

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF DES PLAINES, ILLINOIS HELD IN THE ELEANOR ROHRBACH MEMORIAL COUNCIL CHAMBERS, DES PLAINES CIVIC CENTER, MONDAY, JULY 17, 2023

CALL TO ORDER

The regular meeting of the City Council of the City of Des Plaines, Illinois, was called to order by Mayor Goczkowski at 7:00 p.m. in the Eleanor Rohrbach Memorial Council Chambers, Des Plaines Civic Center on Monday, July 17, 2023.

ROLL CALL

Roll call indicated the following Aldermen present: Lysakowski, Moylan, Sayad, Brookman, Walsten, Smith, Charewicz. Absent: Oskerka. A quorum was present.

Also present were: City Manager Bartholomew, Assistant City Manager/Director of Finance Wisniewski, Director of Public Works and Engineering Oakley, Director of Community and Economic Development Carlisle, Fire Chief Anderson, Deputy Police Chief Shanahan, and General Counsel Friedman.

PRAYER AND PLEDGE

The prayer and the Pledge of Allegiance to the Flag of the United States of America were offered by Alderman Moylan.

PROCLAMATION

City Clerk Mastalski read a proclamation by Mayor Goczkowski declaring July 27, 2023 as National Korean War Armistice Day.

Mayor Goczkowski presented the proclamation to the members of the Des Plaines American Legion Post 36.

Members of the Des Plaines American Legion Post 36 presented awards to Mayor Goczkowski and the City Council.

PUBLIC COMMENT

Resident Paula Hatfield requested further help with traffic control for the crossing guards on Dempster Street.

Mayor Goczkowski acknowledged the passing of former Des Plaines mayor Jack Seitz, who served 1981-1989. The services will be held this upcoming Friday and Saturday; more information on Friedrichs Funeral Home website.

ALDERMAN ANNOUNCEMENTS

Alderman Lysakowski mentioned the success of the Fourth of July fireworks display.

Alderman Sayad stated a wonderful job was done on the Fourth of July fireworks and parade. He thanked Irene, a fourth ward resident, for her continuous work she has done. He inquired regarding the contact between the City and Elrod Friedman. He thanked all of the men and women who have served our country.

Alderman Brookman thanked staff for all of their work in connection to recent storms.

Alderman Walsten wished a belated happy birthday to Alderman Sayad. He stated the sixth ward was recently hit by an EF-0 tornado, and thanked City staff for the clean-up. He stated there was an issue with the storage of multiple Teslas on a City street, and he thanked the police for issuing tickets since the are Teslas are no longer there.

Alderman Smith also thanked staff for all of their hard work in connection to the recent storms. She stated there has recently been wonderful events in the City - American Legion hosting the traveling Korean memorial and the fireworks.

Alderman Charewicz stated an eighth ward meeting is going to be coming up on Tuesday, August 1 at 7:00 PM at the conservatory on Algonquin Road; all are welcome. He stated Elk

Grove Township is also having their tax reassessment, the assessor’s office is taking assessments up until Monday, August 7th; he encouraged anybody who is living in the Elk Grove Township to go to the Elk Grove township website to possibly reduce their property taxes He mentioned upcoming events on August 12th - Pies on the Porch at the History Center, Village Bank is having a shredding event and the library has a truck contest going on for the kids. He stated on Sunday, August 13th Izaak Walton is having their annual pig roast at 1841 South River Road. He all thanked staff for their hard work on the parade, the city water main breaks, and the recent storms.

**MAYORAL
ANNOUNCEMENTS**

Mayor Goczkowski reiterated the acknowledgement of the hard work of the City staff. He also stated on August 15th is the next Food Truck Round Up from 5:00 p.m. to 8:00 p.m. at the library plaza; he encouraged everyone to attend and to go to the City website for further details.

CONSENT AGENDA

Alderman Brookman requested Item #7 to be removed from the Consent Agenda.

Alderman Charewicz requested Item #19, 21, and 22 to be removed from the Consent Agenda.

Resident Tom Lovestand requested Item #8 to be removed from the Consent Agenda.

Moved by Brookman, seconded by Smith, to Establish the Consent Agenda without Item # 7, 8, 19, 21, and 22.

Upon voice vote, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

Moved by Brookman, seconded by Walsten, to Approve the Consent Agenda without Item # 7, 8, 19, 21, and 22.

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

Liquor Licenses were approved; Minutes were approved; Ordinance Z-12-23 was adopted; Resolutions R-119-23, R-120-23, R-121-23, R-124-23, R-125-23, R-126-23, R-127-23, R-129-23, R-130-23, R-131-23, R-132-23, R-133-23, R-135-23 were adopted.

**APPROVE H-1 LIQ
LIC CHANGE/ WON
TON GOURMET
Consent Agenda**

Moved by Brookman, seconded by Walsten, to APPROVE CHANGE FOR AN H-1 LIQUOR LICENSE OWNERSHIP (RESTAURANT BEER & WINE ONLY/ON-SITE CONSUMPTION ONLY) FROM WONTON GOURMET, INC. TO WON TON GOURMET, INC., 1405 ELMHURST ROAD. Motion declared carried as approved unanimously under Consent Agenda.

**APPROVE H-1 LIQ
LIC CHANGE/
OSAKA SUSHI &
BENTO D/B/A
DOTOMBORI
Consent Agenda**

Moved by Brookman, seconded by Walsten, to APPROVE CHANGE FOR AN H-1 LIQUOR LICENSE OWNERSHIP (RESTAURANT BEER & WINE ONLY/ON-SITE CONSUMPTION ONLY) FROM OSAKA SUSHI & BENTO, INC. D/B/A DOTOMBORI JAPANESE RESTAURANT TO OSAKA SUSHI & BENTO, INC. D/B/A DOTOMBORI, 1526 MINER STREET. Motion declared carried as approved unanimously under Consent Agenda.

**APPROVE CL B LIQ
LIC CHANGE/
TRIDEVI PANTRY,
INC. D/B/A UNIQUE
LIQUOR & TOBACCO**
Consent Agenda

Moved by Brookman, seconded by Walsten, to APPROVE CHANGE FOR A CLASS B LIQUOR LICENSE OWNERSHIP (BULK SALES RETAIL ONLY/OFF-SITE CONSUMPTION ONLY) FROM RNI1 CORPORATION D/B/A COLONIAL LIQUORS TO TRIDEVI PANTRY, INC. D/B/A UNIQUE LIQUOR & TOBACCO, 642 W. ALGONQUIN ROAD. Motion declared carried as approved unanimously under Consent Agenda.

**AUTH PURCH/ 1488
AND 1490 MINER ST**
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-119-23, A RESOLUTION AUTHORIZING THE PURCHASE OF THE PROPERTY LOCATED AT 1488 AND 1490 MINER STREET, DES PLAINES, ILLINOIS. Motion declared carried as approved unanimously under Consent Agenda.

**Resolution
R-119-23**

**APPROVE & AUTH/
EXPEND OF FUNDS/
ANDERSON
LEGISLATIVE
CONSULTING**
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-120-23, A RESOLUTION APPROVING AND AUTHORIZING THE EXPENDITURE OF FUNDS PURSUANT TO A PROPOSAL FROM ANDERSON LEGISLATIVE CONSULTING, LTD. FOR INTERGOVERNMENTAL AND LEGISLATIVE ADVOCACY SERVICES. Motion declared carried as approved unanimously under Consent Agenda.

**Resolution
R-120-23**

**APPROVE PURCH/
VALVES & PIPING/
DAHME**
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-121-23, A RESOLUTION APPROVING THE PURCHASE OF MULTIPLE VALVES AND PIPING FOR THE MAPLE STREET PUMPING STATION FROM DAHME MECHANICAL INDUSTRIES, INC. Motion declared carried as approved unanimously under Consent Agenda.

**Resolution
R-121-23**

**REJECT ALL BIDS
FOR 2023 FIRE
HYDRANT PAINTING
PROJECT**
Consent Agenda

Item #7 was removed from the Consent Agenda at the request of Alderman Brookman.

Alderman Brookman stated she removed this from the consent agenda to point out the hazards of accepting a single bid.

**Resolution
R-122-23**

Moved by Brookman, seconded by Smth, to Approve Resolution R-122-23, A RESOLUTION REJECTING ALL BIDS FOR THE 2023 FIRE HYDRANT PAINTING PROJECT.

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

**APPROVE
AMENDMENT/ 2023
ANNUAL BUDGET**
Consent Agenda

Item #8 was removed from the Consent Agenda at the request of Resident Tom Lovestrand.

Resident Tom Lovestrand requested the item to be removed since he believes discussion should be had and an individual vote in regard to the moving of such a large amount of funds.

**Resolution
R-123-23**

Moved by Moylan, seconded by Walsten, to Approve Resolution R-123-23, A RESOLUTION APPROVING AN AMENDMENT TO THE 2023 ANNUAL BUDGET FOR THE CITY OF DES PLAINES.

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

* Later in the meeting at 8:39 p.m., Alderman Sayad requested to change his vote from Aye to Nay regarding the approval of Resolution R-123-23; City Council had unanimous consent to allow Alderman Sayad to change his vote. With the change, the vote is reflected as:

Moved by Moylan, seconded by Walsten, to Approve Resolution R-123-23, A RESOLUTION APPROVING AN AMENDMENT TO THE 2023 ANNUAL BUDGET FOR THE CITY OF DES PLAINES.

Upon roll call, the vote was:

AYES: 6 - Lysakowski, Moylan, Brookman,
Walsten, Smith, Charewicz

NAYS: 1 - Sayad

ABSENT: 1 - Oskerka

Motion declared carried.

**APPROVE AGRMT/
CHR & BG INV SVCS/
KENTECH**
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-124-23, A RESOLUTION APPROVING AN AGREEMENT WITH KENTECH CONSULTING, INC. FOR CHARACTER AND BACKGROUND INVESTIGATION SERVICES. Motion declared carried as approved unanimously under Consent Agenda.

**Resolution
R-124-23**

**AUTH PURCH/
PROPERTY/ 1327 E.
OAKTON AVE**
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-125-23, A RESOLUTION AUTHORIZING THE PURCHASE OF THE PROPERTY LOCATED AT 1327 E. OAKTON AVE, DES PLAINES, ILLINOIS. Motion declared carried as approved unanimously under Consent Agenda.

**Resolution
R-125-23**

**AUTH PURCH/
PROPERTY/ 1333 E.
OAKTON AVE**
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-126-23, A RESOLUTION AUTHORIZING THE PURCHASE OF THE PROPERTY LOCATED AT 1333 E. OAKTON AVE, DES PLAINES, ILLINOIS. Motion declared carried as approved unanimously under Consent Agenda.

**Resolution
R-126-23**

**AUTH PROCURE/
ROCK SALT/
MORTON SALT**
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-127-23, A RESOLUTION AUTHORIZING THE PROCUREMENT OF ROCK SALT FROM MORTON SALT, INC. Motion declared carried as approved unanimously under Consent Agenda.

**Resolution
R-127-23**

**APPROVE
CONTRACT/
MASONRY FAÇADE**

Moved by Brookman, seconded by Walsten, to Approve Resolution R-129-23, A RESOLUTION APPROVING A CONTRACT WITH MBB ENTERPRISES OF CHICAGO FOR DES PLAINES FIRE STATION 61 MASONRY FAÇADE AND LINTEL

& LINTEL/ MBB
ENTERPRISES
Consent Agenda

REPLACEMENT. Motion declared carried as approved unanimously under Consent Agenda.

Resolution
R-129-23

APPROVE
CONTRACT/ DOOR
RECONFIG/
MANUSOS
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-130-23, A RESOLUTION APPROVING A CONTRACT WITH MANUSOS GENERAL CONTRACTING, INC. FOR PUBLIC WORKS BUILDING #5 DOOR RECONFIGURATION. Motion declared carried as approved unanimously under Consent Agenda.

Resolution
R-130-23

AUTH PURCH &
INSTALL/ LOCKERS
& STORAGE/
BRADFORD
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-131-23, A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF LOCKERS AND STORAGE SYSTEMS FROM BRADFORD SYSTEMS CORPORATION THROUGH SOURCEWELL. Motion declared carried as approved unanimously under Consent Agenda.

Resolution
R-131-23

AUTH PURCH &
INSTALL/ LOCKERS
& STORAGE/
BRADFORD
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-132-23, A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF LOCKERS AND STORAGE SYSTEMS FROM BRADFORD SYSTEMS CORPORATION THROUGH SOURCEWELL. Motion declared carried as approved unanimously under Consent Agenda.

Resolution
R-132-23

APPROVE AGRMT/
TEMP STAFF SVCS/
GOVTEMPSUSA
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-133-23, A RESOLUTION APPROVING AN AGREEMENT WITH GOVTEMPSUSA, LLC FOR TEMPORARY STAFFING SERVICES. Motion declared carried as approved unanimously under Consent Agenda.

Resolution
R-133-23

APPROVE CHG ORD
1/ AGGR MATERIALS
& SPOILS DISP/
JOHN NERI
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve Resolution R-135-23, A RESOLUTION APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT WITH JOHN NERI CONSTRUCTION CO. INC. FOR ADDITIONAL AGGREGATE MATERIALS AND SPOILS DISPOSAL. Motion declared carried as approved unanimously under Consent Agenda.

Resolution
R-135-23

SECOND READING/
ORDINANCE
M-13-23

Item #19 was removed from the Consent Agenda at the request of Alderman Charewicz.

Consent Agenda

Alderman Charewicz stated he is in favor of this, but wanted to question how the City will let residents know of the ordinance change.

Advanced to second reading by Charewicz, seconded by Brookman, to Adopt the Ordinance M-13-23, AN ORDINANCE AMENDING SECTIONS 7-3-2 AND 7-10-6 OF THE DES PLAINES CITY CODE REGARDING ANTIQUE VEHICLE PARKING WITHIN THE CITY.

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

**SECOND READING/
ORDINANCE
Z-12-23**

Consent Agenda

Advanced to second reading by Brookman, seconded by Walsten, to Adopt the Ordinance Z-12-23, AN ORDINANCE AMENDING THE TEXT OF THE DES PLAINES ZONING ORDINANCE REGARDING LOCALIZED ALTERNATIVE SIGN REGULATIONS. Motion declared carried as approved unanimously under Consent Agenda.

**APPROVE
APPOINTMENTS TO
THE LIBRARY
BOARD OF
TRUSTEES**

Item #21 was removed from the Consent Agenda at the request of Alderman Charewicz.

Alderman Charewicz wanted to ask if there has been any discussion of term limits in connection to this.

Resident Earl Wilson gave his opinion of term limits on appointed positions.

Moved by Sayad, seconded by Brookman, to Defer APPROVING THE APPOINTMENTS TO THE LIBRARY BOARD OF TRUSTEES FROM THE JUNE 19, 2023 CITY COUNCIL AGENDA OF NAZNEEN KAPADIA AND RACHEL RICE, TERMS TO EXPIRE 7/17/26.

No Vote.

Moved by Walsten, seconded by Moylan, a Substitute Motion for APPROVING THE APPOINTMENTS TO THE LIBRARY BOARD OF TRUSTEES FROM THE JUNE 19, 2023 CITY COUNCIL AGENDA OF NAZNEEN KAPADIA AND RACHEL RICE, TERMS TO EXPIRE 7/17/26.

Upon roll call, the vote was:

AYES: 3 - Moylan, Walsten, Smith

NAYS: 4 - Lysakowski, Sayad, Brookman, Charewicz

ABSENT: 1 - Oskerka

Motion failed.

Moved by Sayad, seconded by Brookman, to Defer APPROVING THE APPOINTMENTS TO THE LIBRARY BOARD OF TRUSTEES FROM THE JUNE 19, 2023 CITY COUNCIL AGENDA OF NAZNEEN KAPADIA AND RACHEL RICE, TERMS TO EXPIRE 7/17/26.

Upon roll call, the vote was:

AYES: 6 - Lysakowski, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 1 - Moylan

ABSENT: 1 - Oskerka

Motion declared carried.

APPROVE
REAPPOINTMENTS
TO THE LIBRARY
BOARD OF
TRUSTEES

Item #22 was removed from the Consent Agenda at the request of Alderman Charewicz.

Moved by Sayad, seconded by Brookman, to Defer APPROVING THE REAPPOINTMENTS TO THE LIBRARY BOARD OF TRUSTEES FROM THE JUNE 19, 2023 CITY COUNCIL AGENDA OF LISA DU BROCK, KRISTEN GRAACK, CHRISTINE HALBLANDER, DR. GREGORY SARLO, AND MICHELLE SHIMON - TERMS TO EXPIRE 7/17/25 AND OF NICHOLAS HARKOVICH AND DENISE HUDEC - TERMS TO EXPIRE 7/17/26.

Upon roll call, the vote was:

AYES: 6 - Lysakowski, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 1 - Moylan

ABSENT: 1 - Oskerka

Motion declared carried.

APPROVE
MINUTES
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve the Minutes of the City Council meeting of June 19, 2023, as published. Motion declared carried as approved unanimously under Consent Agenda.

APPROVE
MINUTES
Consent Agenda

Moved by Brookman, seconded by Walsten, to Approve the Closed Session Minutes of the City Council meeting of June 19, 2023, as published. Motion declared carried as approved unanimously under Consent Agenda.

UNFINISHED
BUSINESS

CONSIDER AUTH
THE ACQUISITION
THROUGH
CONDEMNATION OF
FEE SIMPLE TITLE
TO THE PROPERTY
LOCATED AT 1504
MINER ST
Ordinance
M-3-23

Mayor Goczkowski requested without objection to defer second reading of Ordinance M-3-23 to the first meeting of September – Alderman Charewicz objected.

Moved by Lysakowski, seconded by Brookman, to Defer to the first meeting in September, the Ordinance M-3-23, AN ORDINANCE AUTHORIZING THE ACQUISITION THROUGH CONDEMNATION OF FEE SIMPLE TITLE TO THE PROPERTY LOCATED AT 1504 MINER STREET.

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

CONSIDER
APPROVING A
CONDITIONAL USE
PERMIT FOR A FOOD
PROCESSING EST AT
984 LEE ST
Ordinance
Z-13-23

Director of Community & Economic Development Carlisle reviewed a memorandum dated July 6, 2023.

After the case was deferred at the June 19 Council meeting, staff were directed to perform additional due diligence prior to the July 17 meeting, including a records search for any violations at their existing facility in Chicago and a site visit. A FOIA request and environmental records database search were performed; no violations have been recorded for this business or this property from the City of Chicago.

In addition, staff performed an odor and noise study at the site to determine any potential effects generated by this proposed facility. The provided records combined with the field investigation determined the existing facility has no identifiable impact to its neighborhood in terms of odor and noise.

Finally, staff have recommended several additional conditions to address health and odor concerns at this site. Condition 5 would require extra health inspections (at the petitioner's expense) performed quarterly by the City of Des Plaines' third-party health inspector over a 24 month period. Condition 6 outlines the procedure for inspection and enforcement process of property for any noise or odor that violates the Zoning Ordinance.

Recommended Conditions of Approval:

1. The Subject Property must have garbage pick up to empty the dumpsters on the Subject Property on a daily basis during the regular operating schedule of the Proposed Use.
2. No motor vehicles unassociated with the Proposed Use may be parked on any of the parking areas associated with the Subject Property.
3. Outdoor storage outside of a permitted accessory structure is prohibited on the Subject Property.
4. All parking areas on the Subject Property must be paved, striped, and landscaped according to all applicable Zoning Ordinance standards prior to a Final Certificate of Occupancy being granted for the Proposed Use. Accessible parking spaces must be located on the Subject Property sufficient to meet accessibility standards pursuant to Section 12-9-8 and Illinois Accessibility Code. The Petitioner may revise the site plan to reduce the number of parking spaces; provided, that the minimum number of parking spaces required for the Proposed Use are provided.
5. At the Petitioner's expense, the Department of Community and Economic Development will use its third-party contracted health inspection vendor to conduct quarterly health and sanitation inspections (four times in a 12-month period, every three months) for the first 24 months of the operation of the Proposed Use ("Inspection Period"). The inspections will assess general sanitation and review all operational and potential nuisance concerns. If at the conclusion of the Inspection Period there have been consistent reports of compliance with the City Code and the requirements of this Ordinance and nuisance-free operation, the inspections will cease; provided, however, the Director of Community and Economic Development may extend the Inspection Period if they determine the inspections should continue. The City will invoice the Petitioner for the cost of the inspection after each inspection.
6. The Petitioner must maintain the Property and operate the Proposed Use in compliance with the Performance Standards in Chapter 12 of Title 12 of the City Code, including, without limitation, Section 12-12-6: Odor and Section 12-12-8: Noise. Upon the receipt of complaints regarding the operation of the Proposed Use, the City will investigate and apply the appropriate provisions, and the Petitioner agrees to fully cooperate with the following sequential and progressive enforcement measures:
 - a. If City code enforcement staff observes or detects a violation of the Performance Standards ("Original Violation"), it will notify the Petitioner in writing and provide a 14-day period for compliance, which compliance must be verified at a follow-up inspection.
 - b. If upon follow-up inspection the Original Violation is still observed and uncorrected, a citation will be issued to Petitioner, which may result in a fine in a final amount to be determined by the City's administrative hearing officer but only in amounts in accordance with Section 5.A. of this Ordinance. In addition, the Petitioner must cease operation of the Proposed Use until approval of a nuisance-mitigation plan ("Mitigation Plan") by the Director of Community and Economic Development or their designee. The Mitigation Plan may include, without limitation, HVAC system changes, sound-proofing, additional refuse screening or pickup, or other operational changes. Upon approval of this Mitigation Plan and the payment of any fines

- due, the Petitioner may resume operation of the Proposed Use on a probationary basis for 90 days ("Probation Period").
- c. If during the Probation Period City staff does not observe any further instances of the Original Violation, the Original Violation will be considered resolved, and any new instances of a violation of the Performance Standards would require a new enforcement process; provided, however, if City staff observes the Original Violation during the Probation Period, the Director of Community and Economic Development shall forward a report documenting the probationary violation to the City Manager and City Council, which will hold a public hearing at a regularly scheduled meeting to consider revocation of the conditional use approved pursuant to this Ordinance. The Petitioner and Owner will be provided at least 14 days' notice prior to the public hearing. In the event of revocation, the development and use of the Subject Property will be governed solely by the regulations of the C-3 District. Further, in the event of such revocation of the Conditional Use Permit, the City Manager and City's General Counsel are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

Alderman Sayad requested a notation of the FDA report.

Richard Kim, counsel for the petitioner, and Sang Hong Lee, manager of the 5000 Year Foods Kimchi, spoke on the petitioner's behalf.

A couple residents expressed their objection to the food processing establishment at this location.

Moved by Moylan, seconded by Charewicz, to Approve First Reading of Ordinance Z-13-23, AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT TO ALLOW A FOOD PROCESSING ESTABLISHMENT AT 984 LEE STREET, DES PLAINES, ILLINOIS. (Case # 23-024-CU).

Upon voice vote, the vote was:

- AYES: 5 - Lysakowski, Moylan, Brookman
Smith, Charewicz
 - NAYS: 2 - Sayad, Walsten
 - ABSENT: 1 - Oskerka
- Motion declared carried.

NEW BUSINESS

FINANCE & ADMINISTRATION – Alderman Sayad, Chair

Alderman Sayad presented the Warrant Register.

WARRANT REGISTER
Resolution R-128-23

Moved by Walsten, seconded by Brookman, to Approve the Warrant Register of July 17, 2023

in the Amount of \$8,030,271.55 and Approve Resolution R-128-23.

Upon roll call, the vote was:

- AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz
 - NAYS: 0 - None
 - ABSENT: 1 - Oskerka
- Motion declared carried.

COMMUNITY DEVELOPMENT – Alderman Moylan, Chair

**CONSIDER A
BUSINESS GRANT
AWARD FOR THE
FOXTAIL ON THE
LAKE
Resolution
R-136-23**

Director of Community & Economic Development Carlisle reviewed a memorandum dated July 6, 2023.

At the June 5, 2023 City Council meeting, the Council voted 6-2 to direct staff to prepare a resolution that if approved would award a Business Assistance Program (BAP) GROWTH grant to The Foxtail on the Lake at 1177 Howard for up to \$300,000. The grant would be used toward holistic construction costs. The project is under construction but not complete, making it eligible for the Council to consider a GROWTH award. Separately the Council will consider a sales tax rebate agreement.

Applicants David Villegas and Tim Canning are ownership partners in The Foxtail on the Lake, an under-construction restaurant within Lakeview Center at 1177 Howard. Lakeview was formerly Good Shepherd Lutheran Church and is now owned by the Des Plaines Park District, which will be leasing to Foxtail to operate an approximately 15,500-square-foot restaurant, which includes a nearly 5,000-square-foot patio seating area that overlooks Lake Opeka and a dual-purpose kitchen that will not only serve the on-site dining (restaurant) but also source a catering business. There is an existing location at 5237 Main Street in Downers Grove (The Foxtail), with a sister restaurant – Cadence Kitchen Co. – also in Downers Grove at 5101 Mochel Drive. The applicant began construction at Lakeview Center in early fall 2022 and is expecting to complete construction and open by late summer 2023. See the attached renderings and menu.

The comprehensive adaptive reuse project non-exhaustively includes an approximately 3,000-square-foot addition to the north side of the former church building, the conversion of the old sanctuary to a main dining room with a principal seating area and a mezzanine, and the construction of the large patio overlooking Lake Opeka. At the June 5 meeting, the applicant presented to the Council, which discussed the substantial investment to convert a sizeable portion of the former church to a restaurant. A combination of interior and exterior improvements includes fire safety infrastructure, utility service upgrades, roof repair, and additional structural support, as well as the construction of a kitchen for a building that did not have one previously. As the basis for their ask, they have submitted an eligible project budget of \$2.28 million. While \$2.28 million does not encompass the entire project cost, the applicant has explained this portion of the expenses highlights project components where costs have exceeded upfront expectations—for reasons either beyond their control or that were not foreseeable at project outset. The adopted BAP guidelines allow grants to provide up to a 50 percent match of eligible project costs, but Council directed to prepare a resolution for a \$300,000 award, with the potential to provide further assistance through a separately considered sales tax rebate agreement.

The Council’s action authorizes approval of the grant, but disbursement will not occur until all administrative steps in the adopted BAP guidelines are fulfilled upon completion of the project.

Moved by Walsten, seconded by Sayad, to Approve the Resolution R-136-23, A RESOLUTION APPROVING A BUSINESS ASSISTANCE PROGRAM GRANT (GROWTH) FOR THE FOXTAIL ON THE LAKE RESTAURANT AT 1177 HOWARD AVENUE.

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

CONSIDER
APPROVING A SALES
TAX REBATE
AGREEMENT WITH
THE FOXTAIL ON
THE LAKE
Resolution
R-137-23

Director of Community & Economic Development Carlisle reviewed a memorandum dated July 6, 2023.

At the June 5, 2023 City Council meeting, the Council voted 6-2 to direct staff to prepare a resolution that if approved would authorize a sales tax rebate agreement with The Foxtail on the Lake at 1177 Howard. The base structure of the agreement is to rebate 100 percent of the annual municipal sales tax collected (two percent of gross sales) up to a maximum of \$450,000.

In addition to a Business Assistance Program (GROWTH) grant, the award for which the Council is considering separately, rebating sales tax provides a different type of incentive; instead of providing funding immediately after opening, this incentive rewards sales performance over multiple years. Based on three operating pro forma scenarios provided by Foxtail, projected sales range between \$5.3 and \$7.2 million annually. The sales include dine-in, catering, and alcohol. Assuming the low-end estimate, the business would generate \$106,000 in municipal sales tax annually. The Council’s direction was to rebate 100 percent of the sales tax collected up to a \$450,000 maximum, after which the City would begin to retain all of the sales tax generated as it normally would.

The expected duration to reach the \$450,000 maximum is just over four years, which would result in sharing of the revenue in the fifth year. Nonetheless, the agreement contains a 10-year time horizon limit. Having a time limitation is an advisable practice for revenue-sharing or rebate incentive agreements. If the incentive has not generated enough sales tax to reach the maximum (cap) within 10 years of effectiveness, the agreement will expire, and no further incentive will be due.

Finally, under the proposed agreement, the applicant would be paid once annually, after the City’s Finance Department has received the full collection of taxes from the Illinois Department of Revenue for the prior year.

Moved by Brookman, seconded by Sayad, to Approve the Resolution R-137-23, A RESOLUTION APPROVING A SALES TAX REBATE AGREEMENT FOR THE FOXTAIL ON THE LAKE RESTAURANT AT 1177 HOWARD AVENUE

Upon roll call, the vote was:

- AYES: 5 - Lysakowski, Sayad, Brookman,
Walsten, Smith
 - NAYS: 2 - Moylan, Charewicz
 - ABSENT: 1 - Oskerka
- Motion declared carried.

CONSIDER TEXT
AMENDMENT TO
ALLOW CHILDCARE
CENTERS IN M-2
Ordinance
Z-14-23

Director of Community & Economic Development Carlisle reviewed a memorandum dated July 6, 2023.

The petitioner represents Des Plaines Material Supply, which is an active outdoor bulk material facility operating at 1269 E. Golf Road. The petitioner owns the subject property and a separate parcel at 1331 E. Golf Road with the intention of locating an outdoor bulk material facility on the subject property. There is an existing childcare center operating on the subject property with an active conditional use permit. While a childcare center use is allowed in the C-3 district (current property zoning) through a conditional use permit, it is not currently allowed in the M-2 district as either a permitted or conditional use.

Rezoning the property to M-2, if approved, would render the property a legal nonconforming use, which allows the use to continue operating but places various restrictions on the use’s—and property’s—ability to be permitted for expansion, relocation of structures, building and

site alterations, etc. Thus, a text amendment is advisable to create an allowance for this use in the M-2 district and enable the site plan and mix of uses proposed by the petitioner.

Section 12-7-4, Manufacturing Districts Regulations: Modify Section 12-7-4.G, “Manufacturing Use Matrix,” to add an allowance for “childcare centers” as a conditional use with a qualifier that the childcare center use is only allowed as a secondary principal use and only where the primary principal use has 20 or more employees on staff.

The PZB voted 6-0 to recommend approval of the text amendment.

Moved by Charewicz, seconded by Brookman, to Approve First Reading of Ordinance Z-14-23, AN ORDINANCE AMENDING THE TEXT OF THE DES PLAINES ZONING ORDINANCE REGARDING THE ALLOWANCE OF CHILDCARE CENTERS IN THE M-2 GENERAL MANUFACTURING DISTRICT.

Upon voice vote, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

Advanced to second reading by Brookman, seconded by Sayad, to Adopt the Ordinance Z-14-23, AN ORDINANCE AMENDING THE TEXT OF THE DES PLAINES ZONING ORDINANCE REGARDING THE ALLOWANCE OF CHILDCARE CENTERS IN THE M-2 GENERAL MANUFACTURING DISTRICT.

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

CONSIDER
APPROVING A
ZONING MAP
AMENDMENT FOR
1345 E. GOLF RD/16
MARY ST
Ordinance
Z-15-23

Director of Community & Economic Development Carlisle reviewed a memorandum dated July 6, 2023.

The subject property is located in the C-3 General Commercial district at the southwest corner of the Golf Road/Mary Street intersection and is comprised of three separate PINs totaling 2.22 acres, which are addressed under 1345 E. Golf Road and 16 Mary Street.

The subject property is improved with a one-story, 27,500-square-foot building and two off-street paved parking areas: one directly east of the building, where spaces are directly connected to the Mary Street right-of-way, and another north of the off-street parking area along Golf Road. Additionally, there is a cell tower, unpaved storage area, and outdoor activity area for the childcare center.

In the future the petitioner will propose to locate an outdoor bulk material facility use on the subject property as well as at 1331 E. Golf Road, which would be consolidated through the subdivision process as one cohesive development on a single lot of record.

The proposal includes on-site improvements including (i) the removal of the existing non-paved area and outdoor activity area for the childcare center on the subject property and the development on 1331 E. Golf Road; and (ii) the installation of outdoor storage bins, paved operations/parking areas, upgraded site access points, and new outdoor activity area for the childcare center. The existing building, cell tower, and off-street parking areas along Mary would be retained as part of this project, with some parking lot upgrades proposed.

There are also off-site improvements including (i) the removal of the two-existing curb cuts off Golf Road and their replacement with a new three-lane, full access curb cut onto Golf Road; (ii) the removal of the existing curb cut off Mary Street; (iii) the upgrading of the existing curb cut on Redeker Road with a new three-lane, full access curb cut; (iv) and the removal of the existing concrete median on Golf Road and its replacement with a new left turn lane.

While the petitioner is applying only for a map amendment (and separately considered text amendment) at this time, additional entitlements will be required prior to the operation of the proposed outdoor bulk material facility use—and would serve as the second application for this overall proposal. The expected additional entitlement would cover necessary conditional use requests, as well as plat of subdivision and variation requests.

The proposed outdoor bulk material facility use is not allowed in the C-3 district as a permitted or conditional use but is permitted in the M-2 General Manufacturing district through a conditional use permit.

The operation of the outdoor bulk material facility use on the subject property would require a map amendment to the M-2 district and be subject to the bulk regulations in Section 12-7-4.H of the Zoning Ordinance.

Based on the M-2 district bulk regulations above, the proposal would meet all standards with the exception of the required front/north setback (Golf) and east side setback (Mary). The north property line—designated as the front yard— fronts an arterial and is adjacent to the institutional district, which is not a manufacturing district, requiring a greater setback requirement. Similarly, the east side property line is adjacent to a commercial district, which also requires a larger side yard setback. The positioning of the existing building on the subject property does not meet the setback requirements of the M-2 district, and therefore future variations are recommended to avoid a long-term circumstance of a non-conforming structure.

The petitioner has noted that a second, separate application will be submitted with various variation requests—including those related to building setbacks.

The PZB voted 6-0 to recommend approval of the map amendment.

Moved by Walsten, seconded by Sayad, to Approve First Reading of Ordinance Z-15-23, AN ORDINANCE APPROVING A ZONING MAP AMENDMENT FOR 1345 E. GOLF ROAD/16 MARY STREET, DES PLAINES, ILLINOIS.

Upon voice vote, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

Advanced to second reading by Brookman, seconded by Smith, to Adopt the Ordinance Z-15-23, AN ORDINANCE APPROVING A ZONING MAP AMENDMENT FOR 1345 E. GOLF ROAD/16 MARY STREET, DES PLAINES, ILLINOIS.

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

CONSIDER
APPROVING A
CONDITIONAL USE
PERMIT FOR DRIVE-
THROUGH
FACILITIES AT 2777
MANNHEIM ROAD
Ordinance
Z-16-23

Director of Community & Economic Development Carlisle reviewed a memorandum dated July 6, 2023.

Developer GW Properties, which is under construction for a multi-building restaurant-and-retail development on the southeast corner of Mannheim and Pratt (Outback Steakhouse, First Watch, Five Guys), is now also proposing a full redevelopment at the northeast corner—the former Café La Cave site. The proposed development is three new restaurants with indoor and outdoor seating and drive-throughs: Guzman Y Gomez, Cava, and Raising Canes.

The proposal includes three separate Class B restaurants, each with its own drive-through facility. “Restaurant, Class B” is a permitted use in the C-3 district. However, drive-through facilities on lots adjacent to residential properties require a conditional use permit. Although the properties are separated from the residential homes on Greco Avenue by both the Greco right-of-way and the railroad right-of-way, research indicated that in this area, specifically for the Starbucks at 2655 Mannheim, a conditional use for a drive-through was required by previous zoning administration. Further, the proposed drive-throughs are sited on the eastern portions of the properties, putting them closer to the residential lot lines than if they were on the other side of the lots or separated by a building or other development barrier (provided, however, that all of the drive-throughs would be well screened because of the railroad sound wall and the trees in the Greco right of way).

All three lots will abut Mannheim on the west and the railroad tracks on the east. However, Lot 3 will also abut Pratt to the south. As a result, the designated front yard for all three lots will be the west property line along Mannheim, making the east property line the rear yard, and the north and south property lines the side yards.

All new construction must adhere to Section 12-3-11 of the Zoning Ordinance, which specifically focuses on transparency and exterior building materials. Plans submitted at this time show each of the three buildings will meet the exterior building material standards. However, transparency regulations will need to be addressed at time of building permit, or the proper relief would need to be obtained.

Access: The subject property currently contains three access points (driveway curb cuts)—two from Mannheim and one from Pratt. The proposal alters the site access by removing the northernmost curb cut off Mannheim and adding a second curb cut on Pratt. On the Pratt side, the changes align with curb cuts for the commercial development under construction at the southeast corner of the Mannheim-Pratt intersection. On Mannheim, the plan removes a curb cut that is close to another; removing curb cuts is generally viewed as a best practice. Lots 2 and 3 will have direct access onto Mannheim or Pratt. However, access to Lot 1 will require access through either Lot 2 or 3 via a cross-access easement. It is also important to note that the proposed changes on the access from Mannheim will require an Illinois Department of Transportation (IDOT) permit.

Circulation: The lots in the proposed development are designed to be cohesive and connected so that motorists and pedestrians can pass through any of the lots to reach their destination. Each lot contains a 24-foot-wide east-west two-way drive aisle for circulation and parking access on the individual lots. However, two 24-foot-wide north-south two-way travel drive aisles are also proposed not only to provide direct access to additional parking spaces but also to provide direct connections to the other lots. The proposed drive aisle widths exceed the 22-foot-minimum-width requirement in Section 12-9-6.B of the Zoning Ordinance.

Drive-Through Stacking: Given that all three restaurants will utilize drive-through facilities in their operations, appropriate drive-through stacking spaces are required. Section 12-9-4 of the Zoning Ordinance requires that all drive-through facilities provide a minimum of six

stacking spaces per facility plus one stacking space per waiting area. The attached Site Plan indicates that all three restaurants will contain a single drive-through facility with seven or more stacking spaces provided in conformance with this section.

Pedestrian access to public sidewalks: Lot 3 (Raising Canes) has two sidewalk connections through the parking lot, one to each Mannheim and Pratt sidewalk. However, Lots 1 and 2 do not. A recommended approval condition is that these connections be added. Because the parking proposed around all three uses would exceed the required minimums, a loss of potentially 3-4 standard spaces would not create a deficiency, either practical or code, in staff's opinion

Parking: Ninety-degree off-street standard and accessible parking spaces are provided for each lot as identified in the table and illustrated on the attached Site Plan. Under Section 12-9-7 of the Zoning Ordinance, Class B restaurants are required to provide one parking space for every 50 square feet of net floor area, or one parking space for every four seats, whichever is greater, plus one parking space for every three employees. Sections 12-9-6.B and 12-9-8 of the Zoning Ordinance require a minimum of 8.5 feet in width and 18 feet in depth for standard spaces and a minimum of 16 feet in width and 18 feet in depth for accessible spaces.

Building Footprints and Setbacks: The attached Site Plan and respective civil plans for Lots 1-3, identify the positioning and dimensions of the proposed building on each lot. Section 12-7-3.L of the Zoning Ordinance requires that commercial properties meet certain bulk controls as identified in the table, which are met by the proposed development. Note that there are no building coverage or lot coverage restrictions for the commercial districts and that a larger building setback distance is required for the rear (east) property line because it is adjacent to residences.

Outdoor Seating Areas: Each of the three proposed restaurant developments include an outdoor seating area facing Mannheim. Note that the outdoor seating areas are not factored into the required off-street parking calculation.

Dumpster Enclosures: Dumpsters and their respective enclosures have been proposed for all three lots, positioned at the rear near the drive-through entrances. Section 12-10-11 of the Zoning Ordinance requires all dumpsters that are stored outside to be improved with a four-sided enclosure constructed of a solid wood or masonry fence a minimum of six feet—but no more than eight feet—in height. Elevation drawings will be required at time of building permit to ensure that requirements are met for the dumpster enclosures.

Photometric Plan The proposed development involves the installation of new exterior lighting, which must comply with the environmental and performance standards in Section 12-12-10 of the Zoning Ordinance.

Traffic Study and IDOT Overall, the study concluded: (i) the proposed development will be consistent and compatible with existing traffic volumes and patterns in the area; (ii) there is no substantial net new traffic generated by the development (i.e., the proposed uses would mostly capture existing traffic); (iii) the internal circulation allows for adequate access and dispersion of traffic entering, exiting, and navigating the development; and (iv) wayfinding, stop, and do-not-enter signs should be installed to direct traffic.

This study's findings do not recommend any roadway improvements on either Pratt or Mannheim. However, the Public Works and Engineering (PWE) Department determined that a three-lane cross-section—to accommodate dedicated right and left turn lanes—shall be provided on westbound Pratt to facilitate traffic flow and prevent back-up from west to east toward the railroad tracks.

In addition, IDOT is requiring that Mannheim is restriped to accommodate two left-turn lanes: (i) into the development, aligned with the curb cut in front of the proposed Cava Mediterranean Grill (the middle restaurant/Lot 2) and (ii) onto eastbound Pratt, which will likely be used to access the Raising Canes or the restaurant and retail development to the south (i.e., Outback, First Watch, Five Guys). The petitioner is working with the City and IDOT to address this comment, with a final design to be included with the Final Plat/Final Engineering approval. Nonetheless, staff recommends a condition at this stage that the final development plans satisfy all permitting requirements of relevant agencies, specifically IDOT and the City.

The PZB voted 6-0 to recommend approval of the conditional use requests.

Staff and the PZB recommend Conditions of Approval:

1. All proposed ground signs and building-mounted signs must comply with all provisions of Section 12-11 of the Zoning Ordinance, or the Petitioner must obtain necessary relief, such as, but not limited to, a variation or conditional use permit for localized alternative sign regulations (LASR).
2. All buildings to be constructed as part of the Proposed Development must comply with all provisions of Section 12-3-11 of the Zoning Ordinance, or the Petitioner must obtain necessary relief, such as a variation.
3. A lighting plan labeling all building-mounted and freestanding light fixtures and providing photometric details must be submitted and approved with the building permit for any portion of the Proposed Development.
4. Grading/drainage and other on-site infrastructure details must be submitted and satisfy the requirements of the Public Works and Engineering Department at the time the Final Plat of Subdivision is submitted for review and approval.
5. Petitioner must provide the required security to guarantee the construction of and actually construct all required public improvements, pursuant to Section 13-2-8 and Chapter 3 of Title 13 of the City Code, and submit final engineering plans that fulfill requirements of the Public Works and Engineering Department and the Illinois Department of Transportation.
6. Marked pedestrian paths between the buildings and public sidewalk on the Subject Property must be provided for the buildings on Lots 1 and 2 as shown on the Tentative Plat of Subdivision.
7. Commercial off-site parking on the Subject Property, such as parking for Allstate Arena events or O'Hare travelers, is prohibited.
8. The drive-through facilities as authorized by the Conditional Use Permit may not be operated unless and until the approval of the final plat of subdivision for the Subject Property

A representative from the petitioner spoke on their behalf.

Moved by Walsten, seconded by Brookman, to Approve First Reading of Ordinance Z-16-23, AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR DRIVE-THROUGH FACILITIES AT 2777 MANNHEIM ROAD, DES PLAINES, ILLINOIS (Case #23- 014-CU-TSUB).

Upon voice vote, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

Advanced to second reading by Walsten, seconded by Brookman, to Adopt the Ordinance Z-16-23, AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT FOR DRIVE-THROUGH FACILITIES AT 2777 MANNHEIM ROAD, DES PLAINES, ILLINOIS (Case #23- 014-CU-TSUB).

Upon roll call, the vote was:

AYES: 7 - Lysakowski, Moylan, Sayad, Brookman,
Walsten, Smith, Charewicz

NAYS: 0 - None

ABSENT: 1 - Oskerka

Motion declared carried.

**CONSIDER A FIRST
AMENDMENT TO
THE PSA FOR 1332
WEBSFORD AVE
Resolution
R-139-23**

Director of Community & Economic Development Carlisle reviewed a memorandum dated July 6, 2023.

Mylo Residential Graceland Property, LLC (formerly 622 Graceland Apartments, LLC; Joe Taylor of Compasspoint Development as Manager) (“Developer”) is under contract with the City to purchase the property at 1332 Webford Avenue (“City Parcel”), which is a City-owned public parking lot. The City Council approved this sale through Ordinance M-22-22 on September 6, 2022, and the PSA was executed October 7, 2022. The City Parcel will be combined with parcels located to the east for a proposed mixed-use residential, commercial, and parking development, alongside a publicly accessible park immediately west at 1330 Webford. The sale of the City Parcel is currently scheduled for late July. The sale price would be \$10. However, the current agreement requires that for the closing to occur, the Developer must simultaneously purchase both the Journal & Topics parcels located to the east as well as the 1330 Webford parcel located to the west.

The City Manager received a request from counsel for the Developer to amend the PSA and extend the time to close on the adjacent parcels by 90 days, while allowing the closing for the City-owned parcel to proceed in as planned later this month.

1332 Webford is a 13,500-square-foot property directly west of the 622 Graceland Avenue-1368 Webford property (the “Journal and Topics Parcels”) and east of a small mixed-use commercial-residential building at 1330 Webford (“West Parcel”).

The Developer’s proposed mixed-use development (the “Graceland-Webford Project”) will include 131 residential apartments, approximately 2,800 square feet of restaurant-lounge/commercial space, an approximately 3,000-square-foot publicly available open green space adjacent to Webford Avenue, and a parking garage with 179 covered spaces. Of these 179 spaces, 25 would be allocated for public use, intended to partially replace the 38 spaces currently at 1332 Webford. The remaining 154 would fulfill the off-street parking requirements of the Zoning Ordinance for the residential units (137 spaces) and proposed restaurant-lounge (17 spaces). The completion of the Graceland-Webford Project relies upon the acquisition of the City Parcel.

The Graceland-Webford Project required a zoning map amendment (rezoning) from the C-3 General Commercial District to the C-5 Central Business District. The City Council approved the rezoning on August 1, 2022 (Ordinance Z-23-22). This approving ordinance has not become effective, however, because it is conditioned upon the Developer acquiring title to the City Parcel. This obligation was required to be satisfied within one year of the Council’s original approval of the ordinance.

Resolution R-139-23 would approve a First Amendment to the PSA for 1332 Webford. The First Amendment (i) requires that the Developer close on the City Parcel no later than July 31, 2023 and (ii) extends the deadline for the Developer to acquire both the Journal & Topics Parcels and the West Parcel to no later than October 31, 2023.

Due to implications of the amended terms at this juncture, the First Amendment is prepared with these considerations intended to protect the City.

- Reverter: If the Developer is unable to acquire the Journal & Topics Parcels and the West Parcel on or before October 31, 2023, title to the City Parcel will automatically revert to the City.
- Earnest money: Although the final sale price is \$10, the agreement requires a \$60,000 deposit of earnest money. If title to the City Parcel reverts to the City, the City will also be entitled to keep the full \$60,000.
- Future downzoning (if necessary): In the event the City sells 1332 Webford to the Developer but the Developer is not able to acquire the Journal & Topics Parcels – which are part of the property that would be rezoned to C-5 pursuant to Ordinance Z-23-22 – the owner of the Journal & Topics Parcels must pledge not to object to a City-initiated rezoning of the parcels back to C-3. This pledge will require a separate document submission to the City or General Counsel, which must be provided on or before the 1332 Webford closing date.

The following key terms, which have been reinforced through a development agreement, would not change if the Council approves the first amendment to the PSA:

- The Developer will be responsible for paying for demolition of the existing building at 1330 Webford, as well as all site preparation, programming, and landscaping of the property with placemaking or recreational elements desired by the City.
- The Developer, as the new owner of 1330 Webford, will record a covenants and easement agreement that will establish the park as public open space. Developer or any successors in title would be responsible for property maintenance, including maintenance of any recreational improvements. Further, the Developer or any successors would be responsible for any real estate taxes as may be levied on 1330 Webford.
- The redevelopment agreement contains exhibits to ensure the development is “constructed, maintained, and operated in accordance with plans approved” by the City.
- Through the development agreement and as contemplated by both Ordinance Z-23-22 (zoning approval) and the original PSA, the Developer would not object to a rezoning from C-5 back to C-3 if, even upon completion of all land acquisition, the Developer does not fulfill other benchmarks in the Development Permitting and Construction Schedule. These benchmarks include but are not limited to application for demolition and building permits by January 15, 2024, and construction commencement by April 30, 2024

Katrina McGuire and Joe Taylor spoke on their behalf of the petitioner.

Resident Tom Lovestrand expressed his concern regarding the first amendment to the PSA, and stated he believes this request should raise red flags about this project.

Moved by Moylan, seconded by Walsten, to Approve the Resolution R-139-23, A RESOLUTION APPROVING A FIRST AMENDMENT TO A REAL ESTATE PURCHASE AND SALE AGREEMENT.

Upon roll call, the vote was:

AYES: 5 - Lysakowski, Moylan, Brookman,
Walsten, Smith

NAYS: 1 - Sayad, Charewicz

ABSENT: 1 - Oskerka

Motion declared carried.

**OTHER ALDERMEN
COMMENTS FOR
THE GOOD OF THE
ORDER**

Alderman Brookman stated thank you again to all of the veterans.

ADJOURNMENT

Moved by Brookman, seconded by Walsten to adjourn the meeting. Upon voice vote, motion declared carried. The meeting adjourned at 9:35 p.m.

/s/ Jessica M. Mastalski
Jessica M. Mastalski – CITY CLERK

APPROVED BY ME THIS 7th
DAY OF August, 2023

/s/ Andrew Goczkowski
Andrew Goczkowski, MAYOR