



**Regular City Council Meeting Minutes**  
**City Hall Council Chambers, 2660 Civic Center Drive**  
**Monday, September 28, 2015**

**1. Roll Call**

Due to technical difficulties, Mayor Roe called the meeting to order at approximately 6:11 p.m. Voting and Seating Order: Willmus, Etten, McGehee, Laliberte and Roe. Acting City Manager and Community Development Director Paul Bilotta, and City Attorney Mary Gaughan were also present. Mayor Roe noted that City Manager Patrick Trudgeon was attending the annual International City Manager's Association meeting in Seattle, WA and would return later this week; while Mr. Bilotta was filling in for him tonight.

**2. Pledge of Allegiance**

**3. Approve Agenda**

Councilmember McGehee requested removal of Item 8.b from the Consent Agenda for separate consideration.

Willmus moved, McGehee seconded, approval of the agenda as amended.

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.

**Nays:** None.

**4. Public Comment**

Mayor Roe called for public comment by members of the audience on any non-agenda items.

**Cassandra Yunker, 2852 Wheeler Street N**

Ms. Yunker stated that part of the appeal of her family's purchase of their Roseville home two years ago was the bordering park and easy access for their four children to simply open their backyard gate opening into Oasis Park to this wonderful park, wildlife area and pond in the SW corner.

However, Ms. Yunker reported that after a major storm several years ago taking out a number of trees, the area had been allowed to grow up into weeds, now seriously encroaching into her yard. Ms. Yunker stated that she had contacted Parks & Recreation Director Lonnie Brokke and Parks Superintendent Jeff Evenson in April of this year asking for their help, with assurances they would look into it. While they mowed the general area, Ms. Yunker reported that due to fallen logs and remaining stumps from removal of the trees after the storm, they were unable to mow up to the fence, creating an area still overgrown and now encroaching onto their private property. Ms. Yunker asked that the City Council work with her and her neighbor, Ms. Lisa McCormick, in getting this area cleaned up.

Mayor Roe thanked Ms. Yunker for bringing this to the City Council's attention and advised that staff would be following up on the situation and reporting to the City Council and Ms. Yunker.

**Lisa McCormick**

Ms. McCormick advised that Ms. Yunker was her neighbor, and spoke in support of Ms. Yunker's report of the situation for neighbors adjacent to Oasis Park. Ms. McCormick provided photographic evidence of the current invasive vegetation and remaining stumps and their proximity to residential property lines. Ms. McCormick expressed appreciation for the work done to-date by City staff at Oasis Park, but noted the need to address the invasives and remaining stumps and logs left after the storm on this public land. Ms. McCormick noted the extensive landscaping done by the previous owners of the Yunker's property; and the unfortunate situation now with a variety of encroaching vegetation.

At the request of Councilmember Willmus, Ms. McCormick clarified that the photos she presented had been taken earlier today.

Ms. McCormick referenced City Ordinances she had personally researched online addressing this nuisance, and its policy regarding diseased and hazardous trees, including grinding and removal of remaining stumps; and expressed the neighbors' willingness to work with city staff over the winter months in addressing and resolving this situation, asking that the City Council provide appropriate direction to staff to accomplish this.

As previously noted by Mayor Roe, staff would follow-up on this situation.

Councilmember McGehee provided her perspective and personal review of the situation, noting the natural habitat for small birds.

Councilmember Willmus clarified City policy on diseased and hazardous trees when located next to a trail, that they be dropped to the ground and sometimes were left to provide natural habitat; admitting that this could all be part of the larger discussion between neighbors and city staff in resolving the situation.

While thanking Councilmember Willmus for that clarification, Ms. McCormick noted the difficulty in residential neighbors in maintaining the areas immediately beyond their fences.

**5. Council Communications, Reports, and Announcements**

Mayor Roe announced numerous upcoming community events including activities surrounding Fire Prevention Week with an open house at the Lexington Avenue Fire Station, the annual Fire Department Booya at the V.F.W. Club. Mayor Roe also noted upcoming volunteer opportunities scheduled for October, including a class entitled "Volunteering 101," natural resources restoration planning and leadership skill identification to assist in

those efforts, a class outlining the rewards and benefits of volunteering; natural restoration effort coming up at Villa park; volunteering for the annual Halloween Spooktacular, with additional information available by contacting Volunteer Coordinator Kelly O'Brien. Mayor Roe also noted the HRA-sponsored workshop on cooking ideas, with additional information available from Community Development Department Assistant Jane Reilly.

On behalf of the City Council, staff and the community, Mayor Roe thanked the volunteers helping at last week's Central Park-Victoria Playground Build, those local and those coming from out-of-town to assist.

Councilmember Etten reported on recent meetings of the St. Paul Area Chamber of Commerce with Ramsey County and various municipalities regarding economic and re-development efforts to address areas of concern along the Larpenteur Avenue and Rice Street Corridor; with many ideas for improving that area going forward.

Mayor Roe concurred, opining there was a lot of good and positive information coming out of that process.

**6. Recognitions, Donations and Communications**

**7. Approve Minutes**

*Comments and corrections to draft minutes had been submitted by the City Council prior to tonight's meeting and those revisions were incorporated into the draft presented in the Council packet.*

**a. Approve September 21, 2015 Regular Meeting Minutes**

McGehee moved, Laliberte seconded, approval of September 21, 2015 Meeting as amended.

**Corrections:**

**• Page 17, Line 19 (Laliberte)**

Typographical correction: Correct to read "broad" rather than "vague."

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.

**Nays:** None.

**8. Approve Consent Agenda**

At the request of Mayor Roe, Acting City Manager Paul Bilotta briefly reviewed those items being considered under the Consent Agenda; and as detailed in specific Requests for Council Action (RCA) and related attachments, dated September 28, 2015.

**a. Approve Payments**

Willmus moved, Etten seconded, approval of the following claims and payments as presented and detailed.

ACH Payments	\$292,220.50
78971 – 79052	161,833.84
<b>TOTAL</b>	<b>\$454,054.34</b>

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.

**Nays:** None.

**c. Approve Brownfield Consultant Contract**

Councilmember McGehee expressed her favorable impression with the Brownfield Contract, and its layout and attention to detail.

Willmus moved, Etten seconded, approval of authorizing the Mayor and City Manager to enter into a professional services agreement (Attachment A) with Liesch Associates for brownfield consulting services as outlined, subject to final review and approval by the City Attorney.

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.

**Nays:** None.

**9. Consider Items Removed from Consent**

**b. Approve General Purchases and Sale of Surplus Items in Excess of \$5,000**

At the request of Mayor Roe, Acting City Manager Paul Bilotta briefly reviewed this item as detailed in the specific RCA and related attachments dated September 28, 2015.

With no representative of the Police Department available to answer her questions earlier today, as well as at tonight's meeting, Councilmember McGehee requested deferring action on the Police Department laptop and equipment purchases until more detail could be provided. Based on her understanding that squads were replaced every three years and the need to re-outfit them at that time at significant expense, Councilmember McGehee questioned the need for these laptops at this time, given the significant cost represented.

Councilmember Laliberte stated that she had also intended to remove this item to clarify whether this purchase was because of the malfunctioning of existing laptops or excessive maintenance on them, or why they were being replaced, even though funds had been set aside for their replacement in the City's CIP.

Councilmember Laliberte also questioned if their purchase could be made from forfeiture funds rather than the CIP Fund; to which City Attorney Gaughan responded that they could not be purchased with those funds.

Laliberte moved, Willmus seconded, approval of the purchase of crack sealing material from Konrad Material Sales in an amount not to exceed \$10,969.00 as budgeted and as further detailed in the RCA and Attachment A entitled, "2015 Capital Improvement Plan Summary," updated August 31, 2015.

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.  
**Nays:** None.

McGehee moved, Laliberte seconded, TABLING approval of the Police Department purchase of laptops and related equipment under the CIP until the next meeting with further detail provided, and as detailed in the RCA dated September 28, 2015, and Attachment A entitled, "2015 Capital Improvement Plan Summary," updated August 31, 2015.

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.  
**Nays:** None.

10. **General Ordinances for Adoption**
11. **Presentations**
12. **Public Hearings**
13. **Budget Items**
14. **Business Items (Action Items)**

a. **Consider Approval of an Interim Use of Outdoor Semi-Trailer Storage at 2720 Fairview Avenue**

City Planner Thomas Paschke briefly summarized this Interim Use (IU) request for semi-trailer storage at 2720 Fairview Avenue, as detailed in the RCA dated September 28, 2015; and supporting attachments. As indicated in the Planning Commission meeting minutes, Mr. Paschke noted staff and Commission concerns had been addressed through recommended conditions applied to the proposed approval supported with a 3/2 vote of the Planning Commission.

Mayor Roe recognized the applicant's representative, Mr. Chad Commers with Roseville Properties, present in the audience to stand for questions if needed.

At the request of Councilmember McGehee based on photos of existing trailers currently obscuring the building, Mr. Paschke advised that the draft resolution provided a condition to address that for no trailers to be located within 70' of the front setback.

Councilmember McGehee stated her support of this request, and expressed appreciation for the applicant's narrative included in the meeting packet, allowing this IU as additional redevelopment planning is in process. Councilmember McGehee suggested revising language in the conditions for approval as "shrubby trimming" versus "removing grass, weeds, etc."

Mayor Roe stated his intent to suggest several language changes to the draft resolution, as follows:

- Page 2, in the paragraph starting: NOW THEREFORE BE IT RESOLVED,... insert the word "trailers" after "... outdoor storage of semi-truck..."
- Page 3, Item 2: Rather than stating "Grass, weeds, and shrubs shall be cut or removed...", modify language to read that "Grass shall be maintained per City Code and weeds and/or shrubs shall be removed from the lot."

**Applicant Representative for Roseville Properties, Chad Commers**

Mr. Commers offered their support for conditions for approval of the IU. however, Mr. Commers advised that the site is intended to redevelopment in the near future, and preliminary to that demolition of razing in the existing building would occur, which they would be working on with staff to accomplish.

Councilmember McGehee noted that, absent a building, there would no longer be any screening of truck bodies from the street; and while stating she was not opposed to demolition of the buildings, it may create different issues once the building was removed.

Mayor Roe noted that  $\frac{3}{4}$  of the lot didn't currently provide screening from existing truck storage, and opined that with a 70' front setback it should be sufficiently addressed. Mayor Roe further noted the willingness expressed by the applicant in working with staff to reorganize the site to make it work during the interim once the building is razed.

In accordance with draft minutes of the Planning Commission, Councilmember Willmus noted the amendment and reduction of the IU term from staff's recommended 3 years to 2 years; and asked the applicant's opinion of that reduced term.

Mr. Commers advised that Roseville Properties was grateful for any time allowed by the City to prepare this property for commercial development; and if 3 years was granted that would be fantastic. However, Mr. Commers noted that this site is not economically viable in perpetuity, and they would be working to accom-

plish redevelopment as soon as possible, and apply for a building permit from the City. If necessary, Mr. Commers advised that they may need to seek an extension for the IU beyond 2 years, as the lynch pin for redevelopment was the acreage immediately behind this property that would serve to identify that area, at which time Roseville Properties would focus on the smaller development area adjacent.

Councilmember McGehee asked Acting City Manager Bilotta if this site would be addressed in the contract approved with the Brownfield Consultant that ran out in 2017, along with this 2 year IU term; and asked if a 2 year or 3 year IU would be most appropriate to allow redevelopment planning to occur.

While the IU term was at the discretion of the City Council, Acting City Manager Bilotta stated that staff had already discussed with Commers that their project would be among the first to be addressed by the Brownfield Consultant; and if things go as planned the 2 year term should suffice in both instances, but otherwise he opined that it would not be onerous for Roseville Properties to seek an extension.

Councilmember McGehee spoke in support of a 3 year IU term now, given the enthusiasm of the applicant to get this parcel redeveloped.

McGehee moved, Willmus seconded, adoption of Resolution No. 11258 (Attachment C) entitled, "A Resolution Approving a Temporary Outdoor Storage of Semi-Truck Trailers as an Interim Use at 2720 Fairview Avenue (PF15-016);" *amended as follows:*

- *Page 2, in the paragraph starting: NOW THEREFORE BE IT RESOLVED,...* insert the word "trailers" after "... outdoor storage of semi-truck..."
- *Page 3, Item 4: Revise language to read: "This approval shall expire at 11:59 pm on September 30, 20[18] with the approval term of the IU for 3 years, expiring on September 30, 20[18]."*
- *Page 3, Item 2: Rather than stating "Grass, weeds, and shrubs shall be cut or removed...," modify language to read that "Grass shall be maintained per City Code and weeds and/or shrubs shall be removed from the lot."*

In his support of the standard IU term, Councilmember Willmus noted there are a number of issues delaying redevelopment of properties in the Twin Lakes area at the City Council's door in needing to provide direction on how these parcels should be developed for the benefit of the community and in allowing property owners to proceed.

Councilmember McGehee concurred with the comments of Councilmember Willmus, speaking in support of this IU allowing the property owner to make some money on the site as it looked at long-term planning for the property.

Public Comment

**Lisa McCormick**

Ms. McCormick offered her personal support of this request, as well as support as Chair and on behalf of the Twin Lakes Neighborhood Association. Ms. McCormick noted this support was for the applicant and a 3 year term for the IU. In seeking to assure the City Council and the business community that they were not anti business, Ms. McCormick reported the good working relationship that had been established between the Association and Roseville Properties, as well as with other area business owners. Ms. McCormick noted the other sites currently being enhanced by Roseville Properties in the community; and also recognized Mr. Commers in his reaching out in support of their residential neighborhood in past efforts; expressing her appreciation for Mr. Commers' forthright nature. Ms. McCormick expressed her trust of city staff to handle the technical issues for safety of the site, and reiterated her support for this IU request.

Councilmember Laliberte also spoke in support of a 3 year IU term; acknowledging the City Council's bigger picture efforts that had delayed property owners. Councilmember Laliberte noted that property owners couldn't immediately begin their redevelopment planning until the City Council finished its work to confirm the status of zoning the property immediately behind this parcel. Councilmember Laliberte expressed her personal appreciation to Roseville Properties for their other redevelopment work throughout the community.

Mayor Roe spoke in support of this IU request and a 3 year term; however, from his perspective stated this term extension did not indicate any backing down by the City Council on their need to remain aggressive in timing expectations for resolution to facilitate redevelopment of this area pending remaining zoning decisions by the City Council.

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.

**Nays:** None.

- b. **Consider Approval of an Interim use of Outdoor Semi-Trailer Storage, Contractor Yard, Semi-Truck Service and Sales at 2211 - 2217 County Road C-2** City Planner Paschke briefly reviewed this IU request as detailed in the RCA dated September 28, 2015; noting that due to its location in a more commercial area of Roseville, the site problems and similarly functioning uses in the area didn't create similar problems as with the previous IU in closer proximity to residential areas. As detailed in the draft meeting minutes of the Planning Commission, Mr. Paschke noted their unanimous approval of a 3 year IU as conditioned.

In noting the more substantial uses involved with this site beyond that of the storage of trailers, Mayor Roe suggested more specific language addressing those multiple uses in the title and body (page 3) of the draft resolution (Attachment C)



consistent with the title of the RCA, incorporating approval for an IU of "outdoor semi-trailer storage, a contractor yard, and semi-truck service and sales" at 2211 – 2217 County Road C-2. Mayor Roe suggested this language be revised consistently in the title of the resolution, the "NOW THEREFORE BE IT RESOLVED,.. " section and deleting repetitive language or specificity.

Councilmember Willmus also noted a typographical error on page 1 of the draft resolution, in the first "WHEREAS, indicating the vote of the Planning Commission recommending approval, correcting that to unanimous approval versus 3/2 approval as with the previous IU.

Discussion ensued regarding addressing additional pollution on this parcel; the compliance component for the building in relationship to the IU permit date as a condition of approval; and original intended IU term of three years.

**Applicant Representative for Roseville Properties, Chad Commers**

In response, Mr. Commers noted their initiation approximately 1 year ago to bring this parcel into compliance since it wasn't contingent on other parcels in the area as the previous IU request had been. Mr. Commers advised that the mound of gravel had been reduced somewhat already, and fencing was underway. Mr. Commers stated that the existing building was very old and had been very poorly maintained prior to their acquisition of it, noting that it was also slated for demolition in the near future. In addressing City Council concerns in Roseville Properties being able to comply with the conditions for IU approval, Mr. Commers stated this would be dependent on which specific conditions the City Council was referring to.

Mayor Roe addressed Condition #5 (page 3) regarding the applicant's removal of the gravel pile by June 1, 2016 and Condition #8 (page 3) regarding the date for bringing the building and site into full compliance with City Code by September 30, 2018, asking if those dates were appropriate and doable.

City Planner Paschke clarified that the conditions were related to the applicant paving the trailer storage area; and if the IU is extended beyond September 30, 2018, the City would want the site to be brought into compliance with City Code.

Mayor Roe noted that this was consistent with the draft Planning Commission meeting minutes as well.

With language in conditions addressing the building and the site itself, Councilmember Willmus sought assurances that there was no confusion on the part of the applicant as to the City's expectations.

Mr. Commers responded that it made sense to have the condition expire with the IU permit term, and since it was likely ponding will occur at the back of the lot, paving it at this point didn't make practical sense.

Mayor Roe noted that no paving would be required if no trailers were stored in that area, suggesting that language should read that the building and site be brought into compliance, particularly conceivable if the building continues to be used after the IU term expires.

City Attorney Gaughan noted that if the intent of Condition 8 is to specifically address the expiration of the IU term, it remain specific to that and not include additional conditions. City Attorney Gaughan suggested that conditions be revised as follows:

- Condition #8 reads: "This IU approval shall expire at 11:59 pm on September 30, 2017, for a term of 3 years; and expiring on September 30, 2018.
- Additional Condition #9 specifically addressing code compliance motivations.

Mayor Roe noted that any code compliance at expiration was only applicable if extended or another use approved.

City Attorney Gaughan noted that regarding the specific term expiration, if the applicant sought an extension, the City Council could deny such extension if the applicant was found to be noncompliance with any of the conditions for original IU approval.

Councilmembers Laliberte and Willmus agreed with the recommendation of City Attorney Gaughan to condition the IU term as a separate item.

Mayor Roe concurred, suggesting staff revise language similar to that in the previous draft resolution for 2270 Fairview Avenue.

Councilmember McGehee asked her colleagues their opinion on weeds and other City Code compliance issues for this IU as addressed in the previous IU approval (Condition 2).

Mayor Roe suggested language similar to that of Condition 2 in the 2270 Fairview Avenue IU approval.

City Planner Paschke stated that staff would be amenable to adding that condition; however, given the location of this site had not deemed it germane as a condition of approval for this IU request.

Mr. Commers offered the applicant's agreement to address grass maintenance issues similar to the previous IU request, opining it seemed to be a fair request by the City.

Mayor Roe clarified the City Council's intent was not to add conditions to IU's, but to seek consistency.

Mr. Commers stated this was a horribly ugly property, and therefore questioned if grass was a main area of focus.

Acting City Manager Bilotta suggested it was an appropriate condition to add to this IU approval, noting that this site also had an issue with non-asphalt areas, and from a maintenance perspective, staff expected compliance.

McGehee moved, Etten seconded, adoption of Resolution No. 11259 (Attachment C) entitled, "A Resolution Approving a Temporary Outdoor Storage of Semi-Truck Trailers as an Interim use at 2211 – 2217 County Road C-2 (PF15-017);" *amended as follows:*

- Title of the draft resolution (page 1): Address the multiple uses on this site, consistent with the title of the RCA, incorporating "outdoor semi-trailer storage, a contractor yard, and semi-truck service and sales" at 2211 – 2217 County Road C-2.
- Strike those redundant details in the "WHEREAS" section of the draft resolution, sections a, b and c, accordingly (pages 1 and 2).
- Typographical error – first "WHEREAS," (page 1) correct vote by the Planning Commission recommending approval to unanimous approval versus 3/2 approval as with the previous IU.
- *Page 2, in the paragraph starting: NOW THEREFORE BE IT RESOLVED,..." insert the word "trailers" after "... outdoor storage of semi-truck..."*
- Condition #8 reads: "This IU approval shall expire at 11:59 pm on September 30, 2017, for a term of 3 years; and expiring on September 30, 2018.
- Additional Condition #9 specifically addressing code compliance motivations.
- *Add a condition similar to revised Condition #2 of the 2270 IU to address grass, weeds and shrubs being maintained per City Code.*

Public comment was sought by Mayor Roe, with no one appearing to speak to this issue.

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.

**Nays:** None.

**c. Consider Approval of a Preliminary Plat at Rosedale Center**

Prior to staff's presentation, Mayor Roe clarified that the action sought of the City Council tonight was only for PRELIMINARY PLAT approval, with the PUD amendment that had been included in the Planning Commission's review, public hearing and their recommendation for approval would come before the City Council at a future date and not part of tonight's requested action.

City Planner Paschke confirmed this approval process, anticipating the PUD Agreement amendment will come before the City Council sometime in October.

Mr. Paschke briefly reviewed this request as detailed in the RCA dated September 28, 2015, and outlined on the displayed map (Attachment C). Mr. Paschke advised that the Planning Commission unanimously recommended approval as conditioned, concurring with staff's recommendation for approval.

As he had discussed with Acting City Manager Bilotta earlier today, Councilmember Willmus asked if the applicable property owners were co-applicants of this Preliminary Plat, seeking clarification of the wording in the RCA.

Mr. Paschke confirmed that co-applicant status, advising that J. C. Penney had provided staff with a letter of support, the former Compass Realty entity no longer in existence, with other sub-entities signing off and becoming part of the permanent record as recorded with Ramsey County.

If the City Council approves this preliminary plat, City Attorney Gaughan suggested adding a condition that its approval be contingent upon approval of approved amendment to PUD Agreement # 3608.

**Applicant Representative Bill Mosten, Senior VP of Retail with Jones Lang LaSalle (JLL)**

Mr. Mosten concurred with the summarization by City Planner Paschke, stating their development team's availability in the audience for questions if needed. Mr. Mosten expressed their firm's appreciation for the City's support of Rosedale Center over the years and expressed their excitement in moving forward into the future with this project.

Mayor Roe noted the significantly reduced square footage available to the fourth anchor tenant with this proposal (Attachment C); further noting that it created some interesting lot lines on the site.

Mr. Mosten responded affirmatively, noting that it made for the cleanest way to replat the site without causing further complications with the parking structure and other amenities of the site.

In general, Councilmember McGehee expressed her interest in seeing all the parking lots on the Rosedale Center site more amenable to pedestrian movement from one portion of the site to another; asking the applicant to take that into consideration in their planning. Councilmember McGehee referenced recent improvements by the City with trails and pathways within the City and improvements to pedestrian access from neighborhoods surrounding Rosedale Center, but her concern in pedestrians then having to dodge traffic once on the site. Councilmember McGe-

hee asked the applicant to work with staff on that concern as part of their PUD agreement negotiations.

Mr. Mosten expressed appreciation for Councilmember McGehee's comments, and offered their willingness to work with staff in evaluating options to encourage connectivity with other access points on their site, as well as supporting connectivity with adjacent properties and pathways as well. Mr. Mosten opined that some pedestrian movements may be addressed with the parking structure intended to cross over the inner-ring road and location of adjacent properties that should improve from today's situation allowing for more controlled flow. Mr. Mosten committed to working with staff on additional ideas that could be incorporated to address pedestrian movement on site.

Councilmember McGehee opined that while their management kept up their structure(s) well, since it was surrounded by an asphalt moat, they should also consider some ways to beautify their parking lot and site.

Mayor Roe noted that was an area of importance to all City Councilmembers, and noted some recent redevelopment examples (e.g. Walmart, Cub on Larpenteur and Fernwood, and the Ramsey County Library – Roseville Branch) as what was being sought and specific to provide a safe harbor for pedestrians from the perimeter of a site to the structure(s).

Public comment was sought by Mayor Roe, with no one appearing to speak to this issue.

McGehee moved, Etten seconded, approval of PRELIMINARY PLAT as presented, covering the properties addressed as 1700 County Road B-2 and 1705 Highway 46, based on the comments and findings, and recommendations of the Planning Commission and as detailed in the RCA dated September 28, 2015; *amended as follows:*

- *Add a condition to state that if the City Council the PRELIMINARY PLAT approval is contingent upon subsequent approval of amendments to PUD Agreement # 3608.*

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.

**Nays:** None.

**d. Consider Approval of a Preliminary Plat of the Residential Property at 2201 Acorn Road into Four Lots**

Senior Planner Bryan Lloyd provided a brief background of the various applications received for this site and from this applicant/property owner, and briefly summarized this latest iteration as detailed in the RCA dated September 28, 2015. Mr. Lloyd noted this latest application was submitted by Mr. Mueller after his

previous discussion with the City Council and staff in how to make his subdivision proposal more palatable (lines 12 – 27 of the RCA). As the City Council considers this latest application, Mr. Lloyd referenced the September 14, 2015 email correspondence from Mr. Mueller's attorney, David M. Lawson, seeking an extension of the review period for the preliminary plat application of Oak Acres until October 26, 2015. If necessary to extend action on this item beyond that date, Mr. Lloyd noted that it would require waiver by and consent from Mr. Mueller as well.

As indicated in the draft meeting minutes of the Planning Commission held on September 2, 2015, Mr. Lloyd apologized for his omission from the RCA packet the referenced written public comments, now provided as a public bench handout and *attached hereto and made a part hereof*, from Janet & Paul Romanowski (2195 Acorn Road) further referencing a November 15, 1993 letter from Mr. Mueller to former City Manager Steve Sarkozy; and written comments from S. & V. Ramalingam (2182 Acorn Road).

Mr. Lloyd noted that during the public hearing held at the Planning Commission comments and concerns focused on the stormwater management and tree preservation plans, as had been consistent areas of concern with previous applications as well, and the effect of four additional lots as proposed with this subdivision application on the character of the existing neighborhood. Mr. Lloyd reported that as new information included in this RCA, staff had researched from as much available and accurate material immediately available a limited subdivision history of the small area surrounding this subject parcel from 1959.

In conclusion, Mr. Lloyd noted staff's recommendation for approval of this application, and recommendation for approval by the Planning Commission on a 3/2 vote. Mr. Lloyd noted that the applicant and his engineer were present and available to stand for questions.

**Applicant/Property Owner Art Mueller and Civil Engineer for the Project Chuck Plowe, Plowe Engineering**

As stated at the Planning Commission, Mr. Plowe reiterated that this plan had been re-engineered based on comments and concerns regarding previous plans and incorporating and addressing those areas of concern accordingly. By maps displayed, Mr. Plowe addressed revisions in the drainage to thoroughly address stormwater design concerns raised. Mr. Plowe advised that the preliminary drainage plans had been submitted to and received preliminary approval from the watershed district upon their review. As part of their approval, Mr. Plowe noted that the watershed district was requiring a reduction in drainage in some areas for 80% or less than the existing rate of runoff from the site. Therefore, Mr. Plowe assured residents and the City Council that this design served to meet that requirement and actually would reduce runoff from existing conditions. Mr. Plowe further

noted the review and preliminary approval of this current design by the City's Engineer Marc Culver.

Regarding tree preservation, and as identified on the displayed grading plan, Mr. Plowe briefly addressed the applicant's intentions for tree preservation to save as many trees as possible through revised grading to avoid getting too close to their root structures or drip lines. Obviously, Mr. Plowe conceded that there was no way to redevelop the property without some trees coming down, but assured the City Council and neighbors that they shared the interest in preserving as many trees as possible.

At the request of Councilmember McGehee, using various maps included in the RCA materials, Mr. Plowe addressed the location of proposed retention ponds, and 32' private road width.

Mayor Roe clarified, and Mr. Plowe confirmed, that the grey area shown on the displayed map showed pavement not rights-of-way as this was a private roadway.

On the tree preservation map displayed, specifically on the north side of the property, Councilmember Etten asked how the applicant and engineer intended during the grading process itself to protect not only the root lines of trees on the site as well as those of adjacent neighbors.

Mr. Plowe responded that while some of the tree elevations are not too far from proposed grades, he thought it still possible to accomplish the site drainage goals while still protecting those trees as identified. While it may prove to be an issue for 1 or 2 of those identified to save, Mr. Plowe opined that the goal was to save those identified; as well as replacing those in accordance with the City's tree preservation ordinance and as part of their required landscaping plan.

In his review of the trees, especially those along the east side of proposed Lot 4, Councilmember Etten expressed his concern in accomplishing drainage work and realistically still preserving those trees sandwiched next to proposed building pads.

Mr. Plowe assured all that every effort would be made to save as many as possible.

**Public Works Director Marc Culver**

Councilmember Willmus stated it was his understanding that overflow drainage was dependent on overland flow to an existing city infrastructure in place toward Marion Road. Councilmember Willmus asked Mr. Culver to advise how far that first catch basin immediately west was from the subject property.

Mr. Culver estimated the distance to be approximately 200' to the west.

Councilmember Willmus asked if, from the edge of that catch basin to the Mueller property, there were any type of drainage easements in the area that would prohibit or prevent anyone from altering the topography within that 200'.

Mr. Culver clarified that the only legal easements were between Marion Road and the catch basin, with nothing east of the catch basin allowing the City to stop anything from occurring from a grading or other perspective.

Mayor Roe sought clarification that some limitations would apply based on the City's grading permit requirements.

Mr. Culver clarified that the City's permit is triggered at 50 cubic yards of imported or exported soil within a site, therefore noting that a small berm could easily be constructed without the City's knowledge and/or approval.

Councilmember Willmus stated the reason for his concern was the gentle slope of the topography and minimal amount of excavation that could cause problems with the flow of water.

Councilmember McGehee noted that the existing site was following current contours and depositing a certain amount of water off site in that particular corner, with only one existing lot and impervious surface between it and the road. With the proposed four pads, Councilmember McGehee opined that not only was the topography being significantly changed but also the amount of impervious surface. While some natural swales toward the bottom of the site now hold water on the subject property itself, Councilmember McGehee opined that unless the plan was explained in much greater detail, she failed to see how any subdivision proposal of this magnitude on this site could possibly keep most of the water on site and not increase water on neighboring properties than currently exists without benefit of an easement.

Mr. Culver concurred with Councilmember McGehee's statement; however, given the submitted drainage report and engineering calculations, some assumptions were made about soil types based on existing and developed conditions. Mr. Culver noted that those assumptions included the recognition that soils had very little infiltration capability and the basins were therefore designed to control water from a rate perspective and recognized that eventually all water would leave the site. Given that assumption, Mr. Culver clarified that the intent is to control that rate to come off in a more controlled rate than exists today, and as the applicant's engineer stated, they are required to meet higher standards and retain more water during storm events as a requirement of the watershed district and city, in the absence of infiltration type soils. Ultimately, Mr. Culver advised that while the water will still be leaving the site, the amount running through to the catch basin to



the west will look like a smaller amount of water but run for a longer period of time.

At the request of Councilmember McGehee, Mr. Culver advised that the applicant had been required to conduct soil borings, and while Mr. Mueller had testified to that in the past, Mr. Culver could not attest to the depth of those borings without further research beyond his knowledge of typical requirements for such borings to be done at a certain depth. At the further request of Councilmember McGehee, Mr. Culver confirmed that tree roots generally break up soil and allow more penetration of water and create more permeability in soils, it was hard to quantify that. In his discussion with the City's Environmental Engineer Ryan Johnson, Mr. Culver reported that how much stormwater could be managed or maintained from a perspective of tree canopies and roots or their actual benefit due to different factors of each site, different factors were used in drainage reports based on grassy versus wood areas that recognized varying aspects. Given the variables of each site, Mr. Culver stated that he could not be sure the impacts could be entirely captured in a preliminary drainage report.

As requested by Mayor Roe, Mr. Culver confirmed that given the variables, calculations tended to be more conservative by nature, with assumptions in wooded versus grassy areas as it related to how much water was captures and how much could be identified as runoff. At the further request of Mayor Roe, Mr. Culver reviewed the purpose of basins and their engineered soil material for storage versus depth and differences in filtration basins versus infiltration basins in addressing rate controls; identifying on the displayed map (RCA Exhibit A) the sites proposed for those basins where water would filtrate and flow to applicable depressions on the subject parcel.

Further discussion included the berm identified by Mr. Culver on the displayed map; general flow and aggressive grading proposed to address and manage the flow for redevelopment of the site and directing it appropriately to various sites; with water flowing from the retention basins to the southwest portion of the property flowing off site.

At the request of Councilmember Willmus, Mr. Culver stated that in the event capacity was reached in the basins, rate controls were designed to manage the first 1.5 inches of water, after which a more direct runoff would occur.

Further discussion ensued regarding drain tiles as shown on Exhibit A and their apparent location to the basins and routing under driveways and other impervious surfaces and how that would be accommodated during larger storm events; and using examples of recent significant rain events of the last few years.

At the request of Mayor Roe, Mr. Culver reiterated that comparing existing site conditions and those proposed, including engineered soils in the retention basins and current runoff from the site, even with additional impervious surfaces pro-

posed, the permitting authorities (e.g. watershed district and city) were addressing those changes to the site and as part of the calculations and goal to reduce the rate of overall runoff from the site.

At the request of Councilmember Laliberte, Mr. Culver advised that he had seen the drainage report referenced by Engineer Plowe, but not specific comments to the developer from the watershed district, which were subsequently provided by Mr. Plowe to Mr. Culver, and referenced by him. However, before Mr. Plowe provided a copy of that letter from the watershed district, Mr. Culver clarified that a condition of approval of the preliminary plat was staff's review and approval and their concurrence with those watershed district findings and requirements.

Since there was no easement in place, Councilmember Laliberte asked if there was anything further from a city standpoint that could be done to address drainage concerns, or even if an easement existed could this site provide additional drainage controls.

Mr. Culver advised that, earlier this year and under separate cover he had forwarded to the City Council his memorandum related to and confirming elevations. Mr. Culver opined that certainly there were specific things to be done such as extending stormwater pipes from the catch basin further east that would capture water more quickly and avoid its moving overland. However, Mr. Culver advised that to do so would require an easement – and associated acquisition and installation costs – to accomplish. From the City's perspective and if no flooding danger to property is identified, Mr. Culver advised that the City would not take such action to pursue that.

At the further request of Councilmember Laliberte, Mr. Culver stated that from an engineer's perspective, pre- or post-subdivision, the City's Engineering Department saw no flooding problem.

#### **Public Comment**

*Mayor Roe reviewed public comment protocol, and reminded the audience that the official public hearing had been held at the Planning Commission on September 2, 2015; and noted that the City Council had access to a video of that meeting as well as a draft copy of those meeting minutes.*

#### **Irv Cross, 2196 Marion Road**

As the property owner abutting Mr. Mueller's property, Mr. Cross stated his property was where the water ran off from Mr. Mueller's parcel. Mr. Cross read prepared written comments stating his primary points of concern related to drainage, current density of trees and vegetation providing a country feel, preference for current larger lot sizes, and potential dramatic changes to the character of the area. Since the public hearing at the Planning Commission and in his subsequent conversations with neighbors, Mr. Cross opined that he was recognizing that the scope of issues was even broader than his own interests, and asked that the City

Council not approve this proposal. Mr. Cross addressed current drainage issues after snow or rain, and if this develop occurs – which he hoped never happened – he hoped it didn't interfere with the quality of life of the neighborhood, opining that this development would change the area considerably.

**Mr. Ramalingam , 2122 Acorn Road**

In addition to previous written comments from Mr. Ramalingam and provided as part of staff's bench handout and previously presented to the Planning Commission as part of the record, Mr. Ramalingam displayed additional calculations he'd researched regarding the Oak Acres Proposal of Mr. Mueller, specifically related to loss of virtually all trees except in the SE corner of the property; his calculations of the removal of 118-120 trees removed for grading the site; current Roseville Tree Preservation Ordinance and specific code requirements and caliper replacement he deemed insufficient and personally upsetting; and increased impervious area he calculated would increase from 6,000 square feet to 27,000 square feet.

Mr. Ramalingam further addressed drainage concerns and flow during heavy rain events, calculating the potential of up to 67,000 gallons; the inadequacy of proposed basins to manage that stormwater and exfiltration based on his calculations and time of year and precipitation levels as well as snow stored along the additional driveways and roadway created by the proposed subdivision; and potential aggregate water flow calculations to the southwest corner of the property.

Mr. Ramalingam concluded by expressing his issues with the unrealistic expectations for winter and/or summer parking and pavement width proposed; and cautioned the need to ensure this subdivision met all City rules and regulations. Mr. Ramalingam recognized that Mr. Mueller had rights for his private property; however, opined that it was inappropriate to put a subdivision in the middle of a single-family neighborhood; and asked that the City Council not approve this particular proposal.

**George Letendre, 2121 W County Road B**

Mr. Letendre referenced Mr. Culver's comments related to water flow and case law in the courts addressing potential negative drainage impacts to neighboring properties. Mr. Letendre opined that the courts would determine this subdivision to be inappropriate when it would increase flow onto neighboring properties. When the City Council heard the 2014 proposal for this parcel, Mr. Letendre noted that several Councilmembers suggested a 3-lot development with entrance off Acorn Road, which would result in a more uniform and typical situation with existing access points and properties, while also retaining more trees. Mr. Letendre opined that this proposed subdivision attempted to put too much on this site given its topography and how Acorn Road developed as encouraged by Mr. Mueller in his comments from 1993 as previously referenced and request to leave this as a non-standard road. Mr. Letendre suggested that the City deny this request.

**Joel Cheney, 2172 Acorn Road**

While not immediately adjacent to this parcel, Mr. Cheney commented to some extent on water flow by questioning whether the suppositions and presumptions made by the engineers included the provision of holding or retention ponds. Mr. Cheney used his experience in attempting a rain garden on his lot in the past, and finding after 5 years that it had totally filled in and held no water whatsoever. If those ponds were approved, Mr. Cheney questioned under whose jurisdiction they would be for long-term maintenance.

Mr. Cheney stated that his personal concerns were more specific to traffic and public safety based on the narrowness of Acorn Road and addressing visitor parking for these additional homes, as well as additional traffic with 3 additional homes and concerns with emergency vehicle access for homes along that private roadway, and utility service and maintenance vehicle access and maneuverability.

**Irv Cross, 2196 Marion Road**

Mr. Cross expressed one additional and important point he'd forgotten to mention previously regarding an easement to address water runoff, stating that he wouldn't agree to an easement.

**John Peterson, 2281 W County Road B**

At the risk of offending some of his neighbors, Mr. Peterson spoke in support of this proposal, opining that three engineers had spoken to the water runoff concern, and results that it will actually be reduced. Mr. Johnson questioned how the expertise of 3 engineers could be rebutted, especially based on his experience in working with the watershed district for many years and their care in protecting themselves in approving these kinds of projects and addressing such issues. Regarding trees, Mr. Peterson opined that the neighbors wanted Mr. Mueller to continue providing a nice forest area for them, but he asked whose actually owned the trees. While recognizing that the City to some extent controlled things, Mr. Peterson questioned if it was reasonable for Mr. Mueller to continue providing the community and neighborhood with a natural forest. Mr. Johnson encouraged the City Council not to use the drainage issue as a reason for denial, which he opined would place them on risky ground if the court system compared their rationale and expertise with that of 3 civil engineers.

**Gary Boryczka, former owner of 2250 Acorn Road, still owner of an adjacent ¾ acre lot**

Mr. Boryczka stated that the issue about these lots had been going on for almost 15 years between various plans; and noted that the neighbors continued to attend and ask the City not to approve subdivision proposals in this much density for this parcel. Having been in the grading business for years, Mr. Boryczka provided his opinion on the drainage flow and its direction based on current observation and

natural tendencies; proposed location of drain tiles related to the basins; further opining that it would prove a nightmare for any grading contractor to attempt to make this proposed drainage and grading plan work. Mr. Boryczka further opined that, with the exception possibly in the northeast and southeast corners, any existing trees could possibly survive long-term with disturbance that would occur at their drip line, and guaranteed that result based on his years of experience in the grading business. As a former 18 year resident of Acorn Road, with only 20' to work with, Mr. Boryczka addressed difficulties in backing out, especially with a trailer. Mr. Boryczka expressed further concern with emergency vehicles and maneuvering. Mr. Boryczka referenced Minnesota State Statute 103.3 addressing drainage running onto other people's property; and opined that this grading plan was useless attempting to move water in the wrong direction, opining that he couldn't see how it could possibly work. Mr. Boryczka questioned how the City could possibly allow this proposal; or how it would assure not just "long term" but "forever" maintenance of the ponds by a "townhome" type of association. Mr. Boryczka stated that he had been against this for 15 years and remained so.

**Janet Romanowski, 2195 Acorn Road**

*As previously noted, a copy of an email dated September 2, 2015 to the Roseville Planning Commission from Janet & Paul Romanowski, 2195 Acorn Road was provided by staff at the dais; and Mr. Romanowski provided an updated copy of the same document re-dated September 28, 2015 and addressed specifically to the Roseville City Council, **attached hereto and made a part hereof.***

Ms. Romanowski stated their strong opposition to this project as outlined in her written comments, noting that the ongoing water problem on their property had not yet been corrected.

Response to Questions Raised During Public Comment

Mayor Roe asked staff to address comments and questions raised related to filtration or rate control basins, not infiltration basins, and whether the drain tiles were properly addressed and how they worked.

Mr. Culver advised that, if this request was approved by the City Council, as part of the process, staff would continue working with the applicant and perform a more thorough review of all designs, including drain tiles. Mr. Culver noted that typical drain tile installation would be at the bottom of the basins underneath engineered soils to a 36" excavation and approximately a 30" depth below engineered soils to allow water to filtrate through. Mr. Culver stated that both the watershed district and city engineers would review each specific of the proposed designs throughout the process.

At the request of Mayor Roe, Mr. Culver clarified that the intent of the ponds was that the water not flow over the edge of the basin but through the engineered soils

and over time unless a significant rain event at which point they would typically overflow.

Regarding the increased water coming off the site due to 4 times the current impervious surface, based on technical issues and potential water that would be dealt with on or off site, Mayor Roe asked Mr. Culver how quickly it would move and how that corresponded with the 80% rate control requirement of the watershed district.

Mr. Culver reviewed the rate and volume, and while there would be an increase in impervious surface and thus more volume leaving the site, as with any site water would be absorbed into the ground on grassy areas according to varying factors before the ground became concentrated and runoff. Mr. Culver confirmed that obviously anytime impervious surfaces increased, the volume of water leaving a site would increase, and in lieu of infiltration possibilities that would be the first preference of the watershed and city to manage stormwater runoff and keep that volume from leaving the site, if that infiltration option is not available, it was necessary to increase rate control requirements and construct larger basins to hold more water for longer periods of time. Reiterating the fact that, while over time the volume of water leaving the site will be larger, Mr. Culver noted that the intent is for the rate to be slower to avoid overcharging overland flow and/or pipes.

In the description of basin construction and their bottom approximately 3' lower than the surrounding grade, Councilmember Willmus sought further detail on those basins constructed adjacent to the new private roadway and their bottom elevation in relation to outflow compared to the downstream basin at the southwest corner of the Mueller property, appearing higher than the ultimate outflow.

While not having been able to thoroughly research that question asked by Councilmember Willmus of Mr. Culver prior to tonight's meeting, Mr. Culver noted that in order for the water to flow, they would have to be higher than the ultimate outflow location, with water essentially being drained to the basin to flow out.

To clarify the long-term maintenance of these basins, Mr. Culver stated that when a watershed permit is required, the applicant or property owner is further required to enter into a maintenance agreement with the watershed district that is filed against the property for perpetuity. If the City feels that for any reason the basins are not being maintained to keep them operational, Mr. Culver advised that the City would then work directly with the watershed district to address those issues, with intervention possible and any expenses incurred charged back to the applicable property owner(s). At the request of Mayor Roe, Mr. Culver clarified that the city and watershed district would work in partnership, and further clarified that the maintenance agreement is a legally binding document between a property owner and the watershed district.

Councilmember Laliberte noted that the last time this had been discussed, as well as again tonight, comments had been made on the preference that this be subdivided into 3 versus 4 lots, providing 3 separate access points, causing her to question how such a change would impact the southwest corner causing so much concern.

Mr. Culver stated that without a revised grading plan, he could only speculate that it may be likely with 3 versus 4 lots that grading or tree removal may not be as intense to support fewer building pads, and a private roadway would not be necessary. However, Mr. Culver further speculated that 3 private driveways may be equal to or greater than the square footage of the proposed private roadway depending on their design. Mr. Culver opined that there could certainly be opportunities for less intense grading and less overall impervious surface, but without a revised grading plan, it would be difficult for him to offer a more qualified opinion.

Councilmember McGehee clarified that with the proposed retention ponds under the purview of the watershed district and city, becoming a structure running with the land and therefore unable to be abandoned, it was her understanding that the city intended to have a review of such basins to ensure their continued appropriate function and re-permitting every five years. However, while this had been a previous discussion and intent of the City Council and staff, Councilmember McGehee noted that the criteria for such a periodic review had yet to be established, including the cost of testing, required mediation and how to collect money for that; and therefore the City had some pending work to complete on the broader rain garden issue being promoted and running with the land.

Mr. Culver agreed with Councilmember McGehee that those discussions had indeed been held previously, and staff's intent was that further development of that policy be part of this winter's work plan for the Public Works/Engineering Department; including the details of how various watershed districts and the city will partner in that periodic review. Mr. Culver reported that as part of that preliminary work, staff had almost completed compiling a list of best management practices (BMP's) and rain gardens within Roseville, of which there are many, and holding staff level discussions on how to address them and work with private property owners on their establishment and maintenance, as well as their re-permitting process.

Back to public comment questions and concerns, Mayor Roe asked Mr. Culver to address the 32' street width and parking.

Mr. Culver responded that this is a standard street width and supported parking on both sides; even though it is tight when parking is on both sides. By comparison, Mr. Culver advised that Acorn Road is of 28' width from curb to curb, providing

approximately 21' of bituminous width, which he agreed was very narrow and allowed for no parking and signed accordingly.

At the request of Mayor Roe, and review by staff and its design review committee (DRC), Mr. Culver advised that no concerns were raised by the Public Works, Community Development or Emergency Management staff during their review. Mr. Culver clarified that there were requirements for a certain length of cul-de-sacs without turnarounds, and while the standard is 100' in diameter, there were others already existing in the community that were less than that, which is allowed by city code. Mr. Culver noted that he was not aware of any comments or concerns of the Fire or Police Departments related to their emergency access for this area, and assured that they were taken into consideration as part of any project's review. At the further request of Mayor Roe, Mr. Culver confirmed that a fire hydrant would be installed for water main maintenance at the end of the water line, and would be billed accordingly.

As with other previous developments in Roseville, Mayor Roe noted that there were two options – either private or public water and/or sewer lines; and since this subdivision was for only 4 units, a viable option would be for private mains.

Mr. Culver concurred, noting that those private lines and mains would require review by and determined in compliance with city standards, and would be part of future negotiations for infrastructure issues.

Regarding tree preservation and/or replacement, Mayor Roe advised that the applicant would be required to meet the ordinance currently in place.

Regarding the comment about only one tree per lot required, Acting City Manager Bilotta clarified that this was referenced in the landscaping plan with the tree preservation plan subject to a set formula. Mr. Bilotta further advised that the applicant's grading and tree preservation plan had been submitted by staff to the City's consulting arborist to determine what if any damage may be incurred to existing trees.

Senior Planner Lloyd reported that specific to the questions raised regarding the accuracy of identified trees proposed for preservation with the grading plan as presented, the consulting arborist confirmed earlier today that his review suggests the grading plan contours would allow for the preservation of essentially all the trees identified; but advised that he would be visiting the site in person to gauge the health of those existing trees, and become part of any final plat approval.

Mayor Roe invited Mr. Plowe to respond to public comments at his discretion.

Regarding maintenance of filtration basins, Mr. Plowe reiterated that watershed district requirements would be recorded at Ramsey County, with his firm prepar-



ing grading plans, and the watershed district subsequently approved filtration basins, and confirmed that the property owner(s) would be required to maintain them in perpetuity.

Regarding placement of drain tiles, Mr. Plowe advised that plans will go through several iterations between preliminary and final approval; and his intent in this preliminary submission was to simply show their intended location. While Mr. Culver had not had the opportunity to review them in detail at this time, Mr. Plowe noted that they had been available to the applicant and him as the engineer for some time as thought was given to and further refined as to their location based on eventual location of private utilities.

In conclusion, Mr. Plowe stated the applicant's willingness to come back at the request of the City Council, but respectfully asked for the City Council's approval tonight to allow the process to continue.

**Applicant Art Mueller**

Mr. Mueller spoke to and displayed a history of this site from his perspective and the original plat of Acorn Acres done in the early 1940's, originally shown as 13 lots. Since then, Mr. Mueller noted that previous subdivisions by neighboring property owners had resulted in 26 lots, leaving only several remaining that could be subdivided, one of which was his own.

In response to water drainage plans, Mr. Mueller displayed plans and location of current drainage and proposed, including the lowest spot at the back of Mr. Romanowski's lot. Mr. Mueller noted that, in 1995, the City raised Acorn Road and the culvert in front of his home without his knowledge but assuring him it would create no problem; and further noted that adjacent lots had not paid for stormsewer management along Acorn Road, while others paid for water service on Marion Road since 1995. When some of those lots were subsequently sold, Mr. Mueller reported that Mr. Romanowski had allowed them to fill in the pond in the 1970's or 1980's that had originally been deeper, and for those living in at least 6 of those homes, all that water now flowed north down Acorn Road and around Mr. Cheney's home unless freezing during the winter when it flows into the sanitary sewer system, or down his existing driveway and into the creek on his lot. Therefore, Mr. Mueller opined that those neighbors had nothing to complain about since they filled in the creek; and provided pictorial evidence of construction of a berm and drainage across Mr. Cross's property; further opining that if having allowed the creek to be filled in, Mr. Cross would not now be experiencing this back up or the reduction in value of his lot, nor would it negatively impact Mr. Romanowski's yard at its lowest point. Mr. Mueller suggested that Mr. Cross require the neighbors to dig out the creek to allow the water to flow properly as it was originally intended to do.

Further responding to public comments, Mr. Mueller recognized that no one wanted this subdivision to occur, but further noted that even though Mr. Cheney had subdivided his lot without neighborhood support, the City Council had approved that subdivision with Mr. Cheney subsequently overbuilding the lot and way over 30% in impervious coverage. Mr. Mueller further opined that Mr. Cross had also overbuilt his lot even though they complain about his attempt to subdivide his property.

Mr. Mueller responded further to other neighboring properties and his observation of their buildings and sites; and negative impacts of drainage from poorly installed stormwater runoff from some of those parcels onto his property. Mr. Mueller noted that he had requested an easement in the past from Mr. Cross, who had refused that option; and opined that the only justified interest should be that of Mr. Romanowski because of the results of filling in the creek.

Mr. Mueller stated that he wasn't bothering a soul with this proposed development, and opined that the opposition was strictly due to the neighbors not wanting the neighborhood to change.

A speaker in the audience (off mike) asked Mayor Roe if rebuttals would be permitted by the Chair, to which Mayor Roe responded that Mr. Mueller was being allowed to offer responses to questions raised during public comment, and that there would not be an opportunity for subsequent rebuttal in that case. Speaking directly to Mr. Mueller, while understanding his point of view, Mayor Roe suggested that he had sufficiently addressed his areas of concern, and suggested he conclude his comments at this time to avoid creating any additional issues beyond those already existing in his neighborhood.

Councilmember Laliberte asked the City Attorney how the City Council based their decision given the verity of statements made, public comments, and experts testifying that the proposed plan would be better than existing conditions; and how one did or didn't trump the other in reality.

City Attorney Gaughan clarified that the comment made by one individual speaker, Mr. Gaughan clarified that the State Statute referenced was specific to private nuisance actions related to water damage.

City Attorney Gaughan opined and refined the issue(s) the City Council should be basing their decision making on from an important legal perspective. Whatever the City Council determines to be their course of action, Mr. Gaughan advised that it needed to be supported by specifically-articulated reasons for approval or denial. At that determination, Mr. Gaughan opined that the City Council's action could then withstand judicial scrutiny – whatever their collective action – and to do so with specificity for a basis for that position.

If the City Council decides to deny this preliminary plat request, City Attorney Gaughan advised that it was particularly important that it be supported by enumerated specific reasons, with staff then obligated to memorialize that decision in writing to the applicant as soon as possible. Again, as long as the City Council undertook those considerations, as stated, Mr. Gaughan opined that their decision would withstand judicial scrutiny.

*McGehee moved, Willmus seconded for discussion purposes, to DENY the request for a PRELIMINARY PLAT of Oak Acres dated June 5, 2015, comprising the property at 2201 Acorn Road, based on the following findings:*

- 1) The size and complexity of having a private road, and private water and sewer utilities;*
- 2) The frequent characterization of this subdivision as townhomes, while this is a residential-1 neighborhood characterized with large lots; and such a subdivision would alter the character of the existing neighborhood, and a subdivision of townhomes doesn't fit;*
- 3) The City is not prepared at this time to handle the various complexities of drainage issues and retention ponds on this site versus the availability of infiltration of any time;*
- 4) The increase in water volume would be significant;*
- 5) The large loss of trees is certainly noticeable based on proposed replacement trees of 87 under the City's current tree ordinance, speaking to a significant loss of existing trees, which are not insignificant in their relationship to maintaining the character of the neighborhood, wildlife habitat and ability of the ground to hold water; and*
- 6) The proposal creates parking issues for guests as well as emergency vehicle access.*

Councilmember Willmus stated his primary concerns had not changed since the City Council saw Mr. Mueller's original proposal last fall, with remaining concerns about stormwater mitigation measures and their reliance on overland flow and the potential inability to maintain the integrity of that flow over time, and with no easements in place to ensure that flow. Councilmember Willmus referenced the testimony of Mr. Mueller regarding the existing infrastructure having been diminished due to berms and other fill of lower areas, and having personally walked the property last week with Mr. Cross, he had been able to observe the inhibited drainage caused by mulch and landscaping installed through the years without consideration to overall drainage of the area.

Specific to the private roadway and parking as proposed, while recognizing Mr. Mueller's right and ability to subdivide his property, Councilmember Willmus opined that there needed to be a balance between that ability to subdivide and other areas the City didn't have the ability to mitigate, to avoid causing harm to adjacent properties due to potential stormwater runoff. As an example, Councilmember Willmus cited some other areas the City has ultimately had to deal with and at

the expense of its taxpayers (e.g. the area surrounding the Fairview Community Center, the Dellwood area between the library and Chandler Vault flowing to Highway 36), resulting in significant dollars to mitigate and resolve those issues. Councilmember Willmus expressed his concern that, if approved and moving forward as proposed, it would create yet another situation down the road of significant expense to the City.

Councilmember Etten agreed with the comments of Councilmember Willmus. However, Councilmember Etten stated that he was not fully supportive of the motion as stated, based on the proposed findings. Councilmember Etten noted those areas he was not in agreement with consisting of the misperception that these homes are attended as townhomes based on the requirement for a homeowners association to manage infrastructure in perpetuity; the misrepresentation that this private road was of the same width as several smaller road and parking would restrict or prevent emergency vehicle access, which had been addressed and therefore not an issue to support denial. Councilmember Etten stated he was concerned with the volume of drainage and potential impact to adjacent properties, and could support those specific findings to support denial; opining that he would be open to tabling action tonight for Mr. Mueller to replat for 2-3 homes and thereby addressing drainage issues.

Mayor Roe sought legal clarification from City Attorney Gaughan as to the results of tabling action with Mr. Mueller returning with another proposal.

City Attorney Gaughan responded that his suggestion would be that if in abstract the City Council was inclined to be more open to considering a different proposal with a different (e.g. reduced number) of lots, that the City Council take definitive action tonight since any such application would need to be separate and the application process would need to start over again.

Councilmember McGehee stated that she had no problem in reducing lots, but that her primary concern was stormwater drainage and the amount of increased volume due to increased impervious surface, especially in light of the rain events experienced over the last few years, opining that she wasn't confident this was the appropriate plan for this parcel.

Councilmember Laliberte stated that her feelings were more in line with those of Councilmembers Willmus and Etten, noting her greatest concern was with the increase in volume of overland flow mainly because of past issues and experiences noted in other areas of the community. Councilmember Laliberte thanked Mr. Mueller for attempting to respond to their previous direction that he hire a professional engineer to work with him on a revised plan, and in his attempts to address additional concerns previously expressed by the City Council. While supportive of any private property owner's right to subdivide their property, Councilmember Laliberte clarified that it needed to be done in a way that would not cause harm to

neighboring properties or possibly create significant expense to the City. Councilmember Laliberte agreed that she didn't agree with all the findings as stated and listed by the maker of the motion currently on the table.

Mayor Roe suggested, if alternate findings are proposed versus their support from the current findings in the motion, a motion to amend would be order to delete some or all of those current findings. Mayor Roe suggested a second option would be to simply defeat the standing motion and make another motion.

Mayor Roe stated that, as the motion currently stands, he could not support all of the findings; opining that the finding regarding the size and complexity of the private road and utilities seemed to him to be adequately addressed by staff and City Code; as to fitting with the character of the neighborhood, he opined this was not a fact-based finding; and further stated he was not supportive of the finding related to loss of trees since any tree preservation plan would be required to meet the City's existing tree ordinance. Mayor Roe further stated his lack of support for the finding specific to parking and emergency vehicle access, since a 32' width street, whether private or public, was adequate as noted in staff's review. Regarding drainage and runoff concerns, Mayor Roe stated that he was also not supportive of that finding, since the watershed district had provided their written approval and offered their support of the proposal that would reduce and enforce rate reductions up to 20% from existing conditions.

While recognizing that the community had other overland flow issues, Mayor Roe opined that one difference with this site was that even with significant rain events and damage to foundations in some of those other areas of the community, during those same significant rain events there was no evidence of similar damage in this area. Mayor Roe opined that this may be due to the shallow grades in this area, and not to say it may or may not become a future issue, at this time there was no evidence to support it becoming a problem; and from his perspective it appeared that steps as required by the watershed district in slowing that rate would further mitigate those issues.

Acting City Manager Bilotta, as a point of clarification, noted that while there had been some references during public comment describing the homes intended for this subdivision as townhomes, this was zoned for single-family residential; and the only intended reference for an association was simply in the homes being part of a future homeowners association to address long-term stormwater management and infrastructure maintenance, and should in no way reflect on the nature of the proposed units themselves.

***Willmus moved, McGehee seconded, striking any previously stated findings not directly related to stormwater mitigation issues.***

Mayor Roe noted that, as makers of the original motion, there was no need to move to amend the original motion if they were in agreement to accept striking those findings.

*City Attorney Gaughan suggested it would be important to again specifically state the exact findings for this new motion, as identified and revised by Councilmember McGehee and the additions of Councilmember Willmus, and outlining those findings as follows:*

- 1) The City is not equipped to handle the complexity of the proposed drainage system, including the lack of easements over surrounding properties;*
- 2) The potential increase of water volume stands to be large;*
- 3) There is some basis to believe that relevant ground areas cannot handle an increase of water volume;*
- 4) Surrounding properties are not adequately equipped to handle increased water impacts and would become more vulnerable with this proposed project versus its location in different part of city;*
- 5) The City has had similar experience (e.g. Fairview Community Center, Dellwood area, and Ramsey County Library – Roseville Branch) in other areas of the City to cause heightened concern with this project.*

*As Chair, Mayor Roe requested a substitute motion for denial based on the findings as outlined by City Attorney Gaughan.*

*Willmus moved, McGehee seconded, a substitute motion for DENIAL of the proposed PRELIMINARY PLAT of Oak Acres Plat, dated June 5, 2015, and comprising the property at 2201 Acorn Road, based on the findings for DENIAL as follows:*

- 1) The City is not equipped to handle the complexity of the proposed drainage system, including the lack of easements over surrounding properties;*
- 2) The potential increase of water volume stands to be large;*
- 3) There is some basis to believe that relevant ground areas cannot handle an increase of water volume;*
- 4) Surrounding properties are not adequately equipped to handle increased water impacts and would become more vulnerable with this proposed project versus its location in different part of city;*
- 5) The City has had similar experience (e.g. Fairview Community Center, Dellwood area, and Ramsey County Library – Roseville Branch) in other areas of the City to cause heightened concern with this project.*

Stating that she didn't disagree with the substitute motion, Councilmember Laliberte noted that three different and non-affiliated engineers had provided testimony that the stormwater management system was sufficient.

Councilmember Willmus pointed out that the Rice Creek Watershed District had not seen this particular iteration yet and at its current evolution.

Councilmember Laliberte noted that Civil Engineer Plowe had given testimony that they had seen and approved the plan.

Mayor Roe sought clarification from Mr. Plowe.

Mr. Plowe provided written documentation to City Engineer Culver received by the applicant from the watershed district dated August 12, 2015, stating that they had reviewed and submitted conditional approval of the proposal.

Mayor Roe stated that he still opposed the substitute motion, opining that the findings for denial were of little concern to him in approving a preliminary plat, since the watershed district would need to approve the drainage plan before consideration of the final plat based on conditions as stated in staff's recommendation for conditional approval as detailed in the RCA.

**Roll Call**

**Ayes:** Willmus, Etnen, McGehee and Laliberte.

**Nays:** Roe.

**Motion carried.**

In accordance with the outcome of the vote, Mayor Roe directed staff and City Attorney Gaughan to provide written notice to the applicant of the findings for this denial.

**15. Business Items – Presentations/Discussions**

**16. City Manager Future Agenda Review**

Acting City Manager Bilotta briefly reviewed upcoming preliminary agenda items.

**17. Councilmember-Initiated Items for Future Meetings**

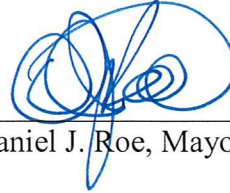
**18. Adjourn**

Etten moved, Laliberte seconded, adjournment of the meeting at approximately 9:31 p.m.

**Roll Call**

**Ayes:** Willmus, Etten, McGehee, Laliberte and Roe.

**Nays:** None.



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Daniel J. Roe, Mayor

ATTEST:



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V. Paul Bilotta, Acting City Manager