

**Department of Community Planning and Economic Development – Planning Division**  
**Conditional Use Permit**  
**BZZ-4412**

**Date:** July 13, 2009

**Applicant:** Minneapolis Park and Recreation Board

**Address of Property:** 4901 46<sup>th</sup> Avenue South

**Project Name:** Wabun Park

**Contact Person and Phone:** John Monnens, Minneapolis Park and Recreation Board, (612) 230-6471

**Planning Staff and Phone:** Hilary Dvorak, (612) 673-2639

**Date Application Deemed Complete:** June 2, 2009

**End of 60-Day Decision Period:** August 1, 2009

**End of 120-Day Decision Period:** Not applicable for this application

**Ward:** 12      **Neighborhood Organization:** Longfellow Community Council

**Existing Zoning:** R1A, Single-family District and SH Shoreland Overlay District and MR Mississippi River Overlay District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 34

**Legal Description:** Not applicable for this application

**Proposed Use:** Park

**Concurrent Review:**

**Conditional use permit:** to allow development of a road, parking lots, maintenance building, two picnic shelters and other park structures on a steep slope or within 40 feet of the top of a steep slope in the SH Shoreland and MR Mississippi River Overlay Districts.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits

**Background:** Minnehaha Park, located in southeast Minneapolis, is part of the Grand Rounds park system that runs through the City of Minneapolis. Minnehaha Park is generally bounded by Nawadaha Boulevard, 39<sup>th</sup> Avenue South, East 49<sup>th</sup> Street, Hiawatha Avenue, Minnehaha Creek and the Mississippi River. In total, Minnehaha Park is 193 acres in size. There are several distinct areas within

Minnehaha Park including Minnehaha Falls, Minnehaha Creek, the Upper Glen, the Lower Glen and the Wabun Picnic Area. The Wabun Picnic Area is located in the northeast portion of Minnehaha Park. Specifically, the Wabun Picnic Area is located south of East 46<sup>th</sup> Street, north of the Minnesota Veterans' Home and between the Upper Glen and the Mississippi River. The Wabun Picnic Area is divided into two parts: Upper Wabun and Lower Wabun. Old Soldier Home Road divides the two picnic areas.

In 1992, the Minneapolis Park and Recreation Board completed a master plan for Minnehaha Park. Since the approval of the master plan several renovation projects within the park have taken place, including restoration of the historic structures located in the park, the installation of new garden areas and changes to the Upper Wabun Picnic Area. The improvements to the Upper Wabun Picnic Area included the addition of a new pool mechanical building, a wading pool, new picnic shelters, playground equipment and parking area improvements. Currently, pathways are being repaired, the streambanks along Minnehaha Creek are being stabilized and the Works Progress Administration (WPA) retaining walls are being repaired.

This year the Minneapolis Park and Recreation Board is proposing to make improvements to the Lower Wabun Picnic Area. The improvements include a newly aligned road, new bicycle and pedestrian paths, a new maintenance building, additional picnic shelters and parking lot improvements.

The newly aligned road is proposed to be constructed along the east edge of the Lower Wabun Picnic Area. The road will provide access to two new parking lots and the Minnesota Veterans' Home. The alignment of the proposed road is located in approximately the same location as the original access drive to the Minnesota Veterans' Home. The existing Old Soldier Home Road will be converted to a new bicycle and pedestrian path.

The proposed maintenance building will be similar in design, materials and color to the pool mechanical building that was built as part of the Upper Wabun Picnic Area improvements. The proposed maintenance building will provide room for park maintenance equipment, office space and accessible restrooms. The maintenance structure will be two stories in height and will be approximately 3,200 square feet in size. The maintenance building will be located at the north end of the Lower Wabun Picnic Area. The two proposed picnic shelters will be located in the middle of the Lower Wabun Picnic Area. The shelters will be similar in design to the picnic shelters that were built as part of the Upper Wabun Picnic Area improvements.

There are currently two parking lots located in the Lower Wabun Picnic Area. The existing parking lot located towards the north end of the Lower Wabun Picnic Area will be completely removed and reconstructed further to the south. The existing parking lot located towards the south end of the Lower Wabun Picnic Area will remain but will be expanded.

Oak trees are scattered throughout the Lower Wabun Picnic Area. The Minneapolis Park and Recreation Board has indicated that the location of the existing trees was taken into consideration when the proposed improvements were planned. In total there will be 13 trees removed as part of this redevelopment.

Minnehaha Park is an historic resource with both National Register and local historic designation. Minnehaha Park was placed on the National Register of Historic Places in 1969 and was locally designated in 1986. The Minneapolis Heritage Preservation Commission reviewed the Upper Waban Picnic Area changes in 2007 and the Lower Waban Picnic Area changes in 2008. All of the changes in both the Upper and Lower Waban Picnic Areas were approved. One of the conditions of approval from the 2008 Heritage Preservation Commission review of the project was that a Phase 1 archeology survey had to be completed of the Lower Waban Picnic Area, including a reconnaissance survey of the Lower Waban Picnic Area to determine site limits. Any site that was identified had to be evaluated to determine if it was eligible for the National Register of Historic Places. The archeological study has been completed. The study states that no historic or prehistoric deposits considered eligible for listing on the National Register of Historic Places were found. However, the study determined that the existing picnic tables are an important feature since they were built at part of the WPA. As a result of the study the Minneapolis Park and Recreation Board has drawn up a new plan that retains the majority of the picnic tables on site.

The Waban Picnic Area is located in the SH Shoreland Overlay District and the MR Mississippi River Overlay District. Both of these overlay districts regulate several aspects of development when located on a steep slope or within 40 feet of the top of a steep slope. In this case, the road, parking lots, maintenance building, two picnic shelters and other park structures are located on a steep slope or within 40 feet of the top of a steep slope. Given this, a conditional use permit must be obtained in order to complete these proposed changes to the Lower Waban Picnic Area.

**CONDITIONAL USE PERMIT** - to allow development of a road, parking lots, maintenance building, two picnic shelters and other park structures on a steep slope or within 40 feet of the top of a steep slope in the SH Shoreland and MR Mississippi River Overlay Districts

**Findings as Required by the Minneapolis Zoning Code:**

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

- 1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The Planning Division does not believe that allowing the Minneapolis Park and Recreation Board to construct a road, parking lots, maintenance building, two picnic shelters and other park structures on a steep slope or within 40 feet of the top of a steep slope would be detrimental to or endanger the public health, safety, comfort or general welfare. The proposed changes to the park will enhance the Waban Picnic Area. Realignment of the road will divert all vehicles to the edge of the picnic area while allowing bicyclists and pedestrians to meander through the area without having to cross paths with vehicles. The way that the site has been designed takes into account the contours of the land. The applicant has indicated that the Minnehaha Creek Watershed District and the Minnesota Pollution Control Agency have issued permits for this project.

**2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division does not believe that allowing the Minneapolis Park and Recreation Board to construct a road, parking lots, maintenance building, two picnic shelters and other park structures on a steep slope or within 40 feet of the top of a steep slope would be injurious to the use and enjoyment of other property in the area. The development site is surrounded by park land.

**3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

**4. Adequate measures have been or will be taken to minimize traffic congestion in the public streets.**

There are currently 41 parking spaces located in the Lower Wabun Picnic Area. Once the development is complete there will be 94 parking spaces. The newly aligned road is proposed to be constructed along the east edge of the Lower Wabun Picnic Area. The road will provide access to two new parking lots and the Minnesota Veterans' Home. The alignment of the proposed road is located in approximately the same location as the original access drive to the Minnesota Veterans' Home. The existing Old Soldier Home Road will be converted to a new bicycle and pedestrian path. Realignment of the road will divert all vehicles to the edge of the picnic area while allowing bicyclists and pedestrians to meander through the area without having to cross paths with vehicles.

**5. The conditional use is consistent with the applicable policies of the comprehensive plan.**

According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Minneapolis will identify, protect and manage environmental resources so that they contribute to residents' experience of nature, the parks system and the city (Policy 6.1).
- Incorporate protection, conservation and maintenance of the natural environment in the design and operation of parks, streets, open spaces and related facilities (Implementation Step for Policy 6.1).
- Ensure that access to the city's lakes, streams and the Mississippi River continues to be maintained for the benefit of present and future citizens of Minneapolis (Implementation Step for Policy 6.1).
- Minneapolis will develop and support a system of urban parks and 'greenway' connections through the City (Policy 6.2).
- Minneapolis will offer a diverse range of programming and recreational facilities for resident use (Policy 6.3).
- Diversify the recreational facilities offered by the city to respond to the wide range of resident interests (Implementation Step for Policy 6.3).

- Minneapolis will make parks secure, attractive places and ensure that these facilities are accessible, enjoyable and safe (Policy 6.4).
- Use designs features that promote safety and security when constructing or renovating park spaces (Implementation Step for Policy 6.4).
- Bring all public buildings into compliance with fire and ADA codes (Implementation Step for Policy 6.4).

The Planning Division believes that the proposed development is in conformance with the policies of *The Minneapolis Plan*.

**6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.**

**551.490. Conditional uses and variances.** In addition to the conditional use and variance standards contained in Chapter 525, Administration and Enforcement, the city planning commission and board of adjustment shall consider the following:

**1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

The Planning Division does not believe that the proposed development will impact or pollute Minnehaha Creek or the Mississippi River. The Minnehaha Creek Watershed District and the Minneapolis Pollution Control Agency have issued permits for this project and as with any development, Public Works will review and approve an erosion control plan and a stormwater management plan prior to the issuance of building permits.

**2. Limiting the visibility of structures and other development from protected waters.**

Given the topography of the area it is likely that the proposed maintenance building and picnic shelters will be visible from Minnehaha Creek during those times of the year when there are no leaves on the trees. Given the aesthetic nature of the structures the Planning Division does not believe that this will be detrimental to the view shed.

**3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.**

This development will not impact watercraft usage on Minnehaha Creek.

**551.500. Development on slopes between twelve (12) and eighteen (18) percent.** Development on slopes between twelve (12) and eighteen (18) percent, other than bluffs, where allowed by the primary zoning district, provided the development is not located within fifty (50) feet of the ordinary high water mark of any protected water, may be allowed in the SH Overlay District subject to the regulations of this article, Chapter 535, Regulations of General Applicability, and the following conditions:

**1. The foundation and underlying material shall be adequate for the slope condition and soil type.**

The aspects of the Lower Wabun Picnic Area development that are being constructed on a slope between 12 and 18 percent are the northerly portion of the new road, the bicycle and pedestrian path and a path that connects the Upper Wabun Picnic Area to the Lower Wabun Picnic Area. The northerly portion of the road exists today and will be rebuilt in its existing location as part of this project. The new bicycle and pedestrian path will replace Old Soldier Home Road. The new path that connects the Upper Wabun Picnic Area to the Lower Wabun Picnic Area is being constructed in a manner that follows the contours of the ground. Given this the Planning Division believes that the foundation and underlying materials will be adequate. The applicant has indicated that the geotechnical report indicates that there are six to eight inches of topsoil above three to five feet of fractured rock above solid rock.

**2. The development shall present no danger of falling rock, mud, uprooted trees or other materials.**

During construction erosion control measures will be in place to prevent falling rock, mud, uprooted trees and other materials. After construction is complete the site will be landscaped to prevent such dangers from occurring.

**3. The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with surrounding architectural features.**

Because the slope will not be changing as a result of the construction the view of the slope from Minnehaha Creek will remain unchanged.

**551.510. Grading and filling.** Grading or filling involving more than ten (10) cubic yards where the slope of the land is toward a protected water shall be prohibited within the SH Overlay District except where authorized by an erosion control plan approved by the city engineer and the zoning administrator, subject to the following conditions:

**(1) The smallest amount of bare ground shall be exposed for as short a time as feasible.**

The applicant has indicated that temporary seeding will be provided as required per state and local regulations and after periods of record rainfall as required by the Minnehaha Creek Watershed District, the Minnesota Pollution Control Agency and the City of Minneapolis Erosion Control Permit.

**(2) Temporary ground cover, such as mulch, shall be used and permanent ground cover, such as turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees shall be established.**

Once construction is complete new trees, shrubs, native grasses and sod will be planted around the site.

**(3) Best management practices to prevent erosion and trap sediment shall be employed to ensure that soil loss levels do not degrade the protected water.**

The applicant has indicated that erosion control measures will be provided as required by the Minnehaha Creek Watershed District, the Minnesota Pollution Control Agency and the City of Minneapolis Erosion Control Permit.

**(4) Fill shall be stabilized to accepted engineering standards.**

The applicant has indicated that the engineered drawings specify soil compaction densities to industry standards with a ground cover established for permanent cover.

**(5) Any work which will change or diminish the course, current or cross-section of a protected water shall be prohibited except where approved by the commissioner of natural resources.**

The applicant has indicated that the proposed development will not change or diminish the course, current or cross-section of Minnehaha Creek.

**(6) The top of a riverbank or lake bank shall not be moved closer to the protected water.**

The development does not disrupt the top of the creek bank.

**(7) Such grading or filling shall comply with the provisions of Chapter 52, Erosion and Sediment Control for Land Disturbance Activities, of the Minneapolis Code of Ordinances.**

As with any development, Public Works will review and approve an erosion control plan and a stormwater management plan prior to the issuance of building permits.

**551.520. Removal of vegetation.** Removal of vegetation on steep slopes or bluffs or within forty (40) feet of the top of steep slopes or bluffs, or within fifty (50) feet of the ordinary high water mark of any protected water, shall be prohibited within the SH Overlay District except as authorized by the zoning administrator subject to the following conditions:

**(1) Clear cutting of vegetation shall be prohibited, except as necessary for an approved development and subject to the requirements of this article and Chapter 535, Regulations of General Applicability. This provision shall not prevent the removal of noxious weeds or dead or diseased vegetation.**

Clear cutting of vegetation will not take place as a result of this development. Oak trees are scattered throughout the Lower Wabun Picnic Area. In total there will be 13 trees removed as part of this redevelopment.

**(2) Selective removal of vegetation shall be allowed, subject to the requirements of this article and Chapter 535, Regulations of General Applicability, provided sufficient vegetative cover remains to screen parking areas, dwellings and other structures when viewed from the protected water and provided a continuous natural cover is maintained.**

Oak trees are scattered throughout the Lower Wabun Picnic Area. In total there will be 13 trees removed as part of this redevelopment. The vegetation located between the Upper Glen and the Lower Wabun Picnic Area will remain.

**(3) Vegetation shall be restored to the extent feasible after any construction project is completed to retard surface runoff and soil erosion and to provide screening. Restoration shall be completed as soon as feasible, but in no case later than the beginning of the next growing season following the completion of a project.**

Once construction is complete new trees, shrubs, native grasses and sod will be planted around the site.

**(4) Best management practices to prevent erosion and trap sediment shall be employed to ensure that soil loss levels do not degrade the protected water.**

The applicant has indicated that erosion control measures will be provided at storm basins and any areas where runoff might occur as required by the Minnehaha Creek Watershed District, the Minnesota Pollution Control Agency and the City of Minneapolis Erosion Control Permit.

## **RECOMMENDATIONS**

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application to allow development of a road, parking lots, maintenance building, two picnic shelters and other park structures on a steep slope or within 40 feet of the top of a steep slope in the SH Shoreland and MR Mississippi River Overlay Districts located at 4901 46<sup>th</sup> Avenue South subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

### **Attachments:**

1. October 29, 2008, Preliminary Development Review notes

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2. November 15, 2006, resolution from the Minneapolis Park and Recreation Board Action and associated *Request for Park Board Committee Action*
3. Proposed use and description of the project
4. Information from the Minneapolis Park and Recreation Board website pertaining to the redevelopment of the park
5. Conditional use permit findings
6. Minnehaha Historic District maps and description
7. Materials related to the revised picnic table plan
8. May 28, 2009, e-mail to Council Member Colvin Roy and the Longfellow Community Council
9. Zoning Map and Overlay District Map
10. Aerial photos of the park
11. Shoreland and FEMA maps
12. Civil plans, tree protection and tree removal plans and architectural plans
13. Photographs of the site and surrounding area