



**MINUTES**  
**CITY COUNCIL PUBLIC HEARING**  
**January 11, 2011**

**CALL TO ORDER**

The public hearing was called to order by Mayor Hultmann at 5:40 pm.

**Present:** Mayor: Tim Hultmann; Council: Tom Skjaret, Donny Chillstrom, Brian Carpenter, and Liz Olson

**Staff Present:** City Administrator: Terrance Post; Public Works Director: Marv Wurzer; Special Counsel: Arlo Vande Vegte; and City Clerk: Jeanette Moeller

**Absent:** None

**Others Present:** Dick, Shane and Kris Rudd, Elite Auto (2325 West Wayzata Boulevard); and Rick Perry, Perry's Truck Repair (525 Brimhall Avenue)

**APPROVE AGENDA**

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

**PUBLIC HEARING**

Mayor Hultmann indicated that the purpose of the hearing was to continue to hear and receive information about 525 Brimhall Avenue and 2325 West Wayzata Boulevard with respect to City Zoning Code, to make factual findings, and to discuss what, if any, code enforcement proceedings should be undertaken.

Special Counsel Vande Vegte noted that the previous Council had received information regarding 525 Brimhall Avenue but had not yet made findings of fact with respect to the property. With the majority of the Council being new to office, Vande Vegte suggested that a first order of business for the Council should be to determine whether the new Council members ought to participate in voting when discussing 525 Brimhall Avenue.

Council member Carpenter recalled that the new Council members had been in attendance at the prior public hearings and had meeting notes and materials available to be informed of the subject matter.

*A motion was made by Carpenter, seconded by Olson, establishing that the two new City Council members and Mayor have sufficient information on which to make findings of fact regarding 525 Brimhall Avenue, through meeting notes and participation at the meetings. Ayes: all.*

Vande Vegte advised that the property owners of 2325 West Wayzata Boulevard were welcome to present their information regarding:

- Whether the existing use of their property meets the definition of an automobile wrecking or junkyard as defined in Zoning Code;
- If so, whether such use is a non-conforming use; and
- If so, whether such non-conforming use has been expanded or increased over time.

Shane Rudd thanked the Council for continuing the hearing to allow his father to be present to participate in the hearing and commented on Elite Auto's desire to work with the Council.

Kris Rudd stated that Elite Auto constitutes a legal non-conforming use to their understanding based on documentation that was available at City Hall. Ms. Rudd presented exhibits – copies of past ordinances and related correspondence - for the Council to consider, and emphasized that the vehicles that have been on their premises have always been necessary to their business.

Vande Vegte reviewed the exhibits offered by Ms. Rudd; provided an overview on the changes in zoning code that had evolved since the business began operating; and clarified that if the business was lawful at the time zoning changes were adopted, the business must be considered legal non-conforming. However, the non-conforming use may not be expanded.

Dick Rudd, owner of Elite Auto, described the history and work focus of his business at 2325 West Wayzata Boulevard since it began operating in 1973. He responded to Council member questions regarding his recollection of the property's appearance, amount of on-site inventory, and the scope of work conducted in 1979 through the present versus when the business began.

Mayor and Council discussed the Planning Commission's interactions with the applicant towards achieving zoning compliance, with emphasis on returning the condition of the property to consistency with a site plan approved for Elite Auto in 1985. Vande Vegte displayed a copy of the 1985 site plan for review. Vande Vegte also highlighted zoning compliance efforts that had been made by staff during the 1992 through 1994 timeframe, and then presented copies of photographs taken of the Elite Auto property in March 2010.

Mayor Hultmann closed the public hearing portion of the meeting at 6:40 pm.

Council, with comment from the Rudds, further reviewed to what degree the legal non-conforming use may have been expanded creating illegal non-conformity. Discussion was held regarding how the scope of the work conducted at the site has evolved, with focus on the amount of repairable/salvage business and inventory volume.

Council members were in unanimous agreement that there is some illegal non-conforming activity taking place at the Elite Auto property. It was further noted that a possible amenable solution would be for Elite Auto to return the condition of the property to what was last approved in the 1985 site plan.

### **Fact Findings Regarding 2325 West Wayzata Boulevard**

1. Does the existing use of the premises known as 2325 West Wayzata Boulevard, Long Lake, Minnesota, meet the definition of an "Automobile Wrecking or Junkyard" as defined by Section 2, Subd. 16 of the City of Long Lake Zoning Ordinance?

*A motion was made by Olson, seconded by Carpenter, to answer Question No. 1 as "Yes".  
Ayes: all.*

2. If you answered "Yes" to Question No. 1, what are the facts which you base the finding upon?

Mayor and Council commented this was evident from visual observation of the site.

3. Was that property in use as an "Automobile Wrecking or Junkyard" in 1979 (when the Long Lake Zoning Code was codified)?

*A motion was made by Carpenter, seconded by Chillstrom, to answer Question No. 3 as "Yes". Ayes: Skjaret, Chillstrom, Carpenter, Hultmann. Nay: Olson. Motion carried.*

4. If you answered "Yes" to Question No. 3, what are the facts upon which you base that finding?

Council members noted the Rudds stated they were in the repairables/salvage business since their beginning.

Council member Olson pointed out that while the Rudds state they had been conducting the repairables/salvage portion of their business since opening, they had not provided proof of doing so.

5. Has the use of the property as an "Automobile Wrecking or Junkyard" been expanded or increased since 1979?

*A motion was made by Chillstrom, seconded by Skjaret, to answer Question No. 5 as "Yes". Ayes: all.*

6. If you answered "Yes" to Question No. 5, what are the facts upon which you base that finding?

Council members referred to comparisons between the 1985 site plan and recent photos of the site showing a clear expansion of the repairables/salvage inventory being kept at the property, and referred to code enforcement correspondence written by staff post-1985.

Following completion of fact findings, Vande Vegte stated it would then be logical to ask the property owner to roll back the non-conforming use to a pre-expansion point, as the Planning Commission had been requesting of the property owner. Vande Vegte clarified that based upon the findings made, the business has been found to be a legal non-conforming use that has expanded out of legality. The original core of the non-conformity is legal, though anything beyond that to the point of expansion would be illegal. Vande Vegte advised that the options available for the Council are to begin a lawsuit process, or to give the property owner a set amount of time to determine how they will become compliant. The property owner would not have to return to the Planning Commission and could be directed to work with staff for submission directly to the Council.

Council member Olson stated that the City Zoning Code, Section 24, subsection 5 establishes guidelines for the City Council to allow expansion or alteration of an existing non-conforming use and suggested the Council adhere to that process.

Mayor and Council were in favor of directing the property owner to submit a plan with timeframes and milestones for returning the state of the property to the 1985 site plan previously approved.

Council member Olson also commented that the automobile wrecking/junkyard activity taking place on the property may require a permit from the State. She expressed concern about whether contaminants were being properly mitigated on site, and also regarding fire safety and the need to maintain a clear unobstructed fire lane. She emphasized that there are rules about how dismantling cars should be conducted and it would be an issue she would continue to raise.

Council members were in favor of Fire Chief Van Eyll visiting the property at some point to address the fire lane concern.

Council further questioned at what point the business would need to have a permit from the state to conduct their repairables/salvage activity.

Vande Vegte clarified the City's responsibility is to enforce the Zoning Code, but it would be reasonable to find out if a state permit should be required for their business operations.

*A motion was made by Skjaret, seconded by Carpenter, directing that the owners of Elite Auto submit a plan with a reasonable timeline for completion that conforms with Section 24, subsection 5 of the City Zoning Ordinance to City staff no later than February 18, for review by the City Council at their March 1 meeting. Ayes: all.*

### **Fact Findings Regarding 525 Brimhall Avenue**

1. Does the existing use of the premises known as 525 Brimhall Avenue, Long Lake, Minnesota, meet the definition of an "Automobile Wrecking or Junkyard" as defined by Section 2, Subd. 16 of the City of Long Lake Zoning Ordinance?

*A motion was made by Olson, seconded by Chillstrom, to answer Question No. 1 as "Yes". Ayes: all.*

2. If you answered "Yes" to Question No. 1, what are the facts which you base the finding upon?

Council members referred to visual observation of the state of the property.

3. Was that property in use as an "Automobile Wrecking or Junkyard" in 1979 (when the Long Lake Zoning Code was codified)?

*A motion was made by Olson, seconded by Chillstrom, to answer Question No. 3 as "Yes". Ayes: all.*

4. If you answered "Yes" to Question No. 3, what are the facts upon which you base that finding?

Council members noted the scope of the business on the property had been similar since their opening.

5. Has the use of the property as an "Automobile Wrecking or Junkyard" been expanded or increased since 1979?

*A motion was made by Olson, seconded by Skjaret, to answer Question No. 5 as "No". Ayes: all.*

Council directed that Administrator Post notify the owners of 2325 West Wayzata Boulevard and 525 Brimhall Avenue in writing of the Council's findings.

**ADJOURN**

Hearing no objection, Mayor Hultmann adjourned the meeting by general consent at 7:35 pm.

Respectfully submitted,

Jeanette Moeller  
City Clerk