

Regular Meeting #14
Monday, May 15, 2006, 7:00 p.m.
Bloomington Civic Plaza
1800 West Old Shakopee Road
Bloomington, Minnesota 55431-3027

**Call to Order and
Pledge to Flag**

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

Roll Call

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

**EXPLORER AWARDS
PRESENTATION**

Sgt. Chuck Gollop, Police Explorers Coordinator provided background on the Police Explorers of Bloomington. Sgt. Gollop stated he has worked with the Explorers for the past 14 years and that this is his last year.

Captain Courtney Bruner, Senior Explorer provided highlights of the community service the Explorers have provided to date in 2006. She described the two trophies the group earned while competing at their annual event at Breezy Point: 3rd place in the Arrest & Search event and 4th place in the Crisis Intervention academic event.

**PROCLAMATION –
Public Works Week**

A video on public works was shown and then Mayor Winstead read and presented a proclamation declaring May 21-27, 2006, as National Public Works Week to Park Maintenance employee Roland Jensen and Street Maintenance employee Chris Nelson. They described their duties within their respective Public Works departments.

**PROCLAMATION –
Bloomington Reads
Book Blast**

Mayor Winstead read and presented a proclamation declaring April 1 – July 22, 2006, as Bloomington Reads Book Blast in Bloomington to August Blegen, a published author and a member of Bloomington's Literary Council.

Blegen invited everyone to read Because of Winn Dixie by local author Kate DiCamillo who will be appearing at the Bloomington Arts Center on July 22 to discuss the book. He stated autographed books would also be available for purchase at that time.

**Approved Position
Changes in Assessing
& Utilities**

Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve the changes to the currently budgeted positions in the Assessing Division and the Utilities Division.

ITEM 3.1

**Approved RFP's for
Group Insurance**

Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve the Request for Proposals (RFP's) for group insurance including: Health, Life, Dental and Long Term Disability Insurance. The RFP's will be published in the Sun Current Newspaper on May 18, 2006.

ITEM 3.2

**Adopted Resolution
Approving Change to
Final Plat of Norman
Pointe Business
Center 1st Addition**

Motion was made by Elkins, seconded by Axtell, and all voting aye, to adopt a resolution granting approval of a change to the plat name on the Final Plat from Norman Pointe Business Center 1st Addition to Norman Pointe Business Center 2nd Addition, which shall be subject to completion of the conditions for Norman Pointe Business Center 1st Addition, receipt of the title, necessary documents and deposits and a review of all documents by the City Attorney.

ITEM 3.3

R-2006-62

**Approved Payment
for Work Relating to
Bloomington Central
Station Phases 1A,
1B & 2A**

Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve a payment of \$62,222.03 to Bloomington Central Station for a portion of the work for the 2005-302/303 Bloomington Central Station Phase 1A, 1B, and 2A Public Infrastructure Improvement Projects, for the professional engineering design, design review, and construction administration services for work URS Corporation and oslund.and.assoc. has performed.

ITEM 3.4

- Awarded a Contract to Barber Construction**
ITEM 3.5
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to award a contract to Barber Construction Company Inc. in the amount of \$82,339.51 for tennis and basketball court reconstruction and a bituminous path connection at Cedarcrest Park.
- Approved Tentative Settlements for 221 & 501 American Boulevard West**
ITEM 3.6
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve tentative settlements of the easement acquisitions occurring on the parcel at 221 American Boulevard West (Parcel 22 – Sky Chef) and on the parcel at 501 American Boulevard West (Parcel 26 – Carpet One), which are being acquired for the Dupont to Nicollet segment of the Ring Route project. The proposed settlement for Parcel 22 is in the amount of \$61,000 and the proposed settlement for Parcel 26 is \$140,000.
- Approved Estimated Travel Expenses for Council Members**
ITEM 3.8
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve the following estimated travel expenses for Council member travel: Steve Elkins’ travel to Kodiak, AK for the National League of Cities (NLC) Transportation Infrastructure & Services Steering Committee Spring Meeting in the amount of \$1,664, for Steve Peterson’s travel to Miami, FL for the NLC Information Technology & Communications Steering Committee meeting in the amount of \$1,136 and Peterson’s travel to Seattle, WA for the NLC Information Technology & Communications Steering Committee meeting in the amount of \$1,356. The purpose of these trips is for Council members to receive training and to network with other elected officials.
- Approved Lease Agreements Relating to the Art Center**
ITEM 3.9
- Motion was made by Elkins, seconded by Axtell, and all voting aye, to approve the lease agreements between the City of Bloomington and the Outback Steakhouse for the May 21, 2006, Mollie Paulson event and between the City and Complete Beverage Service for the June 24, 2006, Susan Anderson event to be held at the Bloomington Center for the Arts.
- Approved Minutes**
ITEM 3.10
- Motion was made by Elkins, seconded by Wilcox, and all voting aye, to approve the minutes of the February 6 and May 1, 2006, Regular Council meetings as presented.
- Postponed to May 22 Awarding of Contract 2005-201 Street Improvement Project**
ITEM 3.7
- Motion was made by Elkins, seconded by Wilcox, and all voting aye, to postpone to the May 22, 2006, Council study meeting, the awarding of a contract for the 2005-201 Street Improvement Project, which is for the reconstruction of American Boulevard from Dupont Avenue to Nicollet Avenue.
- Postponed to May 22 Payment of Relocation Benefits to Nechville Music Products**
ITEM 3.11
- Motion was made by Elkins, seconded by Wilcox, and all voting aye, to postpone to the May 22, 2006, Council study meeting, approval of the payment of relocation benefits to Nechville Music Products in connection with their move from 8036 Lyndale Avenue.
- OPENED PUBLIC COMMENT PERIOD**
- Speaker #1: Richard Rausch, 10106 Emerson Avenue South
Where is Council at with its ordinance regarding electric vehicles on the street?
- Bernhardson stated that recent legislation authorizes vehicles traveling 20 mph on City streets. Legal has reviewed the information and it appears as if there is no need for an ordinance change to permit them once the law takes effect on August 1, 2006.
- Approved Renewal of On-Sale & Sunday On-Sale Intoxicating Liquor Licenses**
ITEM 5.1A
- Motion was made by Grady, seconded by Peterson, and all voting aye, to approve the renewal of the On-Sale and Sunday On-Sale Intoxicating Liquor Licenses, as listed in the agenda item, for the period of July 1, 2006 through June 30, 2007, conditioned upon the City’s receipt of all the necessary general items from each of the establishments.
- Per a request from Peterson about the license for The Water Park of America, Doug Junker, Licensing replied that it would be brought back on June 19, 2006.
- Approved Renewal of Wine Licenses**
ITEM 5.1B
- Motion was made by Nordstrom, seconded by Peterson, and all voting aye, to approve the renewal of the wine licenses, as listed in the agenda item, for the period of July 1, 2006 through June 30, 2007, conditioned upon the City’s receipt of all the necessary general items from each of the establishments.

**Approved Renewal of
On-Sale & Sunday On-
Sale Club Intoxicating
Liquor Licenses
ITEM 5.1C**

Motion was made by Elkins, seconded by Wilcox, and all voting aye, to approve the renewal of the On-Sale and Sunday On-Sale Club Intoxicating Liquor Licenses, as listed in the agenda item, for the period of July 1, 2006 through June 30, 2007, conditioned upon the City's receipt of all the necessary general items from each of the establishments.

**Approved Renewal of
Off-Sale Intoxicating
Liquor Licenses
ITEM 5.1D**

Motion was made by Elkins, seconded by Wilcox, and all voting aye, to approve the renewal of the Off-Sale Intoxicating Liquor Licenses, as listed in the agenda item, for the period of July 1, 2006 through June 30, 2007, conditioned upon the City's receipt of all the necessary general items from each of the establishments.

**Adopted Resolution
Approving Conditional
Use Permit for
Evergreen Community
Church at 2300 East
88th Street
Case 8677A-06
ITEM 5.2A
R-2006-63**

Bob Hawbaker, Planning Manager provided the staff report explaining that Evergreen Church has been in Bloomington for many years using the Oak Grove Middle School as their meeting site. Evergreen now desires to have a permanent location in the Trinity River School at 2300 East 88th Street beginning in 2008 and that both the Planning Division Staff and the Planning Commission recommend approval subject to the conditions listed in the agenda materials.

Speaker #1: Tim Weber, Pastor of Evergreen Community Church
He provided background on the Church that has been meeting in Bloomington for 18 years at Oak Grove Middle School. They desire to invest in a brick and mortar building. They are a Christian non-denominational church and they plant other churches. They do not intend to be a mega big church. They are a very outward reaching church and provide many hours of community service within Bloomington.

Motion was made by Axtell, seconded by Elkins, and all voting aye, to adopt a resolution approving a Conditional Use Permit for church use of a private school at 2300 East 88th Street, Case 8677A-06, for Evergreen Community Church, commencing no later than October 1, 2008, subject to the following 9 conditions of approval as set forth by the Planning Division Staff and the Planning Commission:

1. Access, circulation (motorized and non-motorized), and parking plans, including bicycle storage or parking, be approved by City Engineer;
2. All pick-up and drop-off occur on site and off public streets; and
3. Provide traffic control officer on dates and at times, as directed by City Engineer or Chief of Police, at the intersection of 88th Street and Old Shakopee Road to minimize delays due to site generated traffic;
4. All parking stalls to be painted with white striping;
5. Provide sidewalk connection from entry plaza to public sidewalk/street;
6. Building addition plans shall be approved by the City;
7. Show "end cap" islands on parking stalls, 3 feet shorter than the parking stall and 6 feet wide. Provide "end cap" island on west end of new drop off lane like on south end of drop off lane;
8. Make drop off one-way (recommend passenger side towards building); sign driveway for one inbound, one outbound; and
9. Joint use agreement for park area between the City and the applicant be negotiated prior to occupancy by the church.

**Approved Temporary
Conditional Use
Permit for First
Industrial Realty Trust
Inc. at 10640 Lyndale
Avenue South
Case 6333A-06
ITEM 5.2B**

Motion was made by Grady, seconded by Elkins, and all voting aye, to approve a three-year Temporary Conditional Use Permit for a church in an office/warehouse at 10640 Lyndale Avenue South, Case 6333A-06, for First Industrial Realty Trust Inc., subject to the following 5 conditions of approval as set forth by the Planning Division Staff and the Planning Commission:

1. Any kitchen use or food service be approved by the Environmental Health Division, City of Bloomington;
2. Any change to or expansion of the weekday church programming shall first be reviewed and approved by the Planning Manager;
3. Church occupancy and space be limited to 8,286 square feet as shown on the plans in Case 6333A-03;
4. Signage conform with Chapter 19, Article X of the City Code; and

ITEM 5.2B continued

- 5. Future renewal of this temporary conditional use permit may be considered by the Hearing Examiner.

No staff report was provided and no public testimony was received.

**Adopted Resolution
Approving Conditional
Use Permit for Peace
Lutheran Church at
7101 & 7103 W. 86th St.
Case 8163A-06
ITEM 5.2C
R-2006-64**

Hawbaker provided the staff report explaining that the Church has previously operated under two Temporary Conditional Use Permits and that staff has no objection to it operating as a full-time church.

Motion was made by Elkins, seconded by Grady, and all voting aye, to approve a Conditional Use Permit for church use of a two-family dwelling for office, meeting and classroom purposes at 7101 & 7103 West 86th Street, Case 8163A-06, for Peace Lutheran Church, subject to the following 7 conditions as set forth by the Planning Division Staff and the Planning Commission:

- 1. Occupancy of the total building will not exceed 49 persons unless an automatic alarm system is installed;
- 2. Food service facilities shall either be brought up to Code and a food license obtained or the kitchen facilities will be removed as approved by Environmental Health;
- 3. No more than four vehicles can be parked in each garage driveway at any time for a total of not more than eight (8) vehicles to be parked on the property at any time;
- 4. No on-street parking is allowed and all pick-up and drop-off must occur either on-site or on the primary church property and off of the public street;
- 5. Any signage must be consistent with the regulations of the Class I Sign District in Section 19.110 of the City Code;
- 6. An ADA compliant sidewalk connection be provided from this property to the church at 8600 East Bush Lake Road; and
- 7. Any proposed change to the nature and character of use of the structure must first be reviewed with the Planning Manager.

No public testimony was received.

**Approved Preliminary
Plat of Kingsdale
Addition at 4641 &
4649 Kingsdale Drive
for Greco, LLC
Case 10728A-06
ITEM 5.2D1**

Hawbaker provided the staff report stating this is for a subdivision of two lots into five lots; all of which conform to the City’s subdivision ordinance regarding size and lot width. He commented that the lots are compensated for their steep slopes in the rear of the lots and that the Planning Division Staff and the Planning Communication both recommend approval.

Nordstrom stated she was glad to see the developer divide five lots for single-family homes instead of making it a townhome development. She made a comment relating to the possibility that additional fertilizer might run off into Nine Mile Creek as a result of these five new lots.

Speaker #1: Arnie Gregory, Developer, GRECO Development

He stated that one of the neighboring homeowners who is buying a townhome at the Village on Nine Mile Creek told him that he sees this development as an opportunity for a custom home builder to do something very nice in this neighborhood and that the homes should be an even nicer amenity in an already nice neighborhood.

Winstead inquired if it’s Gregory’s intention to try and design the new homes to fit in with the existing homes in the neighborhood.

Gregory replied that it is his intention to develop five lots with smaller, custom-built homes that would provide all the modern amenities desired by today’s households. He estimated they would be approximately 3,000 square feet in size. He indicated his desire to do whatever is possible to enhance the value of these lots within the existing neighborhood. He stated that a five-lot landscaping plan could be utilized to make the development as attractive as possible to the surrounding neighborhood. He stated he would be open to discuss with Council and/or City staff a project that will be suitable to the Council’s desire to see that the proper size of homes are built to fit in with the existing neighborhood. He envisions the homes to be one-story walkout ramblers.

ITEM 5.2D1 continued Elkins inquired as to Gregory's thoughts on tree preservation.

Gregory replied that he believes trees enhance properties and, therefore, doesn't intend to remove any more trees than will be necessary. He is very conscientious of the trees.

Axtell stated he likes Gregory's one-builder concept and his desire to implement a five-lot landscape plan.

Gregory added that he spoke with some of the neighbors outside the Chamber the night of the Planning Commission meeting and clarified that he never intended to construct townhomes on these lots.

Motion was made by Axtell, seconded by Grady, and all voting aye, to approve a five-lot Preliminary Plat of Kingsdale Addition at 4641 & 4649 Kingsdale Drive, Case 10728A-06, for Greco, LLC, subject to the following 13 conditions and 2 Code requirements as set forth by the Planning Division and the Planning Commission:

1. After acceptance by the Department of Public Works and prior to signing by the Mayor and City Manager, the final plat, all easement documents, and all other documents required as part of the subdivision be reviewed by the Planning Manager and City Attorney to assure compliance with conditions of approval adopted by the City Council;
2. Park dedication be in cash for three lots;
3. Approval from the Nine Mile Creek Watershed District be obtained;
4. Grading, drainage, utility and erosion control plans be approved by the City Engineer prior to the issuance of a grading permit;
5. Connection charges be determined and satisfied;
6. Sewer Availability Charge (SAC) be determined and satisfied;
7. Erosion control measures including a double row of heavy duty silt fence along the slopes on the south side of lots 4 and 5 be in place and bond be filed prior to the issuance of any grading permits;
8. A 10-foot sidewalk easement be provided by document along Kingsdale Drive as approved by the City Traffic Engineer;
9. A scenic easement for east 60 feet of Lot 3 and the east 100 feet of lots 4 and 5 be provided;

and subject to the following conditions:

10. Approved and installed erosion control barriers shall be maintained throughout the construction period and not removed until authorized by the City Engineer;
11. Alterations to utilities be at the developer's expense;
12. All construction related parking and stockpiling occur on site and off of public streets; and
13. Temporary addresses be provided during construction;

and subject to the following Code requirements:

1. The approved Final Plat shall be filed with Hennepin County, a certified copy provided to the Engineering Department; and
2. Utility plan showing location of existing and proposed water main be approved by the Fire Marshal and Utilities Engineer (City Code Section 6.20, Uniform Fire Code Section 903).

No public testimony was received.

**Adopted Resolution
Approving Final Plat
of Kingsdale Addition
at 4641 & 4649
Kingsdale Drive
Case 10728A-06
ITEM 5.2D2
R-2006-65**

Motion was made by Axtell, seconded by Elkins, and all voting aye, to adopt a resolution approving the Final Plat of Kingsdale Addition located at 4641 & 4649 Kingsdale Drive, Case 10728A-06, for Arnie Gregory, which is being platted to subdivide two lots into five lots, subject to the following 9 conditions and 3 Code requirements as listed in the agenda items plus a 10th condition added by the Engineering Division, subject to completion of the Preliminary Plat conditions; receipt of the title opinion, necessary documents, and deposits; and a review of all the documents by the City Attorney.

ITEM 5.2D2 continued

1. Title opinion or title commitment shall be provided.
2. Connection charges are due prior to the issuance of utility permits.
3. Right-of-way shall be provided 30 feet from centerline along Kingsdale Drive.
4. Standard drainage and utility easements shall be provided 10 feet along street frontages and 5 feet along internal lot lines.
5. A 10-foot sidewalk/bikeway easement shall be provided along all street frontages.
6. Grading, drainage, utility, and erosion control plans shall be approved by the City Engineer prior to the issuance of permits.
7. Temporary street signs, lighting, and addresses shall be provided during construction.
8. Surveyor shall provide a monumentation letter certifying that all monuments shall be placed within one year of filing the plat, unless the monuments are set before filing.
9. Nine Mile Creek Watershed permit and comments shall be provided to the Engineering Division.
10. The right-of-way located at the southwest corner of the site shall be vacated quitclaim deeded to Greco, LLC prior to the plat being filed with Hennepin County.

Code requirements:

1. The approved Final Plat shall be filed with Hennepin County (Section 16.05.01). A certified copy shall be provided to the Engineering Division prior to the issuance of building permits (Section 16.10).
2. All development setbacks shall be based on planned widened rights-of-way for the abutting public street(s) (Section 19.42).
3. Unused water services shall be properly abandoned (Section 11.15).

Gregory stated for the record that he was aware of and approved the 10th condition added by the Engineering staff.

No public testimony was received.

CLOSED PUBLIC COMMENT PERIOD

Mayor Winstead asked if anyone else wished to address the Council on any items not on tonight's agenda or it would be closed. No one came forward to speak so the Public Comment Period was closed.

Approved Final Site & Building Plans for Northwestern Health Sciences University 2501 West 84th Street Case 4720A-06 ITEM 5.2E

Hawbaker provided the staff report, which included the plan Northwestern Health Sciences University presented to the Planning Commission. He stated the discussion at the Planning Commission focused on the impact this project will have on the stormwater pond and the trees. He stated this application would not increase their program size. It's for a library, a new facility to serve the existing programs. No additional parking or traffic will be generated. He stated that although it far exceeds the minimum setbacks of the zoning ordinance, the applicant has agreed to push the building back another 20 feet after discussing this with the neighbors. He showed the revised landscape plan submitted by the applicant. He stated the proposed change resulted from the discussion at the Planning Commission meeting and that staff still needs to review it and that additional landscaping might be required near the parking lot. He explained that a separate agreement between the neighbors and Northwestern Health Sciences has been entered into which addresses some issues in which the City is not involved; issues that are not covered by City Code or ordinance. The Agreement establishes the expectations of both parties and lays the groundwork for any mediation if it is ever needed.

Elkins inquired if the pond was moved to the west and if that will help the survivability of the oak trees.

Hawbaker replied that it was and yes it would help.

ITEM 5.2E continued

Scott Anderson, Storm Drain Engineer, referenced his memo of May 4 that was presented to the Planning Commission and described the history of the issues relating to Adelman's Pond. He stated that upon staff's review, they concluded that the proposal, building expansion, and the pond meet all requirements. He explained that a second issue deals with the longstanding management of that stormwater pond. He stated no petition or request for improvements or stormwater management for that area has been received by Public Works to date. In the low area, he indicated that a small sliver of City property often floods and that it's a function of the elevation of the area in relation to the elevation of Adelman's Pond during rain events. He stated the system does work. Regarding the holding pond and its impact on the oak trees, he stated it's hard to predict but that it has been relocated to the west.

Elkins remarked that there should be no further degradation of the stormwater in the pond, as the applicant's pond will improve the water quality.

Anderson stated there was discussion regarding the abandoned well on the property. He stated there is a limited permit that could be appropriated for some use or purpose by the applicant relating to the well but that staff could look into possibly removing the well and its related elements.

Speaker #1: Gene Branstrom, Architect

Regarding the holding pond, he used a site plan to indicate where the lowest elevation of the pond is located. He discussed where the oak trees are located. He estimated that three mature oak trees might be lost but that they won't know until the final grading plan is developed. He added that existing utility and drainage easements on the site prevent the pond's location somewhere else on the site. He stated they've worked with the neighbors to try and screen this building as much as possible from the neighboring properties.

Speaker #2: Jake Manahan, 8516 Russell Avenue South, Adelman's Pond Association

He stated the well is located on the northwest corner of the pond. He stated the College has allowed the neighborhood to have good input into the landscaping of the pond. He inquired if the holding pond will be sufficient to do the job. He stated the school has been cooperative in trying to screen a very tall building with trees. He requested the Council put some sort of provision that would allow the neighborhood to have some input regarding the staking of the trees. The other function of the landscaping plan is drainage of the water. His concern is that it not be purely an engineering decision. They don't want the decision to be based solely on does it work or not and that alternate solutions should be considered.

With regard to the drainage and utility easement, Hawbaker stated there are no utilities located there.

Branstrom explained that if a retention pond was needed in this location, it would create the need for a 14-foot retaining wall. He stated the location of the proposed pond fits the contours of the site. He stated this plan is a preliminary site grading plan and that they hope to make some adjustments for the trees as the plan becomes finalized. This is more of a general indication but it's designed to handle various rain events without adding to the runoff rate.

Speaker #3: Julie Brenny, 8501 Queen Avenue South

She inquired if a condition could be added to ensure that if the oak trees do not survive, a certain number of trees in that location would be replaced. She stated everyone is nervous about the water, mainly concerned about more water volume that will result from a more impervious surface.

Regarding trees, Mark Bernhardson, City Manager read from the applicant and the neighborhood association's agreement that provides for replacement of lost trees.

ITEM 5.2E continued

Anderson described the easement that is designed to hold bump water. He stated nothing should run overland. The pond is designed to capture the 100-year event. The preliminary grading plan incorporates an overland drainage to Adelman's Pond. The parking lot water is captured in the holding pond and will go through a skimmer outlet pipe to Adelman's Pond. He stated the stormwater situation should be improved, as it should capture the new stormwater as well as the existing runoff. The pond is designed to capture all of the future water and should capture all of the water for retention. There will be skimmers and drain pipes in the new pond. He stated that there would still be times when water flows overland and into Adelman's Pond. A comparable size pond in Bloomington would be the pond located at the Penelope Apartments located at Old Shakopee & Beard Avenue.

Grady watched the Planning Commission meeting and was pleased to see how the groups have worked together to resolve many of the issues.

Motion was made by Grady, seconded by Nordstrom, and all voting aye, to approve the Revised Final Site Plans and Building Plans for a building addition and parking lot expansion for Northwestern Health Sciences University at 2501 West 84th Street, Case 4720A-06, subject to the following 20 conditions and 10 Code requirements as set forth by the Planning Division Staff and the Planning Commission:

1. Exterior building materials be as shown on the plans approved in Case 4720A-06 and be approved by the Planning Manager;
2. Stormwater management plan and 1, 10, and 100-year storm calculations be submitted and approved by the City Engineer;
3. Access, circulation and parking plans be approved by the City Engineer;
4. Erosion control plan include protection for the new waterline from West 85th Street and the stormwater outlet line from the new pond to Adelman Pond and detailed information on the temporary and permanent stabilization of the disturbed surface around the new parking lot, storm pond, and utility lines;
5. Utility plan must include provision of new water line from West 85th Street and new hydrants by the addition;
6. Grading, drainage, utility and erosion control plans be approved by the City Engineer following review by the Nine Mile Creek Watershed District;
7. Plans shall show a sidewalk connection from West 84th Street to the main building entrance as approved by the City Traffic Engineer;
8. Landscape plan show either the relocation of or the replacement trees for the pines that will be removed for the new storm pond;
9. The Planning Manager shall approve the type and location of the permanent fencing to be placed around the west parking lots and within the property along West 85th Street;
10. Connection charges to be determined and satisfied;
11. Sewer Availability Charge be determined and satisfied;

and subject to the following conditions:

12. Applicant shall enforce plan approved by the Planning Manager for controlling use of the new parking lot during evening hours;
13. Alterations to utilities be at the developer's expense;
14. All pickup and drop-off occur on site and off of public streets;
15. All building doors will be numbered starting at the main door and going clockwise around the building;
16. All on-site parking shall be in designated and approved parking spaces;
17. All construction parking, storage, and staging shall be on-site and off of the adjacent public streets;
18. All disturbed areas except the storm pond shall be sodded;
19. Erosion control barriers and features shall be maintained in operating order until removal is approved by the City Engineer;
20. Building addition be setback a minimum of 134 feet from the south property line;

ITEM 5.2E continued

and subject to the following Code requirements:

1. Three foot high solid screening be provided along Penn Avenue as approved by the Planning Manager (Sec. 19.52);
2. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec 19.52);
3. Erosion control measures be in place and bond be filed;
4. All rooftop equipment be fully screened (Sec. 19.52.01);
5. Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec 19.64);
6. Building be provided with an automatic fire sprinkler system as approved by the Fire Marshal (Mn Bldg. Code Sec. 904.1, Mn.Rules Chapter 1306; Uniform Fire Code Sec. 1003);
7. Fire lanes be posted as approved by the Fire Marshal (Uniform Fire Code Sec. 901.4);
8. Utility plan showing location of existing and proposed water main and fire hydrant locations be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, Uniform Fire Code Sec. 903);
9. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code; and
10. All parking shall be on paved surfaces (Sec. 19.64(a)).

Elkins commented that the parking lot on the east side of the building will result in greater use of the eastern most driveway. He questioned if that additional use would cause additional vehicle stacking similar to what happens near Jefferson High School.

Smith replied that staff doesn't have traffic counts using the existing driveway and that there could be some issues with the right-turn islands but that the expansion shouldn't add additional vehicles. No new curb cuts or new geometry is planned. There will be no more intensity to the use.

Winstead commented that this college has been in Bloomington for many years and that they take pride in their campus. He stated the applicant has been willing to go above and beyond the City's requirements to work with the neighborhood in order to make this project as amenable to them as possible. They acknowledge that tree preservation is important and will be working on this issue as they go forward.

Elkins stated he observed that the length of the Planning Commission meetings actually decreased as this plan was becoming more amenable to the neighborhood.

Amy Marohn, Traffic Calming Coordinator provided the staff report. She explained that Nesbitt was added to the 2006 PMP restriping list at the request of the City Council. She described the public hearing process to date relating to this addition. Using an aerial map, she described the segment that is being studied for striping changes. She stated it is currently four lanes, two in each direction. She described the two proposals for Council consideration: Two lanes with a striped shoulder on each side (Option #1) or three lanes with a two-way dual left turn lane (Option #2). She described how the intersections at 98th Street would look with each plan. She summarized the public comments received for each of the options. Out of approximately 500 households that were noticed, four indicated support and three indicated opposition to the proposed changes. She stated there was no discussion of an option of three lanes with turn lanes. She stated the Traffic & Transportation Advisory Commission (TTAC) reviewed the options and recommend option #1- two lanes with striped shoulders marked as a bikeway. She stated staff disagrees with marking a bikeway, as it wouldn't be consistent with other segments.

Winstead suggested that if it was marked as a bikeway, couldn't it continue to 102nd Street?

Chad Smith, Traffic & Transportation Engineer replied that there are more single-family residences further south on Nesbitt. If the shoulders are marked as bike lanes, parking would be prohibited.

**Approved the
Restriping of Nesbitt
Avenue from 94th
to 98th Street
ITEM 5.3A**

ITEM 5.3A continued

Elkins stated Nesbitt should have a bike lane in each direction for continuity and that the City needs to look at a bike network with marked bike lanes that meet all of the appropriate Minnesota Department of Transportation (MnDOT) guidelines. They should be official bike lanes with a lane in each direction. He believes that as these are becoming less controversial, perhaps the Council should consider adopting a policy to allow these on a more routine basis.

Wilcox expressed concern with marking them as bike lanes.

Axtell inquired as to the average speed on Nesbitt going south toward 98th Street and if speeds slowed down after that was restriped.

Marohn replied that no speed studies were done before or after the restriping.

Axtell also inquired if Option #1 would cause a problem for Ridgeview Elementary or St. Edward's Church.

Marohn and Smith both commented that the school counts in the morning indicate that approximately 48 cars turn there during a 20-minute period so it's a short peak.

Axtell inquired why should the road be restriped if there's nothing wrong with it.

Nordstrom inquired if signs could be used to designate bike lanes rather than paint.

Elkins remarked that MnDOT guidelines require paint.

Peterson commented that this street has such a low volume that it doesn't require an official bike lane. He stated Council decided to look at streets with lots of notification to nearby residents but that the last few streets Council has considered resulted in very little response from the public and that Council should discuss what the process should be going forward.

Speaker #1: Dean Pohland, 9500 Colorado

He is a net user of the system and questioned why the City is taking lanes out of a system when vehicle registrations and trips are increasing. He questioned why the City is paying a civil engineer to spend three-quarters of their time on this. He believes it would be better for the City to attack the level of frustration Bloomington drivers are experiencing, as frustration can lead to irrational behavior – red light running, speeding, road rage, etc. He stated with traffic calming, 20 mph vehicles would be traveling on a three-lane road, which other drivers can't pass. He believes this would be bad public policy, as lessening the number of lanes will just increase the frustration level of drivers. He mentioned Poplar Bridge Road as an example. He suggested letting the police handle enforcement with speed trailers and speed traps and don't try to solve perceived traffic problems with stop signs and stoplights. The City can't please everyone. He added no one wants traffic in front of his or her house but that traffic is a reality and we all have to deal with it. At this point, he showed a video of a story that aired on KARE 11 regarding traffic.

Winstead stated that many of our thoroughfares are controlled by Hennepin County in Bloomington. He stated the City has had a modest amount of discussion on this issue. He remarked that when he drove to a meeting in Dakota County, although there were 15 stoplights along County Road 42, they were timed very well.

Pohland agreed that better timing would lessen driver frustration.

Winstead stated he sees the restriping situation on some Bloomington streets as a separate issue from the timing frustration.

Bernhardson remarked that government has under invested in the highway system, which ends up dumping more traffic onto local roadways. Most of the streets the City has looked at for restriping have been ones that are underutilized. He added that Minneapolis has done a pretty good job of timing lights on Portland Avenue but then the cross traffic ends up stopping more often. He stated tonight's issue is taking an underutilized capacity street to see if there is a way to create alternative transportation methods to cross the community.

ITEM 5.3A continued

Grady commented that she and her neighborhood love what's been done on Nesbitt.

Pohland commented that the traffic and number of vehicles are increasing so why take lanes out of the system. He suggested instead of having a Traffic Calming Coordinator, the City should have a Traffic Frustration Solution Finder and requested the City not make changes to underutilized streets, as it just creates more frustration for drivers.

Speaker #2: Karen Snyder, Hyland Courts Townhome Association

She stated her townhome backs up to Nesbitt Road and that there is a far greater number of outliers than the numbers indicate and that it's time to address the speeding on Nesbitt. They are only yards away from Nesbitt and appreciate this type of traffic calming in the area.

Nordstrom inquired if drivers are trying to avoid Normandale Boulevard by taking Nesbitt.

Snyder mentioned that they experience higher volumes of traffic on Nesbitt when there is an accident on Normandale.

Elkins admitted that he instigated a lot of this traffic calming discussion, as people in this area have complained about speeding and cut-through traffic. He stated this works better than anything else on four-lane collector streets and that the solution seems to work to reduce speed when reducing the speed limit itself doesn't. He stated enforcement is extremely expensive. Traffic calming has worked in other places and has proven to reduce accidents in other locations. Nesbitt was built to handle 20,000 cars but actually handles only about 2,000 cars per day.

Axtell commented that he lived on Nesbitt for 13 years and favored the changes that were previously made so he would support Option #1 out of continuity.

Winstead stated he could support Option #1, as it makes it better for this type and size of street. The shoulder would get utilized for bicycles. It has never made a situation worse, otherwise Council would have heard about it and only positive comments have been received regarding what was previously done on Nesbitt from 98th Street to Old Shakopee Road.

Motion was made by Grady, seconded by Nordstrom, and all voting aye, to adopt Option #1 (two lanes without a striped shoulder) on Nesbitt Avenue from West 94th Street to West 98th Street so that parking can be retained.

Staff stated that it would be done during the sealcoat process during the 2006 construction season.

**Adopted Ordinance
Vacating Easements at
4301 & 4401 American
Boulevard West
ITEM 5.4A
O-2006-19**

Motion was made by Grady, seconded by Axtell, to adopt the ordinance vacating certain drainage, utility, and flooding easements dedicated on the plats of France 494 1st Addition, France 494 2nd Addition, and France 494 3rd Addition; vacating easements for sidewalk, bikeway and flooding purposes over and across parts of Lots 1 and 2, Block 1, France 494 1st Addition; and vacating easements for street, sidewalk, bikeway, drainage, utility and flooding purposes over and across portions of Lot 1, Block 1, France 494 2nd Addition for Walser Auto Group at 4301 & 4401 American Boulevard West. Motion passed 6-0-1 (Peterson abstaining).

No staff report was provided and no public testimony was received.

**City Council Policy
& Issue Update
ITEM 6.1**

Bernhardson reviewed his memo and attachments that he sent to Council with last week's City Manager's Information (CMI). He reviewed the joint meeting the City Council held with the Port Authority on April 17, 2006, during which both bodies unanimously approved requesting the Legislature extend the Tax Increment Financing (TIF) relating to the Mall of America (MOA) Phases 1 & 2. He stated that Senator Belanger put a placeholder on the extension and it passed. MOA reps and City staff approached the House to determine an avenue in which this could move forward. After talking with three members of the House, they indicated no desire to grant an extension for Phase 1 and only a limited extension to Phase 2. Staff has determined that it would be cost prohibitive to limit Phase 2. He explained that the source of the problem for the TIF district goes back to the 2001 property tax reform. If there had been no tax reform in 2001, no TIF extension would have been needed for either phase. He stated this money would not go to subsidize the developer but would go towards parking construction. Construction on Phase 2 could proceed to 2.2 million square feet with structured parking but in order to get it to 5.6 million square feet of development, it would require structured parking. He stated the development would range from \$188 - \$238 million. He stated the State of Minnesota has been a beneficiary of MOA Phase 1, as it receives an average of \$242 million in state income tax each year and fiscal disparities have been in the \$5-6 million TIF contribution range. By 1999, the MOA had paid back the highway loan it borrowed. The Mall has been paying \$17-18 million in property taxes per year. After the 2001 reform, the \$12 million to fiscal disparities dropped to \$6 million. He restated that the Mall of America does pay property taxes and so will Phase 2. If the Legislature can find a way to make up the shortfall they created, the Mall of America would need no TIF extension at all. He suggested the Legislature use the property tax the MOA currently pays into fiscal disparities into the TIF. He stated that since the delegation doesn't want to consider a TIF extension, they could look into finding another way that could be used. The difference is between 2.2 and 5.6 million square feet of development, which could come to a close in 2018.

Winstead remarked that the delegation was uncomfortable with an indefinite plan going forward and that this puts hard numbers to where the money would go without extensions. He mentioned that he has heard that legislators say the MOA doesn't pay taxes.

Peterson suggested that it would be more accurate to say that the State and every other fiscal disparities-receiving city receives property taxes but Bloomington is cut out of the tax receiving entity of the Mall. The State gets a \$5 million cut that goes directly into the General Fund. What would stop any other city from asking for this being cut out of their General Fund?

Winstead stated that the Lawson building is an example of a building that was cut out of fiscal disparities in St. Paul.

Bernhardson explained that the Legislature changed the rules in the middle of the game. How many of those other projects can illustrate what has already been paid by Phase I. But if there is no will on the part of the delegation, it probably won't happen. He stated the State should have a good interest in doing this.

Winstead stated that the City Council needs to decide if it wants to see the MOA Phase 2 developed to its highest potential or not. It's in the best interest for Bloomington and the Mall to develop in excess of 5.6 million square feet, which will require help with structured parking.

Grady mentioned that there is some confusion over what this would cost Bloomington taxpayers and inquired how the City counteracts that.

ITEM 6.1 continued

Bernhardson stated that when the Mall comes out, it results in 2-3% per average household or \$66 per year of a TIF extension. He stated staff quantified the number and gave it to Lenczewski.

Grady inquired who besides Bloomington's legislative delegation would support the fiscal disparities solution.

Winstead replied that the rural block of legislators might take a statewide view, as fiscal disparities is more of a metropolitan area issue.

Bernhardson stated the problem is we've got a hole created by the 2001 State tax reform and it's up to the Legislature to fill it. Take the fiscal disparities into it or take the General Fund dollars. We need to explain to the Legislature that Bloomington has a hole created by them and Bloomington would like their help in finding a way to fill it.

Elkins stated Bloomington is in for over \$100 million as it is with the Mall that gets paid off over a reasonable period of time and that there is some prospect that Bloomington taxpayers might see some benefit on their tax bills in their lifetimes. But as a result of the tax reform, to go up to this higher level of development is going to require much more money than the City can foot the bill for and the cost to Bloomington residents from going from the lower figure up to the 5.6 million square feet is basically just a price tag that the City can't afford. The argument Bloomington needs to make to the Legislature is that the higher density is a benefit to the Region and the State, as TIF done at the higher levels, not just at the city level, is in their long run best interest to do so.

Bernhardson suggested incorporating Elkins' suggestion with the following language, "The Legislature has passed corrective legislation that funds it and that the state and the region are the beneficiaries to the tune of x, y and z at this higher density as a result of that higher development."

Elkins stated that the City needs to convey to the communities receiving fiscal disparities that it should be worth it to them if this goes forward, as over a comparable amount of time in which the City of Bloomington is going to get a return, those cities will get a return as well.

Bernhardson explained there is a difference in fiscal disparities but look at what the State is getting in school aide, etc. and that marketing to 145 other communities that the Mall is a good deal for them would not be easy. While the State and the region have been the biggest beneficiaries, the Mall has generated more development and more lodging and admission tax and the General Fund of the City has benefited approximately \$1 million annually. It has added property value to our tax base.

Wilcox remarked that the timing of this is terrible and questioned whether Bloomington's legislators would support it. If they can, will they be able to sell it to anyone else and get it done in one week? But he stated what does Bloomington have to lose by trying. Outstate communities are approving a stadium when they're not directly involved. We need to sell the benefits of the Mall, as it brings huge benefits to Bloomington's hotels, merchants, etc. to the public also.

Winstead stated the Council put forth a request for an extension to see if the City could make it happen at a larger level. He agreed that the timing is not politically palatable but what have we got to lose.

Bernhardson stated that even if it doesn't make it this year, it's a start and it could result in something next year. It's an honest way of approaching it. The City's sole problem has been the State. If not for property tax reform in 2001, Bloomington wouldn't be asking for any extensions. It's in the legislators' best interest to explore this solution.

Nordstrom inquired if the lodging tax could be increased.

Winstead replied that the lodging tax goes to pay for the existing bonding stream. Any additional lodging tax would take additional legislative approval and suggested that an additional tax might make Bloomington hotels uncompetitive with the downtown or St. Paul hotels.

ITEM 6.1 continued

Nordstrom inquired about another added tax.

Bernhardson replied that it would take a 3% increase in the lodging tax to generate the amount of money needed and that tariffs on visitors would probably not be a good idea.

Motion was made by Axtell, seconded by Wilcox, and all voting aye, to add the following language to Bloomington’s 2006 Legislative Policies, which includes Elkin’s suggestion that it will enhance the greater local region: “Given that the State of Minnesota and the Metropolitan region have been the largest beneficiaries of the Mall of America’s first phase, it is in the State’s best interest that the development of the second phase should maximize the development density on the site. To do so, the State needs to pass legislation that funds the tax increment that was lost due to the 2001 State Property Tax Reform that now goes to the State as General Property Taxes for the time period 2002-2018. To accomplish this, the City Council of Bloomington requests that its Legislative Delegation gain for the Mall districts the ability to retain the equivalent amount of State General Tax by retention of the fiscal disparities contribution in the TIF districts and/or other State funding that provides an amount equivalent to the State General Tax dollars lost to the district for the time period 2002-2018.

In addition it is requested that the Laws 1996, chapter 464, article 1, section 8, subdivision 5, be repealed.”

Council concurred that staff should prepare a condensed version of Mayor Winstead’s letter to send to the legislators to stress the key points.

Speaker #1: Bill Griffith, Representing the Mall of America

He suggested that all members of the City Council sign the letter to its legislators.

Additional Comments

Grady inquired about who is maintaining the properties of the empty houses being acquired in the 35W Early Acquisition Program stating there is an exposed pool on one of the properties.

Jim Gates, Deputy Director of Public Works replied that two homes have not been closed and one of them is the one with the pool. He stated a hole was punched in the liner so there is no worry about someone drowning but now the fence has been taken down. Staff will talk to Environmental Health Services regarding the height of the grass, etc. The City has closed on three homes but needs to do an Environmental Analysis followed by an abatement. The City is taking care of the exterior of the homes. He explained that the demolition or saving of a home is a joint decision by the City and the Minnesota Department of Transportation.

**Adopted Resolution Designating Director to LOGIS
ITEM 6.2
R-2006-66**

Motion was made by Grady, seconded by Peterson, and all voting aye, to appoint Amy Cheney, IS Manager as Director and Paul McCullough, Police as the Alternate Director of LOGIS (Local Government Information Systems).

Workshop Reminder

Bernhardson reminded Council about their workshop on Friday and Saturday, May 19 & 20 at the HealthPartners’ new training center on the 2nd floor and that they should read the information provided by Carl Neu prior to the workshop.

Adjourn Meeting

Mayor Winstead adjourned the meeting at 10:39 p.m.

Barbara Clawson
Council Secretary