

MEDINA CITY COUNCIL MEETING MINUTES OF OCTOBER 7, 2014

The City Council of Medina, Minnesota met in regular session on October 7, 2014 at 7:00 p.m. in the City Hall Chambers. Mayor Weir presided.

I. ROLL CALL

Members present: Anderson, Pederson, Martin, Martinson, and Weir.

Members absent: None.

Also present: City Administrator Scott Johnson, City Attorney Ron Batty, City Engineer Tom Kellogg, City Planner Dusty Finke, Planning Consultant Nate Sparks, Public Works Director Steve Scherer, Chief of Police Ed Belland, and Recording Secretary Carla Writh.

II. PLEDGE OF ALLEGIANCE (7:00 p.m.)

III. ADDITIONS TO THE AGENDA (7:00 p.m.)

The agenda was approved as presented.

IV. APPROVAL OF MINUTES (7:01 p.m.)

A. Approval of the September 16, 2014 Regular City Council Meeting Minutes

It was noted on page 2, Line 44, it should state, "Mark Ayotte, ~~Medina Counsel~~ legal counsel to the City regarding Mediacom, stated that he ~~is~~ was present to..." On page 3, Line 5, it should state, "...Mediacom responded back with ~~their~~ its own proposed map..." On page 3, Line 7, it should state, "...entire city ~~throughout their process and they, and through that process,~~ Mediacom determined..." On page 3, Line 8, it should state, "...that would be necessary to complete the build out..." On page 3, Line 10, it should state, "...to ~~their~~ Mediacom's map and process." On page 3, Line 15, it should state, "...City and ~~are only~~ that Mediacom only is pushing forward this option for build out of 9.91 miles in 2014." On page 3, Line 16, it should state, "...stated that ~~their~~ its proposed route..." On page 3, Line 32-33, it should state, "Anderson stated that the issue ~~is~~ that the Council is presented with is that the Franchise Agreement statesd that there would be 30 miles of build out but that now Mediacom is stating there would be is 48 miles of build out." On page 3, Line 35, it should state, "Ayotte agreed that ~~there is~~ it's a difference between..." On page 3, Line 41, it should state, "...to a specific amount of miles ~~and~~ but..." On page 4, Line 12, it should state, "...be considerate of ~~their~~ its dollars..." On page 4, Line 31, it should state, "~~observe~~ preserve the rights..." On page 6, Line 35, it should state, "LMT-M11-A and we to authorize..." On page 6, Line 39, it should state, "...a) Actual cost of build-out; and, b) Actual lineal..." On page 8, Line 21, it should state, "...would be delayed until at least 2015 so..."

The Council asked staff to review the meeting recording relating to page 5, Lines 37-38 and correct as appropriate.

*Moved by Martin, seconded by Anderson, to approve the September 16, 2014 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. **CONSENT AGENDA (7:06 p.m.)**

- A. **Approve Mediacom Sales Agreement for Service at City Hall**
 - B. **Resolution No. 2014-63 Recognizing Volunteers and Contributors to Medina Celebration Day**
 - C. **Resolution No. 2014-64 Accepting Donations for Medina Celebration Day**
 - D. **Resolution No. 2014-65 Requesting Conveyance of Tax-Forfeited Land**
- Moved by Anderson, seconded by Pederson, to approve the consent agenda. **Motion passed unanimously.***

VI. **COMMENTS (7:07 p.m.)**

A. **Comments from Citizens on Items not on the Agenda**

Chris Hilberg of 4559 Trillium Drive North offered comments relating to the City's Zoning Ordinances, noting that Minnesota State Law requires the City's Zoning Ordinance to be consistent with its Comprehensive Plan. He stated the City's Comprehensive Plan includes an Implementation Section that was used to create the Zoning Ordinances. Mr. Hilberg pointed out that the Comprehensive Plan Implementation Section for land guided as Mixed Use Business says that such land presumes a strong business component.

Weir noted that these comments relate to an item on tonight's agenda and should be addressed at that time. Attorney Batty confirmed the finding of Weir that Mr. Hilberg's comments clearly relate to an agenda item.

Justin Walsh, Hamel Brewing, thanked the Council for approving a tap room license and asked the Council to consider creating a zoning classification for a brewery in the Uptown Hamel area. He recommended requiring that 50% of the area be associated with production. Mr. Walsh also asked the Council to consider Sunday sales as the State law had been changed and the City's Sewer Access Charges (SAC), which are currently seven times higher than what is charged in Maple Grove and Plymouth. Mr. Walsh stated he is interested in bringing a brewery to Medina but the SAC rates are hindering the start of their operation.

Weir thanked Mr. Walsh for his comments. She acknowledged that Medina's SAC do not compare favorably with the more developed communities mentioned; however, the City does have deferral programs that may be of assistance.

B. **Park Commission**

Scherer provided an update of the activity at the previous Park Commission meeting including discussion of the Wakefield Trust Preliminary Plat and Woodland Hill Preserve Preliminary Plat and recommendation to accept cash in lieu of land dedication. The Park Commission also received a brief update on athletic fields.

C. **Planning Commission**

Finke stated the Planning Commission will meet the following week and consider the City's Staging and Growth Plan as requested by the Council.

Weir explained staff had been directed to look at the Growth Staging Plan because the Metropolitan Council had reduced the City's growth figures from 11,000 by 2030 to 9,000 by 2040, a decrease in population growth by almost 40%. Because the City preferred

steady growth for budget and staffing purposes, staff was directed to even out growth through this method.

VII. NEW BUSINESS

A. Dominium – Affordable Rental Townhomes – Mixed Use Stage I Plan Review (7:15 p.m.)

Weir reviewed prior Council consideration of this application for Tax Increment Financing (TIF) as well as zoning flexibility within a PUD for 32 affordable townhomes. In that case, the City had a lot of legislative discretion in making decisions. Today, a new application has been submitted for the same site that meets the intent of the Comprehensive Plan and requirements of the Zoning Ordinance. Weir explained that with a fully-conforming application, the Council has the least amount of discretion when considering the application. This is a Stage I Plan Review. Its purpose is to consider land use, general site layout, density, and provide direction on conformance with the Comprehensive Plan and Zoning Ordinance. The applicant will then return with a Preliminary Plat for Stage II Plan Review. Weir stated this application is for 26 townhomes, it is less dense, there is more open space, the garages are larger, and the driveways are full length. No concessions are being sought from the City. This application includes three design upgrades allowing seven units per acre. Weir noted the official public hearing was held on September 9, 2014, with the Planning Commission so tonight is not a public hearing but the Council welcomes public interest and will take comments. Weir urged all to follow proper decorum and bear in mind the Council has little discretion in reviewing a conforming application.

Sparks presented the application of Dominium for a Mixed Use Stage I Plan Review for a proposed 26-rental townhome development located at 510 Clydesdale Drive on a private internal drive with associated accessory improvements on approximately four acres north of the Medina Entertainment Center. He stated the site is zoned Mixed Use and guided Mixed Use Business. Sparks described the site's amenities and displayed a map depicting the subject site, noting a City-owned parcel within this area that is not part of this project.

Sparks displayed the layout concept, noting the units will range from two-bedrooms to four-bedrooms, some having handicap accessibility. With regard to density, he stated the City Attorney reviewed the Code discrepancy and found the applicant correctly interpreted the language relating to density.

Sparks advised of setback distances and impervious percentages, noting all comply with the requirements of the Mixed Use District. Guest parking would occur on the full-length driveways and within designated parking spaces. In addition, the grading plan meets the City's standards. Sparks pointed out the location of rain gardens, the wetland, setback buffer, and presented the landscaping plan, noting all meet ordinance standards. In addition, a sidewalk system is planned to provide for pedestrian circulation as required by the Mixed Use District. Sparks then displayed exterior elevations of the proposed buildings, noting each meets the ordinance standards for mix of building materials and architectural features. He stated the Council is being asked to provide comments on this Stage I Plan.

Weir asked Sparks to address two issues that have been recurring. The first issue is the Mixed Use Business District and how it applies to small parcels. Sparks explained that it

requires a minimum of 50% residential but not a minimum amount of commercial. He noted that Attorney Batty had provided comments related to that issue. Attorney Batty advised the issue was principally whether the Comprehensive Plan requires more than a single use. He stated this is a project with only residential uses and the site is guided Mixed Use Business. The question is whether it is a requirement there be more than one use. Attorney Batty stated he found it was not required, it is permissive. This is the same conclusion reached by staff, and the Planning Commission and the Council has also agreed with that interpretation. Attorney Batty stated his conclusion that a single use on a parcel with a Mixed Use designation is consistent with the Comprehensive Plan and Mixed Use Ordinance.

Martin stated the Comprehensive Plan, Chapter 5, Land Use and Growth, includes a definition of 'Mixed Use.' She read that definition, noting it underscores the Comprehensive Plan is permitting one use on one parcel adjacent to a different use on another parcel, all within the same Land Use Designated area. Attorney Batty concurred and described mixes of uses that would be permitted in both the Comprehensive Plan and Zoning Ordinance.

Weir stated the second issue that has recurred is the concern that multiple families could live in one of the larger units. She invited Dominion to address that issue.

Jean Ferguson, Senior Vice President of Property Management with Dominion, stated appropriate household sizes have been developed following HUD guidelines of two people per bedroom. She indicated that multiple families and multiple earners would likely not qualify at 60% of median income.

Weir asked whether inspections would occur to assure living arrangements. Ferguson stated units would be inspected twice per year and in addition, State agency inspections would occur. Ferguson stated Dominion does not want occupants who do not take good care of the units.

Martin noted that pursuant to this policy, the maximum number of occupants for a three-bedroom unit would be six regardless of age. Ferguson confirmed that was correct and the occupants did not need to be related.

Nick Anderson, Senior Development for Dominion, concluded that a four bedroom apartment could have up to eight people not family related. Ferguson stated the occupants must still meet the 60% of median income restriction. She felt that many of the units would be under occupied. Nick Anderson stated if Medina's ordinance contained a different rule on the number of nonrelated occupants within one unit, Dominion would implement that policy.

Martin stated the City has other residential projects and, with increased density, perhaps the Council should study the relationship of occupants and what is reasonable. Attorney Batty stated that could be considered but advised there is a lot of litigation and case law related to that issue, as it is not easy to articulate.

Nick Anderson indicated Dominion's Albertville project has an average of 3.5 occupants per unit and it is expected there would be similar family sizes in Medina. He noted Dominion has designed the project to be compliant with the Zoning Ordinance and consistent with the policies set out in the Comprehensive Plan. Anderson stated

Dominium believes it is the right company based on its 42 years of experience in affordable housing that had demonstrated its capacity to sponsor this type of project. In addition, letters of support had been submitted from other communities in which Dominium has worked. Anderson stated the income restriction is 60% of area median income, or about \$50,000 per year for a family of four. For reference, he advised there are currently 335 Medina households that meet that income restriction, showing there is need in Medina. It is expected the occupants will be working families with children. Nick Anderson restated that Dominium had redesigned the project to make it compliant with all regulations and consistent with the City's Comprehensive Plan. In addition, Dominium is no longer requesting financial assistance or zoning changes. The project had been reduced from 32 units to 26 units to assure it meets density, setbacks, and impervious surface and drainage calculations. Mr. Anderson stated the project is 100% compliant with Code and asked that Council approve the project.

Weir acknowledged receipt of letters from Larkin Hoffman, Chris Hilberg, and Craig Theis.

Martinson asked staff whether the application does comply with all existing regulations and conform with the Comprehensive Plan. Attorney Batty stated he believed this project was consistent with the Comprehensive Plan and zoning. Sparks stated this project meets the technical performance standards of the zoning district.

Martinson asked what discretion the Council has for changes, approval, and/or denial. Batty advised that the Council's level of discretion is relatively narrow. He explained that in a land use context, the Council operates legislatively. The previous version of the application did involve a rezoning request, which is a legislative act. However, with this application, the Council is not acting in a legislative capacity. Rather, it is a quasi-judicial review and involves a lower degree of discretion.

Weir opened the floor for public comment at 7:50 p.m.

Mons Teig of 100 Clydesdale Trail, #325, stated his support of the plan and involvement of Interfaith Outreach and Community Partners (IOCP). He spoke on behalf of those not present tonight, the future tenants who all have names, hopes, and dreams. He stated the tenants are working to build a future for themselves and their children. He suggested that refusing access to affordable housing is economic profiling. Teig also spoke on behalf of retail and other businesses and referenced a *StarTribune* article relating to whether affluent suburbs had done their fair share to increase affordable housing stock. He urged the Council to approve the plan to house a small population in the midst of an affluent population, showing support for those people.

Bob Belzer of Wild Meadows stated he is a new resident with a history in property management and came to Medina to raise a family. He indicated he has been shocked while attending prior Council and Planning Commission meetings to learn the City does not have any current plan to deal with affordable housing, growth, or an inspection program to provide guidance to owners of rental property. He stated he has discussed this situation with City staff and suggested consideration of a moratorium to allow time for the City to create a plan to address multifamily housing issues such as whether to require a sprinkler system. Mr. Belzer asked the Council to look at its Comprehensive Plan and make needed adjustments to create guidelines before this project gets off the ground.

Lorie Cousineau of 4587 Medina Lake Drive asked if the City had plans to initiate a Crime Free Multi- Housing Ordinance. Police Chief Belland answered in the affirmative and indicated it will require background checks.

Barb Geltzo of Albertville Meadows stated she has lived there for over a year, it is a great place, Dominion is resident oriented, and she is proud to call it home.

Robert Franklin of 2819 Lakeshore Avenue spoke in support of the revised application as it meets the Comprehensive Plan, zoning, and was unanimously recommended for approval by the Planning Commission. In addition, Medina has a commitment for affordable housing and there is a lack thereof. Mr. Franklin stated IOCP is a reputable organization and if challenged in court, the City would probably lose. He felt the project was within reason and there should be deference to property owners to do valuable things for the City. Franklin stated this project will primarily serve working families who may be those who serve us everyday through their occupation, their children will be friends of our children, they will worship with us, and could be our children or relatives and, at a different time, even us. Franklin stated if the occupants are doing what society tells us to do, to be productive and serve, they should be able to afford a place to sleep at night. He hoped they will be welcomed into Medina as were the 300 other families in more affluent housing.

Rochelle Rossini, 850 Tuckborough Court stated the last time this was discussed, residents had a petition of over 400 signatures finding this project was not a good fit for this community as it would be next to a bar. In addition, a lady from Plymouth had said that things were not all that great with Dominion's Plymouth project. Ms. Rossini stated she wished the City could do some checking and follow up on who is living in the units.

There being no additional comments, Weir closed the public comment period at 8:05 p.m.

Weir stated the Comprehensive Plan review begins September 2015. It is updated every ten years and projects forward 30 years. Weir stated this will be a thorough process with many opportunities for public notice and input.

Martin noted that in the last few months, the Council has initiated re-evaluation of the existing Staging and Growth Plan, based on reduced projections of the Metropolitan Council with eye to change it to reflect the expected reduction in demand for housing.

Anderson stated he supports affordable housing and appreciates the comments made in support of affordable housing and those it benefits. His only reservation is one of location as he thinks it is not a great location for this project in Medina. He offered a scenario where Dominion was already constructed with no bar or nightclub next door and then having a bar owner approach the City to locate within 100 yards of the 26 townhome units. Anderson stated he does not think the City would hold that conversation. He stated the Philosophy of affordable housing is a great idea, a sound project, the philosophy of affordable housing is worthy of Medina, but he finds this site to be of a poor location.

Pederson agreed the location is not ideal and he would not have picked that location, but the City would be following the Comprehensive Plan by approving it. In addition,

Attorney Batty has advised the Council has a narrow view of what it can consider. Pederson stated he would like the project to be sprinkled to assure the occupants are safe. He stated his support for the application, as it had dropped the request for the City to absorb fees, because he does not want taxpayers burdened by those fees. Pederson stated he supports the new layout.

Martin concurred with Pederson's comments.

Weir stated one of her concerns is the exit from the Ballroom parking lot and suggested additional screening to block headlight intrusion into the units. She asked what Dominium proposed in the way of play equipment within the increased open space (1/4 acre) for older children. Nick Anderson stated the playground shown to the north of the clubhouse will include two structures. One structure would be for younger children and the second structure would be more substantial for 5-12 year olds. Weir suggested consideration of play equipment, such as a soccer goal, in the open space area for older children. Nick Anderson stated Dominium would be willing to look at that option.

Weir suggested locating a fence along the berm, particularly in the northeast portion where the berm drops off. She stated she had seen golf balls embedded into the berm, wants to ensure golf balls do not become a hazard for residents, and also wants to limit egress of residents to the golf course.

Anderson agreed with Pederson that according to the Comprehensive Plan, the application is compliant.

Martinson stated she has nothing more to add or ask.

Pederson asked what will be done to address the Ballroom noise issue. Chief Belland stated it will be handled the same as other noise complaints. If found to be too loud, they will be asked to turn it down.

Weir stated all know that service people are needed in our community and should be integrated.

*Moved by Martin, seconded by Pederson, to direct staff to prepare a resolution based upon the findings in the staff report and subject to the terms and conditions described in the report to approve the Stage 1 Mixed Use Plan Review for the proposed townhome development located at 510 Clydesdale Drive, with conditions noted in the staff report correcting the last line of item 1 to indicate: shall 'be' permitted, taking into consideration the specific comments for additional screening along Clydesdale Drive; addition of soccer nets, goals, or similar items to accommodate a 10-18 age range in the open space; and, fencing to reduce impact of golf balls from the golf course into the northeast corner of the site and minimize flow of pedestrian traffic from the site onto the golf course. **Motion passed unanimously.***

Weir noted that two months ago, Target sent a note to the City Administrator indicating they were short of employees, which shows there are jobs available within walking distance of the proposed site. She thanked all who had participated in the discussion.

Weir declared a recess at 8:18 p.m. The meeting was reconvened at 8:22 p.m.

B. Charles Cudd De Novo – Woodland Hill Preserve – Preliminary/Final Plat, Variance, Rezoning

Finke presented the request of Charles Cudd DeNovo, LLC for Rezoning and Preliminary/Final Plat approval for a 15-lot subdivision of 7.9 net acres that is guided Low Density Residential and zoned RR-UR. This property is north of the Reserve of Medina development site. A portion of the site was included in the approved Preliminary Plat called "Fawn Meadows" that was considered and approved last year by the Planning Commission and City Council but not yet enacted. Finke described the location of a large wetland, wooded areas, and recommended the Council first consider the request for Rezoning of the western site to R-1; then a Variance from maximum permitted cul-de-sac length; and, finally concurrent Preliminary/Final Plat. Finke stated the proposed density is 1.9 units/acre, or one unit short of meeting the minimum density. However, the City can consider exceptions based on consideration of natural features such as a tree preservation area (3/4 of an acre on this site). He stated the Rezoning to R-1 is consistent with the Comprehensive Plan and the lots meet R-1 standards.

Finke explained that at the Planning Commission meeting, concern was raised relating to street frontage for Lot 15. Subsequent to that meeting, the applicant reached agreement with the abutting property owner to create the needed frontage on a public street for that lot. Finke stated the variance request is for the cul-de-sac length, noting it could serve 20 lots but only 14 houses are proposed to be constructed along its length.

Finke stated a comment was made at the public hearing about the point of egress exiting the Reserve being one lane in and one lane out. It was suggested to widen that point to allow for left and right turns. The City Engineer is currently looking at that option.

Finke stated the project proposes to remove 50% of the trees on the total subject site. The applicant is requesting a partial waiver from the full replacement requirements in recognition that in order to develop at two units per acre, it would require a substantial amount of tree removal. He noted the City has considered similar tree removal waiver requests in the past. Finke explained staff's analysis of this request and option to realign the lots to create larger areas of tree preservation. That design option would lower replacement to 1747 inches and do the most to save trees yet develop single family at a density of two units per acre. Finke explained the applicant found that design option would disadvantage the development and proposed an analysis considering only the western site. He stated in that example, it would require 617 inches of replacement trees. The Planning Commission considered the request for the tree preservation waiver and recommended a compromise to require 1200 inches of replacement trees.

Pederson asked about the location of access and suggestion for turn lanes. Finke used a map to point out the location and described the need for dedicated turn lanes. Kellogg stated staff is looking at the location of existing utilities and topography to determine whether the road could be widened to create space for an additional lane. He noted there may be additional points for road connection when future applications are considered.

The Council discussed the number of existing houses, points of access, and existing right-of-way. It was agreed it would be an advantageous to create the additional turn lanes.

Martin stated she has a lot of questions on the issue of tree preservation. Anderson stated he also had questions relating to that issue.

Rick Denman of Charles Cudd DeNovo thanked the Council and staff for taking time to review this application, noting that Cavanaugh already has an approved Plat for Fawn Meadows. Denman stated they reviewed the City's specific criteria relating to saving trees on a site and based on that review, came up with another option for saving trees. He stated this is a small and difficult wooded site to develop but to save trees, they proposed a cul-de-sac, which eliminates two lots. He stated he thinks that is the right thing to do and that the Council should support that design option.

Weir stated preservation of trees between houses and County Road 116 will enhance the value of the properties. She asked if there will be a Homeowners Association associated with this development. Mr. Denman stated they assume there will be but it would not encompass a complicated situation except for a common irrigation system and entry monument with plantings.

Weir noted that Watershed Districts are increasing requirements to improve water quality and evaluating storm ponds every five years. She stated most often a homeowners association would monitor that type of thing. Mr. Denman stated the developer will consider that issue.

Weir asked about Lots 12 and 13 that have a steep hill and whether additional trees can be saved. Mr. Denman stated a retaining wall will be constructed to retain as many trees as feasible. Weir asked if more trees could be saved if there were more lookout designs rather than walkout designs. Mr. Denman stated that is not the case because of natural slopes that create walkout opportunities.

Anderson asked if the Park Commission recommended taking fees in lieu of land dedication. He stated with the Reserve, the City took cash in lieu of land dedication, which is the second consecutive consideration for cash. Finke stated it was actually the third time the City had taken cash in lieu of land. He stated the Park Commission felt the cash could be used to support a park opportunity. Martinson stated the Park Commission has a Park Plan that calls for a park every few miles so one is always within walking distance. Taking cash in lieu of land means the Park Commission has assessed and found there is adequate park space.

Weir stated the residents may be technically within the park radius; however, it is located across from County Road 116. She suggested staff look at how to accomplish a park location on this side of County Road 116. Anderson supported that suggestion. Finke stated the Park Master Plan has goals of one-half mile to one-mile distances and this property is outside of that distance regardless of County Road 116.

Finke answered questions raised by Martin relating to Tree Preservation Ordinance requirements. Martin noted a waiver on tree replacement is at the full discretion of the Council on a case-by-case basis and the applicant is eligible only if instituting best management provisions. Finke reviewed the best management provisions and explained there can be a partial waiver.

Martin stated the language indicates replacement trees can be planted in an alternate location and asked if the Council would select that location. She also asked whether

additional replacement can be required for removal of significant old growth trees. Pederson stated the density required by the Comprehensive Plan and the Metropolitan Council results in removal of trees. Martin agreed that trees need to be removed but she was considering what level should be required for replacement.

Anderson stated this is a tremendous forested area and asked if the replacement is type-for-type. Finke indicated it is not. Martin noted it does require replacement with native tree species. Weir stated there are areas of opportunity to use the replacement trees within the City and if they cannot all be used, there could be a monetary consideration for the environmental fund.

Martin asked staff to calculate the actual tree replacement requirement. Finke stated it would be 2400 inches if inch-for-inch and 4800 inches if old growth trees.

Martinson stated a lot of the tree removal is necessary to accommodate larger equipment onto the site to level the ground and construct the houses. She noted that once the houses are in, it may be possible to replace the trees on site. Finke agreed but noted it would be a small amount considering the requirement for replacement.

Weir stated support for the recommendation of the Planning Commission, finding it to be a reasonable compromise as it preserved a section of trees in the western section.

Charles Cudd, applicant, asked what the incentive would be to reduce the number of lots from 17 to 15, noting if the road goes straight through, there would be 17 lots. He explained that from the two additional lots, they would realize \$500,000 of gross revenue in addition to the gross profit on two houses. He stated that would be much preferable from a business perspective as it costs \$100 per inch for tree replacement. Cudd stated they have scaled back the project, will plant boulevard trees and replacement trees, and are looking for cooperation in calculating replacement.

Pederson asked whether custom grading would save additional trees. Kellogg stated it is already planned to custom grade five treed lots. Denman stated this is not a flat site so mass grading is required to resolve drainage issues. He noted the number of custom graded lots has changed and is now two.

Weir asked whether the Council supported the Planning Commission recommendation for approval of the Variance and Rezoning with conditions and tree replacement at one-to-one (1200 inches). She noted tree preservation is incompatible for development of sewer districts, unless it includes a preservation agreement. Anderson stated he found 1200 to be too low but he could live with it. He recognized the applicant has done everything possible to save trees. Pederson supported the recommendation of the Planning Commission.

Martin stated she knows this applicant builds a beautiful development but before making a reasonable decision on an appropriate waiver, she wanted to ensure she was correctly reading the ordinance relating to the calculation for tree replacement and the Council was following the ordinance. Anderson asked if the base number should be larger than being reflected. Martin stated she thinks it is almost double from what is presented in the staff report if this is an old growth forest. In addition, she did not know whether the Planning Commission recommendation was well reasoned.

Cudd stated the Planning Commission followed the spirit of the ordinance by the fact it considered two design options and favored the 15-lot proposal. He stated the Planning Commission looked at 1000 inches and then at the last meeting a Commissioner suggested 1200 inches.

Anderson asked whether a variance would be required if 1200 inches were replaced. Finke stated it is not, as the ability for a waiver is written into the ordinance. Mr. Batty advised of the difference between waivers and variances, noting that standards for considering the waiver have to be included and that is based on implementation of best management practices.

Martin suggested calculating tree replacement according to the ordinance and then walking through the best management practices before considering whether or not to grant a waiver.

Dave Nash, EVS Engineering representing Charles Cudd, stated this is the first he has heard of applying a two-to-one requirement for old growth forest. Anderson stated he finds there is not another stand of forest such as this in Medina. Nash felt the Fields of Medina West had a similar stand of forest. Weir stated the Fields of Medina forest is two acres and of moderate quality wetland.

Anderson stated if the real number is 4800 inches and the Planning Commission has recommended a 1200-inch replacement, he would ask if it would have changed anyone's thoughts about that recommendation. Martin stated she would like to review the replacement requirement for Fields of Medina to see what it would yield in this case.

Martinson asked whether staff is being asked to prepare that analysis. Martin stated she would like to know, pursuant to the ordinance, the caliper inch replacement and then to run the calculation of waiver used for the neighboring property, the one proposed by the applicant, and the Planning Commission's calculation. Finke explained the calculation for tree replacement is always calculated on a percentage basis so that would not impact the extent of waiver percentage.

Martinson asked what is the total financial impact if calculated at \$100 per inch and how it compares to the revenue realized by the sale of the lots and homes. Cudd stated they already have approval for 11 lots so instead they would go with that Plat. He suggested the City consider purchasing the property at \$500,000.

Weir noted there is time for the Council to consider this at the next meeting. Anderson supported staff looking at the numbers again to assure it is properly calculated. Finke stated if this is the only open issue, he would suggest considering this one item at the next meeting and inserting the agreed upon number into a prepared resolution.

*Moved by Anderson, seconded by Martin, to direct staff to prepare the following documents based upon the findings in the staff report and subject to the terms and conditions described in the report and subject to the terms and conditions of amendments made this evening: (1) Ordinance rezoning the subject property to the R-1 Zoning District. **Motion passed unanimously.***

Moved by Anderson, seconded by Pederson, to direct staff to prepare the following documents based upon the findings in the staff report and subject to the terms and

conditions described in the report and also described in the amendments made this evening: (1) Resolution granting Preliminary and Final Plat approval, along with (2) a variance to the maximum allowed cul-de-sac length. **Motion passed unanimously.**

Moved by Anderson, seconded by Martinson, to direct staff to prepare the following documents based upon the findings in the staff report and subject to the terms and conditions described in the report and discussed this evening with the exception of the tree ordinance waiver: Resolution granting Preliminary and Final Plat approval of the Woodland Hills Preserve.

Martin offered a friendly amendment to specifically acknowledge that Condition 9 in the staff report regarding tree replacement would be ultimately decided at the time the Resolution is considered; and, amending Item 12 (which requires the applicant to record homeowner's association documents that describe responsibilities for maintenance of stormwater improvements, wetland buffers, and lawn irrigation systems), to add: The document shall also describe the requirements of the Tree Preservation Ordinance post-development and safeguard mature trees that are not removed in the initial development of the property, as done in Wild Meadows and other places.

Anderson and Martinson accepted the friendly amendment. Motion passed unanimously.

C. Farhad Hakim – 22 Hamel Place Apartment Complex – Site Plan Review

Sparks presented the application of Farhad Hakim for a Site Plan Review of an eight-unit two-story apartment building located at 22 Hamel Road. This vacant site is located at the northeastern corner of Hamel Road and Brockton Lane, south of the railroad tracks and guided in the Comprehensive Plan for Mixed Use Business. This site is zoned Uptown Hamel-2 (UH-2). Sparks advised of performance standards required in this District and presented a colored slide depicting exterior elevations and architectural features. He reviewed density calculations and parking requirements, noting two areas of landscaping within the parking lot had been incorporated at the recommendation of the Planning Commission. Sparks then pointed out the drainage and public easement that is proposed to be vacated as part of this application. With regard to significant trees, a number would need to be removed so the applicant would be required to replace 72 inches of trees, which would occur within the site. He referenced comments by the City Engineer that the applicant will be required to meet. Sparks stated the Planning Commission recommended approval of the revised submission.

Weir expressed concern with the survivability of trees within such small raised islands in the parking lot. She preferred a more formal landscape plan that included description of trees and plantings. Sparks explained that staff has not had time to review the formal landscape plan. Martin agreed with the need for a formal landscape plan, finding the application is not complete without it. Weir felt landscaping would be important to soften the aesthetics of this large-sized building on a narrow parcel.

Stan Ross, architect representing the applicant, stated a formal landscaping plan was submitted as requested by the Planning Commission. Sparks stated staff has not yet had time to review that formal plan.

The Council reviewed the setbacks and requirements within the Uptown Hamel area. Martin asked why a smaller building was not designed that would meet Code requirements. She stated the building appeared to be too large for this site.

Kellogg stated a ten-foot easement currently exists and the recommendation is for a compromise to reduce it to an eight-foot easement with the developer installing a concrete pipe. He explained that technically, the building could be constructed up to the ten-foot easement but then the pipe would not be replaced. Finke stated the building meets the setback on the eastern side but encroaches on the easement.

Ross stated this developer manages other rental properties in Minneapolis and St. Paul but this is his first rental building to construct. If approved, it will be managed by the developer's company.

Anderson asked whether the impact of trains and train noise was considered. Ross stated the developer is comfortable with the building location, noting the garages will be on that side as well as additional plantings. Anderson stated residents of the Enclave, a mile to the south, complain about the 3:10 a.m. train whistle.

Pederson asked the City Engineer for his preference on the easement, type of pipe, and setback. Scherer stated if the building moves closer to the easement, staff supported replacing the existing plastic pipe with a stronger concrete pipe. Kellogg agreed and stated he would recommend giving up two feet of the easement and requiring the developer to install a concrete pipe.

Pederson asked whether this building will be sprinkled. Ross answered in the affirmative.

The Council acknowledged that lot configurations within Uptown Hamel are not of a uniform size or consistent arrangement.

Pederson felt the current proposal lacked design interest and asked about the City's ability to require exterior enhancements, such as decorative windows and enhanced garage doors. Ross stated the building exterior would have 40% brick, cement board siding, and architectural asphalt shingles. Martinson indicated she found the exterior elements to be acceptable.

Weir opened the public hearing on the easement vacation at 10:00 p.m. There being no comment, Weir closed the public hearing at 10:01 p.m.

*Moved by Martin, seconded by Anderson, to direct staff to prepare a resolution of approval for the Site Plan of 22 Hamel Place Apartment Complex in its amended form based upon the findings in the staff report and subject to the terms and conditions described in the report, with two modifications: (1) the landscaping plan reviewed in detail by staff for compliance with Code requirements with an eye to working with the developer to soften the impact of the building along the streetscape in Uptown Hamel; and, (2) the plantings in the parking lot be something other than trees as trees would not survive beyond the required warranty period. **Motion passed unanimously.***

Moved by Martin, seconded by Pederson, to approve partial vacation of the drainage and utility easement along the east side of the property from 8 feet to 10 feet,

conditioned on the developer, at his expense, replacing the storm sewer pipe with a concrete pipe meeting the standards of the Public Works Director and Engineer.

*The Council agreed with the suggestion of Weir for staff to also address landscaping on the easement to the east post-project. **Motion passed unanimously.***

VIII. CITY ADMINISTRATOR REPORT (10:04 p.m.)

Johnson advised of upcoming meetings to address the Highway 55/116 intersection project. He indicated that the I-94 West Chamber is creating a subgroup for Medina businesses. The City will post those meeting dates, which are expected to start in November, to its website. Johnson stated either he or Jodi Gallup will represent Medina at those meetings.

IX. MAYOR & CITY COUNCIL REPORTS (10:05 p.m.)

Anderson reported on the Fire Department open house held this past Saturday.

Pederson stated he also attended the Fire Department open house. He reported that a resident on Chippewa West may bring forward his concern relating to the train whistles and gates. Pederson also commented on the success of Medina Celebration Days and described his ride along experience during which the Hamel Fire Department responded to a lightning strike but no fire.

Weir stated she attended the Hamel Fire Department open house.

The Council supported the suggestion of Weir to ask staff to correct the net/gross acre calculation with the Dominion application in due course.

X. APPROVAL TO PAY THE BILLS (10:08 p.m.)

*Moved by Martinson, seconded by Anderson, to approve the bills, EFT 002798E-002818E for \$62,529.12, order check numbers 041831-041912 for \$286,761.48, and payroll EFT 505915-505947 for \$45,222.13. **Motion passed unanimously.***

XI. ADJOURN

*Moved by Martin, seconded by Pederson, to adjourn the meeting at 10:09 p.m. **Motion passed unanimously.***

Elizabeth Weir, Mayor

Attest:

Scott Johnson, City Administrator