

and acceptance by the City.

~~Larry Hayes, attorney for Low, Inc., explained what is proposed. In response to a question by the Council, the City Attorney said Staff recommendation was for adoption of the resolution and execution of the documents because it would save the State and City money not to have to condemn the property for the new frontage road. Following discussion, motion was made by Lindau, seconded by Blessum, and all present voting aye, to adopt the resolution. Motion was made by Lindau, seconded by Peterson, and all present voting aye, to authorize execution of the documents relating to the property transfers.~~

Final Resolution for
Appletree Square II
Project ID Financing
Item 4.10
R-82-28

The Council was requested to consider adopting a resolution granting final approval to the issuance of approximately \$7,430,000 in tax-exempt industrial development financing for the Appletree Square II Project. Background information was submitted to the Council with the agenda material.

The Director of Staff Services said several changes had been made in the resolution which was printed in the agenda but that they are technical amendments that do not change the substance of what had been previously approved. In response to a question by Spies, he said the equity of the applicant in the project would be about 17%.

~~Following discussion, motion was made by Blessum, seconded by Herbst, and all present voting aye, to adopt the resolution granting final approval to this financing.~~

Preliminary and Final
Plat of Nine Mile
Offices
Case 6217A-82
Item 4.1
R-82-30

A public hearing was scheduled for consideration of the preliminary and final plat of Nine Mile Offices located at 7835 Marth Circle. The plat was proposed to change a metes and bounds description into one lot and one outlot for construction of an office building.

The proposed plat was reviewed by the Administrative Subdivision Review Committee on March 23 and was recommended for approval with four conditions:

1. floodage easement be provided over Outlot A and that part of Lot, 1, Block 1 of elevation 824 feet,
2. grading, drainage, utility and erosion control plans be as approved by the City Engineer,
3. Outlot A be accepted as a park,
4. sidewalk to be constructed on Marth Circle at the developer's expense.

These conditions have been or are being met. Following discussion, motion was made by Herbst, seconded by Lindau, and all present voting aye, to close the hearing, to approve the preliminary and final plat of Nine Mile Offices, to approve the subdivision agreement, and to adopt a resolution granting final approval.

~~Vacation of Drainage
and Utility Easements
in Running-Elvin
Addition
Item 4.2~~

~~The Council was requested to consider adopting an ordinance to vacate drainage and utility easements on Lots 1 through 6, Block 1, Running-Elvin Addition. The vacation was requested by the developer of Cedar Center, which was approved by the Council on March 22, so that an addition to the shopping center can be constructed over the vacated easements.~~

~~The Staff indicated there was no objection to vacation of the easements if new easements are dedicated on the plat and the developer reaches an agreement with Northern States Power Company for placement of new underground lines. This agreement has not yet been consummated, and it was the Staff's recommendation that the ordinance be postponed until the signed agreement between NSP and the developer is submitted to the City. Following discussion, motion was made by Lindau, seconded by Blessum, and all present voting aye, to postpone this ordinance until the City receives the agreement between the developer and Northern States Power Company.~~

Resolution Supporting
Supplementary Agreement
to Contract with
Employers Insurance
of Wausau
Item 4.11
R-82-27

The Council was requested to consider adopting a resolution supporting a supplementary agreement to the Workers' Compensation Insurance contract between the City and the Employers Insurance of Wausau. The purpose of the supplementary agreement is to establish a separate fund which will guarantee deferred Workers' Compensation payments under the City's "paid loss retrospective" Plan with Wausau which began on March 1. Larry Lee, Assistant City Manager, explained what is proposed. Following discussion, motion was made by Lindau, seconded by Herbst, and all present voting aye, to adopt the resolution.

Ordinance to Convey
Property at
10100 Morgan Avenue
Item 4.3
O-82-6

The Council was requested to consider adopting an ordinance conveying property located at 10100 Morgan Avenue south from the City to Harold Israelson, Alvin R. Rehder and Lowell E. Wenzel. The sale of this property, on which the former Health Division building is located, was approved by the Council on March 8, but the City Code requires that all dispositions of real property be by ordinance. Following discussion, motion was made by Blessum, seconded by Peterson, and all present voting aye, to close the hearing and adopt the ordinance.

1982 Business License
Applications
Item 6.1

The Council was requested to consider approving 1982 business license applications per the listing on file with the official records. Motion was made by Spies, seconded by Lindau, and all present voting aye, to approve the license applications.

Accept Donation from
Creekside Center Pool
Association
Item 6.2

The Council was requested to consider accepting a donation of \$188.01 from the Creekside Center Pool Association, representing half the cost of recovering three pool tables at Creekside. Following discussion, motion was made by Spies, seconded by Lindau, and all present voting aye, to accept the donation and to allocate the funds to Activity 6417-513.

August 23, 2002

Kari Brown
Site Acquisition Consultants
4330 155th St. E.
Faribault, MN 55021

RE: Case 10602A-02

Dear Ms. Brown:

As set forth in City Code Section 19.63.05 (l), I have administratively approved a minor revision to final site and building plans to allow placement of roof mounted ATT Wireless antennas and equipment at 7807 Creekridge Circle in Bloomington subject to the following conditions of approval:

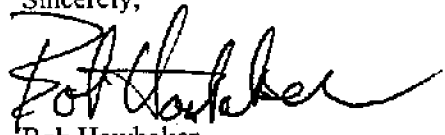
1. The antennas shall be facade mounted on the rooftop equipment screen wall. The top of the antenna shall not extend above the top of the screen wall.
2. The antennas and any associated support devices and cable runs shall be painted to match the wall surface on which they are mounted;
3. The top of the equipment shall not extend above the top of the screen wall;
4. The antennas shall comply with all Federal Communications Commission requirements regarding radio frequency emissions;
5. The applicant shall meet Federal Communications Commission requirements for the placement of roof mounted warning signs;

and subject to the following Code requirement:

1. The applicant shall notify the Bloomington Chief of Police at least ten days before the commencement of service and shall allow the City and County to spot test for interference problems during the testing process. The applicant will be required to switch between the transmit and standby modes during the test (Sec. 19.63.05 (m)).

Should you have any questions regarding this action, please contact Glen Markegard at (952) 563-8923.

Sincerely,



Bob Hawbaker
Senior Planner

Copy: Butch Gillum, Police/Fire Department

ITEM 5.2A continued and subject to the following Code requirements:

1. Operations on the site must comply with the noise standards in Sec. 10.29.02;
2. Exterior building materials shall be approved by the Planning Manager (Sec. 19.63.08);
3. Landscape plan be approved by the Planning Manager and landscape bond be filed (Sec. 19.52);
4. All rooftop equipment be fully screened (Sec. 19.52.01);
5. Poured-in-place concrete curbs be provided on the perimeter of parking lots and traffic islands (Sec. 19.64);
6. All trash and recyclable materials be screened and stored inside the principal building (Sec. 19.51);
7. Recyclable materials shall be separated and collected (Sec. 10.45);
8. Building shall be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306, MN State Fire Code Sec. 903);
9. Fire lanes be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3);
10. Utility plan showing location of existing and proposed water main and fire hydrant locations be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, MN State Fire Code Sec. 508);
11. Electronic utility as-builts, per City of Bloomington requirements, shall be submitted to the Public Works Department prior to the issuance of the Certificate of Occupancy.
12. Connection charges shall be satisfied;
13. Parking lot and site security lighting shall satisfy the requirements of Section 19.54 of the City Code; and
14. A Uniform Sign Design in conformance with the requirements of Chapter 19, Article X of the City Code shall be approval by the Planning Manager.

No public testimony was received.

Accepted Feasibility Study & Adopted Resolution Ordering Improvement Project (City Project 2010-303) ITEM 5.3A R-2010-20

Motion was made by Peterson, seconded by Wilcox, and all voting aye, to accept the Feasibility Study and adopt a resolution ordering improvements for the 2010-303 Richfield Bloomington Credit Union Improvement Project. The project consists of replacing all curb along Lyndale Avenue and West 96th Street, constructing sidewalk along Lyndale Avenue and West 96th Street, constructing driveway approaches on Lyndale Avenue and West 96th Street, and modifying the traffic signal at Lyndale Avenue and West 95th Street.

The estimated project cost is approximately \$290,000 with 100% assessment to the petitioning property owner, Richfield Bloomington Credit Union.

No public testimony was received.

Adopted Ordinance Rezoning Multiple Parcels to C-4, Freeway Office Case 10002A-10 ITEM 5.4A O-2010-6

Senior Planner Glen Markegard provided the staff report on an application by the City of Bloomington to rezone 25 parcels to a new commercial zoning district C-4, Freeway Office. He stated the three areas to be rezoned include: The area west of East Bush Lake Road (3 separate areas), the area south of 98th Street (west of 35W) and (south of 106th Street east of 35W). He stated these are currently zoned FD-1 and FD-2 Freeway Development and allow office, hotel, warehouse and manufacturing uses among others. The C-4 District would also allow office and hotel uses, office warehouse and health club uses that are currently existing among others. He stated manufacturing and pure warehousing would not be allowed. He stated one comment letter was received from Kraus-Anderson supporting tonight's rezoning but expresses concern about future unrelated rezonings. He stated staff and Planning Commission recommend approval.

Elkins asked staff if they were aware of the signage issues for one of these properties located on the north side of 494, Advanced Auto Parts headquarters.

Bernhardson reported staff is aware of it and is working on a response.

ITEM 5.4A continued

Speaker #1: Parham Javaheri, Representing Lifetime Fitness (Owners of 6701 West 78th Street & 9930 Bloomington Freeway)

Javaheri expressed two concerns; one with each parcel. He stated one concern is the change in allowed uses for the property at 6701 West 78th Street. Their concern is about losing the marketability and resale of that property due to the changes in the office/warehouse use. They are also concerned with the change in residential use going from a conditional use to an accessory use, as that property could be a candidate for a high density residential use. They would prefer it stay a conditional use. They understand what the City is trying to do but the office market is not a hot real estate market at this time so it will extend the period that they hold onto this property. He stated this will limit the potential uses on their property. He asked the Council to do something about high density and office/warehouse. He stated the grandfathering of existing fitness clubs is helpful. He requested this be grandfathered as a fitness club regardless of whether it changes names. This particular club has had a high membership so they want to have the ability to improve it in the future. He asked what would happen if they want to add onto it or rebuild in its place in the future. They don't want to hinder the progress of this club in Bloomington.

Winstead asked the question ... what would happen if they want to expand or rebuild.

Markegard explained for the existing health club south of 98th Street, that use will remain a conforming use. It would not be a grandfathered use. If they were to totally redevelop that site, that use would still continue to be a conforming use and they would be able to expand but they would have to meet the C-4 development standards, which includes setback differences and Floor Area Ratio (FAR) differences. They could scrape the building, expand it, or remodel. He stated office/warehouse, similar to health clubs, is allowed as an existing use but it won't be allowed as a new use. As a result, that parcel would be affected in terms of limiting the scope of potential redevelopment. He stated residential uses are allowed in C-4 as accessory uses. Residential should be accessory to a commercial use rather than a pure freestanding residential use. He stated retail is an accessory use. It could be oriented towards the hotel's internal users or an office building could have a shop or two, which would be oriented towards the office tenants. He stated office/warehouse is allowed as an existing use if it is in use as of January 2, 2010, but not as a new use.

Grady commented retail is prohibited in District C-4 per the Zoning District Comparison chart.

Markegard stated the Chart is incorrect. He said commercial retail would be allowed as an accessory use.

Hulting inquired as to the driving force behind some of these rezoning initiatives. Why is the City initiating these before a developer comes in to ask for something different?

Markegard stated the City adopted a series of new commercial zoning districts three years ago to be applied over time and now is the time to implement those rezonings. He explained the main difference between the C-4 and Freeway Development Districts is that the Freeway Development Districts allow manufacturing and warehousing uses, which was the initial vision along the freeways. He stated that vision has changed and new industrial uses occurring now should be focused on those established areas. He stated freeway adjacent sites are to be reserved for higher employment uses. He stated a lot of new manufacturing and warehousing uses are looking for cheaper land, which is not located along the freeway.

Elkins stated this is a top to bottom modernization of our zoning districts.

Peterson stated the Duke parcel is an example similar to this and that Council is trying to find the closest fit.

Javaheri stated they understand what is going on and they're not opposed to it just expressing some concerns.

ITEM 5.4A continued

Winstead stated for the record they can enlarge, rebuild, enhance, etc.

Speaker #2: Bruce Malkerson, Representing Lifetime Fitness

He stated the Code required the intent be codified for the future. He suggested adding the codification as a footnote. He stated he met with Planner Elizabeth Shevi and she suggested they send a letter to the City. He stated he would like to submit a letter for Council to vote on regarding its legislative intent.

Bernhardson suggested they send a letter so staff can review it and get back to them.

Speaker #3: Bruce Warner, 9026 Kell Circle, JGM Properties (Tenant at 10740 Lyndale)

He stated their concern is what if they convert some of the space in the office/warehouse to office and then want to change it back to warehouse again in the future.

Markegard stated staff would view the use as an office/warehouse. He stated the main issue is parking but it appears this site has a fair amount of parking.

Bernhardson stated the owner is the one ultimately responsible and Warner is the tenant so it would be a private party matter. He stated the property rights stay with the owner.

Speaker #4: Ken Vinje, Kraus-Anderson Realty

He referenced the letter they sent expressing concerns with 6301 Cecelia Circle. He too requested a letter of confirmation regarding the future.

Motion was made by Grady, seconded by Elkins, and all voting aye, to adopt an ordinance amending the Zoning Map to rezone certain properties located at 9801 Dupont Avenue, 9930 Bloomington Freeway, 7801, 7807, 7815 & 7825 Washington Avenue, 6625, 6701, 7500, 7504 & 7700 West 78th Street, 7801 & 7807 Creekridge Circle, 6301 & 6401 Cecilia Circle, 7800 and a portion of 8000 East Bush Lake Road from FD-2, Freeway Development to C-4, Freeway Office; properties located at 801 West 106th Street, 10640, 10700, 10740 & 10800 Lyndale Avenue from FD-1, Freeway Development to C-4, Freeway Office; a portion of the property located at 10800 Lyndale Avenue from RO-50, Residential Office to C-4, Freeway Office; and properties located at 7508, 7600 & 7610 West 78th Street from R-1, Single Family to C-4 Freeway Office.

Staff indicated they would provide Council with more information clarifying future circumstances.

Adopted Ordinance
Modifying Driveway
Approach Standards
Case 10000B-10
ITEM 5.4B1
O-2010-7

City Engineer Shelly Pederson explained these multiple miscellaneous amendments regarding driveway materials are recommended for approval by the Planning Commission. She stated the first three feet from the curb is the area in question. She reviewed the existing Code requirements for asphalt and concrete. She stated staff recommends Modified Option 2B, which would require the City to reimburse the property owner for the cost of a replacement standard Portland cement driveway approach for the disturbed area due to a City construction project. She showed some driveway approaches and the 3-foot driveway behind the curb. She stated there are a multitude of decorative driveways in Bloomington. She stated after all of the studies and a review of the neighboring codes from other cities, a modified Option B was determined to be the best. She stated decorative bricks would be removed by the City's contractor and they would be piled gently on the driveway. The City would calculate the area that was disturbed and would reimburse the homeowner for the cost of the concrete. He won't need to make the apron, won't need to sign an encroachment agreement and the City will give him an equivalent of a concrete driveway. He would be responsible for the installation of any different materials.

Grady inquired if someone could remove their own bricks/pavers.

Pederson stated the contractor would carefully remove the pavers and then staff would credit the cost of a concrete driveway so the homeowner could install his decorative driveway. They would not have to sign an encroachment agreement.