

MEDINA CITY COUNCIL MEETING MINUTES OF NOVEMBER 1, 2016

The City Council of Medina, Minnesota met in regular session on November 1, 2016 at 7:00 p.m. in the City Hall Chambers. Mayor Mitchell presided.

I. ROLL CALL

Members present: Anderson, Cousineau, Pederson, Martin, and Mitchell.

Members absent: None.

Also present: City Administrator Scott Johnson, City Attorney Ron Batty, City Engineer Jim Stremel, City Planner Dusty Finke, Public Works Director Steve Scherer, Chief of Police Ed Belland, and Recording Secretary Amanda Staple.

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 (7:00 p.m.)

A. Approval of the October 18, 2016 Regular City Council Meeting Minutes

It was noted on page three, line 26, it should state, "...update floodplain maps."

*Moved by Anderson, seconded by Cousineau, to approve the October 18, 2016 regular City Council meeting minutes as amended. **Motion passed unanimously.***

V. CONSENT AGENDA (7:02 p.m.)

A. Approve Final Pay Request to Barber Construction for Arrowhead Drive Trail Project

B. Approve LMCIT Liability Waiver Form for 2017

C. Approve Embedded Systems, Inc. Contract Renewal

*Moved by Pederson, seconded by Martin, to approve the consent agenda. **Motion passed unanimously.***

VI. PRESENTATIONS

A. Hennepin County Sheriff Richard Stanek (7:03 p.m.)

Major Jeffrey Storms stated that there are 45 municipalities in the county and provided background information on the Sheriff's office and Hennepin County. He provided information on the adult detention center, which is the largest jail in the state, and that the Sheriff's office received a national award for its innovative inmate mental health program. He provided information on the enforcement services division, which includes the patrol unit and special operations unit, noting that between those two lines of service, the Sheriff's office visits almost every city in the county on a daily basis. He stated that the water patrol unit is nationally recognized for the things that they do, noting that there are 103 lakes and three rivers patrolled by the Sheriff's office. He reported that 1,987 warrants were executed county-wide during 2015 and 13,043 civil papers were served. He provided information on the 911 emergency communications, noting that it is the

largest consolidated dispatch in the region. He provided information on the crime lab and the criminal information and sharing analysis (CISA) unit. He highlighted the investigations unit and drug task force. He stated that the volunteer services division also assists the Sheriff's office with special events.

A resident asked about resources regarding fentanyl and the resources out there for parents.

Major Storms replied that there is information on the Sheriff's website. He stated that it is important for parents to talk to their children and be aware of behavior changes noting that children as young as nine and ten have exposure. He encouraged parents to keep asking questions.

Belland stated that the police department is dealing with this substance on a daily basis and the drug is touching every community in the state. He stated that there was an overdose the previous year in which the department pursued the dealer, who has pled guilty and will serve approximately 20 years in prison.

Anderson stated that there has been a lot of discussion in the past year regarding the use of body cameras and asked for the opinion of the Sheriff's office.

Major Storms stated that there are funds budgeted for that item in 2017 but noted that there will be some further discussion regarding data privacy.

Mitchell stated that Medina was served solely by the Hennepin County Sheriff's office prior to the formation of the local police force noting that the agencies now work well together cooperatively.

Belland stated that the Hennepin County Sheriff's office is a great partner for the police department as they bring in resources and expertise that the police department does not have. He expressed appreciation for the cooperative support the Sheriff's office provides.

VII. COMMENTS (7:22 p.m.)

A. Comments from Citizens on Items not on the Agenda

There were none.

B. Park Commission

Scherer stated that the Park Commission met on October 19th to discuss the AutoMotorPlex and reported that the Commission recommended that land be secured near the Loram parcel to the north as well as an easement which would allow for a trail.

C. Planning Commission

Finke reported that the Planning Commission will meet the following Wednesday to consider a concept plan from the Excelsior Group for the area north of Chippewa and west of Mohawk.

VIII. NEW BUSINESS

A. AutoMotorPlex – PUD General Plan of Development; Plat; Site Plan Review – East of Arrowhead Drive, North of Hamel Road (7:24 p.m.)

Mitchell explained the path that this item has taken thus far through concept review by the Planning Commission and City Council and then a public hearing held by the Planning Commission. He noted that although this is not a public hearing, he would allow some brief comments from the public tonight.

Finke presented a request for the development of an AutoMotorPlex which would entail 212,000 square feet of finished garages to be used for automotive enthusiasts as well as a smaller portion to be used for retail, noting that the applicant currently operates a similar facility in Chanhassen. He stated that various land use requests would be necessary to allow for development of this nature including a rezoning to a PUD, a plat, and a site plan review. He stated that the property is guided business/business park, noting that the PUD would allow for flexibility to allow for this unique use as well as provide additional benefits. He identified the subject site and displayed the site plan and landscaping plan proposed by the applicant. He provided proposed architectural drawings and photographs. He stated that although the City is going through the process of updating the Comprehensive Plan, this area has not been proposed to change uses. He stated that there are 12 buildings proposed and the layout is generally arranged to meet the business park zoning district, which would be the underlying zoning district. He reviewed the proposed setbacks and landscaping, noting that the proposed landscaping would meet the opacity requirements. He stated that staff recommends improvements for parking circulation near the retail area. He stated that the applicant is seeking flexibility under the PUD for the architectural materials as the applicant would like to use a more residential type material, lap siding, rather than the typical business park materials. He reviewed the proposed parking for the retail site and noted that the applicant believes that less parking would be needed than what is typically required because of the specialty use. He stated that there would be additional informal parking space available and noted that the site would have a gate for entry. He stated that the applicant does host special events, such as cars and coffee, at their Chanhassen location and provided additional information on the events. He stated that the applicant is working to secure shared parking agreements with Loram and Hennepin County and is also working to create a trail that would connect the shared parking areas to the site that could be used for the events. He stated that the applicant proposed to hold 16 events throughout a one-year period and noted that big events would be limited to once per month. He advised that staff would recommend regulating the special events through a special events permit which would allow additional control should the City need it.

Pederson referenced the trail plans and asked if the proposed trail had been included on the Master Parks and Trails Plan.

Finke agreed that there was a trail included on the Master Plan and that is why the Park Commission recommended that easement be provided.

Mitchell asked if Loram is considered a co-applicant as they are the land seller.

Finke stated that Loram is selling the subject site and is involved but is not a co-applicant.

Anderson asked if there is a formal agreement with Loram for the shared parking.

Finke stated that the applicant has stated that they do have an agreement with Loram and noted that staff would recommend that the agreement be formalized should this move forward.

Mitchell asked for clarity on the type of material used for the garage doors.

Finke explained that the requirement would be that any garage doors visible from the outside of the site would have a more decorative nature and that is why two different materials were shown. He described the path the Council should take tonight in their consideration, noting that the PUD should be the first item as the other items would be contingent upon that rezoning. He stated that the Planning Commission held a public hearing and recommended approval with a vote of 5-1; reviewing some of the recommended conditions that the Commission suggested. He noted that the applicant has made adjustments to their application in order to incorporate the comments of the Commission.

Anderson referenced potential parking at the Hennepin County site and asked if there is written confirmation from Hennepin County in regard to that parking.

Finke stated that the parking has not yet been approved by Hennepin County, noting that it seems that agreement may be achievable but the negotiations have not yet been completed.

Martin referenced a letter that was placed on the dais for the Council from Maslon which states that an EAW may be required.

Batty stated that is an important issue to further explore. If this project meets the definition, the threshold would be 200,000 square feet, and this application exceeds that size.

Martin asked for information on the required setbacks.

Finke explained that the underlying zoning district would be looked to as a starting point but under a PUD there could be flexibility provided in exchange for going above and beyond in other areas. He stated that the underlying zoning district would require a 100-foot setback from a residential zoning district, noting that with 70 percent opacity landscaping screen the setback could be reduced to 75 feet which would include 40 feet of right-of-way and a 35-foot setback. It was noted that the landscaping would be within the 35-foot setback.

Martin referenced the recommendations and suggested that recommendation number one refer to the updated plan. She referenced recommendations seven and eight and asked if the specific requests of the Planning Commission should be reflected.

Finke stated that the revised landscaping plan was completed in an attempt to meet the recommendations of the Planning Commission. He provided additional details on the updated landscaping plan.

Martin referenced recommendation number 11 and asked why a permit would not be required for events with 400 people or less.

Finke stated that is a recommendation and noted that the guides were developed with what staff believes the site could handle internally. He noted that a special events permit can be triggered by events with 200 or more people.

Martin stated that if the Council proceeds with this development, perhaps special events over 200 people should follow the permit process or perhaps events that require parking outside of the site trigger a permit. She referenced a comment in the staff report regarding signing Arrowhead as no parking if there is no trail constructed and asked why that would not be done regardless of the trail construction.

Finke explained that staff would only allow for parking along Arrowhead if there is an alternative for pedestrian traffic, which could be provided by a trail.

Martin stated that it seems the main item for discussion would be regarding the special events and it seems that the applicant would be deemed responsible for determining whether or not they need a permit for the event. She noted that the developer should also be in charge of enforcement within the boundaries of the site if a permit is not sought for a special event. Martin asked who would pay for the special event permits.

Finke stated that Arrowhead is a County road but the County has stated that they would be willing to follow the City's lead on parking as the City would be in charge of enforcement activity. He agreed that although the road is not set up to allow parking at this time, the County is planning to resurface the roadway in 2017 and the roadway could then possibly support on-street parking.

Martin suggested that another condition be added, should this be approved, that the declaration for the condominium and articles for the association would have to bind the association and owners, in addition to the applicant, to the terms of the development agreement.

Mitchell stated that it is his understanding that the drainage from the central site travels due north to the wetland northeast of this site and eventually enters Elm Creek. He asked, and received confirmation that, the drainage would travel to the center of the site rather than travel to the east. He stated that he is concerned with the screening to the west and asked if a berm is included.

Finke replied that the landscaping plan does not include a berm to the west as there is not much room in that area.

Mitchell stated that even a three or four-foot berm would provide screening. He noted that staff and the Council have received calls and emails expressing concern that the events could eventually have 3,000 to 4,000 people. He stated that the shared parking agreements and a trail connection would help to ensure that the parking is manageable. He agreed with the comments of Martin regarding the items that would trigger the need for a special events permit. He stated that it is standard for developments to provide trail easements and noted that he would like to see the trail easements provided along the Loram property and the potential AutoMotorPlex property. He noted that he would not require the trail portions along Hamel Road in front of Loram to be constructed now, or even the portion in front of the AutoMotorPlex but would want to see the paved trail connecting to the parking area.

Pederson stated that he believed that written agreements that are renewed each year should be required for the shared parking areas. He stated that he would like to review this as two separate items, first the PUD and then the events rather than intermixing the issues.

Cousineau agreed with the comments of Pederson. She stated that the special events seem to be an inherent part of the development but believed that the development could occur without the special events.

Anderson stated that the special events are not traditional special events held once per year and therefore believed that the special events should be included in the discussion as the two are inextricably linked. He stated that he would even go further to say that without the special events the applicant would not move forward.

Bruno Silikowski stated that he has had the benefit of meeting with the Planning Commission and City Council earlier this summer and again through the public hearing with the Planning Commission and has integrated the comments he received. He noted that there is a berm proposed that staff is reviewing. He stated that there could be worse developments in that place, noting that this is a high quality, high integrity development that a lot of people are excited about. He referenced the property tax base noting that this site would typically have a tax base value of \$4,000,000 or \$5,000,000 and stated that this site will have a value of \$40,000,000 or \$50,000,000 once it is built out. He stated that tax base value will help to decrease pressure on residents for taxes and noted that the site will also have a low impact on utilities, such as water and the school district, compared to residential development. He noted that typically there would be less than 12 people on site with the exception of special events. He stated that the special events have worked well in Chanhassen and has letters of recommendation from the Mayor and City Manager in Chanhassen. He noted that the special events will also bring in business and customers to the local businesses. He played a short video of the Chanhassen site and provided photographs to provide additional examples noting that they intend to use the wood design for all the garage doors. He noted that the retention pond that will be constructed near the wetland would be four acres in size and although the maximum impervious surface allowed is 70 percent, this proposed site would have 60 percent impervious surface. He provided the event management plan, highlighting the flow of traffic through the site. He stated that they do hire and pay the police to work with them on special events. He believed that the traffic flows could be managed for the three to four hours one Saturday per month for the larger events. He stated that the Loram site has a capacity of 400 vehicles as does the adjacent Hennepin County lot which is a total of 800 stalls. He stated that he does not intend to make these events larger than Chanhassen and would like to keep the events smaller in order to focus on quality rather than quantity. He highlighted the current path that water takes to drain from this site and explained how they would propose to manage the storm water for the site to dramatically improve the existing conditions. He provided the landscaping plan, noting that the landscaping will equate to 8 acres in addition to the four-acre retention pond in the center of the site. He described the screening that would be provided to create a "living fence" as well as a tree-lined berm. He stated that they have received the request to create a bike trail that would travel from the Loram parking lots to the site and he believed that they have created a plan that could be implemented, noting that they would continue to work with Finke on the details. He stated that when he

approached staff, Finke suggested that the PUD would make the most sense. He provided a summary of the benefits the site would create through the PUD.

Johnson asked the number of events that the site in Chanhassen holds per year.

Silikowski stated that the Chanhassen site is allowed 15 events throughout the year, noting that includes the monthly cars and coffee events as well as the charity events.

Martin stated that this development looks very nice compared to what could potentially be developed on the site. She stated that the applicant has done a great job with the landscaping and architectural design. She noted that her biggest concern is with traffic congestion, potential parking along Arrowhead, and the impacts that the events could have on the adjacent residential development. She asked how the applicant would make her feel comfortable that the Council will not receive complaints from residents. She stated that there have been a lot of compliments and positive comments received from Chanhassen folks but noted that site is in a larger business park area while this site is neighboring a rural residential area.

Silikowski stated that 99.5 percent of the time the site would have a low amount of use. He stated that there is residential development abutting the Chanhassen site and noted that there were similar concerns when this development came into Chanhassen that have been dissuaded. He noted that people fear the unknown. He stated that the charity events may have 200 to 300 cars with 700 to 1,000 people and stated that those events are totally encompassed within the site. He stated that this site is 20 percent larger than the Chanhassen site. He stated that summer nights would be another event with typically 50 people, and noted that there could be 160 to 170 owners on site and, if their families came with them, there could be 700 people all contained on the site. He stated that the cars and coffee events are larger events, noting that people from the community come to the events and can walk. He stated that he intends to limit the number of people for events in order to ensure the quality of events. He stated that this would be private property and the event size can be limited at the gate.

Cousineau asked if the events are finite, meaning that the hours are set from 7:00 a.m. to 11:00 a.m. and people are limited to coming and going at those times.

Silikowski replied that a count is kept at the gate and traffic can be denied.

Anderson stated that Carver County has stated that the cars and coffee events can have 2,000 to 3,000 people.

Silikowski stated that could be true.

Anderson reviewed the space necessary for parking for spectators, noting that on street parking would require 20 feet per car.

Richard Copy, project engineer, stated that a study was done on parking which was submitted to the City. He stated that the Loram site has 350 spaces and is adding an additional 50 spaces next spring; Prairie Drive has parking available on both sides of the street and can accommodate almost 400 vehicles; the Hennepin County parking lot has 425 spaces available; and Arrowhead Drive using both sides could accommodate 220

spaces. He stated that the site has 400 to 500 spaces available, which combine with the other spaces, would provide a total of 1,800 to 1,900 stalls.

Martin asked about the type of agreements that have been, or will be secured, for parking.

Silikowski stated that there is a written agreement with Loram and they are attempting to secure an agreement with Hennepin County. He noted that the Loram agreement would be renewed annually.

Mitchell stated that if the parking is full, people would simply not be allowed to come to the event similar to any other use. He stated that small events would be contained onsite while larger events would need to utilize the shared parking areas.

Anderson referenced Prairie Drive and asked how that roadway could support that amount of parking.

Scherer stated that Prairie Drive is wider to accommodate the large emergency vehicles coming from the County site and was unsure about allowing parking for events on the roadway and would not recommend parking on both sides of the roadway.

Anderson stated that people will not simply park in the shared parking areas and would then park on Hamel Road or Arrowhead north of Highway 55 and would then have to cross the highway. He stated that he did visit the Chanhassen site the previous Saturday, when there was not an event, and the site was dead. He stated that although the site will not be busy the majority of the time, the busy time will be Saturday morning when the people of Medina are relaxing or riding their bikes or horses. He stated that the Chanhassen site is perfect for the business as it is a business park.

Rob Crawford, resident on County Road 24, stated that he is opposed to the cars and coffee event. He stated that he could support the development without the event. He stated that a big part of the cars and coffee event is the drive off. He referenced a YouTube video in which a vehicle loses control as it leaves the site.

Chris Peterson, 4130 Fescue Drive, referenced a letter that residents received in the mail speaking of how dangerous the event is. He stated that he is not worried about the event and does not believe it will be dangerous. He stated that this project would create a huge tax base (unheard of for this size) and a site that would only be busy for four hours once per month. He stated that a lot of people in the community want to take their family to this type of event and the people that come into the community will bring commerce to the local businesses and will then leave. He stated that while he understands the fear mentality, he believes that the benefit will be substantial.

Andy Jacobson, spoke in representation of Dellcroft Farms, noting that he has submitted a written letter of the property owner's comments. He acknowledged the low number of events but compared that to the Vikings holding eight home games per year. He stated that while the developer can control traffic on their site, they cannot control traffic off of their site. He referenced a letter dated October 6th from the County Engineer which states that Arrowhead was inadequate for safe on-road parking. He believed it is inappropriate to have on-street parking in rural residential area.

Howard Rossten, stated that he is also an attorney representing Dellcroft Farms, noting that there are certain categories that trigger the need for an EAW and for a community like Medina there are certain requirements that trigger the need for an EAW. He noted that once the triggers occur the Council cannot take action without an EAW. He noted that the specific reference can be found under Chapter 44.10.4300 subpart 14.

Susan McNaughton, 3882 Chippewa, stated that although the design is beautiful, the train will cause additional problems with the traffic. She stated that she lives in the country to enjoy the country and does not support the request.

Josh Molnar, 1082 Oak Circle, stated that he is present to represent cyclists. He distributed a map which highlights the amount in which people bike in the community, without bike trails. He stated that there are probably 20,000 to 25,000 times in which people cycle on Hunter Drive North. He stated that there are no shoulders or bike trails and with that amount of bicycle traffic, the event traffic would be an issue. He stated that he is against the proposal because of the safety issues noting that he moved to Medina simply to be able to cycle.

Tom Borman stated that he is part owner of Dellcroft Farms and noted that they are not opposed to the project but simply the special events. He stated that he is unsure that the Council understand the traffic for the special events and asked that the Council study that further. He stated that the issues being raised should be addressed before being considered.

Conrad Miller, 2475 Hunter Lane, stated that if the traffic stayed off residential streets, he would support the development.

Don Cherrey, Loram, spoke in representation of Loram, stating that they have an agreement to sell the property to the applicant, providing the application is approved. He stated that the land is zoned for business use and he believed this is a good business use. He stated that there is an agreement to provide shared parking on the Loram site. He stated that the use of impervious surface over multiple lots is an innovative method to provide parking. He stated that they are also in agreement to provide the trail connection through their property along Hamel Road to Bridgewater, which is above and beyond the request for the specific parcel.

Cindy Piper, 2905 Willowood Farm Drive, thanked the applicant for answering a lot of questions. She stated that she is concerned with safety and specifically the drive offs. She stated that there are horses and biking that occur on the roadway. She asked if there was consideration to purchase additional land to provide parking onsite. She asked if the police have enough staff to manage the activity. She stated that she is against the request.

Julie Clennon, 2425 Holy Name Drive, spoke against the request. She stated that these events would not be special, noting that perhaps the first event would be special but the fourth or fifth event would not be special. She stated that people will drive where they want and will not follow Highway 55.

Chris Clennon, 2425 Holy Name Drive, stated that the traffic getting to and from these events will have an impact on the whole community.

Jim Lane, 2605 Hamel Road, spoke in representation of Ms. Borg who resides at 1400 Hamel Road and has concerns with the wetland and storm water management aspects of this project, specifically whether heavy rainfall events would inundate her property. He stated that the wetland on her property and the impact to that wetland has not been discussed. He noted that the Elm Creek Watershed provided input the previous night and asked for assurance that the storm water management plans presented are appropriate to protect her property.

Stremel stated that the storm water management plan does meet the requirements of the City and the Watershed.

Mr. Lane stated that construction traffic was not addressed, noting that the phased construction would have an impact on the roads in the community.

Brad Steven, Bloomington resident, stated that he is in support of the request. He stated that if you go to the event, you cannot tell that an event is going on. He stated that the events are well policed and enjoyable. He stated that the people that buy the units do not buy them for special events, but simply to have a man cave. He stated that these are not motor heads but are CEO's and leaders in the community.

Steve Hines, 4111 Cavanaugh Drive, stated that this property will be developed eventually one way or another. He stated that this proposed development does maintain the rural residential aesthetic because of the design and also provides a large tax base. He did not believe there would be a safety concern.

Michelle Conlon, Plymouth resident, stated that her sons will get up at 7:00 a.m. to get a parking spot. She stated that the special events piece is blown out of proportion. She stated that these are relationship building events for family and friends. She stated that the applicant is a man of his word and he will follow through and there will be enough parking. She asked that the City trust the process and not get bogged down in the small details.

Diane Silikowski, Plymouth resident and wife of applicant, stated that the applicant has a passion for exotic cars. She referenced the traffic concerns and noted that she has attended the cars and coffee events. She noted that not everyone comes and goes at the same time, as people gradually come and leave the site with attendance peaking around 9:00 a.m. She referenced the comments made with people leaving the site and revving their engines noting that Bruno has not had control over the Chanhassen site for the past several years because it is managed by an association. She stated that Bruno was working with the police prior to that to ensure that did not happen. She stated that if they did not want that to happen in the City, the police and Bruno could work together to ensure that does not happen.

Ken O'Conner, 3712 Hamel Road, stated that he is against the project for the reason of traffic and speed. He stated that there have been two serious car accidents in his front yard, with two fatalities. He stated that Medina is very rural and people love the community for that reason. He did not believe that people would stay on Highway 55.

Marcus Genzlinger, stated that he does the marketing for the AutoMotorPlex. He stated that noise is subjective and the slightest noise can irritate someone. He stated that he is very proud to work at the AutoMotorPlex, noting that he manages the social media and

invites anyone to look at it because it is so positive. He welcomed the Council to look at the messages he receives, noting that he does not receive complaints.

Rick Gorra, Chanhassen resident, states that he abuts the AutoMotorPlex and noted that his neighborhood had the same concerns but those have been dissuaded. He stated that the site is very quiet and he thinks that the City is lucky to have the opportunity. He stated that the site is not as loud as a neighbor mowing their lawn.

Tom Sicheneder, 2185 Hamel Road, stated that he and his wife live in a unique location on a hill. He stated that he is concerned with the traffic for those events, as people will take the most scenic route available. He stated that he is against the request and would like to keep Medina a quiet and safe community to live in.

Martin stated that there have been a lot of comments regarding preservation of the rural character, noting that there are areas zoned for business and commercial uses and this parcel is zoned for business. She noted that regardless of this application, a large use would occur on the property and if that came in under the zoning regulations, there would be little the Council could do to dissuade the project. She stated that the issues of traffic and strain on resources would exist with any development on this site. She explained that you cannot deny a request simply because you do not like it. She stated that this request is unique in that the developer is requesting a PUD and the application does meet the criteria for a PUD because the concept is unique, provides items above and beyond the zoning requirements, and enhances the wetlands. She stated that the Comprehensive Plan speaks to establishing destination locations where people can gather and define community and noted that in many respects this development creates and fulfills that desire. She stated that the Chanhassen site speaks to that, as there are men with their sons and wives at the site and these are family events. She stated that this property is slated for some type of business use, an office park or semi-industrial use that could have large amounts of traffic on a regular basis.

Mitchell stated that the Council can hash this out tonight to approve the request, hold the discussion and table the request, or deny the request. He stated that the special events permit should be addressed. He stated that the bike trail does not seem to be well described in the conditions and perhaps that becomes item 25. He stated that another question would be whether or not an EAW would be required.

Batty stated that there have been two different opinions on whether an EAW would be required. He stated that the question would be whether the project meets the definition and believed that the City would need to determine that before final approval is granted.

Finke provided additional information on the trail.

Mitchell stated that he would be in favor of the developer paying for the construction of the trail.

Martin noted that the developer would not be responsible for the construction of the entire trail but would provide the easements for the remaining portions.

Mitchell explained that the park dedication that would be obtained from this could be used for the future construction of the trail.

Finke provided additional details on the park dedication and trail easements.

Mitchell referenced the special events permit. He noted that the applicant states that their site is big enough for small events and can accommodate the parking within the site. He stated that for those instances he believes that a permit should not be required. He stated that if off-site parking is needed, then a permit should be required. He stated that if the off-site parking is full, people would simply not be able to attend the event. He noted that he would not be in favor of parking on Arrowhead.

Martin agreed that she would not support parking on Arrowhead.

Pederson stated that typically parking is only allowed on one side of the street within developments.

Anderson asked if the no parking could be extended to Hamel Road.

Mitchell stated that he would support no parking on Hamel Road as well. He stated that if the events become too much of a hassle then the City simply does not allow the permits.

Cousineau asked if the City can deny permits, or whether the permits would be necessary as a condition of approval.

Batty explained that the idea of the special event permit stemmed from the position of staff that the special events would not be one of the uses, or rights, that came with the PUD. He stated that staff's view of using the special event permit is that the events are not a right that come with the PUD and implies that the business may not get special events permits in the future. He stated that perhaps events could be handled onsite and therefore would not be an issue. He referenced the parking mentioned on Prairie Drive and Arrowhead Drive, noting that those parking stalls mentioned may not be supported by the City, and the potential arrangement with Hennepin County for shared parking on their site has not been finalized. He stated that staff would appreciate some feedback on the issue of whether the Council wants to embed conditions and how the special events are handled into the PUD and Development Agreement, or whether the Council wanted to govern the events through special event permits. He noted that different conditions can be imposed on the special event permit, as conditions are known over time.

Mitchell stated that the absolute right to special events should not be embedded into the PUD.

Pederson agreed that the issues should be two separate considerations.

Anderson stated that he believes that the language for special events should be embedded into the PUD.

Mitchell explained that if that is done, the developer then would have a right to the events.

Pederson stated that if the events are maintained through special use permits that would leave the discretion to Belland, which he believed would be a good choice.

Belland agreed that the special event permit allows the City to adjust the conditions and terms as time goes on and more knowledge is gained. He noted that if additional police presence is required, that would become a condition of the permit and would be at the cost of the applicant.

Martin asked what would trigger a special event permit.

Belland stated that events of 200 people or more would require a special event permit, as would a request for police presence or traffic control.

Martin asked if additional language should be added to the PUD which specifies that a special event permit would be required if the triggers are met.

Batty stated that perhaps 400 people is not the right trigger for this site.

Finke stated that it seems that the site could accommodate 400 people onsite and therefore would not require a special events permit. He used the example of a religious institution that has 1,000 seats and therefore does not require a special event permit for normal assembly.

Martin stated that she likes the development from an architectural standpoint and a transition standpoint, noting that this would also fill the desire for a destination location the City has been seeking. She explained that the City also has more control over this request compared to the level of control that the City would lack in another request that could come in for this building. She stated that if this were an office or industrial use, traffic would be coming and going at multiple times throughout each day.

Anderson stated that perhaps traffic for that type of business would only access Highway 55.

Martin stated that if she were a business owner in Uptown Hamel, she would want the people to flow to her business. She stated that her concern would be with parking as that is what makes the request seem unsafe, or unfair, to the neighbors.

Finke stated that the parking along Arrowhead would be relatively small in terms of the big picture.

Martin stated that perhaps there is a charity event that would benefit the community and for that event perhaps parking would be allowed on Arrowhead. She believed the request would need to be tabled in order to review whether or not an EAW would be required.

Anderson stated that the EAW issue needs to be investigated and also asked that staff rewrite the conditions that were discussed tonight with the input of the developer.

Mitchell stated that he is in favor of the request, with the direction for staff to work out the remaining details. He asked for input from the Council, as he would not want to see the Council ask the applicant and staff to work together to simply deny the request in two weeks.

Pederson stated that he is ultimately in favor of the project, noting that the City has an excellent police department that will be able to regulate the special events. He noted that the applicant can also provide direction to the users on how to best access and exit the site. He stated that he would not want to take away rights for this type of passion just because it is different than other passions like golf or horse riding. He wanted to ensure that the PUD and special events are kept separate.

Martin noted the plan updates she would like to see including the landscaping matters raised by the Planning Commission and Mitchell, the updated plan presented by the applicant, and the additional berm. She stated that a clause should be included that specifies that there are no rights to park outside of the development, and if outside parking is needed, a special event permit would be triggered. She highlighted the other conditions and amendments she had suggested throughout the discussion tonight.

Mitchell stated that he would want to see language for emergency vehicle circulation included. He referenced the added conditions regarding the declaration language, specification of the bike trail, and whether an EAW would be required.

Cousineau asked, and received confirmation, that use of the Loram parking would trigger a special event permit.

Anderson stated that there are too many unknowns at this point, including whether an EAW would be required and regarding parking calculations. He agreed that the trigger for a special event permit should be whether parking for the event can be contained on-site or whether parking outside the site would be needed. He stated that he cannot say whether or not he would support the request.

Cousineau echoed the comments of the Council thus far. She stated that the special events portion is what gives her pause. She stated that the applicant has asked for 16 special events and asked whether the Council would support limiting that number.

Mitchell stated that the special events should be governed under the special use permits and not addressed under the PUD.

Martin stated that a condition could be added that would specify that no special events are granted, but shall be limited to a certain number.

Cousineau asked if the retail activity should be further defined.

Mitchell asked, and received confirmation, that the applicant would be in agreement with the defined retail uses.

*Moved by Anderson, seconded by Martin, to table the PUD General Plan of Development, Plat and Site Plan Review approval for the AutoMotorPlex development and a Development Agreement related to the same on the basis of the feedback from the City Attorney regarding whether or not an EAW would be required and directing staff to revise the comments and conditions based upon the discussion tonight. **Motion passed unanimously.***

Batty noted that staff may not have sufficient time to prepare this item for the next meeting in two weeks and therefore the item may be better suited to come back at the first meeting in December.

Mitchell briefly recessed the meeting at 10:00 p.m.

Mitchell reconvened the meeting at 10:06 p.m.

B. Ellis and Nancy Olkon – Lot Size Variance – 2362 Willow Drive – Public Hearing (10:06 p.m.)

Finke provided information on the location and rural residential designation of the subject property including the requirement for a lot to have five acres of suitable soils within this land use designation. He stated that the south half to two thirds of the property is wetlands and there is also a steep slope on the property. He stated that the zoning ordinance establishes criteria on which a variance should be considered and briefly reviewed those criteria. He stated that technically the five acres of suitable soils is found within the zoning ordinance and within the subdivision ordinance and therefore a variance would be required from both sets of criteria. He noted that economic considerations alone are not a practical difficulty. He stated that the applicant speaks of granting an easement and noted that the easement area is not relevant as it does not contain suitable soils. He stated that the way in which the applicant proposes to split the property would leave one acre of buildable area on each of the lots. He reported that the Planning Commission held a public hearing at their September meeting and found the variance criteria not to be met, noting that the suitable soils requirement is not unique to the property. He stated that the City Council should hold a public hearing as the Board of Appeal.

Ellis Olkon presented this request on behalf of he and his wife, noting that his wife is a paraplegic and has medical issues. He stated that he has spoken with each member of the Council at least once, if not multiple times, over the course of the past four years. He noted that previous Mayor Weir stated that she had an ordinance on the back burner that in essence stated that if you have 20 acres, you could just subdivide without a variance. He stated that he has lived in the community for many years, raised his family in the community, served on the Park Commission and as an election judge, and works once a month as a judge for Hennepin County. He reported that he met with Bill Riser the previous day who remembers a bit of this from 1986, noting that Mr. Riser told him that what he is asking for should not require a variance as it is just a lot split. He stated that he moved into his home in 1985 and was approached by Mr. Thomas Ogland multiple times in an attempt to get an easement for his Hollybush development. He stated that ultimately Mr. Ogland received approval for his Hollybush development in 1988, and after speaking with multiple members of the Council at that time, he was ensured that if he provided the easement for the Hollybush development, he would be able to subdivide his property in the future. He stated that Mr. Riser told him that he should be grandfathered in and should be able to split his property. He noted that the circumstantial evidence is in his favor and he should be able to subdivide. He did not believe that this would not open the floodgates for requests of this nature because his request is based on the promise he received to subdivide in the past. He explained that there is space to build a large five-bedroom home on each of the proposed lots. He stated that he is not asking for a lot but is simply asking for justice for himself and his wife.

Martin stated that she is struggling with the evidence that Olkon was promised something as she did not see that in the public record.

Olkon stated that he could have subdivided in 1986 but they did not know what would occur in the future and noted that in 1999, an ordinance was passed stating that someone would need five acres of suitable soils. He stated that when the easement was given to the Hollybush development he was given the promise that when he and his wife were "old and grey," they would be able to subdivide the property, noting that the affidavits from he and his wife provide the circumstantial evidence.

Cousineau asked if the conversation was had outside of a Council meeting or whether the conversation occurred at a Council meeting.

Olkon replied that many of the conversations took place outside of a Council meeting but there was a conversation that took place at a Council meeting. He stated that in 1986, there were no minutes from meetings, otherwise there would be a record of the conversations. He explained that this request would not change the rural character as this would only create one additional house on a 21.8-acre estate. He stated that notices were sent to 35 homes that live in the area prior to the Planning Commission and no one spoke against the request. He noted that two people spoke in representation at the Planning Commission meeting.

Mitchell opened the public hearing at 10:27 p.m.

No comments made.

Mitchell closed the public hearing at 10:27 p.m.

Olkon stated that the building official for the City has stated that there are suitable soils. He explained that they need to reduce the value of their property in order to sell the property and place his wife into assisted living, as they are living somewhere they should not be living right now.

Martin referenced exhibit seven and stated that she has no reason to doubt the veracity of the request.

Batty stated that Olkon has been at this for some time and met with himself and others two years ago. He stated at that time he told Olkon that he does not know if there were statements made from those people as the majority of those individuals are deceased. He stated that is also irrelevant as those individuals could not hold the City liable. He noted that prior to 1999, there was a requirement for two acres of suitable soils for subdivisions and even after the ordinance was passed in 1999, there was a two-year window which allowed people to subdivide. He noted at that time it would have been a lot closer to the requirement of two acres of suitable soils but still would have required a variance.

Olkon stated that in the Stonegate property there are 41 parcels of two acres each. He stated that this request would not open the floodgates but would simply do the right thing. He stated that Mr. Riser told him that he should be granted a subdivision and he has invested money into wetland delineations and soil testing. He stated that if the

Council denies the request, he would ask that the City allow mediation as going into litigation would be difficult for his wife.

Martin stated that there is one homestead on a parcel of land and asked if the parcel would be buildable if there was not a homestead on the property.

Finke stated that all indications say that the lot would be buildable and reviewed the ordinance language that would allow that activity.

Batty stated that if this was an undeveloped parcel, he would believe that a variance could be issued to build one home because it would provide reasonable use of the parcel. He stated that because there is a home on the parcel, there is already reasonable use.

Anderson stated that Olkon is his friend and neighbor. He stated that this is hard on all the Councilmembers and Martin has looked hard for a way to grant the variance but has not found reasoning to support the request and therefore he must deny the request.

*Moved by Anderson, seconded by Pederson, to direct staff to prepare a resolution denying the variance request based upon the findings noted by the Planning Commission. **Motion passed unanimously.***

**C. Deerhill Preserve Improvement Project Change Order/Policy Discussion
(10:37 p.m.)**

Mitchell recused himself from the discussion.

Stremel stated that staff has been working closely with the developer and both parties have observed groundwater issues and noted that the construction season has been challenged by difficult weather with the amount of rain. He stated that the developer is recommending to put one foot of sand in some areas and two feet of sand in other areas, as well as installation of drain tile to assist in draining. He stated that because of the conditions, City staff has discussed delay of the paving. He noted that the base would be installed this year and in the spring, it would be determined as to when the paving could occur. He stated that if additional subgrade issues are identified in the spring, additional measures would be proposed to stabilize the area noting that those measures were included in the original bid on a smaller scale.

Anderson asked if this is the right time to be doing this or whether the action should be delayed until spring.

Stremel stated that in a perfect world, if there were more time and better weather, that would be ideal but even then, it would take time to dry out the subgrade. He explained that the City would be getting a better subgrade through this method and given the conditions on the site this change order makes the most sense.

Martin agreed that it would make sense to delay the paving until spring.

Pederson asked if it would be better to wait until spring to correct the subgrade.

Stremel explained that the groundwater conditions are driving this improvement. He stated that this process will allow the subgrade to settle and the drain tile will assist in drying out the area. He stated that this will create a drivable road to the development.

Martin stated that this cost would be assessed to the development and therefore the risk would be whether the lots could be sold.

Johnson stated that the policy question would be whether the Council is comfortable adding this change order to the assessment and whether they would be comfortable with future change orders being added to the assessment as well.

Stremel stated that the conditions after freeze/thaw may require additional corrections.

Anderson asked if it would make more sense than to wait until after spring.

Stremel stated that there are provisions in the contract to complete some subgrade corrections in the spring. He stated that there is always a risk that there would be more significant corrections needed in the spring. He stated that the developer's technical recommendation is that the repairs be completed this fall to go through the freeze/thaw cycle in order to determine if the corrections were sufficient.

Batty stated that it makes more sense physically for the City's contractor to do the work, because the idea is that the City's contractor would put the fabric and first level of base down.

Stremel explained that heavy trucks cannot be driven on the subgrade as is. He stated that if the developer's contractor completed the work, the contractor would need to drive over the entire area multiple times which could create additional problems; whereas the City's contractor can complete the subgrade in sections.

Susan Seeland stated that the subgrade is drying out and the contractor believes that the fabric, rock and sand could be laid later this week. She stated that they want a good road and have invested an additional \$123,000 into the project because of the weather and delays. She stated that if the first lift of pavement can be installed this fall, that should be done and noted that if an area needs correction, that could be done in the spring. She stated that if the paving cannot occur, they still need to have the road constructed to the point where truck traffic can be tolerated.

Stremel stated that they will attempt to get the point of paving but they will run up against the closing date for asphalt plants and challenges with cold weather paving.

Pederson asked if the contractor will still stand behind the tonnage rating for the road if the paving is not done this fall.

Stremel replied that the contractor has stated that he will stand behind the tonnage for the road.

Pederson asked if the City has a policy regarding paving that sets a minimum temperature allowed. He noted that some cities require 50-degree weather, or above, for paving and others set a date when paving must stop for the year. He asked if the developer can still sell lots.

Batty stated that lots can be sold but the developer would like to begin building homes. He stated that the City has an interest in this being a quality road because this will be a public roadway. He provided details on the petition and waiver policy for assessment. He noted that the petition and waiver amount included a not to exceed amount plus any change orders. He noted that there is not enough certainty to be able to assess the project before the November 30th deadline for assessments this year and therefore the assessment would not occur until the next year.

Pederson asked if the contractor would hold their price for the paving should that occur the following year.

Stremel confirmed that contractor would hold the same price.

Susan Seeland stated that one foot of sand may not be needed for the entire roadway as the base to the north appears to be dry. She explained that this cost would be for the use of sand for the entire road and therefore the actual cost may be lower.

*Moved by Anderson, seconded by Cousineau, to approve the change order for the Deerhill Preserve Improvement Project in the amount of \$215,000 subject to the comments of staff and the Council. **Motion passed unanimously.***

Mitchell rejoined the Council.

IX. CITY ADMINISTRATOR REPORT (11:00 p.m.)

Stremel stated that the contractor did start on the Sioux Drive improvement project and would likely pave early to mid-next week and estimated completion at the end of next week.

Johnson stated that he has received comments from residents along County Roads 19 and 116 regarding a speed study and noted that he is working with Belland to submit the request to the City Council in an attempt to lower the speeds.

Belland explained the process and estimated that the study could take a few months.

X. MAYOR & CITY COUNCIL REPORTS (11:03 p.m.)

Mitchell referenced a Pioneer Sarah Watershed meeting the following night and received confirmation that Johnson would be attending.

Anderson stated that he, Martin, Cousineau, and Pederson attended the third open house for the Comprehensive Plan earlier tonight and commended Finke for the effort he has put into the process and open house meetings. He believed that the City is obtaining great feedback.

Martin stated that she attended a police reserve meeting and provided an update.

XI. APPROVAL TO PAY THE BILLS (11:05 p.m.)

*Moved by Martin, seconded by Pederson, to approve the bills, EFT 003869E-003892E for \$58,776.76, order check numbers 044992-045050 for \$196,485.75, and payroll EFT 507482-507507 for \$45,208.59 and payroll check 20436 for \$1,205.02. **Motion passed unanimously.***

XII. ADJOURN

*Moved by Anderson, seconded by Martin, to adjourn the meeting at 11:05 p.m. **Motion passed unanimously.***

Bob Mitchell, Mayor

Attest:

Scott Johnson, City Administrator