

MINUTES

1. CONVENE CITY COUNCIL REGULAR MEETING

Mayor Zerby called the meeting to order at 7:05 P.M.

A. Roll Call

Present. Mayor Zerby; Councilmembers Johnson, Labadie, Siakel, and Sundberg; City Attorney Keane; City Administrator Lerud; City Clerk Thone; Finance Director Rigdon; Planning Director Darling; Director of Public Works Brown; and, City Engineer Budde

Absent: None

B. Review Agenda

Johnson moved, Labadie seconded, approving the agenda as presented. Motion passed 5/0.

2. CONSENT AGENDA

Mayor Zerby reviewed the items on the Consent Agenda.

A. City Council Regular Meeting Minutes of January 13, 2020

B. Approval of the Verified Claims List

C. Accept Improvements and Authorize Final Payment for 2019 Pavement Marking, City Project 19-03 RESOLUTION NO. 20-008, "A Resolution Accepting Improvements and Authorizing Final Payment for the 2019 Marking Project."

D. Approve Change Order No. 1 for 2019 Street Overlay Project, City Project 19-02, RESOLUTION NO. 20-009, "A Resolution Approving Change Order No. 1 for the 2019 Bituminous Mill and Overlay Project."

E. Approval of Assessment Agreements for Water Connections, RESOLUTION NO. 20-010, "A Resolution Approving Water Access Charge Assessment Agreements for 24315 Yellowstone Trail and 24240 Yellowstone Trail."

Mayor Zerby noted that he would like to know why the Council would approve the final payment for pavement marking when all of the pavement has not been completed. He asked to pull item C. until Public Works Director Brown is present and can answer this question.

CITY OF SHOREWOOD REGULAR COUNCIL MEETING MINUTES

January 27, 2020

Page 2 of 6

Johnson moved, Sundberg seconded, Approving the Motions Contained on the Consent Agenda and Adopting the Resolutions Therein for items A, B, D and E.

Motion passed 5/0.

3. MATTERS FROM THE FLOOR - NONE

4. PUBLIC HEARING

5. REPORTS AND PRESENTATIONS

6. PARKS

7. PLANNING

A. Report by Commissioner Gault on January 7, 2020 Planning Commission Meeting

Commissioner Gault gave an overview of the discussions and actions taken at the January 7, 2020 Planning Commission meeting as reflected in the minutes.

B. Comprehensive Plan Amendment, Rezoning and Preliminary and Final Plat for “Walnut Hill”

Location: 24340 Yellowstone Trail

Applicant: Debra Hunt (Marvin Boote Trust)

Planning Director Darling reviewed the requests by the applicants for a Comprehensive Plan Amendment, rezoning, preliminary and final plat. She stated that neither staff nor the Planning Commission recommends approval of the request for a Comprehensive Plan amendment or the rezoning request. She stated that the City has received letters regarding this request that have been included in the packet and noted that there was one letter that was received after the packet was sent out.

Sarah Bennett, stated that she is Debra Hunt and Marvin Boote’s attorney. She explained that they both live in California and are not able to attend the City meetings. She stated that she understands that the major concern for staff and the Planning Commission are the rezoning and the Comprehensive Plan amendment. She explained that this land had been owned by Mr. Boote since 1960 and noted that he had previously subdivided the property to the north. She stated that allowing these changes will retain the character and feel of the area because they are planning to subdivide the property and build another single-family home. She stated that if this is not approved it is likely the property will be sold and there is always the possibility of someone tearing down the existing home and building a “McMansion”. She stated that there has been a lot of emphasis on getting other neighbors to join in the application. She stated that of the letters that have been submitted from the surrounding properties only one has not supported the request. She stated that Planning Director Darling had requested the neighbors join in the Comprehensive Plan Amendment, but none of the neighbors were interested in having their property rezoned from R-1A to R-1C. She stated that she is not aware of any direct neighbors that are in opposition to this request. She stated that this request meets the City goal of providing more housing as outlined by the Met Council even though it is only one home.

CITY OF SHOREWOOD REGULAR COUNCIL MEETING MINUTES

January 27, 2020

Page 3 of 6

Ed Hasek 24315 Yellowstone Trail, stated that he helped start this process by talking to the neighbors on behalf of Ms. Hunt and Mr. Boote. He stated that none of the neighbors had a problem with this parcel being subdivided but did not want to participate themselves because the others lots cannot be subdivided for various reasons. He stated that he does not see where one additional home in this neighborhood will make any difference. He stated that he does not feel this request could be defined as spot zoning.

Councilmember Labadie stated that if the Council allows this request, it appears as though the home to the west will be on its own. She questioned whether the City would be creating spot zoning for the parcel to the west if it modifies the zoning for the subject property.

City Attorney Keane stated that he does not think it does and noted that the traditional interpretation of spot zoning is when a parcel is rezoned in order to give preferential treatment to something that is out of character.

Planning Commissioner Gault stated that the Planning Commission recommended denial of this request because this is just one lot and would be the best interest of the community not to rezone lot by lot. He stated that the Commission felt this is more than just subdividing a lot within its current zoning requirements which is why they followed staff recommendation and recommended denial of this request.

Councilmember Sundberg asked how many lots in this area have the potential to be subdivided. Planning Commissioner Darling stated that there are not very many. She stated that there may be one or two because the larger lots are compromised by wetlands and are not as big as they appear.

Mayor Zerby noted that these lots may not be able to be practically subdivided, but noted that any lot can be subdivided provided if there is enough money and time.

Councilmember Sundberg asked about this subdivision helping with density. Planning Director Darling stated that the Met Council would like density in the range of 5 units per acre rather than just two units. She stated that she cannot foresee that affordable housing would be constructed in this location.

Mayor Zerby asked if this could be done as a P.U.D. and noted that the Council could also look at re-guiding and rezoning the entire area, but noted that a Comprehensive Plan amendment would still be needed to allow the density of two units per acre.

Mr. Hasek asked what the density would be if there were three units on two point five acres because Mr. Boote had already subdivided one lot off in the past. He suggested that the City go back and consider it a subdivision of three lots from the original, rather than just one lot right now. Planning Director Darling stated that she can only respond to the application that is in front of her. She stated that his suggestion would require the other property owners to join in the application.

Ms. Bennett stated that when the previous subdivision went through, she does not believe that there was any hurdle with either the rezoning or the Comprehensive Plan amendment that needed to happen.

CITY OF SHOREWOOD REGULAR COUNCIL MEETING MINUTES

January 27, 2020

Page 4 of 6

Councilmember Johnson stated that he is troubled that in order to make this happen, an entire neighborhood would need to be rezoned. He stated that he may feel differently about it if the City had received letters of support from every member of the neighborhood.

Councilmember Sundberg stated that there has only been one neighbor that made the effort to oppose this application and three that have spoken in favor of it. She questioned whether she could assume that the people that did not make the effort to comment simply do not care one way or the other.

Planning Director Darling stated that she has spoken with a few of the neighbors in the area. She noted that some suggested more support than others, but they have been neighbors for a long time and did not want to oppose.

Councilmember Sundberg stated that she feels neighbors' opinions are very important. Councilmember Siakel stated that although she sees both sides of the argument, she finds it hard to go against both staff and a unanimous vote by the Planning Commission. Councilmember Sundberg stated that she appreciates that opinion, but as an elected person, she has to listen to the residents also. She stated that she understands the concerns, but is not sure she can vote to deny the request.

Councilmember Labadie stated that she agrees with both Councilmembers Siakel and Sundberg. She stated that she thinks the Council has only voted against a unanimous recommendation by the Planning Commission on rare occasions. She stated that the Planning Commission's job is to interpret the ordinances, as written and must be withheld. She stated that she believes the Council is struggling because this request to put a second home on this parcel sounds logical and reasonable, however the ordinance and Comprehensive Plan, as written, does not allow it.

Councilmember Sundberg stated that ordinances have been changed over the years as they have needed to be updated and addressed. Mayor Zerby stated that his concern is what will happen next in the neighborhood if this subdivision sets a precedent. He stated that if the City does it for one, they need to be prepared to do it for all. He explained that he is not opposed to the subdivision, but is opposed to rezoning.

Councilmember Johnson asked if the City had exhausted all other avenues in order to allow this application in some other fashion. Planning Director Darling stated that the City could, as part of the Comprehensive Plan process, hold a public hearing to discuss changing the zoning for some of the adjacent parcels as well.

Councilmember Siakel stated that she is in support of denying the request before the Council tonight but if there is a consensus of the neighborhood to change the zoning, she would support that. Ms. Bennett stated that the struggle they have faced is that because this does not directly affect anyone, people have not necessarily spoken out about it. She stated that she appreciates the Council's discussion and, with her client's permission, she would like to continue to pursue options within the City for this to work.

Councilmember Siakel asked what the applicants next step would be if the Council chose to deny the request. Planning Director Darling stated that the applicant would have to decide whether or not to pursue this further and submit a new application. She stated that if the Council gave direction to work on the Comprehensive Plan including a change to the whole area, that would

CITY OF SHOREWOOD REGULAR COUNCIL MEETING MINUTES

January 27, 2020

Page 5 of 6

include notice to the neighborhood and noted that the applicant would have to waive the one-hundred twenty-day review period on their application.

Mr. Hasek asked about how much support or opposition from a public hearing with the neighborhood was necessary in order for this to move forward. Mayor Zerby explained that it is always up to the Council to interpret the wishes of the residents.

Siakel moved, Johnson seconded, to Approve RESOLUTION NO. 20-005, “A Resolution Denying the Request for a Comprehensive Plan Amendment, Rezoning and Preliminary and Final Plat for “Walnut Hill” for property located at 24340 Yellowstone Trail”. Motion passed 4/1 (Sundberg).

8. ENGINEERING/PUBLIC WORKS

A. Approve Encroachment Agreement for Retaining Wall in ROW Location: 23290 Park Street

City Engineer Budde Public Works explained that staff is still reviewing the policy regarding encroachments within the public right-of-way. He explained that the property owner at 23290 Park Street has submitted a building permit to replace a timber retaining wall with a boulder wall. He noted that the new boulder wall will extend out into the right-of-way approximately ten feet. He stated that there will still be appropriate space for the City to remove snow and staff does not see this as a major obstruction. He explained that the property owner has indicated that they are willing to sign the Encroachment Agreement.

Johnson moved, Labadie seconded, Adopting RESOLUTION NO. 20-011, “A Resolution Approving an Encroachment Agreement with Property at 23290 Park Street.” Motion passed 5/0.

9. GENERAL/NEW BUSINESS

A. Amendment to City Code Chapter 302: Sale of Tobacco

City Clerk Thone explained that this amendment will allow the City to comply with the December 20, 2019 legislation the President of the United States signed raising the federal minimum age of the sale of tobacco products from eighteen to twenty-one. Councilmember Sundberg asked if this also referred to vaping. City Clerk Thone stated that it addresses all tobacco products.

Johnson moved, Sundberg seconded, to Approve ORDINANCE 571, Amending Chapter 302 of Shorewood City Code Titled “Sale of Tobacco”. Motion passed 5/0.

Johnson moved, Sundberg seconded, Adopting RESOLUTION NO. 20-012, “A Resolution Approving the Publication of Ordinance 571 Regarding Tobacco Sales in Title and Summary.” Motion passed 5/0.

B. Accept Improvements and Authorize Final Payment for 2019 Pavement Marking, City Project 19-03 – From Consent Agenda

Mayor Zerby explained that Public Works Director Brown was out of the room when this item was discussed during the Consent Agenda so it was moved to later on the agenda. He stated that he

CITY OF SHOREWOOD REGULAR COUNCIL MEETING MINUTES

January 27, 2020

Page 6 of 6

thought that some of the roads were not done and asked if this final payment included the roadways that they would not get to.

Public Works Director Brown stated that the mill and overlay roads are done as part of the mill and overlay contracts which is separate than the general pavement marking which is what is in front of the Council.

Zerby moved, Johnson seconded approving RESOLUTION NO. 20-008, "A Resolution Accepting Improvements and Authorizing Final Payment for 2019 Pavement Marking, City Project 19-03."

10. STAFF AND COUNCIL REPORTS

A. Administrator and Staff

1. Investments Fourth Quarter, 2019

Finance Director Rigdon gave a brief overview of the Fourth Quarter Investment report for 2019.

Other

Public Works Director Brown stated that Arctic Fever had a reasonable showing even though some of the vendors backed out due to the weather. He stated that staff has been talking about possible ways to revamp the event.

Planning Director Darling stated at the last Council meeting, a property owner had requested more time to bring their property into compliance. She stated that the situation is close to resolution and is happy to report that the drainage issues are well into the process of being resolved.

B. Mayor and City Council

Councilmember Johnson stated that Arctic Fever was a great event and his family enjoyed Friday evening. He thanked the entities that made financial contributions to help make the event happen.

Councilmember Labadie thanked the Public Works Department for keeping the rinks in good condition. She noted that she has heard compliments from both Shorewood residents as well as Tonka Bay residents.

11. ADJOURN

Johnson moved, Siakel seconded, Adjourning the City Council Regular Meeting of January 27, 2020, at 8:20 P.M. Motion passed 5/0.

ATTEST:

Scott Zerby, Mayor

Sandie Thone, City Clerk