

## **RESOLUTION NO. R2018-010**

### **A RESOLUTION OF THE CITY OF SHAKOPEE DENYING THE APPEAL BY BEACON CONSTRUCTION INC. OF THE BOARD OF ADJUSTMENT AND APPEALS APPROVAL OF RESOLUTION NO. PC17-060 AT 290 SARAZIN STREET FOR EXTERIOR STORAGE.**

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**WHEREAS**, Loren Kjersten, Beacon Construction Inc.; on behalf of Larson Development 101 LLC, applied for a Conditional Use Permit for Exterior Storage at 290 Sarazin Street on November 13, 2017; and

**WHEREAS**, The property located at 290 Sarazin Street is zoned Light Industry (I-1) which lists Exterior Storage as a conditional use; and

**WHEREAS**, On January 4, 2018 the Board of Adjustment and Appeals held a public hearing and approved the Conditional Use Permit for Exterior Storage, subject to 10 conditions as represented in Resolution No. 17-060; and

**WHEREAS**, City Code Section 151.016, Subd. B allows for an appeal to the City Council of the Board of Adjustment and Appeals decision within 10 days of the Board's decision; and

**WHEREAS**, Mr. Kjersten, on behalf of Larson Development 101 LLC, filed an appeal within the allotted time, specifically noting objections to certain conditions imposed by Resolution No. PC17-060; as follows:

Condition #4 of the approved CUP: "An additional mix of 6' tall (min.) Black Hills Spruce, Red Cedar and Eastern White Pine coniferous trees spaced 20 feet apart shall be installed along the north, east and west sides of the storage area for off site screening purposes"; and

Condition #8 of the approved CUP: "The exterior storage areas shall be surfaced entirely with asphalt or concrete"; and

**WHEREAS**, the City Council heard the appeal at its meeting on February 7, 2018; and

**WHEREAS**, the City Council has reviewed the materials related to the Conditional Use Permit and appeal.

**NOW, THEREFORE BE IT RESOLVED** that the City Council of the City of Shakopee adopts the following findings of facts and conclusion relative to this matter:

#### **FINDINGS**

1. The Board received no evidence that the exterior storage area will be injurious to the use and enjoyment of other property in the immediate vicinity, nor would it substantially diminish or impair property values in the area, provided the conditions of Resolution No. PC17-060 are met.

2. The conditional use permit, as proposed, will not impede future development and improvement in the area, provided the conditions of Resolution No. PC17-060 are met.
3. The letter from the appellant's legal counsel references that trees planted on the property to the west would provide additional visual barrier between the outdoor storage area and the residential property; where there is no guarantee that property owner will preserve those trees in perpetuity.
4. The letter from the appellant's legal counsel references the existence of outdoor storage on adjacent properties with no additional landscape screening; where that outdoor storage located on those properties is legally nonconforming as it has existed since 1970 (property to the north) and 1980 (property to the west).
5. The letter from the appellant's legal counsel notes that outdoor storage is allowed on adjacent properties in areas that are not paved with asphalt or concrete; where the property in question (Shakopee Public Utilities) has outdoor storage areas predominately paved with concrete, with a small class 5 storage area for materials setback approximately 50 feet from the adjacent property (whereas the appellant proposes a storage area for vehicles approximately 10 feet from the adjacent property).

### **CONCLUSIONS**

1. The Board of Adjustment and Appeals have the authority to provide conditions in approving a Conditional Use Permit to ensure compliance with the Criteria established within Section 151.011 of the City Code ("In granting a conditional use permit, the Board of Adjustment and Appeals shall consider the effect of the proposed use upon the health, safety, and general welfare of the occupants of surrounding lands and the city as a whole").
2. The Board of Adjustment and Appeals decision regarding additional landscaping was to address adjacent residential property owners concerns with stored vehicles and lifts being visible above the proposed 8' tall fence.
3. The Board of Adjustment and Appeals decision regarding paving of the parking lot was based on concerns with dust generated from the vehicles, concerns with class 5 material being difficult to maintain in the winter and early spring seasons, and environmental concerns regarding fluids leaking from the vehicles and lifts located within the exterior storage area.

**BE IT FURTHER RESOLVED**, that the appeal of the Board of Adjustment and Appeals Approval of Resolution No. PC17-060 is denied and that the Board's decision is affirmed in all respects.

**BE IT FURTHER RESOLVED**, that the findings adopted by the Board of Adjustment and Appeals are incorporated by reference into this Resolution.

*Passed in regular session of the City Council of the City of Shakopee, Minnesota held this 7<sup>th</sup> day of February, 2018.*

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William Mars,  
Mayor of the City of Shakopee

Attest: \_\_\_\_\_  
Lori Hensen, City Clerk