

**Minutes
Minnetonka City Council
Monday, February 12, 2024**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:31 p.m.

2. Pledge of Allegiance: Led by Minnetonka Scout Troop 426

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members, Kimberly Wilburn, Deb Calvert, Paula Ramaley, Kissy Coakley, Patsy Foster-Bolton and Brad Wiersum were present.

Council Member Rebecca Schack was excused.

4. Approval of Agenda

Calvert moved, Ramaley seconded a motion to accept the agenda as amended with addenda for Item 14.A. All voted "yes." Motion carried.

5. Approval of Minutes:

A. January 25, 2024 special study session minutes

Calvert moved, Foster-Bolton seconded a motion to approve the minutes. All voted "yes." Motion carried.

B. January 29, 2024 regular meeting minutes

Calvert moved, Foster-Bolton seconded a motion to approve the minutes. All voted "yes." Motion carried.

C. January 17, 2024 special study session minutes

Calvert moved, Foster-Bolton seconded a motion to approve the minutes. All voted "yes." Motion carried.

6. Special Matters:

A. Strategic Profile quarter four and end of year report

City Manager Mike Funk gave the staff report.

Calvert requested further information regarding the disruptions that occurred within strategic priority one. Funk stated he would have to investigate this further and would report back to the council. He commented what usually causes a disruption was when another priority takes more time.

Wiersum asked how the city defined BMP. Public Works Director Will Manchester stated this acronym was defined as best management practices.

Wiersum thanked city staff for all of their efforts on the city's strategic plan and yearend report. He believed it was important for the city to have staff in place that sets objectives and holds themselves accountable. He commented on how important it was for the city to take measurements.

Calvert moved, Wilburn seconded a motion to accept the report. All voted "yes."
Motion carried.

7. Reports from City Manager & Council Members

City Manager Mike Funk reported on upcoming city events and council meetings.

Calvert sent her condolences to the friends and family members of Sergeant Piper.

Calvert explained this past weekend she attended a League of Minnesota Cities event where she had the opportunity to take a deep dive into issues that are facing cities right now, such as conflict resolution, DEI and crisis communication. She reminded the public that commissioner members were volunteers and councilmembers were paid little for their service to the community. She understood people may have different points of view, but she believed all council and staff members want the very best for Minnetonka. She asked that there be mutual respect from all.

Coakley reminded the public of the Sounds of Blackness event that would be held Thursday, Feb.15 at city hall in celebration of Black History Month. She understood not all members of the community were able to obtain tickets. It was her hope that more events like this would be hosted by the city in the future.

Ramaley offered her condolences to Sergeant Piper's family.

Ramaley thanked city staff for the detailed presentation on the annual report.

Ramaley explained she attended the League of Minnesota Cities training, along with Councilmember Calvert. She stated she was grateful for the opportunity to attend this event and to learn from experts around the state.

Ramaley thanked staff for their tremendous efforts on Kidfest stating a great time was had by all in attendance.

Wilburn shared her condolences with Sergeant Piper's family.

Wilburn noted she attended the League of Minnesota Cities Conference with Councilmember Ramaley and Councilmember Calvert.

Wilburn reported for those that were unable to get tickets, the Sounds of Blackness event would be live streamed.

Foster-Bolton indicated she attended the League of Minnesota Cities Conference with the other councilmembers and appreciated attending this event.

Foster-Bolton offered her deepest condolences to Sergeant Piper's family and friends.

Foster-Bolton commented on the need for community safety when it comes to pedestrians. She explained four weeks ago she was in a crosswalk in another community and she was hit by a car in the crosswalk when she had a green light. She reminded the public to keep an eye out for pedestrians.

Wiersum noted he attended a meeting of the regional council of mayors today. He explained the group heard from a climatologist regarding climate and weather. He indicated he would provide the presentation from this meeting to staff and the city council. He urged residents of Minnetonka to review the city's climate and adaptation plan, which was available on the city's website.

Wiersum extended his sincere condolences to Sergeant Piper's family, the community and staff members.

Wiersum reported the State of the City would be held on Friday, March 15 at the Marsh at 11:30 a.m. He noted the event would have free food for those in attendance.

8. Citizens Wishing to Discuss Matters not on the Agenda:

Diana Houston, 12201 Minnetonka Boulevard, provided the council with a brief presentation from the Friends of Minnetonka Parks which gave a look back at 2023 while also providing goals for 2024. She noted FoMP focuses on restoration, education and public outreach. The 2023 initiatives included science-based natural resources restoration, collaboration with staff and city officials, and continuing to grow outreach and education efforts. The initiatives for 2024 would include educating and training volunteers, the recruitment of new volunteers, FoMP membership, and to establish fundraising goals. She thanked the park board, staff and city council for their continued support.

Kevin Ringhoffer, 2200 Indian Road West, introduced himself to the council stating he works on affordable home ownership and economic justice issues. He noted he was also a part of an organization called Smart Approaches to Marijuana Minnesota. He commended the council for their diligent work on this topic and encouraged the council to reach out to other organizations to learn more about smoking prevention and cannabis. He stated it had been years since he worked for Hazelton Betty Ford, but their work with young adults in Plymouth included community outreach. He commended the council for the good work they do on behalf of the community and for working cooperatively on behalf of the City of Minnetonka.

9. Bids and Purchases: None

10. Consent Agenda – Items Requiring a Majority Vote:

A. Collective Bargaining Agreement between the City of Minnetonka and Law Enforcement Labor Services, Inc. Police Sergeants

Wilburn moved, Ramaley seconded a motion to approve the agreement. All voted “yes.” Motion carried.

B. Collective Bargaining Agreement between the City of Minnetonka and International Union of Operating Engineers (IUOE), Local No. 49

Wilburn moved, Ramaley seconded a motion to approve the agreement. All voted “yes.” Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances: None

13. Public Hearings:

A. 2024-2025 Community Development Block Grant (CDBG) Funds - Urban Hennepin County Allocation

Community Development Director Julie Wischnack gave the staff report.

Coakley asked who would be funded through the \$132,000 allocation. Wischnack explained this percentage was controlled by law. She noted not more than 15% could be used to support public services. She reported the city allocates a large portion of CDBG funds for home rehabilitation because there was a need and people were waiting for these funds. She stated a different entity with the county would be making a decision on who is being funded with the \$132,000. She reported this was the process that has been followed since 2018.

Wiersum commented on how organizations now had to just speak with the county to request funds versus speaking with every city they work in, in order to request CDBG funding.

Wiersum opened the public hearing.

There being no comments from the public, Wiersum closed the public hearing.

Calvert moved, Coakley seconded a motion to adopt Resolution 2024-014. All voted "yes." Motion carried.

B. On-sale intoxicating and Sunday on-sale intoxicating liquor licenses for Heather's Minnetonka LLC, at 5445 Eden Prairie Road

Community Development Director Julie Wischnack gave the staff report.

Wiersum opened the public hearing.

Heather Asbury, the applicant, introduced herself to the council and stated she was looking forward to having a restaurant in the Glen Lake neighborhood. She stated she was finalizing the sale of the building and was hoping to be open in May.

There being no further comments from the public, Wiersum closed the public hearing.

Calvert moved, Ramaley seconded a motion to continue the public hearing from January 8, 2024 and grant the licenses. All voted "yes." Motion carried.

14. Other Business:

A. Items concerning MINNETONKA FLATS, at 5290 and 5300 Spring Lane, 5295 and 5325 County Road 101, and 5301 Tracy Lynn Terrace

City Planner Loren Gordon gave the staff report.

Wilburn commented on how per city code, R-4 properties must be adjacent to collector or arterial roadways as designed by the comprehensive plan. She indicated this property has frontage on County Road 101 and Excelsior Boulevard, but Hennepin County will not allow access to either roadway. She questioned what the process was to gain access. Gordon stated for this site a county roadway improvement occurred about 10 years ago. He noted the city would have future improvements for the Excelsior Boulevard trail. He indicated the intersection at Spring Lane and Excelsior Boulevard was tricky in that there are not great distances from Spring Lane to the intersection. In addition, there

would be a short left hand turn lane, which was a difficult existing condition. He reported this was not an ideal access point and staff explored ideas for different access points. He stated it is not common for the county to not grant access. For this reason, staff was not uncomfortable with granting an access variance.

Wilburn indicated the transition from lower density to higher density was not correct. She inquired what an appropriate transition would look like. Gordon indicated the concept plan was something that makes sense for this neighborhood. There was a coordinated effort between a medium density project and a lower density single family homes that were organized together and share common facilities. He indicated that was the difference between the concept plan and what was being reviewed now.

Ramaley requested further information regarding the tree survey and asked how a high priority tree was defined. Gordon reviewed the findings from the tree survey in further detail with the council. He noted this site would have 64% removal and the applicant was under for significant trees at 33%. He reported high priority trees were defined as 10" or larger deciduous trees that was not invasive.

Ramaley questioned what the limits were for the R-4 zoning district. Gordon explained the R-4 zoning district allows for 4.1 to 12 units per acre.

Ramaley asked if these parcels were replatted as one, would 69% of the platted area would be greenspace. Gordon indicated this was stated by the development team, but noted he has not gone back to confirm this number.

Ramaley inquired if the height of the proposed building structures would be 35 feet. Gordon reported this was the case, noting these numbers would be confirmed during the building permit phase.

Ramaley questioned if this development conformed with affordable housing requirements and the price point would be in line with some of the newly constructed homes in the neighborhood with 10% being affordable. Community Development Director Julie Wischnack stated the applicant would be required to have affordable units that could not sell for more than \$310,000. This would be the maximum price point. She indicated staff needed more information from the applicant regarding the affordable housing.

Coakley requested further information regarding the project timeline. Gordon reported State Statute 15.99 requires applications to be acted upon within 60 days, or within one extension of another 60 days for a total of 120 days. He explained February 14, 2024 was the end of the 120 day time limit. He noted a waiver was a possibility to extend past the 120 days, but this has to be agreed to by the city and the developer. City Attorney Corrine Heine reported under the 60 day law, if the council does not make a decision tonight, the project is

automatically approved, even if the council does nothing. The council has to either approve or deny the request. She noted staff was recommending denial of the project. She indicated if the item were recommended for approval, staff would have to draft a resolution with conditions, a waiver would be required from the developer.

Wiersum asked because the council has six councilmembers in attendance, what was the majority and supermajority. Heine stated city ordinance requires 2/3 of all members of the city council, which means this item will require five votes from the city council.

Wiersum invited the applicant to come forward at this time.

Kelsey Thompson, Lake West Development, thanked the council and staff for their time. She stated she understood the complexity of this proposal and appreciated how staff had broken down the request before the council. She focused on the items that were generally agreed upon, which included appreciation for the unique architectural design, the single-level living housing product, the neighbors expressed concerns about minimizing the impact on traffic and wildlife, a comprehensive guide plan amendment is appropriate at some level, a rezoning is appropriate, low-density single family isn't appropriate for this area, and that medium density residential is located adjacent to low-density residential are in the surrounding area and are appropriate and consistent with basic planning principals.

Ms. Thompson provided two examples, Hunters Ridge and Carlisle Place, where medium density residential abutted single family residential and was viewed to be an appropriate transition in uses and are compatible. She stated an increased density seems appropriate in the Excelsior Boulevard/County Road 101 corridor and the traffic study report concludes that the roads support 40 units of this use at this site. Lastly, she agreed the City has a need and goal for more affordable housing, noting this project would provide four affordable housing units. She reiterated that this property was on a county roadway and could support 40 units of housing. She further reviewed an illustrative site plan, discussed the issues that had been raised by the neighbors and encouraged the council to offer their support for this project noting she was confident she could resolve the remaining issues with staff and the neighbors. She indicated she would be willing to sign an extension to the 15.99 rule if the council would be willing to offer their approval for this project.

Ramaley thanked the Ms. Thompson for her presentation. She understood the neighbors were concerned about number of plans that have come and gone for this site. She discussed how a variance and comprehensive plan amendment would stay with this property. She indicated this was a concern for her. She questioned what would happen if these plans were to change again for this

property. She stated asking for an amendment and rezoning without final plans in place was a concern to her.

Ms. Thompson commented the zoning and comp plan amendment would remain with the land. She indicated to bring forth a project she would need to go through the building permit process. She explained she was hoping to offer condo flats, which was a single level living product that would bring more density, but would open up the greenspace, which could not be done with a single-family living concept. She described how the previous plan with stacked condos and three single-family homes would be less green and would not properly support the proposed amenities. She discussed how attached units were more sustainable and cut down on energy consumption due to shared walls. She was of the opinion this was the best plan for the site to move forward.

Coakley questioned if a traffic study was completed for this project. Ms. Thompson reported a traffic study was completed by SRF and the report came back showing the roads support the proposed 40 units of condo flats. In addition, she noted the proposed condo flats would be geared towards empty nesters, which would have less traffic than single-family homes.

Coakley asked how many people would live in this development. Ms. Thompson stated most of the units would be two bedrooms plus a den. She anticipated there would be one to two people living in each of the condo flat units.

Wiersum opened the meeting for resident comment. There were no resident comments for this item.

Calvert stated she remembered other proposals for this property that did not come to fruition. She appreciated the presentation from staff and also appreciated the proposed condo flat design and architecture. She understood single level living was hard to find in Minnetonka. However, the points made within the packet by staff with the elements that were problematic were repetitive in nature. She discussed how the ordinances the city has in place were not meant to be onerous, but rather were put in place to reflect the values of the community. She noted trees were the number one reason people live in Minnetonka. She commented on how the proposed tree removal was a concern for her, along with the stormwater management. She explained the affordable housing part of the proposal was undefined, which makes the proposal less impressive to her. She stated staff understands high quality development and staff has recommended the density step down on this corner in order to provide a proper transition from medium density to low density residential. She believed there were portions of this development were compelling, but at this time she would be a no vote for this project.

Ramaley agreed with Councilmember Calvert noting there were compelling things about this project such as the sustainability and affordability and the fact it

fills many smart growth goals and plans. However, this project requires a comprehensive plan amendment and rezoning, which was concerning. She hoped to encourage more sustainability and affordability in Minnetonka, noting the community was in need of housing for middle and working class folks, as well as for seniors looking to downsize. She stated she would be voting against this project and would voting to deny this proposal. She encouraged the developer to continue to work on projects like this keeping in mind the city's climate adaptation plan.

Wilburn explained in order to approve a variance request, the request has to meet the practical difficulty standards and this application does not. She reported all other aspects of this project could be discussed, but the fact remains the project has no practical difficulty. She understood there was a tension between the environment and the need for more affordable housing. She indicated she was not generally in favor of going against the tree ordinance, but without a practical difficulty in place she could not support the requested variance.

Wiersum stated it appears there was not enough support to approve this proposal. He commented the proposal was not very specific when it came to affordable housing. He understood the project meets the minimum, but does not offer anything extra. He indicated he has been doing this a long time and when developers were asking for a lot of change, but coming in at the bare minimum for the affordable housing standards, this may not pass council approval. He anticipated this project would not be approved. However, he did anticipate a higher density project would be coming for the property on this corner, but it needs to be different. He recommended a motion to deny be brought forward at this time.

Calvert moved, Foster-Bolton seconded a motion to adopt Resolution 2024-015 denying the Minnetonka Flats application. All voted "yes." Motion carried.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

B. Preliminary plat of EMERALD ESTATES, with floodplain alteration permit and tree removal variance at 2503, 2505, 2511, and 2615 Plymouth Road

City Planner Loren Gordon gave the staff report.

Wiersum stated with this plat there would be two driveways onto Plymouth Road. He questioned how the county viewed driveways onto a county road. Gordon stated the county has review authority because this property has access drives directly onto county roads. He reported the county could approve or deny access permits. He speculated that the county would want a consolidated drive onto

Plymouth Road if this project were approved. In addition, they may want to explore access back to the north or that access connect to Woodbridge Trail. He indicated the plat process tonight, does not dictate how access will be afforded, but would have to be considered at some point in the future.

Wiersum stated it was his understanding this property had a lot of ash trees. He asked if the trees slated for removal included ash trees. Gordon reported the tree numbers do not include ash trees. He explained this was an infestation area and the ash trees were not included in the tree counts.

Wilburn inquired how the city defined a woodland protection area. Gordon stated this was a native remnant of upland area in Minnetonka that has a tree resource that was native, has an understory that has a plant community with a total area that was two acres in size.

Kelsey Thompson, Lake West Development, thanked staff for working with her on this project. She commented on the subject property noting it was just over 11 acres. She explained she had originally proposed a loop through the properties, but this plan has since changed noting access would be required from the north. The new access requirement required the purchase of two additional lots. She discussed the proposed alignment of the access point noting it would align with Woodbridge Trail, across the road. The practical difficulties within the project were further discussed. She stated the previously planned access point would run through a floodplain area, which the city recommended against.

Ms. Thompson explained her plans have since changed and would meet flood plain requirements, but a variance would be required for tree removal. She stated Emerald Estates would now have 14 lots and bypasses the floodplain. Twelve of the lots would be served by a cul-de-sac and two lots would use an existing access point and have a shared driveway. She noted if the development were to drop to a density of one unit per acre, the city's tree ordinance becomes inapplicable. She indicated an exception was allowed to the tree ordinance where the city may allow removal of protected trees over the percentages listed if the developer is providing reasonable use or access to the property. She provided further information on the reasonable use of the land, noting the overall lot size within the development would be .72 acres. She reported the lots surrounding this development were .66 acres.

Adam Niblick, Taft Law Firm, stated he was in attendance on behalf of the property owner. He explained the staff report supports a preliminary plat approval as proposed with the included variances. He reported there was alignment between the proposed development and the city's policy goals, specifically surrounding the preservation of the woodland preservation areas, high priority trees, significant trees as well as the other natural resources on the property. He commented strict adherence to the city's tree ordinance would cause practical difficulties, specifically because of circumstances that were not created by Lake

West Development. He indicated the floodplain, quantity of high priority and significant trees, the size and existence of the woodland preservation area, as well as the vacation of Burlwood right-of-way and the lack of access to the county road have created site excess issues that were creating practical difficulties for this property. He advised Lake West Development has gone through a number of iterations for this property responding to the various city concerns with regard to variances and other aspects and the proposed plan was a reasonable use.

Mr. Niblick indicated the woodland preservation area talk about an area being excluded and noted there was a southern spur that was identified on a map. He noted for the record that notwithstanding the fact that this area is being excluded from the woodland preservation area, not all of the trees in this area were being removed. He indicated this meant the calculations would have to be reconsidered. He understood staff had issues with this development, specifically related to limited access, topographical characteristics of the property and other resources that are presenting development challenges but suggest these are not practical difficulties because they do preclude all development of this property. Those attributes need not preclude all property development to cause practical difficulties. He indicated the requested exceptions to the tree variance are indeed in harmony with the general purpose and intent with the tree ordinances and were consistent with the comprehensive plan.

Mr. Niblick reported the city's comprehensive plan encourages the utilization of protection measures included in the zoning and subdivision ordinances to preserve woodland preservation areas, to preserve high priority and significant trees as well as preserving other natural resource areas on the property. As Ms. Thompson indicated earlier, if the development were to drop to a density of one unit per acre, the city's tree ordinance becomes inapplicable. He commented further on how the floodplain and access issues have created difficult conditions for this property. He stated the proposed development would require a tree variance, but would preserve more trees than if a developer were to come in with a development that was one unit per acre and the tree ordinance did not have to be followed.

Mr. Niblick highlighted a provision within the tree ordinance that allows the city council to allow the removal of protected trees over the prescribed percentage if the removal promotes a public good, such as providing public access, or the removal of some trees would promote the unique natural features of trees on the property. He explained the approval of this variance would indeed promote the protection of more significant trees on the property because while the variances are required, they are required because of the density. A development with larger lots would offer no protection of the trees.

Mr. Niblick stated having reviewed all of the planning materials as well as the application, he would be remiss to not mention with respect to the woodland preservation mapping and tree calculations, there are a number of conclusions

that were drawn from subjective rather than objective criteria. Those conclusions would be arbitrary and capricious. He explained the WPA map area has changed, noting the boundaries were a moving target, which would have impacts on the high priority and significant tree calculations. He reiterated that there were practical difficulties on this property and while he understood staff believes this development does not check all the boxes, however, he was of the opinion this was the right development for this property and the proposed project would protect more trees than a lower density project.

Wilburn asked if the tree ordinance does not apply if there was one unit per acre or less. Gordon stated the provision in code for development density that would avoid compliance with the WPA is a density range of one unit per acre or less. He explained there were always other issues with a plat.

Wilburn questioned what the concerns were with the southern spur of the WPA. Gordon reviewed the location of the WPA on the site plan map. He explained natural resources staff has reviewed this property many times over the past couple of years and was familiar with the site. He indicated staff was very familiar with the ash infestation and the location of the WPA. He reported staff was standing behind the location of the WPA on the map.

Foster-Bolton stated the applicant mentioned the city vacated property in 1995 which was now creating access issues. She asked staff to speak to this further. Gordon indicated the area that was referenced for vacation was from the adjacent neighborhood. He stated when the adjacent neighborhood was platted the right of way was platted through this property and after platting when homes were built, the neighbors on either side petitioned the city to vacate the right of way. He reported the city determined the right of way had no interests in the future and therefore the right of way vacation was approved. He noted this request came from the neighbors and was not initiated by the city. He understood this situation was posed as a practical difficulty by the applicant. However, he noted there were other opportunities to provide access to the property, not being from the east or the south. He stated there were access opportunities from the north and west. City Attorney Heine commented this property would have been provided notice of this street vacation and there was nothing in the record showing they objected.

Calvert questioned if an environmental review was required for a heavily wooded project of this size. Gordon stated the city has had some experience in the last few weeks with environmental reviews. He reported this project was too small and would not require any kind of state level environmental review. He indicated staff does environmental reviews at a city level when it comes to floodplain and wetland issues. He explained this project would require a great deal of environmental review at a staff level, but did not meet the threshold for the state level.

Calvert inquired if the original intent of the one unit per acre threshold within the tree ordinance was to allow developers to take down an inordinate amount of trees. Gordon reported developments with larger lots would still have to protect and respect the trees on the lots.

Calvert reported she has walked this property several times and she understood other developments have come to the council for consideration. She discussed how the contours on the property would impact where homes could be placed. She anticipated the proposed plans could be tweaked in order to save 84 more trees. She asked if a unit or two could be removed in order to meet the city's tree ordinance. Gordon stated this was a very good question. He indicated if there were less lots the impact on the trees would have to be reconsidered. He explained the planning commission recognized that there was something about this proposal that was similar to a previous concept plan that was close to meeting the city's tree ordinance.

Wilburn inquired if the county wanted the road through the middle of the property or were there other alternatives offered. Gordon explained there were a collision of interests noting the county wanted the road in the middle of the site, which was where the slopes and the trees occur. He indicated the county was not in a position to know the city's ordinances but rather were looking at the best site lines. He stated from the city's side it will be the more difficult to locate a road because the applicant has to contend with slopes and the WPA. He encouraged the council to focus on the plans that were before them for consideration at this time.

Wiersum explained he understood this was a challenging site. He questioned how many homes could be constructed if one home per acre were pursued. Gordon reported this would lead to eight or nine lots, because the public roadway would be taken out of the acreage.

Wiersum commented on the tools available to the developer, one being to have fewer lots or for the developer to pursue a PUD, which would reduce setbacks while also requiring a public purpose. He asked if there were other tools available that would allow for the development of this property that would comply with the city's tree ordinance. Gordon stated from what he knows about this property, there is a path to reasonable development. The question remains the number of lots that would be developed. He indicated a PUD could be pursued to adjust setbacks, but a public benefit would have to be considered, which was difficult for a single family development to provide.

Wiersum stated trees have value and noted lots that were one acre in size or more had room for trees. He reported at one point in time he lived on a lot that was one acre in size and he had a lot of trees. He indicated he was not threatened by the fact a development could come in with lots that were one acre in size or more and this did not mean all of the trees would be removed, but

rather these lots would have enough space for a home and trees. He believed there was a path forward for this property, but it may be different than the path that was before the council for consideration.

Wiersum invited the public to speak at this time.

Ash Patel, 2431 Emerald Trail, explained he represented his entire neighborhood. He noted his neighborhood had a petition with 28 signatures at this time. He indicated he did not oppose development of this lot. Rather the question was what fits with the tree ordinance and the surrounding community. He was grateful that the tree ordinance was saving him at this time. He encouraged the council to consider what was being developed across the street and how the increased traffic would impact his neighborhood. He commented on the number of buses and delivery vehicles that use Amy Lane on a daily basis. He discussed the existing water issues that were occurring within the neighborhood noting he feared how the concerns would become worse if this property were developed. He stated 30 or 40 years ago the intent was to open Emerald Trail, however time has passed and his neighborhood has created a thriving community. It was his hope that the city council would uphold the planning commission's recommendation by recommending denial of this project because it did not meet the city's tree ordinance.

Jane Polanski, 2452 Emerald Trail, expressed concern given the fact no traffic study was completed for the proposed project. She indicated there was a lot of pedestrian traffic in her neighborhood and there were no sidewalks. She was very concerned with extending Emerald Trail to the new neighborhood. She recommended a traffic study be done to assess accessibility while also addressing how to mitigate the increased traffic that would happen at Plymouth Road and Amy Lane. She commented on an email from Ashley Morello that was sent to Susan Thompson on the planning commission, noting Ms. Morello had concerns regarding site lines at this intersection. She recommended that staff consider turn lanes if access is allowed at Amy Lane. She discussed the informal traffic study results she did at Amy Lane and encouraged the city to complete a formal study for this project. In addition, she urged the city to protect the trees on this property.

Ms. Thompson commented on the WPA on the property. She commented on how the shape of the WPA was redefined right before the planning commission meeting, which impacted her plans near the southern spur. She indicated she would not be removing trees on the southern portion of the WPA and therefore the tree calculations should be reconsidered. She explained the parcels to the north would be purchased to provide access to the site, which came at a cost. She stated if the parcels to the north were not purchased, the site could be accessed from the middle directly through the WPA.

Wiersum closed the meeting for public comment.

Wilburn asked how the trees were counted for the tree inventory. Gordon reported the tree ordinance requires the WPA to be contiguous or connected. He explained natural resources staff has reviewed the plans for this property and he was sticking by the numbers within the report.

Wilburn commented anything within the dotted black line was considered WPA. Gordon stated this was the case. Wischnack further reviewed the chart that was followed for compliance with the tree ordinance.

Wiersum noted Councilmember Schack was not in attendance this evening. He noted this property was within Councilmember Schack's ward and prior to this meeting she sent an email to City Manager Funk and himself. He read the email from Councilmember Schack in full for the record stating she fully supported staff's recommendation to deny the proposed development. He indicated Councilmember Schack did not support the city offering tree variances and wanted to see the city's woodland preservation areas protected.

Calvert explained she echoed everything Councilmember Schack stated. She thanked the neighbors for their engagement and appreciated the work that had been done to make this project better. She understood this was a difficult property to develop, but she believed the difficulties were not unsurmountable. She agreed pedestrian and traffic safety should be further considered in this area. She commented on how the right of way decisions made decades ago were not an issue that could be addressed by the council now. She reported this project was really close, if the developer was willing to make additional changes. She stated she was struggling with how the developer spoke at the planning commission meeting and the manner in which Mr. Frethem spoke regarding trees. She explained while she supported development, she also supported the ordinances the city had in place to protect its trees. She indicated she did not relish denying requests, but stated she would be supporting staffs recommendation for denial for this project.

Wilburn reported she concurred with Councilmember Schack and Councilmember Calvert's comments. She reviewed the language regarding practical difficulties noting staff does not see a practical difficulty for this project, while the developer does. She understood this was a difficult property to develop but being difficult does not mean a variance is automatically approved. She indicated she was a newer councilmember and noted she would be trusting staff's recommendation.

Ramaley stated as a new councilmember she was looking to staff and the planning commission's for their recommendations. She hoped the developer will think carefully and would come back with plans that come closer to meeting the city's tree ordinance. She explained at this time she would be voting to deny the request.

Wiersum indicated this piece of property would not be going away and Lake West Development would not be going away. He commented on how the most recent tree ordinance would make development more expensive in Minnetonka, but it was clearly reflective of the communities values. He reported Minnetonka has a 58% tree canopy, which was the highest in the metro area, because people value trees and were important to the communities identity. He stated the tree ordinance was a meaningful hurdle, but was not a wall that could not be overcome. He explained the council had objective criteria that were valued which meant he would be supporting staffs recommendation to deny this request. He noted the developer has an interest in this property, but does not own it. He commented on how the property owner will receive less for this property because the density on this parcel would have to be less.

Calvert moved, Foster-Bolton seconded a motion to adopt Resolution 2024-016 denying the preliminary plat for Emerald Estates. All voted "yes." Motion carried.

15. Appointments and Reappointments:

A. Economic development advisory commission (EDAC) chair and vice-chair appointments

City Manager Mike Funk gave the staff report.

Wilburn moved, Ramaley seconded a motion to approve the chair and vice-chair appointments. All voted "yes." Motion carried.

16. Adjournment

Wilburn moved, Calvert seconded a motion to adjourn the meeting at 10:18 p.m. All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk