

CITY OF MENDOTA HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

Minutes of the Regular Meeting
Held Tuesday, June 2, 2009

Pursuant to due call and notice thereof, the regular meeting of the City Council, City of Mendota Heights, Minnesota was held at 7:00 o'clock p.m. at City Hall, 1101 Victoria Curve, Mendota Heights, Minnesota.

CALL TO ORDER

Mayor Huber called the meeting to order at 7:00 p.m. The following members were present: Councilmembers Duggan, Krebsbach, Schneeman and Vitelli.

PLEDGE OF ALLEGIANCE

Council, the audience and staff recited the Pledge of Allegiance.

AGENDA ADOPTION

Councilmember Schneeman moved adoption of the agenda as presented.

Councilmember Krebsbach seconded the motion.

Ayes: 5

Nays: 0

APPROVAL OF MINUTES

Councilmember Duggan moved approval of the minutes of the regular meeting held on May 19, 2009 as corrected.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

CONSENT CALENDAR

Councilmember Krebsbach moved approval of the consent calendar as presented, pulling item c for further discussion, and authorization for execution of any necessary documents contained therein.

- a. Acknowledgement of the May 26 Planning Commission Meeting.
- b. Acknowledgement of Building Activity Report for May 2009.
- c. Authorization for Fireworks Permit for District #197 150th Celebration.
- d. Approval of Traffic Safety Committee Meeting Summary and Recommendation.
- e. Adoption of Resolution No. 09-34: "RESOLUTION AWARDDING A PROFESSIONAL SERVICES

CONTRACT FOR GEOTHECNICAL ANALYSIS AND PROVIDING NOTICE TO PROCEED”.

- f. Adoption of Resolution No. 09-35: “RESOLUTION CALLING FOR A PUBLIC HEARING ON THE ISSUANCE OF A REVENUE REFUNDING NOTE AND AUTHORIZING THE PUBLICATION OF A NOTICE OF HEARING (SAINT THOMAS ICE ARENA PROJECT)”.
- g. Adoption of Resolution No. 09-36: “RESOLUTION REQUESTING TRANSPORTATION ENHANCEMENT FUNDING THROUGH THE BIENNIAL METROPOLITAN COUNCIL SOLICITATION PROCESS”.
- h. Approval of Contractors List, dated May 28, 2009.
- i. Approval of the List of Claims, dated June 2, 2009, totaling \$125,266.10.

Councilmember Duggan asked to make a comment on Item d, referring to item #7 where it says “limited sight distance” and said he drove by there and found there is also a problem with the bushes that need to be trimmed down.

Councilmember Duggan asked to make a comment on Item e by saying he would like to have included in the resolution “not to exceed \$6,400.” Public Works Director John Mazzitello said this is a “not to exceed” proposal.

Councilmember Duggan seconded the motion.

Ayes: 5
Nays: 0

Mayor Huber asked Councilmember Duggan to comment on Item c, asking him he is in a position to proceed. Councilmember Duggan said based on the conversation he has had with two pyrotechnical contractors, both have visited the site and both comfortable with the safety. The fire department’s equipment will be present in case of any emergencies. Councilmember Duggan said these fireworks are expensive and he would be willing to work this through on Thursday or Friday with the fire marshal. Currently, there is about \$2,400 for this expense with more funds expected to come in. Councilmember Duggan said there is a major concern because of the dryness of the land. City Administrator Jim Danielson said the fire marshal will be available on Friday.

Councilmember Duggan said the police department will be offering their assistance during the parade. Mayor Huber asked if there is any need for the state patrol. Councilmember Duggan said there is no need.

Councilmember Vitelli asked about the liability. Councilmember Duggan said the school district will handle the liability and have taken an extra policy out. In addition, the pyrotechnicians also take out a policy of about \$5 million in case of accidents.

Councilmember Duggan moved to authorize the Fire Marshall to issue a permit for Fireworks Display on June 6, 2009.

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

PUBLIC COMMENTS

Councilmember Schneeman said she has received numerous calls regarding Emerald Ash Bore and brought some informational materials for residents. Mayor Huber talked about information that can also be found on the internet.

Councilmember Krebsbach said a group of Boy Scouts from St. Stephens Church in West St. Paul are in the audience working on their civic badge.

LIQUOR LICENSE RENEWALS

City Clerk Kathleen Swanson said the agenda includes public hearings for the following liquor license renewals:

- Mendota Liquor – Off sale license
- The Wine Market – Off sale license
- Mendakota Country Club – On sale and Sunday license
- Somerset Country Club – On sale and Sunday license
- Teresa's Mexican Restaurant – On sale license

Ms. Swanson said the license renewal for Le Cordon Bleu College of Culinary Arts is up for renewal, but staff has not yet received their application. Staff recommends that council conduct a public hearing for these renewals with the exception of the Le Cordon Bleu and pass one motion for all with the exception of Le Cordon Bleu.

Mayor Huber opened the public hearing. Seeing no one come forth wishing to speak, Mayor Huber asked for a motion to close the public hearing.

Councilmember Duggan moved to close the public hearing. Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

Councilmember Krebsbach moved to approve the following liquor license renewals:

- Mendota Liquor – Off sale license
- The Wine Market – Off sale license
- Mendakota Country Club – On sale and Sunday license
- Somerset Country Club – On sale and Sunday license
- Teresa’s Mexican Restaurant – On sale license

Councilmember Duggan seconded the motion.

Ayes: 5
Nays: 0

ON SALE WINE
INSTITUTIONAL WINE LICENSE
LECORDON BLUE COLLEGE OF
CULINARY ARTS

Mayor Huber opened the public hearing. Seeing no one come forth wishing to speak, Mayor Huber asked for a motion to continue the public hearing.

Councilmember Duggan moved to continue the hearing until June 16, 2009 council meeting. Councilmember Krebsbach seconded the motion.

Ayes: 5
Nays: 0

MOMS’ CLUB DONATION

Mr. Danielson said the Mom’s Club of Mendota Heights would like to donate trees to the city this year.

Ms. Rachel Johnson presented a check for \$400.00 to Mayor Huber. Mayor Huber thanked the Mom’s Club for the donation, and gave the check to Finance Director Kristen Schabacker.

Ms. Darcy McKenzie spoke of the organization, and talked about how all monies raised by the club are given to the community. Ms. McKenzie said the club appreciates having all the nice parks in the community. Ms. McKenzie

also introduced Melissa Hull, future president of the organization.

Councilmember Schneeman moved to accept Resolution No. 09-37: "A RESOLUTION FORMALLY ACKNOWLEDGING DONATION OF \$400.00 TO THE CITY OF MENDOTA HEIGHTS FOR PARK LANDSCAPE IMPROVEMENTS".

Councilmember Krebsbach seconded the motion.

Ayes: 5

Nays: 0

ROGERS LAKE UPDATE

Mr. Mazzitello said city staff has been working with area residents on weed control on Rogers Lake. Permit application was made with the DNR in May, requesting 15 acres of weed clearing. The DNR granted the permit, reducing the area to 8.25 acres. Mr. Mazzitello showed on the map the areas that the DNR will allow clearing.

Mr. Mazzitello said the city's contractor, Midwest AquaCare, will apply the first treatment later this month, and the second treatment later in the summer based on how effective the first treatment was.

Councilmember Krebsbach asked what is being projected over the next couple of years with the loop. Mr. Mazzitello said part of what is being done now is assessing how this process goes this year, and if the loop is not affective and the weeds encroach back into the 50-ft loop, staff will have documentation that will support a wider loop or a larger application area in next year's application.

Mayor Huber asked if the cost is being broken down due to the acreage. Mr. Mazzitello said that was correct.

Pat Hickey, 2303 Swan Drive, said he and other residents very much appreciate what the council has done in support of this, along with city staff. Mr. Hickey said they were disappointed in the DNR as it appeared that they have not even listened to what was being requested. Based on the fact that if nothing is acted on now, nothing will get done this year. The general consensus is to go ahead with the loop, but will this 50 foot swatch that the DNR is proposing do any good, or will it move the weeds over. A positive step is however being made, and the group will continue to

work with the DNR. Residents are still scrambling to get all the permits in.

Councilmember Duggan asked if the DNR has a pattern of application that has been demonstrated to be successful. Mr. Hickey said he does not believe the DNR has really thought this through any further than what has been presented to them.

Councilmember Duggan said the city may have more weight in working with the DNR, saying they would like to hear from the DNR on which lakes they have successfully eradicated weeds from using chemicals.

Mr. Hickey said if the permit had come back in a more timely basis, the city and residents could have petitioned this permit to go back to what was originally presented to the DNR, but as a result of the timeliness of the release of the permit, that puts the plans in position for this year, where it's best to take one step as opposed to taking no steps.

Councilmember Vitelli asked if the DNR provided any explanation. Mr. Mazzitello said in speaking with Tom Olman, permit coordinator for the DNR who issued this permit, he found that 1) the DNR typically provides this program for the removal of invasive species (in the case of Rogers Lake, native species are being treated); 2) future treatments in cases where they are treating invasive species, the DNR takes it year by year with analysis from the treatment contractor.

Councilmember Schneeman thanked Mr. Hickey for his persistence. Mr. Hickey said he believes this is the right thing to do, and some government agencies such as the city of Mendota Heights are great to work with, while others are very hard to work with.

**PROCLAMATION IN RECOGNITION
OF 150 YEARS OF SERVICE BY
ISD 197**

Councilmember Duggan and Ralph Dumond provided an update on the upcoming celebration of 150 years of continued education. The theme for this celebration is "Proud Past, Bold Future". The two primary partners in this event are West St. Paul and Mendota Heights.

Events will include games, music, history displays, vintage baseball game, with a parade from 4:00 pm to 6:00 pm, and fireworks at dusk.

There will be unanimous representation of the school board, along with city council representatives from Inver Grove Heights, West St. Paul, Mendota Heights, Eagan, Mendota, Lilydale and Sunfish Lake. Dakota County Commissioner Tom Egan and Rep. Rick Hansen will also be there, along with the possibility of a representative from Senator Klobuchar's office.

Cable television will be on hand to capture highlights, as well as a Darcy Pohland from WCCO acting as Emcee. A debate will be held for residents' entertainment.

Councilmember Duggan moved adoption of "A PROCLAMATION IN RECOGNITION OF 150 YEARS OF CONTINUOUS EDUCATION OF FAMILIES BY INDEPENDENT SCHOOL DISTRICT 197".

Councilmember Vitelli seconded the motion.

Ayes: 5
Nays: 0

Mayor Huber said a lot of this would never have happened if it were not for Councilmember Duggan's work on this. Councilmember Duggan and Mr. Dumond have been the champions to pull this all together, and it is much appreciated.

Councilmember Duggan said this is an opportunity to bring the community together.

DODGE NATURE CENTER
CASE NO. 09-11
PREL / FINAL PLAT

Assistant to the City Administrator Jake Sedlacek introduced Case No. 09-11, for a preliminary and final plat for Glen Toro 3rd Addition. The affected three parcels are zoned R-1A, guided as rural residential and used as an interpretive center and as single family residences.

Mr. Sedlacek said this application is to clean up lots as originally these parcels were identified as metes and bounds, and explained how the county wishes to update the lot lines and clean up the records.

Mr. Sedlacek said the first public hearing was held at the Planning Commission meeting on April 23rd, where there

was a lot of feedback from concerned residents as well as the Planning Commission about the impacts of the proposed planning application upon the potential to develop. The applicant came back to the May 26th Planning Commission meeting, providing a more clear idea of what they were looking for. There was less feedback at this meeting, and the Planning Commission felt more comfortable with what the nature of the improvements are. The Planning Commission voted to recommend approval of the preliminary and final plat.

To summarize, Mr. Mazzitello explained that the original surveys of these lots are about 100 years old, and was done by the metes and bounds. Technology being what is was in those days, the metes and bounds descriptions don't exactly close and line up where they should be. The proposal that the applicant has brought forward is to re-plot the property so that all property corners matchup and there is a distinct and clear property line established. Mr. Mazzitello said some of these adjustments between the three properties (ranging from a few inches to up to a foot) need to be made, and believes that the application is straight forward.

Councilmember Krebsbach asked who owns the property. Mr. Mazzitello explained that there are three pieces owned by the Dodge Nature Center, the Shepards, and the Neihauses, who are all co-applicants.

Mr. Mazzitello explained that the Dodge Nature Center wanted to record an easement on their property, and the county instructed them to fix the lot lines.

Councilmember Duggan referred to the document from the "Old Republic National Title Insurance Company", and asked what the "Property Address: XXXX" meant. City Attorney Tami Diehm said that refers to the fact there is no specific street address, and therefore acts as a placeholder.

Jeff Lindgren, Hedlund Engineering, handed out a document with the correct lot numbers, to replace the document that was handed out at the Planning Commission meeting.

Councilmember Schneeman moved to adopt Resolution No. 09-38, "A RESOLUTION APPROVING A

PRELIMINARY AND FINAL PLAT FOR GLEN TORO
3RD ADDITION”.

Councilmember Vitelli seconded the motion.

Ayes: 5

Nays: 0

CASE NO. 09-12, PAPER

Mr. Sedlacek reviewed the application for a side yard setback variance for a driveway. The property is located at 1818 Faro Lane, which is a single family lot with a single family home. It is noted that the applicant has already built a secondary garage onto the home and is looking to build a wider driveway to access that garage.

Mr. Sedlacek reviewed a map showing the location of the existing driveway, the setback lines, the property lines, and the plan for the proposed driveway. The applicant is requesting a two-foot variance in order to accommodate daily access to this new garage with his construction vehicle.

Councilmember Krebsbach asked when the garage was approved. Mr. Sedlacek said the garage was built by building permit, and is in conformance with all the necessary requirements. Councilmember Krebsbach said by this reasoning, anyone could put a second garage anywhere on their property as long as it is within the square footage requirements and setbacks. Councilmember Krebsbach said it is unusual, and the city may want to think about the policy for the future. Councilmember Krebsbach said there is nothing that says a person cannot place a garage behind another garage.

Councilmember Krebsbach said the garage may be compliant, but there is no driveway that can get to the door, and asked what the thinking was. Mayor Huber said the applicant can build an 8-ft driveway without a variance to access the garage, so there was nothing that staff could do to say the applicant could not do this. The issue is that the applicant wishes to have a larger than 8-ft driveway, and therefore needs an extra 2-ft into the setback.

The applicant has indicated that the hardship is the construction vehicle that could not fit into the existing garage, and therefore needs a new garage, and a 10-ft driveway is needed to get around the corner of the existing house.

The Planning Commission held a public hearing and the applicant's neighbor, Mike Lynch, has some concerns on where the encroachment is and concerns on drainage. The Planning Commission voted to recommend denial of the application with the following findings:

- The proposed variance is for driveway that provides access to a garage expansion undertaken by the owner of the property, rather than a unique condition of the property.
- The new garage addition can be accessed by a narrower driveway without the need of a variance.
- The driveway encroachment would negatively impact the typical side-yard green space and drainage area for property in the neighborhood.

Mr. Howard Paper, 1818 Faro Lane, talked about how the city did give him permission to build a garage, and with that being approved, he assumed that he could put in a driveway. At that time, he was not aware he needed a variance for the additional driveway width.

Mr. Paper showed pictures of his property and explained how he would address the drainage problems with gutters.

Councilmember Vitelli asked Mr. Paper if he knows he can build the driveway at 8-ft without the variance. Mr. Paper explained that he needs a wider driveway as the garage door width is 9-ft. Councilmember Vitelli asked what kind of construction vehicle will be housed. Mr. Paper said it is just a van that does not fit into a 7-ft overhead door.

Councilmember Vitelli said he visited the property and said the garage is elevated so that the drainage would be going down toward Mr. Lynch's house but there are ways of alleviating that.

Councilmember Duggan said he sees this as a diminimis application in that the applicant is not asking for a lot more than what is already there.

Councilmember Duggan said he agrees with Councilmember Krebsbach's statement about allowing things to be built, and then once it is built, there are

different challenges in relation to being able to reasonably access it. Councilmember Duggan suggested that the applicant work with staff and Mr. Lynch to place some screening along the driveway. Councilmember Duggan said he saw quite a few delivery trucks in driveways in this area. Councilmember Duggan said he likes the idea of the applicant's truck being inside the garage and not sitting on the driveway.

Councilmember Duggan said sometimes common sense should override a variance regulation or requirement which takes care of many situations.

Councilmember Krebsbach asked the applicant if he was told by anyone that he would need a variance. Mr. Paper said the building inspector asked Mr. Paper what his plan was for the driveway, and told him that a variance was needed for a wider driveway. Mr. Paper said at the time, he had a meeting with the building inspector and the city planner, both of them telling Mr. Paper that he can go ahead and apply for the variance.

Councilmember Schneeman said she visited the property and believes that adding more blacktop will encroach on the neighbor's yard, increasing the impervious surface and causing problems. Councilmember Schneeman said she will not vote for it as it is after the fact.

Mr. Paper said the soil is sandy and the property slopes toward the property line and to the back, and the driveway is pitched toward the street.

Councilmember Schneeman said the extra width is not needed to access the garage.

Mayor Huber said he is having a problem with the variance after the fact, and that the applicant is putting the city in a position of this is the only option and there is a very limited amount of options for the applicant to have access to the garage. The project is 98% done, and this really ties the council's hands on what they can do. Had the applicant come in earlier before building the garage, there would have been an opportunity to explore options in other ways to place the garage on the property. Mayor Huber said that

puts the city in an awkward position and will not approve this.

Councilmember Vitelli said the setbacks are in place for a reason and he will not support this. Councilmember Vitelli said it may be different if the street was a straight street, but if this is granted, the neighbor will have to look straight at this area.

Councilmember Krebsbach said this is a hardship that has been created by the applicant.

Mr. Mike Lynch, said he would like some assurance that drainage would not affect his property, and that he believes that he would not be impacted very much by this driveway encroachment.

Councilmember Vitelli moved to adopt Resolution No. 09-39, "A RESOLUTION DENYING A TWO FOOT VARIANCE TO THE SIDE YARD SETBACK FOR A DRIVEWAY EXPANSION AT 1818 FARO LANE". Councilmember Schneeman seconded the motion.

Ayes: 4

Nays: 1 (Councilmember Duggan)

Councilmember Duggan said he voted in favor of the application because of the diminimis nature and that the community seems to be supporting what he is trying to do. Councilmember Duggan said he believes in this case common sense says that the variance language may not be quite right, but respects the majority vote.

CASE NO. 09-13, FURCHNER
CRITICAL AREA PERMIT

Mr. Sedlacek said this is an application for a critical area permit for the property at 1032 Sibley Memorial Highway, in which the applicant wishes to construct an addition to the existing home and add a new driveway to the home. Currently, the applicant shares the driveway with the neighboring property at 1028 Sibley Memorial Highway. The applicant has for some time wanted to pave this existing driveway, but he stated at the Planning Commission meeting that he does not feel it would be right to demand that the neighbor share in this cost as they are not inclined to want a paved driveway.

The applicant felt that in doing new driveway it would be the right time to put an addition onto the home, tearing

down the existing garage and replacing it with a two story addition. The structure would match the existing home.

The proposed driveway would be 12 ft. in width, and would be subject to MnDOT approval for access onto a state highway. Staff feels that the impact on the critical area is minimal.

There was concern expressed by the Planning Commission and with different council members in the interim regarding the landscaping on the site. The applicant is proposing to remove any portion of their part of the existing driveway and install landscaping.

Councilmember Duggan asked if there is a net loss or gain due in relation to impervious surface with the removal of the portion of the old driveway and with the addition of the new driveway. Mr. Sedlacek said there would be a net increase as the existing gravel driveway is considered pervious surface.

The Planning Commission held a public hearing on May 26th and the proper notifications were sent out, including residents in Lilydale as the property is very close to the city of Lilydale as staff wanted to be sensitive to their concerns. No comments were heard and the Planning Commission recommended approval of the critical area permit with conditions, and based on the findings that the proposed addition and driveway work will not jeopardize the aesthetic integrity and natural environment of the Mississippi River corridor and critical area.

Councilmember Krebsbach asked if staff received any response from anyone in Lilydale. Mr. Sedlacek said they did not receive any responses, and spoke on how the residents in the city were notified all the way to association contacts and building management companies provided by the Lilydale City Clerk. Councilmember Krebsbach said that this proposal will be facing Highway 13 and is not much more of a visual impact. Mr. Sedlacek said Planner Steve Grittman had commented that this work would be an improvement to the area. Councilmember Krebsbach said she does not see any windows from the home looking down onto Highway 13.

Ron Furchner, 1032 Sibley Memorial Highway, spoke on how the home will look, stating that he will be including windows in the garage.

Mr. Furchner said the home will also be moved 4 additional feet off the property line by removing the old garage and in encroaching on the easement. The new home will be about 11'7" from the property line.

Mr. Furchner said the state does not see a problem with the new driveway and will be visiting the site to decide where the driveway can be placed. Mr. Furchner will also be working with Excel Energy on the gas pipes. Mr. Furchner said he only wants a 16 ft. to 18 ft. concrete driveway, wishing for a 20 ft. apron at the roadway.

Councilmember Krebsbach said she appreciates that the home will have windows in the front to soften the aesthetics.

Councilmember Vitelli said this is a great plan and will move to approve with the findings as outlined in the staff report.

Councilmember Vitelli moved to approve Resolution No. 09-40, "A RESOLUTION APPROVING A CRITICAL AREA PERMIT FOR A HOME ADDITION AND NEW DRIVEWAY AT 1032 SIBLEY MEMORIAL HIGHWAY".

Councilmember Krebsbach seconded the motion.

Councilmember Duggan asked to have the wording changed in the resolution, number 2, to read "The project shall be reviewed by the City Engineer and approval is subject to reasonable added conditions by the Engineer".

Councilmember Schneeman said she believes this work will improve the usage and the ambience of the property.

Councilmember Schneeman said she had trouble finding the address when going for a site visit, as well as three addresses for other visits, and reminded residents that they need to sign their homes in case of emergencies.

Ayes: 5

Nays: 0

Mayor Huber said this is the first critical area permit that has been before the council since the new legislation and staff has already contacted Steve Gritman to make sure he is plugged into the changes that the legislation has on the critical area and what that means for the permitting requests.

CASE NO. 09-14, BUELL
CONSULTING

Mr. Sedlacek reviewed the application for a conditional use permit for wireless antenna structures. The proposed antenna will be located inside the clock tower in The Village. Mr. Sedlacek explained how six antennas will be located behind glass panels in the tower, and the ground equipment will be hidden inside the parking garage.

Mr. Sedlacek said these glass panels will not change color similar to the clock face. All wiring is interior to the structure.

The Planning Commission has some concerns on the visibility of the ground equipment, the applicant assured them it would not be visible. The Planning Commission asked if a condition could be made that more carriers could be added as this is a recognized area of dead service, and this would be a nice way of hiding the service to the area.

Councilmember Krebsbach asked if there are any policies on private properties gaining rent from these carriers. Mr. Sedlacek said code allows for this as a conditional use permit. Councilmember Krebsbach said most towers have been public buildings, and the rent came to some sort of public service except for the T-Mobile. Mr. Sedlacek said the rent would go to the owner of the property.

Councilmember Vitelli said he lives in this area and noted there is poor service. Councilmember Vitelli said this proposal is wonderful in that it is not a 120 ft. tower. The equipment is hidden and no one will ever know it's there, this is a fantastic proposal.

Councilmember Vitelli moved adoption of Resolution No. 09-41, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A WIRELESS ANTENNA AT 750 MAIN STREET."

Councilmember Schneeman seconded the motion.

Councilmember Duggan noted some language changes added to the language in the resolution in the fifth paragraph, item #1 should read: "The proposed antenna and accessory equipment installation meets all of the Zoning Ordinance requirements, and it is built as specified and presented."

Councilmember Duggan said he notes that as some things are not always built as they have been presented.

Ayes: 5

Nays: 0

CASE NO. 09-15, CHRISTOPHERSON

Mr. Sedlacek reviewed the request for a 2 ft. variance to the side yard setback and an 11 ft. variance to the front yard setback to expand the existing garage to a functional two car garage.

Mr. Sedlacek said the applicant wishes to have additional space for storage and to allow him to park his vehicles in the garage. Mr. Sedlacek said the applicant has shown that that hardship is because the existing garage is well below the required garage space for garages in Mendota Heights. The applicant has provided drawings that show how he cannot open the doors fully on his work truck when parked inside the garage. Mr. Sedlacek noted that the applicant will be retaining the front yard setback even with this issue. The applicant feels this is an important tradeoff in order to keep the side yard variance to a minimum and recognizing that there are some drainage issues on the north side of the home.

Planning Commission held a public hearing on May 26th and there was no public comment. The Planning Commission recommended approval based on the findings that construction of the home with a one car garage located within the front yard setback creates a unique condition on the parcel, and that the project does not alter the essential character of the neighborhood and that the proposed project is consistent with the comprehensive plan.

Staff, along with the City Attorney, felt that a condition be added for the City Engineer to review and approve the drainage plans between the two properties.

Mayor Huber asked if there were any need for variances for the driveway. Mr. Sedlacek said there is none as long as the driveway is directly in front of the garage, which would be about 12 ft. from the setback.

Councilmember Vitelli moved adoption of Resolution No. 09-42, "A RESOLUTION APPROVING A TWO FOOT VARIANCE TO THE SIDE YARD SETBACK AND AN ELEVEN FOOT VARIANCE TO THE FRONT YARD SETBACK FOR A GARAGE ADDITION AT 916 CHIPPEWA AVE".

Councilmember Schneeman seconded the motion.

Councilmember Duggan asked staff to make sure the resolution includes the condition for the City Engineer review of the drainage.

Mr. Christopherson, 916 Chippewa Avenue, said he is in agreement with this condition, and said he was in the landscape construction business. Mr. Christopherson said his neighbor, Sheila Lyons, is in agreement with these drawings and submitted a letter to the city. Mr. Christopherson explained how he will be constructing the wall and how the slope will be adjusted, so that the water will not drain to Ms. Lyons home.

Ayes: 5

Nays: 0

CASE NO. 09-16, FOLEY

Mr. Sedlacek reviewed the application for a conditional use permit in which the applicant proposed to construct a 6 ft. fence on a corner lot at 2359 Apache Street, which is located in the Friendly Hills neighborhood.

Mr. Sedlacek said current code allows for a 3 ft. fence on the property line, and on a corner lot, a 6 ft. fence is allowed with a conditional use permit. The existing fence is a 3 ft. chain link fence and the applicant is proposing to replace this with a 6 ft. high cedar, alternating board fence along the same fence line.

Staff has received a phone call from a concerned resident that wanted to make sure a 6 ft. fence would not impede traffic's view from Apache Street. Staff explained that the fence would actually be in the rear of the home.

The Planning Commission held a public hearing on May 26th, and no one wished to speak. The Planning Commission recommended approval of the conditional use permit.

Planner Steve Gritman has found that the proposed fence meets all codes and requirements and is consistent with the intent of the permit.

Councilmember Vitelli moved adoption of Resolution No. 09-43, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A 6' FENCE ON A CORNER LOT AT 2359 APACHE STREET"
Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

CASE NO. 09-17, CRUTCHFIELD

Mr. Sedlacek noted that the applicants were not present at this evening's meeting. Mr. Sedlacek reviewed the conditional use permit request to construct a 196 sq. ft. accessory structure at 685 Hidden Creek Trail. The structure is proposed to be a four-sided screened-in sitting area, the height is 11 ft. in the front, and 8 ft. at the back and is in compliance with all the code requirements for setbacks and structure height.

Mr. Sedlacek said the construction of a retaining wall cuts into the hillside behind the property and the proposed sunroom looks back towards the house. The initial concern that staff had in reviewing this application was that it was not part of a wetland area. Staff did verify that it was outside the wetland area.

The public hearing was held at the May 26th Planning Commission meeting and no one spoke at the hearing.

The Planning Commission had questions around the use of the structure and the relationship of the structure to the wetland area. The Planning Commission recommended approval of the application with the findings that the proposed use is not detrimental to the health, safety and welfare of the surrounding land and community, and the structure would not influence traffic conditions for parking on adjacent streets, and that the proposal is consistent with the purpose and intent of the comprehensive plan and

zoning ordinance. The lot is zoned R-1A with a small sliver of R-1 and is guided as rural residential.

Additional conditions have been added that the south and southwest of the accessory structure and the applicant shall submit colored elevations and renderings to show compatibility with the existing home.

Councilmember Duggan said there needs to be a change in the resolution to show that the structure is actually 192 sq. feet.

Councilmember Vitelli moved adoption of Resolution No. 09-44, "A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A 192 SQUARE FOOT ACCESSORY STRUCTURE AT 685 HIDDEN CREEK TRAIL."

Councilmember Schneeman seconded the motion.

Ayes: 5

Nays: 0

TODD AND SARA HULSE
754 WOODRIDGE DRIVE
CRITICAL AREA PERMIT/ VARIANCE

Mayor Huber asked for a motion to table this discussion as Mr. Sedlacek was informed right before the meeting that the applicant wishes to withdraw the application, but staff has not yet received a written confirmation.

Councilmember Vitelli moved table Case No. 19 until the next City Council meeting.

Councilmember Duggan seconded the motion.

Ayes: 5

Nays: 0

CASE NO. 09-18, UNITED
PROPERTIES LLC/BITUMINOUS
ROADWAYS

Mr. Sedlacek shared an aerial photo of the industrial park located on Pilot Knob Road and Highway 13/Old Sibley Memorial Highway.

Mr. Sedlacek said the applicant is requesting a conditional use permit for outside storage for Bituminous Roadways, who would like to locate their corporate headquarters on this site, along with a maintenance facility for the equipment for their contracting business, which would require a storage area where vehicles will be coming in and out of the site.

This is not a building permit review. If the conditional use permit were to move forward, the applicants would move forward with their own planning process and come back for the building permit.

Councilmember Krebsbach asked if the business will be moving from their site on Dodd Road. The applicant stated it would. Councilmember Krebsbach asked if it is comparable storage to Dodd Road. The applicant stated that was correct.

Mr. Sedlacek noted MnDOT's facility to the north and said that the state is not subject to the city's zoning and code.

Mr. Sedlacek said the application is for a two-story office building and a maintenance building in the middle of the site, with a bituminous parking area to provide proof of parking for the office building and the rest of the space is to be used for equipment storage.

The applicant is currently proposing a 6 ft. fence around the perimeter of the site, with two access areas (one off the end of LeMay Avenue and one of Commerce Drive).

There was considerable discussion at the May 26th Planning Commission and public hearing about the screening of this site and a concern that it could effectively screen the equipment that would be moving in and out of this site on a regular basis. The Planning Commission talked about a number of options including berming to bring up a 6 ft. fence, higher fences and potential landscaping.

There were no public comments at the May 26th Planning Commission meeting. Planner Steve Grittman had recommended denial of the conditional use permit and the Planning Commission recommended approval of the conditional use permit with the findings that contractor yards are allowed in the zoning district by conditional use permit, that the neighboring property to the north is owned and operated as a MnDOT maintenance facility utilizing outdoor storage, that utilization of fence and landscaping permits for the screening of the contents of the storage yard and all of the performance standards of the zoning ordinance be met, and that the property is isolated and has limited exposure to public and street traffic.

Mr. Sedlacek said additional conditions were set upon the approval, including the condition that the acceptability of the proposed access points be subject to the review and reasonable approval of the City Engineer, and the additional landscaping to be done along the exterior of the proposed fence is subject to the review and approval of city staff, and that any issues related to grading, drainage and utilities are subject to review and reasonable approval of the City Engineer.

Councilmember Krebsbach asked if there are photos or sketches of the proposed fence. Mr. Sedlacek said the applicant may have that information. Councilmember Krebsbach said this is something that the council should have before they approve this.

Councilmember Krebsbach said a previous proposal was submitted by RJ Ryan and approval of that proposal contained the condition that storage of equipment in the back was prohibited. Councilmember Krebsbach said one of the things the council would like to see is that the industrial park to go in a different direction to becoming higher end offices. Bituminous Roadways is a great company, and she is glad they are interested in putting their headquarters in the city, but she is not sure of the storage and would want to make sure the council knows what this will look like. More information is needed.

Councilmember Vitelli said he agrees, and that the council could send a signal to the applicant that they are in favor of this proposal, but they need to see the details so that an eyesore is not created. Councilmember Vitelli said he feels it would be poor judgment on the council's part to move ahead with this without seeing the details on what will be built there.

Councilmember Duggan said that United Properties has been an excellent tenant in the community for many years and he is surprised that they have not shown much input into this, and he would have thought that Mr. Sedlacek would have told United Properties that based on this presentation, this is not what the city is used to receiving.

Councilmember Vitelli reminded the council that Mr. Sedlacek mentioned that the Planner did not recommend approval, and believes that this was a good recommendation.

Eric Simmer, United Properties, thanked the council for considering this request. Mr. Simmer shared a picture of the proposed building to allow the council to see the quality of materials, and noted that the building is predominantly an office building (consisting of 60% of the total building) and is a two story office in the front portion with a 10,000 sq. ft. maintenance shop.

Mr. Simmer talked about the history of the business, which is currently located on Dodd Road in Inver Grove Heights. The company has annual sales of approximately \$45 million, and 70% of that is a result of public projects. The company has 120 full time employees and 85 of those employees are union employees.

Mr. Simmer said Mendota Heights is ideally suited for the company's corporate headquarters due to the proximity of their asphalt plants. Mr. Simmer noted that this new facility would have no raw materials on site and there will be no processing of asphalt. The plant locations are in Inver Grove Heights, Shakopee, and Minneapolis.

Mr. Simmer said this will not be a United Properties-owned project which is different from a lot of what that has been done in this park. Bituminous Roadways will acquire the land and United Properties will build the building on their behalf.

Mr. Simmer said they have found that a contractor's yard is allowed in the park with a conditional use permit, and understanding that this is a conditional use, the applicant has proceeded with the application spending about three months in site design and coming up with elevations that suited the ownership and met the ordinances.

Councilmember Krebsbach said she would like to see what the screening will look like and how much equipment would be stored in that yard. Councilmember Krebsbach said Bituminous Roadways is a very reputable business.

Councilmember Krebsbach said her first inclination would be to deny this request but because of the company's history, she is ready to go the next step and see what kind of screening would be done to make this all fit in.

Mr. Simmers said there will be about 50 to 70 pieces of equipment, it's the same equipment that will be transferred from Inver Grove Heights. Mr. Simmers noted that during the summer months, most of the equipment will be on other locations. The biggest piece of equipment is about 11'6" tall (a front end loader).

Councilmember Duggan asked if all the equipment will be visible or will some be hidden in storage sheds or buildings. Mr. Simmer said all of it will be visible from inside the fence.

Councilmember Duggan expressed his concern with the roadway handling the weight of this equipment. Mr. Mazzitello said these roads in the area are designed to a 9 ton standard, and if this were to be approved, and if Bituminous Roadways were to move in, he would have the Public Works personnel do a regular and consistent survey of the roads to make sure they are not being degraded faster than normal.

Councilmember Krebsbach asked what would happen if they are found to be degraded. Mr. Mazzitello said he would assume it would be between the applicant and the council to enter into a repair agreement. Councilmember Duggan said that is something that can be added into the initial agreement as a condition to the applicant. Mr. Mazzitello said that was a possibility.

Mr. Simmers said he does not see that this equipment would be vastly different from what MnDOT has on the same access points.

Councilmember Krebsbach said MnDOT has some restrictions now that they cannot drive south on Lexington. Councilmember Krebsbach said the council allowed SuperAmerica to be built, but the canopies are not too high to allow those trucks, nor does the store offer diesel, and therefore the city is protected from trucks and storage areas. In addition, RJ Ryan cannot store equipment on their property.

Councilmember Schneeman said she loves the layout and believes Bituminous Roadways will be a great addition. Councilmember Schneeman asked if more outside storage would be needed should the company decide to expand. Mr. Simmer said that of the 5.9 acres, about 2.35 acres is appropriate for outside storage; the rest of it has topographical issues, other buildings, and access restraints. The site cannot handle any additional capacity.

Councilmember Vitelli asked why the applicant is requesting a conditional use permit before providing any detail on the project. Mr. Simmer said he views this meeting as a working session understanding that this is a permitted use with conditions, and he does not know in advance what those conditions would be. The two sketches that have been provided cost \$20,000 and he might guess it would not be satisfactory. Mr. Simmer said he understands that there is a screening ordinance in place that he needs to meet, and he came in fully prepared to accept the conditions under which this would be approved, and then work those out with staff, and come back before the council again with a better understanding of what the council is trying to accomplish. Councilmember Vitelli suggested that the council summarize for the applicant what their concerns are.

Councilmember Krebsbach said her concern was the screening, determine what streets can be driven on, and determine where the trucks can fuel their diesel trucks. Councilmember Krebsbach said she is also concerned about the company giving way to the deterioration of the rest of the park, which would hamper the city's desire to have this area become a higher grade office area. Councilmember Krebsbach said she is sure that this company will be agreeable to conditions and bring in a good plan.

Councilmember Vitelli asked if the council can specify the sizes of machinery in the conditional use process. City Attorney Tami Diehm said the conditional use permit applies to the outdoor storage and that the council is allowed to impose conditions on the equipment being stored outside. Councilmember Vitelli said he would like the applicant to make clear in their request the description of the machinery, the number of units, and perhaps

frequency of what would be stored during certain seasons of the year.

Mr. Simmers said they will put that information together and have it ready for the next meeting. Mr. Simmers shared some photos to give the council an idea of what is being seen and what will not be seen when the building is done. Mr. Simmers said MnDOT's equipment is currently not being screened.

Councilmember Duggan referred to the fuel line indicated in the proposal and asked if the fueling and maintenance of all of the equipment will be done there. Mr. Simmers said that was correct. Councilmember Duggan asked if there is a noise concern in relation to that. Mr. Simmers said it was minimal, and it was basically the vehicular circulation.

Councilmember Duggan asked what landscaping contractor will be working on this. Mr. Simmers said Landberg Architects will be contracting with the landscape architect and he does not have that information at this time.

Councilmember Duggan said he is concerned about the pond and asked that the applicant work with staff to be sure the weight and displacement of the office building and its parking will be taken into consideration in relation to the pond. Councilmember Duggan said he would like to know if seedlings will be done to ensure minimal impact to that sloping. Mr. Simmers said it is their intent to disturb the existing vegetation on the slopes as little as possible.

Councilmember Duggan said he would like to see the fencing be constructed with slight rise and falls to give a more residential office feel.

Councilmember Krebsbach asked why the company is leaving Inver Grove Heights. Mr. Simmers said the company does not own that facility and they really want to own their own, and this site gives them the view of the river valley and the proximity to the highway system.

Councilmember Duggan asked if the applicant can arrange for the council members to visit some of their existing sites to allow the council members a better understanding of

what the equipment will look like. Mr. Simmers said he will do that.

Mayor Huber said this is a 6 acre parcel, and that the building is only going to take up about 5% of the footprint. Mayor Huber said he realizes some of this land is not usable, but this is basically a construction yard and is 6 acres big, and he has a concern about this. Not wanting to prejudge, the Mayor has concerns about whether or not this can be screened.

Mayor Huber asked if there will be security lighting. Mr. Simmers said he will check into that.

Mayor Huber said he has concerns about the fueling and the long term impact of having a fueling site, and sooner or later fuel tanks will leak and he is also concerned about spillage.

Mayor Huber said this is a good solid business but he has his doubts and concerns about it, and if this is approved, he would strongly recommend that future construction yard usage be struck as a use in this park.

Mayor Huber asked the applicant what his timeline would be if this is approved. Mr. Simmers said they will be ready to address these issues at the next council meeting. City Administrator Jim Danielson said that should give staff time for review, and if the applicant is not ready by then, this can be tabled for another two weeks.

Councilmember Duggan said it is also important to know what the soil composition is in relation to the fuel station and what will be done to protect soil in relation to leakage. Mr. Simmers said he will prepare a report on this and fully understands all the issues that have been raised. Mr. Simmers said he wants to be confident that should the applicant be able to meet all the issues as outlined, that the project has a reasonably good chance of being approved. He does not want to spend a good amount of the business owner's time and money and then not get approved.

Councilmember Krebsbach said the key question is whether this large yard can be screened.

Mayor Huber said he is sure this can be screened, but the question is then whether the solution is worse than the problem.

Mr. Simmers said he believes this can be done very tastefully.

Councilmember Krebsbach suggested doing some landscaping inside the yard as well.

Councilmember Vitelli suggested bringing computer generated views of what the site might look like.

Councilmember Schneeman moved to table Case No. 09-18 to the next City Council meeting.

Councilmember Krebsbach seconded the motion.

Ayes: 5

Nays: 0

JULY 4TH FIREWORKS

Councilmember Duggan said he asked staff to give the council an idea of what has been spent toward the July 4th fireworks over the past five to seven years. Finance Director Kristen Schabacker reported the following city contributions for fireworks at Mendakota Country Club:

- 2003 - \$1,500
- 2004 - \$1,500
- 2005 - \$2,000
- 2006 - \$2,000
- 2007 - \$2,500
- 2008 - \$3,000

Mr. Danielson said the country club is requesting \$3,500, and the city has budgeted \$3,000 for this year.

Councilmember Krebsbach said she is excusing herself from this discussion as she is a member of the country club.

Mayor Huber, Councilmember Schneeman and Councilmember Vitelli said they are fine with \$3,000

Mayor Huber moved to approve a contribution of \$3,000 for the fireworks display at the Mendakota Country Club for the July 4th celebration.

Councilmember Schneeman seconded the motion.

Ayes: 4

Nays: 0

Abstain:1 (Councilmember Krebsbach)

COUNCIL COMMENTS

Mayor Huber said there was a situation where there was an overhang on a garage on Apache that was to be removed. Mr. Sedlacek said it had to be taken down by March 30, 2009 and it has still not been done. Staff will follow up on it.

Mr. Sedlacek gave information on the upcoming parks celebration, which will include a big screen televised broadcast of the Twins game.

Councilmember Krebsbach asked staff to have someone check out what is going on at Faro Street as it was difficult to get onto that street. She is concerned that an emergency vehicle cannot get in there if needed.

ADJOURN

There being no further business to come before the Council, Councilmember Schneeman moved to adjourn the meeting.

Councilmember Duggan seconded the motion.

Time of Adjournment 9:35 p.m.

Rebecca Shaffer
Recording Secretary

ATTEST:

John J. Huber
Mayor