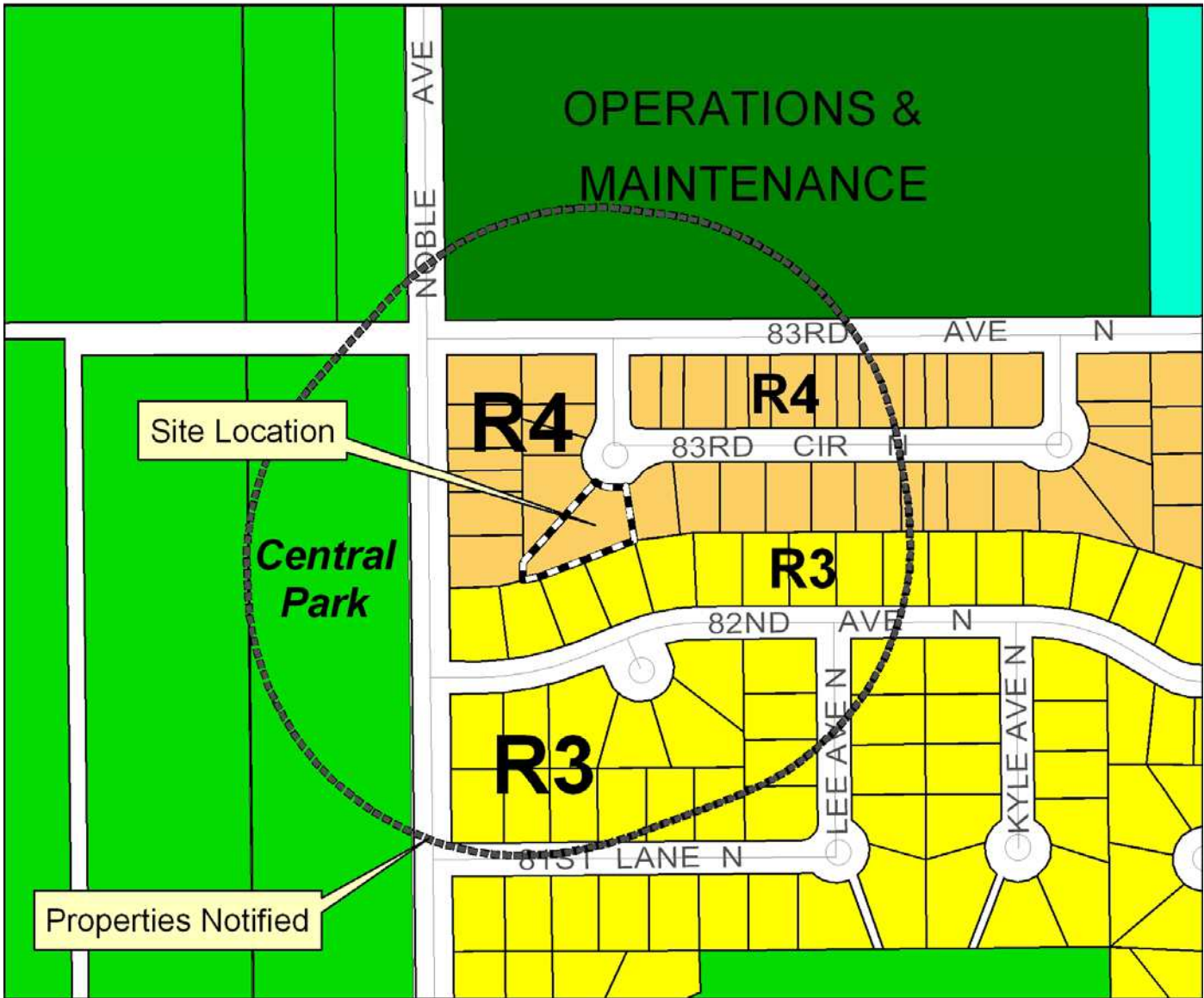
Budgetary/Fiscal Issues:

Bonds, escrows and direct payments due to the City are listed in the attached resolution.

Attachments:

- 6.2 LOCATION MAP
- 6.2 RESOLUTION
- 6.2 DECLARATION OF COVENANTS
- 6.2 SITE SURVEY
- 6.2 NEIGHBOR LETTER
- 6.2 PHOTOS
- 6.2 UNAPPROVED PLANNING COMMISSION MINUTES

Waiver of Platting #05-150
City of Brooklyn Park E.D.A 4525-4529 83rd Cir. N.



210

Feet

October 18, 2005

Residential Districts

- R1 - Urban Reserve
- R2 - Single Family Estate
- R2B - Single Family (85')
- R3 - Single Family (80')
- R3A - Single Family (75')
- R4 - Single and Two Family
- R4A - Townhouse
- R5 - Multiple Family
- R6 - Multiple Family
- R7 - Multiple Family

Overlay Districts

- HO - Highway Overlay

Business Districts

- B1 - Office Park
- B2 - Neighborhood Retail
- B3 - General Business
- B4 - Vehicle Sales & Showroom
- BP - Business Park
- I - General Industrial

Special Districts

- PCDD - Planned Community Development District
- PUD - Planned Unit Development
- TC - Town Center
- CD - Concervancy District
- PI - Public Institution
- VR - Village Redevelopment



Analysis

Planning & Zoning Information

Land Use Plan: (M) Medium Density Residential

Current Zoning: (R4) Detached Single- and Attached Two-Family Residential

Surrounding Zoning: North: (R4) Detached Single- and Attached Two-Family Residential
 East: (R4) Detached Single- and Attached Two-Family Residential
 West: (R4) Detached Single- and Attached Two-Family Residential
 South: (R3) Detached Single-Family Residential

	<u>Minimum Required</u>	<u>Parcel A</u>	<u>Parcel B</u>
Lot Area:	5,400 ft ²	6,595 ft ²	11,501 ft ²
Lot Width:	40 feet	34.29 feet	25.69 feet

Conforms to:

Land Use Code – Yes

Zoning Code – No

Variances Needed – Minimum lot width - submitted

Utilities

Both units must have independent sanitary sewer and water lines. The utilities were split this summer in preparation for a property division.

Fire Protection

A one-hour fire rating is required between the two units. Both units must be inspected to verify the proper fire protection before the property can be split.

Covenants

A declaration of covenants and restrictions must be signed by the homeowner agreeing to various issues such as exterior maintenance, remodeling, and some utilities. They protect against one owner re-siding or painting one unit differently than the other. Additionally, the EDA's covenants restrict the property to an owner-occupied single-family use. It has been the goal of the program to increase owner-occupied opportunities in the City.

The Planning Commission discussed the covenant language regarding architectural controls over the units. Specifically, the Commission stated concern that the language is not strict enough to deter owner's from installing different siding, roofing etc. The Commission suggested that the units form an association and dues to prepare for future repairs. Staff is researching the Commissions suggestions.

Variance

The proposal requires a variance to the lot width requirement in the R4 district. Staff has prepared the following findings relating to the variance review standards outlined in the Zoning Code.

1. *There are circumstances unique to the property that were not created by the landowner. Unique*

conditions may include the physical topography, vegetation, or water conditions that may exist on the property.

The existing structure on the subject property is blighted. The City EDA is remodeling the structure in compliance with the Building Code. In general the structure and property will remain the same. The waiver of platting request will allow the City to sell the units separately.

2. *The property, if the variance is granted, will not be out of character with other properties in the same neighborhood.*

The existing structure will remain a duplex. All the structures off 83rd Circle N. are duplexes. Three other duplexes on 83rd Circle N. have been remodeled by the City EDA and have been granted waivers/ zero lot line splits.

3. *Inadequate access to direct sunlight for solar energy systems.*

NA

4. *The applicant has exhausted all reasonable possibilities for using his/her property or combining a substandard lot due to size, shape or lot line dimensions, with an adjacent vacant lot.*

Combining the subject property with adjacent lots would create more non-conformities. The use of the property as rental has resulted in its blight. The goal of the waiver/ variance request is to create owner occupied units.

Neighborhood Comments

One neighbor submitted a letter of support (attached).

RESOLUTION #2005-_____

RESOLUTION APPROVING WAIVER OF PLATTING #05-150
FOR A ZERO LOT LINE SPLIT AND VARIANCE TO LOT WIDTH
AT 4525-29 83RD CIRCLE NORTH

Planning Commission File #05-150

Be it resolved by the City Council of the City of Brooklyn Park, Minnesota:

That the requirements of the Ordinance of the City of Brooklyn Park, Section 151.010, relating to the conveyance of parcels of land less than twenty (20) acres in area are hereby waived to permit the conveyance as follows:

Parcel A (4525 83rd Circle North):

That part of Lot 14, Block 2, Konnay's Brookdale Estates East 10th, City of Brooklyn Park, Hennepin County, Minnesota lying southerly and easterly of the following described line: Commencing at the southeasterly most corner of said lot 14; thence on an assumed bearing of South 71 degrees 30 minutes 30 seconds west along the southerly line of said lot 14, a distance of 89.52 feet tot the point of beginning of the line to be described; thence North 15 degrees 39 minutes 41 seconds East a distance of 133.57 feet to a point on the southerly right of way line of 83rd Circle as dedicated in the duly recorded plat of Donnay's Brookdale Estates East 10th, and said line there terminating.

Parcel B (4529 83rd Circle North):

That part of Lot 14, Block 2, Donnay's Brookdale Estates East 10th, City of Brooklyn Park, Hennepin County, Minnesota lying northerly and westerly of the following described line: Commencing at the southeasterly most corner of said Lot 14; thence on an assumed bearing of South 71 degrees 30 minutes 30 seconds West along the southerly line of said Lot 14, a distance of 89.52 feet to the point of beginning of the line to be described; thence North 15 degrees 39 minutes 41 seconds East a distance of 133.57 feet to a point on the southerly right of way line of 83rd Circle as dedicated in the duly recorded plat of Donnay's Brookdale Estates East 10th, and said line there terminating.

Subject to the following conditions:

- a. Sanitary sewer and water must be separated in order to provide independent service to each dwelling unit.
- b. A one-hour fire separation rating must be present on each of the two units.
- c. A licensed inspector shall inspect to make sure all utilities and fire separations are in place prior to the release of the resolution.
- d. The applicant shall be required to record a copy of this resolution with the Hennepin County Recorder and/or Register of Titles and to pay all fees for said recording and shall file proof of said recording with the City.
- e. Filing of the following declaration of covenants and restrictions for the properties with the Hennepin County Recorder at the same time as recording this resolution.

**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS**

THIS DECLARATION, made this ____ day of _____, 2005, by the Brooklyn Park Economic Development Authority ("EDA"), a public body corporate and politic, whose principal offices are located at 5200 85th Avenue North, Brooklyn Park, MN 55443.

WITNESSETH:

WHEREAS, the EDA is the owner of real property commonly known as (4525-29 83rd Circle North, Brooklyn Park, located in the County of Hennepin, State of Minnesota, ("Property") legally described as follows:

Parcel A (4525 83rd Circle North):

That part of Lot 14, Block 2, Konnay's Brookdale Estates East 10th, City of Brooklyn Park, Hennepin County, Minnesota lying southerly and easterly of the following described line: Commencing at the southeasterly most corner of said lot 14; thence on an assumed bearing of South 71 degrees 30 minutes 30 seconds west along the southerly line of said lot 14, a distance of 89.52 feet tot the point of beginning of the line to be described; thence North 15 degrees 39 minutes 41 seconds East a distance of 133.57 feet to a point on the southerly right of way line of 83rd Circle as dedicated in the duly recorded plat of Donnay's Brookdale Estates East 10th, and said line there terminating.

Parcel B (4529 83rd Circle North):

That part of Lot 14, Block 2, Donnay's Brookdale Estates East 10th, City of Brooklyn Park, Hennepin County, Minnesota lying northerly and westerly of the following described line: Commencing at the southeasterly most corner of said Lot 14; thence on an assumed bearing of South 71 degrees 30 minutes 30 seconds West along the southerly line of said Lot 14, a distance of 89.52 feet to the point of beginning of the line to be described; thence North 15 degrees 39 minutes 41 seconds East a distance of 133.57 feet to a point on the southerly right of way line of 83rd Circle as dedicated in the duly recorded plat of Donnay's Brookdale Estates East 10th, and said line there terminating.

Subject to easements of record.

WHEREAS, there exists on the Property a residential building, sometimes referred to as a twin home, consisting of two side-by-side single family Living Units.

NOW, THEREFORE, the EDA hereby declares that, for the purpose of protecting the value and desirability of the Property, said Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions and easements contained in this Declaration.

**ARTICLE I
DEFINITIONS**

The following words, when used in this Declaration (unless the context prohibits), shall have the following meanings:

"City" shall mean and refer to the City of Brooklyn Park, Brooklyn Park, Minnesota.

"Declaration" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements.

"Living Unit" shall mean and refer to a portion of the residence building situated upon the Property that is designed and intended for use and occupancy as a residence by a single family.

"Lot" shall mean and refer to a portion of the Property upon which one of the two Living Units is situated, whether or not the same is a platted lot.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to a Lot and the Living Unit situated thereon, including contract vendors and vendees, but excluding those having an interest merely as a security for the performance of an obligation and excluding those having a lien upon the property by provision or operation of law.

ARTICLE II BUILDING AND USE RESTRICTIONS

Section 1. Residential Use. No Living Unit shall be used for purposes other than an owner-occupied single-family residence. No garage shall be used for or occupied as living or sleeping quarters. No trade or business, except Home Occupations permitted by the City's Zoning Code, shall be carried on within a Living Unit or upon a Lot; nor shall any Lot, Living Unit, or any part thereof be leased, sublet, assigned, or suffered to be used for hotel or transient occupancy.

Section 2. Prohibition of Certain Activities. Nothing shall be done or kept on a Lot or in a Living Unit that would increase the cost of insurance for the Owner of the adjoining Living Unit over what such Owner, but for such activity, would pay, without the prior written consent of said adjoining Owner. Nothing shall be done or kept on any Lot that would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the exterior of the residential building containing the Living Units shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the other Owner harmless for all loss resulting from any such damage or waste caused by his or her invitee(s). No noxious, destructive or offensive activity shall be conducted on any Lot or in any Living Unit; nor shall anything be done thereon which may be or become an annoyance or nuisance to any other Owner, or to any other person at any time lawfully residing on the Property, or to the public.

Section 3. Storage. Outside storage of any items, including but without limiting the generality of the foregoing, sporting equipment, toys, outdoor cooking equipment, yard and garden tools and equipment and trash and garbage containers, shall not be allowed unless screened from view outside the Lot. The storage or collection of rubbish or debris of any character whatsoever or any material that emits foul or obnoxious odors; or any unsightly materials; or the growing of any noxious weed or other natural substance; or the harboring of the source of any noise or activity which disturbs the peace, comfort or serenity of other Owner are prohibited. Usual household trash and garbage shall be regularly collected and may be kept outside only if in sanitary containers which are screened from view. No boats, snowmobiles, trailers, camping vehicles, unlicensed or inoperable automobiles or trucks or other vehicles shall at any time be stored or parked outside on either Lot.

Section 4. Signs. No sign of any kind shall be displayed to the public view from a Lot, except that a "For Sale" sign may be displayed if a Living Unit is being offered for sale.

Section 5. Animals. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in a Living Unit or on a Lot, except common household pets, provided that such household pets are not kept, bred, or maintained for any commercial purposes.

Section 6. Prohibited Structures. No structure of a temporary character, trailer, tent or shack shall be maintained on a Lot.

ARTICLE III PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall that is built as part of the original construction of a Living Unit upon the Property and is located on the dividing line between the two Lots shall constitute a "party wall". To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions thereto shall apply.

Section 2. Share of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who share the party wall.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who makes use of the wall may restore it, and, if the other Owner thereafter makes use of the wall, (s)he shall contribute to the cost of restoration thereof in proportion to his/her use, without prejudice, however, to the right of an Owner to call for a larger contribution under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner, who, by negligent or willful acts, causes the party wall to be exposed to the elements, shall bear the cost of furnishing the necessary protection from the elements and of repairing the damages to the party wall caused by such exposure.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from another Owner under this Article shall be appurtenant to the land and shall pass to successors in title.

Section 6. Mechanics' Liens. An Owner of a Lot, on which work is performed or materials are supplied to make repairs or replacement to said Lot for which said Owner is responsible, shall indemnify and hold harmless the Owner of the adjoining Lot from any Mechanics' Liens filed against the Property arising from such work or materials.

Section 7. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator and the decision of a majority of all the arbitrators shall be final and conclusive of the question(s) involved. If either party refuses or fails to promptly appoint an arbitrator, the same may be appointed by any Judge of the District Court, Hennepin County, Minnesota. Arbitration shall be in accordance with the rules of the American Arbitration Association. The cost of Arbitration shall be borne equally by the parties involved in the dispute.

ARTICLE IV COVENANTS FOR INSURANCE AND MAINTENANCE

Section 1. Maintenance of Insurance. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, covenants to carry, maintain, and timely pay the premium or premiums, on a policy of fire, extended coverage, vandalism, and malicious mischief with all risk endorsement insurance. Said insurance is to cover, at minimum, the entire replacement cost of the Living Unit located on each Lot. A copy of said policy of insurance shall be provided by each Owner of a Lot to the Owner of the adjoining Lot.

Section 2. Damage to or Destruction of Living Unit(s). In the event of damage to, or destruction of a Living Unit, the Owner of such Living Unit shall restore it to its condition immediately prior to the damage or destruction.

Section 3. General Maintenance. Each Owner shall maintain his/her Lot and the exterior of his/her Living Unit in good condition and repair and in a clean and neat condition, and in compliance with all City codes and ordinances and with the provisions of Article V below.

ARTICLE V ARCHITECTURAL CONTROL

Section 1. Exterior Repair and Maintenance. The Owner of a Living Unit may replace exterior components of his/her Living Unit with similar components of the same design and color and may paint the exterior of his/her Living Unit with paint of the existing color.

Section 2. Prohibitions. Unless the written consent of the EDA and the Owner of the adjoining Living Unit is first obtained, the Owner of a Living Unit may not (i) employ different siding or roofing material or a different color scheme on his/her Living Unit, whether in the course of ordinary replacement or remodeling or restoration after damage or destruction; (ii) erect a building, fence, wall or other structure; or (iii) change or alter the exterior of his/her Living Unit or build an addition thereon. The Owner requesting consent shall submit to the EDA and the Owner of the adjoining Living Unit all plans, specification and/or samples showing, where appropriate, the nature, kind, shape, height, materials and location of the same so that they may be reviewed as to harmony of external design and location in relation to surrounding structures and topography.

Section 3. Arbitration. Any dispute arising between Owners concerning a request made by an Owner pursuant to Section 2 of this Article shall be resolved by arbitration. Arbitration shall be conducted in the same manner as is described in Article III, Section 7. The EDA shall be notified in writing at least thirty days prior to any arbitration hearings conducted pursuant to this Article V and shall have the right, but not the obligation, to present evidence regarding any architectural disputes in order to protect the health, safety and general welfare of the residents of the City and the property values of the neighborhood in which the Property is located.

ARTICLE VI MUTUAL EASEMENTS

Section 1. Non-exclusive Easement; Utilities. Each Lot shall, where applicable, be subject to an appurtenant non-exclusive easement in favor of the other Lot for the use, maintenance and repair of utility installations which lie over, under and through such Lot, benefit the other Lot and were constructed prior to the date of filing of this Declaration.

Section 2. Cost of Repair and Maintenance. The cost of repair and maintenance of utility installations shall be paid by the Owner whose Lot is served by such utility installation. The cost of repair and maintenance of a utility installation serving both Lots shall be shared by the Owners of both Lots equally. Repair and maintenance of decks and retaining walls shall be paid by the Owner of the Lot upon which the deck or retaining wall is located unless such repair or maintenance affects both Lots, in which case the cost shall be shared by both Owners in proportion to the labor and materials furnished to each Lot.

Section 3. Non-exclusive Easement; Driveway. Each Lot shall be subject to an appurtenant non-exclusive easement in favor of the other Lot for the use, maintenance, and repair of the driveway serving both Living Units. The cost of repair and maintenance of the driveway shall be shared by the Owners of both Lots equally.

Section 4. Encroachments. If any portion of a Living Unit located on a Lot shall encroach upon the adjoining Lot, or if such encroachment should hereafter arise because of settling or shifting of said Living Unit or other cause, there shall be deemed to be an easement in favor of the Owner of the encroaching Living Unit to the extent of such encroachment so long as the same shall exist.

ARTICLE VII RESTRICTIONS ON RECONVEYANCE

Section 1. Five Year Restriction on Conveyance. For a period of five years after the date of the sale of a Lot by the EDA, said Lot shall be subject to a restriction of re-conveyance if the Owner of said Lot desires to sell the Lot within said time period. Said Owner must notify the EDA in writing of its receipt of a bonafide offer which notice shall include all terms and conditions of said offer.

Section 2. Right of First Refusal. The EDA shall have 45 days from the receipt of the above described notice to exercise a right of first refusal to repurchase the Lot. In the event the EDA decides to exercise its right of first refusal, it must notify the Owner of its intent to repurchase, in writing, within 45 days. The EDA will have 60 days from the day it notifies the Owner of its intent to repurchase to complete the purchase in accordance with the terms of the bonafide offer received by the Owner.

Section 3. Release of Restriction. If the EDA does not exercise its right of first refusal in accordance with procedure described above, the Owner shall be free to accept the bonafide offer.

Section 4. Application of Restriction. For the purpose of this Article, the term "sell" shall mean any transfer, sale or conveyance of an Owner's interest in a Lot, whether by deed, contract for deed or otherwise. In the event of foreclosure, deed-in-lieu of foreclosure or assignment of an insured mortgage to HUD, the restrictions on re-conveyance contained in this Section will automatically and permanently terminate.

ARTICLE VIII GENERAL PROVISIONS

Section 1. Duration. Except as otherwise provided in Article VII, the covenants, conditions, restrictions and easements of this Declaration shall be permanent and shall run with the land and shall inure to the benefit of and be enforceable by the Owner of the Lots subject to this Declaration, his/her legal representatives, heirs, successors and assigns and the EDA.

Section 2. Amendments. This Declaration may be amended by an instrument signed by 100% of the Owners of the Lots herein, and consented to by 100% of the mortgagees holding a first mortgage on said Lots. Any amendment must also be approved by the Board of Commissioners of the EDA and signed by its President.

Section 3. Enforcement. Enforcement of these covenants, conditions, restrictions and easements may be initiated by any Owner or by the EDA through a proceeding at law or in equity, or both, against any persons violating or attempting to violate any provision hereof, either to restrain violation or compel compliance, or to recover damages. Failure by any Owner or by the EDA to enforce any provision hereof shall in no event be deemed a waiver of the right to do so thereafter. Attorney's fees, costs, and expenses of any such actions to restrain violation, compel compliance, or to recover damages shall be assessable against and payable by any person violating the terms contained herein.

Section 4. Severability. Invalidation of any one of these covenants, conditions, restrictions or easements by

judgment or court order shall in no way affect any other provision hereof which shall remain in full force and effect.

Section 5. Applicable Law. This Declaration shall be construed in accordance with and governed by the laws of the State of Minnesota.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused these presents to be executed the day and year first above written

BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY

By: _____
Its President

By: _____
Its Executive Director

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this day of _____, 2004, by the President and Executive Director, respectively, of the Brooklyn Park Economic Development Authority, a public body corporate and politic, on behalf of such public body.

Notary Public

The Instrument Drafted by:
Holmes & Associates, Ltd.
Two Carlson Parkway, Suite 155
Minneapolis, MN 55447

SURVEY FOR: The City of Brooklyn Park
DESCRIPTION: Lot 14, Block 2, DONNAYS BROOKDALE ESTATES
EAST 10TH, City of Brooklyn Park, Hennepin County,
Minnesota.

Jim Kyo & Associates, Inc.

PROFESSIONAL LAND SURVEYORS
AND LAND DEVELOPMENT CONSULTANTS
(763) 421-9126

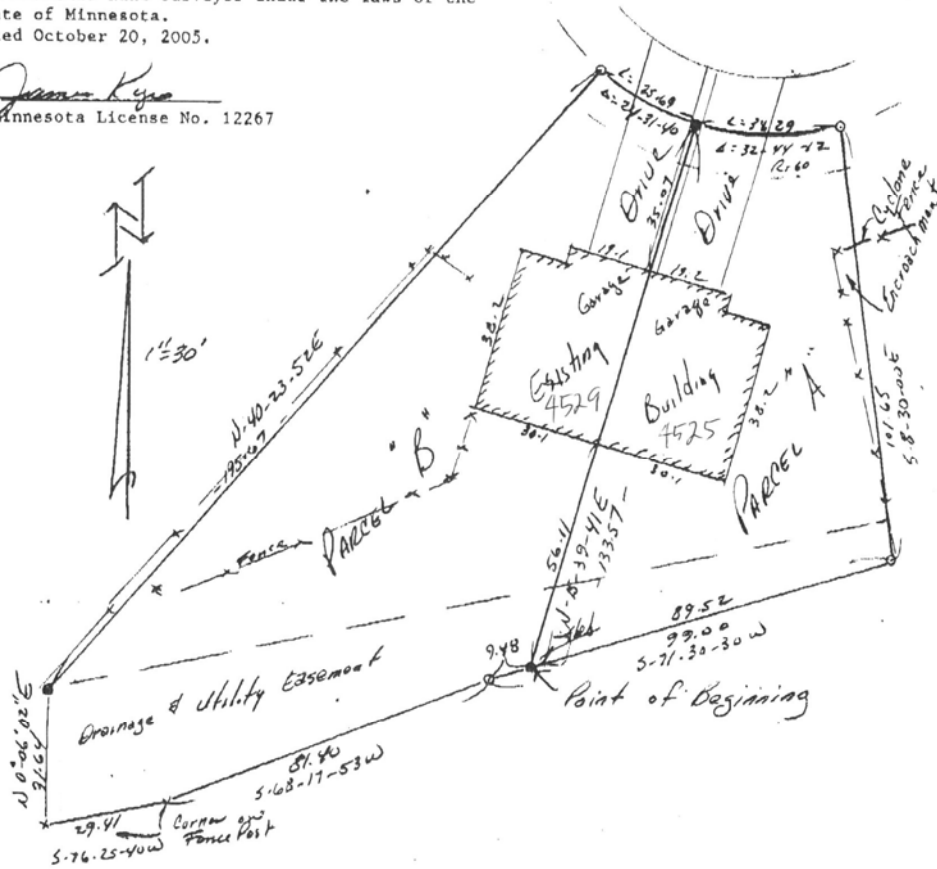
13621 VINEWOOD LANE

DAYTON, MN 55327

- o Denotes Iron Monuments found
- Denotes Iron Monuments set
- x Denotes Property corner falls within fence post

I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly Licensed Professional Land Surveyor under the laws of the State of Minnesota.
Dated October 20, 2005.

By *Jim Kyo*
Minnesota License No. 12267



PROPOSED DESCRIPTION FOR PARCEL A

That part of Lot 14, Block 2, DONNAY'S BROOKDALE ESTATES EAST 10TH, City of Brooklyn Park, Hennepin County, Minnesota lying southerly and easterly of the following described line:

Commencing at the Southeasterly most corner of said Lot 14; thence on an assumed bearing of South 71 degrees 30 minutes 30 seconds West along the southerly line of said Lot 14, a distance of 89.52 feet to the point of beginning of the line to be described; thence North 15 degrees 39 minutes 41 seconds East a distance of 133.57 feet to a point on the southerly right of way line of 83rd Circle as dedicated in the duly recorded plat of DONNAY'S BROOKDALE ESTATES EAST 10TH, and said line there terminating.

PROPOSED DESCRIPTION FOR PARCEL B

That part of Lot 14, Block 2, DONNAY'S BROOKDALE ESTATES EAST 10TH, City of Brooklyn Park, Hennepin County, Minnesota lying northerly and westerly of the following described line:

Commencing at the Southeasterly most corner of said Lot 14; thence on an assumed bearing of South 71 degrees 30 minutes 30 seconds West along the southerly line of said Lot 14, a distance of 89.52 feet to the point of beginning of the line to be described; thence North 15 degrees 39 minutes 41 seconds East a distance of 133.57 feet to a point on the southerly right of way line of 83rd Circle as dedicated in the duly recorded plat of DONNAY'S BROOKDALE ESTATES EAST 10TH, and said line there terminating.

4608 82nd Ave N
Brooklyn Park, MN 55443
November 2, 2005

Planning Commission
City Of Brooklyn Park
5200 85th Ave N
Brooklyn Park, MN 55443

Subject: Hearing for waiver of platting for a duplex split to create owner-occupied units, 4525-4529 83rd Circle North, case #05-150.


Dear Planning Commission:

I am a homeowner owning property that is adjacent to the property in question. My property is the west-most of the three properties that are on the south side.

I would simply like to go on record saying that I am very much in favor of seeing the request for waiver granted.

Owner-occupied units are, in my opinion, better for the neighborhood in general. Owner-occupiers take pride in keeping up the condition of their properties, and the owners identify with the neighborhood regarding civic and social issues.

Sincerely,



Ron Zechmeister



Above: Subject Property

Below: Example Finished Twinhome



**MINUTES OF THE BROOKLYN PARK PLANNING COMMISSION
REGULAR MEETING**

November 9, 2005

Unapproved Minutes

The meeting was called to order at 7:00 p.m.

Those present were: Chair Agnes, Commissioners Antolak (part), Holm, Hunter, Vosberg, Schulte and Walker; Planning Director Sherman, Planners Larson and Peterson

Others present were: Councilmember Simmons

Those absent were: Commissioners Conn and Lunde

2. ROLL CALL

3. EXPLANATION BY CHAIR

4. APPROVAL OF AGENDA

MOTION VOSBERG, SECOND WALKER, TO APPROVE THE NOVEMBER 9, 2005 MEETING AGENDA AS PRESENTED. *MOTION PASSED UNANIMOUSLY.*

5. CONSENT ITEMS

There were none.

6. PUBLIC HEARING

B. “City of Brooklyn Park EDA” Waiver of Platting for a twinhome split; 4525-4529 83rd Circle North.

Planner Peterson summarized the Staff report, indicating Staff recommends approval.

The public hearing was opened at 7:08 p.m.

There being no public comment and no one else appeared in favor or opposition, the hearing was closed at 7:08 p.m. and comments confined to the Planning Commission members.

Commissioner Holm stated he thinks it is great the City is doing this with dilapidated housing.

Commissioner Antolak arrived at 7:09 p.m.

Commissioner Walker asked Staff to point out the location of the variance. Planner Peterson showed the site map, noting the variance is necessary at the street.

Commissioner Vosberg stated she likes the fact they are making this owner-occupied, but has a concern about not making it mandatory to keep the outside the same. She indicated that the report says if the owner has permission from the owner of the other side they can use different materials or colors.

Chair Agnes stated he thought they had this discussion on a previous case and that language was going to be

changed. Planning Director Sherman indicated there was a lot of discussion about it, but there was a problem with the language choice so it was decided to leave it the same. She stated you cannot prevent an owner from upgrading a property. She indicated they had a situation this summer where an owner was going to add vinyl siding and the other owner could not afford it, so they used a similar color, but not the same material.

Chair Agnes indicated that he thinks the Planning Commission felt that the blighted property is better than having one upgraded and one not upgraded. Commissioner Vosberg stated that she thinks they said these units were intended to be viewed as one property. She indicated she thought they were going to go back and review the language with the City Attorney to see what they can do.

Chair Agnes stated that he does not know if the concern is with this one in particular, but he thinks they need to resolve the issues. Commissioner Vosberg agreed she does not have a problem with this one, but she wants the issue addressed. Planning Director Sherman added that this particular property has been upgraded before it is being divided, so there is less exposure as there may be with others.

Commissioner Walker noted that it says in the covenants that there has to be approval from the EDA, and asked if that applied to this sale or with future sales. Planning Director Sherman indicated that the EDA is selling this property for the purposes of ownership, so the covenants remain with the property.

Commissioner Antolak stated the he believes that was part of the checkpoint the City had, in that the EDA had some say in what happens with the property. He indicated it may be that they should be requiring some type of escrow, such as a self-funding homeowner association, so when a 30-year roof needs replacing there is money set aside.

Commissioner Antolak commented that he does not want to set up a homeowner for failure by not being able to afford repairs needed. He indicated he was thinking this would go forward but that they might make a suggestion to the EDA that rather than having a string tied forever to the City that an escrow is set up. Chair Agnes agreed this was a good idea.

Commissioner Walker indicated he likes that idea, but does not understand why the EDA is retaining their say in the issues. Chair Agnes stated somebody needs to control the escrow, but he does not want two neighbors fighting over what needs to be done with the escrow.

Commissioner Schulte stated that these are subsidized by being rehabilitated and sold at a reasonable market rate. He indicated that having to provide an escrow may make it less affordable for someone trying to buy one, but it is a necessity, and would be an asset at the time of sale. He added this requirement is typical of many properties for sale. He stated that he does not think the EDA should give up all of their rights in having a say, but they need a purpose for involvement.

Commissioner Schulte indicated he likes the program, and likes what they are doing with these homes, but is uncomfortable with the language of the variance. He asked if it was not blight itself that created the need for the variance, and the desire of the property owner to sell it as separate property. He stated he thinks they need to address it so there is not a need for a variance. He indicated that the reason for the variance should be unique and verifiable; not just because of blight. He stated he thinks there is another way they could get there, and he does not think this is the way.

Chair Agnes asked if every finding has to be met to grant a variance. Planning Director Sherman indicated that the ordinance was crafted for two units on one lot, rather than for splits. She stated she thinks it may work to address it individually here and change the ordinance to allow these types of properties where they are going from rental to ownership so zero lot lines would be allowed.

Chair Agnes agreed that changing the ordinance is the way to go, since they are trying to do this redevelopment with duplexes.

Commissioner Antolak stated that he agrees the ordinance should be changed so it does not require a variance, however he noted that the Supreme Court recognizes blight as a reason for eminent domain, so he feels if it is good enough for that drastic action, he is okay using it for a variance here. He agreed a change to the ordinance is more appropriate so they do not appear to be saying it is okay for the EDA but no one else.

Commissioner Schulte argued that this is not a land taking such as in a case of use of eminent domain. He indicated that EDA bought this as a willing buyer, knowing it was blighted. He stated that if the EDA thought they could get a variance it may have been an erroneous belief.

Chair Agnes stated he is trying to get to a point where they can pass this because he knows it is what should happen. He indicated that after that, they should change the ordinance so they do not have to go through this again.

Commissioner Schulte commented that he does not think they are at a point where they can approve it. Chair Agnes stated he thinks they are, adding he can support this with the findings of blight. Commissioner Schulte indicated that in that case they should change the findings to include blight. Chair Agnes indicated that the point he believes Commissioner Antolak was making is flight is justifiable for the Supreme Court, however he was not saying these are connected. He stated that blight is a unique circumstance that the current owner did not create.

Commissioner Schulte asked if any owner with blight they did not create could get a variance. Chair Agnes reiterated this is unique, and other owners could come to the Planning Commission for a variance, but it is not to say they would always be granted. He stated they would have to look at circumstances individually.

Commissioner Schulte stated that they are saying blight is a reason for a variance, and asked if the Planning Commission was prepared for everyone that comes forward saying blight is a unique circumstance.

Commissioner Antolak indicated they could not foresee every circumstance, and they will have to take each case individually. He stated that he thinks there is a solution that is justified here. He agreed that it is thin, and it makes him nervous that they are coming to the edge, but believes that is the intent of a variance. He stated he is not saying it is justification in all cases, but the nature of the blight they are addressing is justification for this variance. He stated that he thinks if the owner of a blighted property came and said they had a way to solve the problems so they would not happen again that the Planning Commission should consider it, and he is comfortable with that situation.

MOTION ANTOLAK, SECOND HUNTER, TO RECOMMEND APPROVAL OF WAIVER OF PLATTING #05-150 FOR A ZERO LOT LINE SPLIT AND VARIANCE TO LOT WIDTH AT 4525-29 83RD CIRCLE NORTH.

Commissioner Vosberg asked if they were going to add language about a Homeowner's Association. Commissioner Antolak stated he thought they could make a recommendation, but he is hesitant to put it in the motion because it may need more thought by Staff. He indicated they talked about roofing and siding, but there may be more that should be addressed. Planning Director Sherman stated Staff will address that when it goes to the City Council, and will also look at the language from previous cases.

Commissioner Schulte noted that everything the Planning Commission does is a recommendation to the City Council, and he thinks it would be appropriate to make it part of the motion. Commissioner Antolak noted that was a good point, and suggested the following amendment:

1. That an escrow be set up to address exterior repairs.

Commissioner Hunter agreed with the amendment.

MOTION PASSED. Vote: 6:1 Commissioner Schulte opposed.

Commissioner Schulte stated that he thinks when they create blight as a hardship that allows variances it can open the City up to many ramifications. He indicated he would hope they would approach this as a step to changing the zoning ordinance to allow zero lot line splits, as he thinks there is a lot of harm that could be opened up.

Planning Director Sherman noted this is scheduled to go to the City Council on November 28, 2005.

City of Brooklyn Park Request for Council Action

Agenda Item No:	7.1	Meeting Date	November 28, 2005
Agenda Section:	General Action Items	Originating Department:	Administration
Resolution	N/A	Prepared By:	Marlene Kryder, Program Assistant
Ordinance	N/A		
No. of Attachments	N/A	Presented By:	Mayor Lampi
Item:	Appointments to the Budget Advisory Commission and Citizen Long-range Improvement Committee		

City Manager's Proposed Action:

Appoint Commissioners to fill vacancies on the Budget Advisory Commission and Citizen Long-range Improvement Committee.

Budget Advisory Commission

MOTION _____, SECOND _____ TO APPOINT _____ TO THE BUDGET ADVISORY COMMISSION TO REPRESENT THE CITY AT-LARGE EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE JUNE 1, 2007 (replacing Tina Carstens).

MOTION _____, SECOND _____ TO APPOINT _____ TO THE BUDGET ADVISORY COMMISSION TO REPRESENT THE EAST DISTRICT EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE JUNE 1, 2006 (replacing Robert Pleau).

Citizen Long-range Improvement Committee

MOTION _____, SECOND _____ TO APPOINT _____ TO THE CITIZEN LONG-RANGE IMPROVEMENT COMMITTEE TO REPRESENT THE CENTRAL DISTRICT EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE APRIL 1, 2008 (replacing Bradley Norman).

MOTION _____, SECOND _____ TO APPOINT _____ TO THE CITIZEN LONG-RANGE IMPROVEMENT COMMITTEE TO REPRESENT THE CENTRAL DISTRICT EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE APRIL 1, 2006 (replacing John Clayton).

MOTION _____, SECOND _____ TO APPOINT _____ TO THE CITIZEN LONG-RANGE IMPROVEMENT COMMITTEE TO REPRESENT THE CITY AT-LARGE EFFECTIVE IMMEDIATELY FOR THE BALANCE OF A TERM TO EXPIRE APRIL 1, 2006 (replacing Eugene Dix).

Overview:

On November 21, 2005, the City Council interviewed commission applicants to fill vacancies on the Budget Advisory Commission and Citizen Long-range Improvement Committee.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park Request for Council Action

Agenda Item No:	8.1	Meeting Date:	11-28-05
Agenda Section:	Discussion Items	Originating Department:	Finance and Administrative Services
Resolution:	N/A	Prepared By:	Diane Deblon, Acting Finance Director
Ordinance:	N/A		
No. of Attachments:	1	Presented By:	Doug Reeder, City Manager
Item:	2006 Budget Discussion		

City Manager's Proposed Action:

As discussed at the November 21 City Council meeting, the City Council is planning to vote on various items for changes to the proposed 2006 budget to be prepared for the December 5 Truth in Taxation public hearing.

Overview:

The City Council will be holding the public hearing for Truth in Taxation at 7:00 p.m. on December 5. The proposed budget is a 16% increase in City property taxes from 2005, excluding increases in property values. The Budget Advisory Commission made recommendations to the City Council for revenue increases and expenditure reductions that totaled \$1,454,447. The City Manager recommendations for revenue increases and expenditure reductions totaled \$1,421,435. A comparison of these recommendations was presented and discussed on November 21.

The City Council then decided to vote on the specific budget items to be changed at your November 28 meeting. The 2006 budget changes will then be made available and presented as part of the public hearing for Truth in Taxation.

Primary Issues/Alternatives to Consider:

The attached schedules show the cumulative changes to revenues and expenditures.

Budgetary/Fiscal Issues:

The tax levy reduction required to achieve a zero increase is \$1,592,000.

Attachments:

8.1 2006 BUDGET RECOMMENDATIONS

**2006 Budget
City Manager Recommendations**

Non Tax Revenue Changes

		<u>Cumulative</u>
Gang Strike Force Grant	\$ 20,000	\$ 20,000
Engineering Fees for Village Creek	115,000	135,000
Police Town Aid	75,000	210,000
Fire Inspection Fees w/Osseo	10,000	220,000
Engineering Fees for Additional Projects	54,000	274,000
Code Enforcement Fees Increase	4,500	278,500
Police Cadet Grant	<u>30,000</u>	\$308,500
Subtotal Revenue	\$308,500	

Personnel and Department Reductions

Police Captain	\$108,174	\$416,674
½ Project Engineer	49,085	465,759
½ New Program Asst. in Human Resources	22,122	487,881
P.T. Program Asst. in City Manager	20,476	508,357
Park Patrol Reduction	10,000	518,357
Fire Department Hours and Training	20,000	538,357
Operations & Maintenance Reductions	43,000	581,357
Parks and Recreation Capital Outlay Reductions	20,000	601,357
Mayor and Council Reductions	8,700	610,057
Finance Reductions	4,800	614,857
Health Insurance Changes	<u>(5,955)</u>	\$608,902
Subtotal Department Reductions	\$300,402	

Other Reductions

Webstreaming	\$ 20,000	\$628,902
Delinquent Taxes (net)	200,000	828,902
Internal Services	<u>(15,967)</u>	\$812,935
Subtotal Other Reductions	\$204,033	

Cumulative changes subtotal \$812,935

Items for City Council to Vote On:

		<u>Cumulative</u>
1. EDA Levy Reduction	(325,000 or 300,000)	_____
2. Click to Gov Reductions	(98,000 or 32,000)	_____
3. AMM Dues Elimination	(11,947 or 0)	_____
4. Park and Recreation Reductions	(???????????)	_____
5. North Metro Mayors Elimination	(0 or 37,191)	_____
6. Contingency Reduction	(250,000 or ??)	_____
7. Supplies	1% = 9,700	_____
8. City Calendar Elimination	(0 or 25,000)	_____
9. Target Building Permit Fees Increase	(up to \$170,000)	_____
Grand Total Changes		\$ _____

Detailed Information for Department Reductions

Operations & Maintenance Reductions

Park grounds turf maintenance contractual services reduction	\$10,000
Park grounds fertilizer elimination in some parks	5,000
Park grounds sealcoating reduction	6,000
Reduce contractual services for snow removal	12,000
Reduce seasonal part-time in signs and markings program	6,000
Reduce supplies for signs and markings	<u>4,000</u>
Total Operations and Maintenance reductions	\$43,000

Park and Recreation Capital Outlay Reductions

Table and chairs reduction at CAC	\$12,000
Reduce carpeting costs at CAC	<u>8,000</u>
Total Park and Recreation Capital Outlay Reductions	\$20,000

Mayor and City Council Reductions

Supplies reduction for joint meetings and focus groups	\$ 120
Communications reductions	120
Annual retreat reduction	2,000
Conferences and schools reduction	5,160
Meetings and travel reduction	<u>1,300</u>
Total Mayor and City Council Reductions	\$8,700

Finance Reductions

Eliminate delinquent utility billings (postage and supplies)	\$ 4,800
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PAYABLE 2006 TAX LEVY

Tax Capacity Levy

	Certified Levy	Dist. Percent	F. D. Distribution	Local Levy	Tax Rate	Spread Levy	Year 2005 Actual	Year over year change
General Levy*	21,327,438.0	96.109%	2,840,945.0	18,486,493.0	36.392%	18,486,493.0	35.905%	1.4%
Debt Levy	863,534.0	3.891%	115,028.0	748,506.0	1.473%	748,256.8	0.952%	54.7%
						19,234,749.8		
Totals	22,190,972.0	1.0	2,955,973.0	19,234,999.0	37.865%	19,234,749.8	36.857%	2.7%

Market value levy**

1,160,343	0.02108%						0.03116%	-32.3%
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Tax Capacity Market Value

50,798,155	5,504,473,434		\$189,600			\$189,600		0.0%
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*includes TIF \$153,066 +\$8,355 & EDA levy of \$1,015,714

General fund levy of \$21,742,303

Overall reduction of \$1,592,000

General Tax Levy	\$717.92	\$698.81	2.7%
Market Value Debt	\$39.97	-\$59.08	-32.3%
Total Tax	\$757.89	\$757.89	0.0%

Tax Capacity

1896	1896
------	------

Memo

To: Diane Deblon
From: Steve Schmidt
Date: November 22, 2005

Re: 2005 Supplies Budget

The Fire Department has made a concerted effort this year not to have an excess amount in our supplies budgets at the end of the year and then give the impression that we need to spend the money or lose it.

The Fire Department has 5 supplies budgets, one for each program. The total amount budgeted for 2005 is \$86,333. The total amount remaining to date is \$9,218.77. We attempt to keep a small amount of money available to cover any unforeseen expenditures that may arise at the end of the year, however we have kept that amount as low as possible by only budgeting for the actual amount that we need for the year.

Memorandum

Date: November 22, 2005

To: Doug Reeder

From: Diane Deblon

Subject: Supplies Budget

The Finance Department generally orders supplies when they are needed. Also, there are many items that aren't ordered until year end because they aren't available: such as 1099s, W-2s. Other items are ordered on a continual basis, such as copy paper, and are limited due to storage space.

Costs related to Truth in Taxation publication and Hennepin County sending notices are significant and not incurred until November and December of each year. Often, GASB renewals for subscription services and licenses are due in November and December.



D E P A R T M E N T O F
COMMUNITY DEVELOPMENT

5200 85TH AVENUE NORTH
PHONE (763) 424-8000

BROOKLYN PARK, MN 55443
FAX (763) 493-8391

MEMORANDUM

DATE: November 22, 2005
TO: Diane Deblon, Acting Director of Finance and Administrative Services
FROM: Cindy Sherman, Planning Director
SUBJECT: Purchase of supplies

The timing of supply purchasing has been raised as an issue with the budget discussion. The Community Development Department purchases supplies through the different divisions in the department.

We purchase supplies on an as needed basis with the exception of our large paper purchase, which we conduct twice a year, usually in the second and fourth quarter of the calendar year. This includes envelopes and paper. Based on historical experience the supply is intended to last 6 months. The items we purchase in the 4th quarter provide our paper supply into the spring busy season. We also order our calendars for the next year in the fourth quarter.

Our initial budget request for 2006 supplies has been reduced by approximately \$9,000 in the current budget proposal.

Please let me know if you have any questions on this information.

Police Department

Memo

To: Diane Deblon, Acting Director of Finance and Administrative Services
From: Chief Wade Setter
CC: Janet Schutrop
Date: November 23, 2005
Re: Police Department Operating Expenses

In reviewing the Police Department's operating expenses for the remaining portion of 2005, I have noticed some errors in coding of invoices, therefore, at year-end all of our accounts should not show that we are over budget. The Police Department currently has \$230,335.00 budgeted in operating expenses and we are under by approximately \$40,000.

We are anticipating spending a majority of the remaining dollars before the end of this year. At the end of the year, we typically make a significant purchase in office supplies in preparation for the future year. Also, we have a couple of items that have not been purchased because of other projects that have taken priority over the year. One being an endorsement feature for an imaging scanner that we own and phone recording adapters for investigations.

We have saved considerably in Detention operating supplies because of preparing food internally as well as virtually no film development costs for National Night Out and DARE.

The chart attached shows a detailed list of current expenses. Please don't hesitate to contact me with any additional questions.

Attached

**Police Department
2005 Operating Supplies**

<i>Account</i>	<i>Description</i>	<i>Actual</i>	<i>Budgeted</i>	<i>(-/+)</i>	
101-2522-470-42.00	Administration	\$27,688.81	\$35,800.00	-\$8,111.19	- \$2,500 budgeted for Deer Survey- not spent
101-2523-471-42.00	Patrol	\$99,438.18	\$88,100.00	\$11,338.18	- \$8,846.36 coded to incorrect account # - \$2,500 spent on unbudgeted items
101-2523-473-4200	DARE	\$9,969.32	\$9,500.00	\$469.32	-Workbooks ordered for next year.
101-2523-474-4200	CSO	\$973.40	\$1,500.00	-\$526.60	
101-2523-476-4200	COPS Unit	\$52.79	\$800.00	-\$747.21	
101-2523-478-4200	SWAT	\$8,002.80	\$12,500.00	-\$4,497.20	- Actual will increase to \$9,977.44 (coding error)
101-2524-481-4200	Investigations	\$17,993.68	\$20,400.00	-\$2,406.32	-Purchasing adapters for digital recorders in November which will total \$1,300.
101-2525-491-4200	Training	\$11,051.80	\$33,995.00	-\$22,943.20	-Actual will increase to \$17,923.52 (coding error) -Training scheduled in December, more dollars will be spent at end of month.
101-2525-492-4200	Crime Prevention	\$4,656.52	\$8,760.00	-\$4,103.48	- Significant amount of money saved producing NNO video internally. - Digital photos used, no film processing charges for NNO
101-2525-493-4200	Detention	\$7,567.18	\$14,500.00	-\$6,932.82	- Internal preparation of prisoner meals has greatly reduced operating expenses in Jail.
101-2525-496-4200	Clerical	\$1,990.92	\$4,480.00	-\$2,489.08	- Endorsement feature to be added to internal scanner. - \$2,000 to be installed in December.
TOTAL		\$189,385.40	\$230,335.00	-\$40,949.60	

The 2006 Recreation and Parks Department budget as originally proposed allows the Department to maintain service levels for the residents and not reduce them. Each year the Department budget increases due to inflationary costs. If nothing changed, expenses would still increase. Increasing the cost recovery rate compounds the Department's abilities to achieve 55% cost recovery rate without significantly impacting community residents.

Should the City Council direction for the Recreation and Parks Department for the 06' budget be to achieve a 55% cost recovery rate, then based on current revenue and expense projections, an additional amount of \$56,000 would need to be achieved through a combination of expense decreases and revenue increases. To achieve the \$56,000 amount and a resulting 55% cost recovery rate, the following changes and/or program and facility impacts could be considered:

<u>Amount</u>	<u>Program or Service Cuts/Reductions/Increases</u>	<u>Impacts</u>
\$10,000	Eliminate Park Patrol	Decrease customer service to our park user groups; less communication and on site supervision; potential for vandalism and garbage increases; FT police officers will be required to respond on as needed basis; potential for misuse of facilities and escalating situations.
\$10,000	Reduce Marketing Efforts	Print and mail fewer brochures; decrease written communication with residents; rely on existing data base and streamline mailing to fewer residents.
\$ 4,000	Eliminate Outdoor Concert Series	Eliminate community Concert in the Park series of six outdoor summer events. Potential impact to plans to bring 2006 Farmer's Market back to the CAC without support of this event.
\$ 4,000	Reduce Outdoor Warming House Attendants	Seasonal hours for supervision of outdoor warming houses would be reduced, impacting community groups who use this as a fund raising effort, BPYHA and decreasing public access to buildings.
\$ 5,000	Reduce School Building Supervision	Seasonal hours for supervision of elementary and secondary school sites would be reduced creating less access to school gymnasiums for community organizations, BPAA and general public.
\$10,000	Reduce Community Activity Center Hours of Operation	Not open the CAC/Armory/Ice Arenas until 8 a.m., M-F, year around rather than 6 a.m. Potentially affects walk track users, Figure Skaters, Wallyball and Racquetball use.
\$13,000	Increased Revenue	Increase rental fees for facility rentals: soccer, community rooms, athletic fields and Zanewood and possible new fees for Community Activity Center/Senior Center users.