



**MINUTES
CITY COUNCIL MEETING
August 3, 2010**

CALL TO ORDER

The meeting was called to order at 6:54 pm.

Present: Mayor: Randy Gilbert; Council: Sam Rettinger, Sharon Henderson, Brian Carpenter, and Liz Olson

Staff Present: City Administrator: Terrance Post; and City Clerk: Jeanette Moeller

Absent: None

PLEDGE OF ALLEGIANCE

APPROVE AGENDA

A motion was made by Olson, seconded by Henderson, to approve the Agenda as presented. Ayes: all.

CONSENT AGENDA

The Consent Agenda consisted of:

- A. Approve Minutes of July 19, 2010 Special City Council Meeting
- B. Approve Minutes of July 20, 2010 City Council Work Session
- C. Approve Minutes of July 20, 2010 City Council Meeting
- D. Approve Vendor Claims and Payroll
- E. Accept Contract Proposal for Legal Services from Arlo H. Vande Vegte, P.A.
- F. Receive Long Lake Fire Relief Association Pension Plans Form SC-10 for the 2010 Reporting Year
- G. Adopt Resolution No. 2010-23 Approving Issuance of a Special Event Permit for the 2010 Lakeview Avenue Neighborhood Block Party

A motion was made by Rettinger, seconded by Carpenter, to approve the Consent Agenda as presented. Ayes: all.

OPEN CORRESPONDENCE

No one appeared to address the Council during Open Correspondence.

BUSINESS ITEMS

Public Hearing: Planning Case No. 2010-02 / Brian and Leah Carpenter, 1776 Martha Lane, Conditional Use Permit to Allow Grading Within 1,000 Feet of Shoreline

As the applicant for this agenda item, Council member Carpenter recused himself from Council discussion of the proposed application and left the dais.

Post reported that Brian and Leah Carpenter, the owners of 1776 Martha Lane, have been working with building professionals over the past year to develop plans for the reconstruction of the existing home on the property that would meet current zoning requirements. The existing home is located in the central portion of the lot which slopes easterly to the shoreline of Long Lake. A portion of the

existing home and deck are within the 75' setback of the shoreline. The existing two stall detached garage is located 3' 8" from West Wayzata Boulevard property line, and is separated from the roadway by a wood fence. The owners propose to remove the existing home and construct a new home that meets the current R-2 zoning setback requirements. The existing detached garage will be maintained in its same configuration, including the nonconforming setback from West Wayzata Boulevard property line, but remodeled to complement the design of the new residential home.

In order for the applicants to construct their new home, due to the home's proposed location on the lot being within 1,000 feet of shoreline a conditional use permit would be required to allow grading and filling activity in proximity to the shoreline. The consideration of a conditional use permit requires a public hearing normally held before the Planning Commission. Because the public hearing notice was not published in sufficient time for the Planning Commission meeting, the City Council will need to conduct the public hearing. Notices were sent to property owners within 350' of the property advising of the August 13 City Council public hearing.

Post reviewed how the proposed use and application would meet general conditional use criteria in order for the City to grant the conditional use permit, and would comply with current zoning requirements.

Staff finds that the proposed conditional use permit for grading and filling on the property is reasonable for the following reasons:

- The proposed construction of the new single family home meets all R-2 setbacks and removes several nonconformities associated with the existing single family home on the property.
- The proposed home is compatible with the surrounding neighborhood.
- The proposal respects the shoreland requirements by replacing the existing home with a new home of similar size resulting in a slight increase in hardsurface coverage, insignificant tree loss on the shoreland side of the property and greater setbacks to Long Lake.
- The proposal meets the grading and filling provisions of the R-2 District and the conditional use provisions of the ordinance.

The Planning Commission voted unanimously to recommend the City Council approve the conditional use permit application. Staff recommends the City Council hold the public hearing on the proposal, and consider adoption of Resolution No. 2010-22 approving the conditional use permit with findings of fact contained therein.

Mayor Gilbert opened the public hearing at 7:00 pm.

Hearing no public comment, Mayor Gilbert closed the public hearing at 7:00 pm.

The applicant, Brian Carpenter, indicated his neighbors had been aware of their plans to construct a new home for some time. He stated that while his family's new home is under construction, they will be living in a rental townhome or apartment either in Long Lake or the surrounding area.

Mayor Gilbert noted for the record that temporary residency outside Long Lake would not affect Mr. Carpenter's status as a Long Lake Council member due to having clear intent for Long Lake to be his permanent city of residence.

A motion was made by Henderson, seconded by Rettinger, to adopt Resolution No. 2010-22 approving the conditional use permit for the grading of property located at 1776 Martha Lane with the findings of fact and conditions noted in the resolution. Ayes: all.

Council member Carpenter returned to his Council seat for the remainder of the meeting.

Request to Replace a Nonconforming Sign at the Red Rooster Restaurant on Property Located at 1830 W Wayzata Boulevard

Post stated that the owner of the Red Rooster restaurant is requesting approval to replace the existing "Red Rooster" sign on the property. The existing sign is old, in disrepair and has reached the end of its useful life. The replacement sign is 32" wide and 16' high, representing approximately 43 square feet in area. It would be mounted on a post that supports the existing sign, and a majority of the existing beam will be removed. The sign lighting will remain the same as the existing sign.

The current sign is non-conforming under the existing Zoning Ordinance. Section 24 of the Zoning Ordinance governs the regulation of nonconforming uses and structures. Section 24 allows nonconforming uses to continue under certain circumstances, and allows replacements which do not "extend, expand or intensify" the nonconformity. In staff's opinion, the replacement of the sign should be viewed as an "alteration" because the sign size and design is not the same as the existing sign. The City Council may permit the alteration of nonconforming uses, in accordance with Subd. 5 of the nonconforming section of the Ordinance, provided certain findings are made by the City Council. The Ordinance requires an affirmative vote of four-fifths (4/5) of the entire Council.

The Red Rooster property is zoned B-1 Limited Business District. The existing signage on the property includes the "Red Rooster" sign, supported by a post and beam, that appears connected to the building and best fits the classification of a projecting sign under the Sign Ordinance. The existing sign is 5' wide, 14' high and contains approximately 70 square feet in area. Additionally, there is a "Pabst Blue Ribbon" sign, containing approximately 25 square feet, and is considered a projecting sign. A "Budweiser" sign is also located on the building. The site also contains an outdoor cut-out, known as "Wimpy", that is not regulated by the Zoning Ordinance. It is unknown when these signs were installed but it is assumed that they were in place when the restaurant opened.

Post reviewed the size restrictions for allowable signage in the B-1 Limited Business District. The existing projecting signs ("Red Rooster" and "Pabst Blue Ribbon") on the property are non-conforming under the current ordinance, because the signs do not meet the size area requirements of 12 square feet.

The proposed "Red Rooster" sign would be smaller, at 43 square feet versus 70 square feet, but taller than the existing signage. The Council must determine if the alteration meets the intent of the nonconforming section of the Ordinance.

Post detailed how the proposed sign would satisfy Zoning Ordinance criteria for allowing alteration of the nonconforming signage. Post further noted that the applicant has committed to remove the existing Pabst Blue Ribbon sign at the time the new Red Rooster signage is installed, thus lessening the nonconformities on the property.

Staff recommends the Council approve the request for the new "Red Rooster" sign for the property.

A motion was made by Carpenter, seconded by Henderson, to find that the requested sign replacement complies with requirements of Subd. 5 of Section 24 Nonconforming Buildings, Structures and Uses of the Zoning Ordinance and to approve the request for the new "Red Rooster" sign for the property located at 1830 Wayzata Boulevard West. Ayes: all.

Application for Payment No. 5 (Final) from Sunram Construction, Inc. for 2008 Gateway Landscaping Project

Post indicated that staff received Application for Payment No. 3 from Sunram Construction, Inc. for the 2008 Gateway Landscaping Project. The application is in the amount of \$6,668.44 and represents payment for both Change Order No. 2 (\$2,055.00); and the full release of retainage being held (\$4,613.44). Project Engineer Brady Halverson of SEH reviewed the application and has found it to be in order in that the contractor has completed and forwarded all required contract documents to the City Engineer. In addition to Mr. Halverson's opinion on the completeness of the project, Council also heard from SEH plant specialist Joel Asp at the July 20, 2010 work session who shared this opinion. Post reviewed the status of the plantings and discussed additional future mowing and weeding tasks the Public Works Department will be undertaking to assure the no mow grass is allowed to fully mature.

Post stated staff would recommend approval of the payment request in the amount of \$6,668.44. The payment will have only a \$2,055.00 expenditures impact on the TIF District 2 Fund as the remaining retainage was accrued as a liability at year end 2009.

Council member Carpenter indicated that after the Council's July 20 work session to discuss the condition of the project area, he felt much better about where the project status stands with the City sticking to a future maintenance plan.

A motion was made by Olson, seconded by Henderson, to approve Application for Payment No. 3 from Sunram Construction, Inc. in the amount of \$6,668.44 for the 2008 Gateway Landscaping Project. Ayes: all.

Discuss Process and Scheduling Interview Dates for Legal Services RFP Respondents

Mayor Gilbert suggested a work session be scheduled prior to the Council's first meeting in September to discuss the attorney services proposals received and interview process.

Post stated the date of the meeting proposed would be September 7, and that he would inform the RFP respondents. The City does have legal representation through the current City Attorney through the end of 2010.

OTHER BUSINESS

Upcoming Meeting Attendance – Council member Carpenter indicated he would be unable to attend the City Council work session and Planning Commission meetings scheduled for August 11.

Thank You to Council – Mayor Gilbert thanked fellow Council members for the impressive amount of work all have been doing through the Police services RFP and candidate review process.

ADJOURN

Hearing no objection, Mayor Gilbert adjourned the meeting by general consent at 7:21 pm.

Respectfully submitted,

Jeanette Moeller
City Clerk