

CITY OF WAUWATOSA
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COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, April 29, 2003

PRESENT: Alds. Becker, Ecks, Heins, Herzog, Kopischke, Krol, Sullivan, Treis -8

ALSO

PRESENT: N. Welch, Community Dev. Dir.; A. Kesner, City Attorney; W. Wehrley, City Engineer

Ald. Heins in the Chair called the meeting to order at 8:10 p.m.

Conditional Use – 6600 W. North Avenue

Ms. Welch reported on a request by Maudood Ahmad for a Conditional Use in the AA Business District at 6600 W. North Avenue for sale and service of motorcycles. The applicant currently does small engine repair on snow blowers and lawn mowers and wishes to expand his business to include motorcycles. At the Plan Commission meeting on this request, neighbors indicated that they have had no problems with the business but expressed some concerns about noise. After some discussion, the Plan Commission recommended approval by a 4-1 vote.

Rizwan Ahmad, representing Speedway Sales and Service, 6600 W. North Avenue, said that they are adding motorcycles to the small engines they already service, which includes mini-bikes and go-carts. They would also sell motorcycles. He said that there is no intention to use neighborhood streets for test drives. Potential buyers as well as company technicians doing test drives will be told to stay on North Avenue. He noted that there are many government regulations affecting motorcycles, which are actually quieter than the engines now serviced at the business.

Ald. Sullivan indicated that he has not been aware of any noise issues in connection with the business. He said that a motorcycle can be quite loud, especially when being test driven and put through its steps. He commented that he would like to see the business continue to grow but cautioned that he would call if he received any complaints.

Moved by Ald. Sullivan, seconded by Ald. Kopischke to recommend
to Council approval of the Conditional Use –

Ald. Kopischke reported that a number of people at the Plan Commission meeting attested to the business being a good neighbor. The only person asking questions received answers.

Vote on the motion, Ayes: 8

Street Festival Permit – Sts. Constantine and Helen, 2160 Wauwatosa Avenue

The committee reviewed a request by Stelios Georgakas, Sts. Constantine & Helen Greek Orthodox Church, 2160 Wauwatosa Avenue, for a street festival permit for Grecian Festival 2003 on June 6-8, 2003. John Demetropolous, 19830 Trilby Court, Brookfield, president of the church council, was present and invited all to attend.

Ald. Becker said that there was gridlock on 73rd Street last year because someone removed some no parking signs. He was concerned that fire engines would have been unable to get through and requested that the signs be monitored this year. Also, he would like to have a cell phone number at which to reach someone during the festival.

Moved by Ald. Becker, seconded by Ald. Ecks to recommend to Council approval of a street festival permit under the same conditions as the 2002 permit. Ayes: 8

Business Planned Development – 6600 River Parkway

Ms. Welch outlined a request by the Laureate Group for rezoning and final plan approval of a Business Planned Development at 6600 River Parkway to construct a senior housing complex on a 3.4 acre site. The request is for approval of Phase I of the project, which includes 134 units. Phase II, for an additional 91 units, is not included in the final plan and would not proceed until after flood mitigation measures in the area have been completed. The Plan Commission recommended denial of the final plan and rezoning by a 6-1 vote. The plan includes studio, one bedroom, and two bedroom independent living units and also some residential care units. Facilities such as a main lounge, dining room, fitness club, beauty shop, and bank would be provided. The Common Council approved the preliminary plan on June 4, 2002, subject to the following five conditions, which the applicant has satisfied for the 134 units now proposed:

- Emergency vehicle access to the site under flood conditions that is acceptable to the City of Wauwatosa and the Wisconsin Department of Natural Resources
- Permission from the Wisconsin Department of Natural Resources to fill a site located within a floodplain
- Construction of the building must be at least two feet above the 100 year flood level
- Approval of project by the Design Review Board
- Approval of the necessary sewer credits or of an acceptable alternative approved by the City Public Works Department and the Milwaukee Metropolitan Sewerage District

Beth Christie, Executive Vice President of the Laureate Group, 1805 Kensington Drive, Waukesha, said that the Laureate Group has met the conditions that were set when they appeared here previously. They have made a financial commitment in this long term project for older people in Wauwatosa.

Carl Templer, representing the Board of Directors of the Village Business Improvement District (BID), said the BID board is very concerned with long-term development of the village area. When looking at this proposal, he felt that both phases should be considered since the Laureate Group would probably like to develop Phase II once the floodway work is done. The primary concern, he said, is sewers. According to engineering and public works staff, basins 3, 4, and 5, which all drain to State Street, appear to have about 169 units of unused sewer capacity available. If both Phase I and Phase II of this project are developed, about 110 to 130 sewer units would be left, depending on the size of the units in the project. Mr. Templer said he does not have information on whether Lefeber Point or the additional units at Harwood Place are

included in the calculation of unused sewer capacity. If that is the case, this would preclude any further development for the next 20-25 years, he estimated. MMSD and the City have been unable to supply an exact delineation of the sewer capacity. This is a very important issue for the economic health of the village area, Mr. Templer said.

Ald. Krol asked who determines the amount of sewer connections that can be provided for an area and whether anyone such as the state or MMSD can provide additional credits or act on extending them. If there was further development potential in the village but we had exceeded the credits, could we petition MMSD for an extension of existing credits? Ms. Welch said that determination of credits is part of the MMSD facilities plan; they have final authority on the sewer system in the metropolitan area. Mr. Wehrley added that there is a finite amount of quota available to the City. Transfer of flow to other basins, if there is capacity there, would require review and approval by MMSD. Another possibility is to purchase sewer credits from another community, but most of that is predicated on MIS sewer connections and is not a very simple solution. Engineering analysis is required in all cases. We can always ask for an extension, Mr. Wehrley said, but MMSD is not handing out any additional credits at this time. Credits borrowed from one area to another would have to maintain the status quo.

Commenting on the need for more information before proceeding, Ald. Herzog said he was disappointed that the Laureate Group did not provide the committee with any plans. Ed Wenzler of Wenzler Architects, 205 W. Highland Avenue, Milwaukee, responded that plans were provided at the Plan Commission meeting, and the final submittal included a full set of plans, both full size and reduced. He then distributed copies of project plans to committee members. Ms. Welch confirmed that a full set of plans was submitted.

In answer to questions posed by Ald. Treis regarding sewer credits, Mr. Wehrley responded that MMSD basically counts any residential and industrial developments when computing use of credits. Credits are not used for commercial developments. He explained that there are base flow and peak flow components to the credits. Currently, the City is over the peak flow limit in basins 3, 4, and 5. He noted that credits for Lefeber Point and the Harwood Place expansion have been subtracted to reach the current balance.

Moved by Ald. Treis, seconded by Ald. Krol to recommend to
Council adoption of a resolution setting a public hearing date and
introduction of a rezoning ordinance –

Ald. Sullivan commented on the Plan Commission's rejection of the final plans and the Village BID's opposition. Although there is interest in providing options for seniors in Wauwatosa, he said that those factors and concerns can't be dismissed and he cannot vote in favor of going forward.

City Attorney Kesner clarified the process to be followed, noting that introduction of an ordinance for Business Planned Development zoning at this time does not approve the final plan but simply deals with rezoning the parcel. The public hearing would be on that rezoning. In the initial process, the preliminary plan as proposed by the developer is subject to a public hearing (before the Plan Commission), and discussed on its merits by the Plan Commission and this committee. The Common Council approved that preliminary plan. The developer then has a time period within which to comply with whatever conditions are placed and to bring forth final development plans.

Mr. Kesner cited the provisions for final development plan approval as outlined in Sec. 24.42.140 of the Code: *"The common council shall review and approve the final development plans and related restrictions and conditions, if they are in compliance with the approved preliminary development plan, and related restrictions and conditions."* He noted that the ordinance says that the Common Council *shall* approve it if the developer has met the conditions and restrictions. Approval on the merits of the project was optional

only at the preliminary plan stage. The two-stage structure of the process recognizes the developer's investment of time and money to complete a development plan.

Ald. Sullivan indicated that he could not recall approval of the preliminary plan and said that he hasn't heard how this fits into the overall plan for development of the area. Ms. Welch responded that she raised that issue in her memo of May 28, 2003, but this body chose to move forward with approval of the preliminary plan at that time. Ald. Sullivan added that he would like to see the applicant and the local business leaders sit down and figure out the MMSD issues. He said that he has concerns and reserves the right to make his own decision.

Ald. Herzog concurred with Ald. Sullivan's comments and said he disagrees with the City Attorney's interpretation of the ordinance. He questioned why a public hearing would be held if something was going to be "rubber stamped." Mr. Kesner reiterated that the public hearing is not on the planned development; it is on the rezoning.

Discussion ensued on the effect of defeating the motion now on the table and other questions related to the approval process. Mr. Kesner indicated that he would like to research whether the rezoning question would still go to Council if the motion were defeated. This is very complicated for a number of reasons, he said. Although this is not spot zoning, under the circumstances we would be rezoning one parcel owned by one person who has one plan in mind for sale and use of the land. If a planned development is not allowed there, we would have to consider the impact on the value of the parcel. Right now the property has an expectation of value under Light Industrial zoning, and the owner is not entitled to any expectation of improved value in connection with rezoning. But if the parcel were not rezoned, it would effectively eliminate the ability to do this one particular project. Asked about the City's master plan, Mr. Kesner said that, while there have been some ideas and discussions, we don't have a master plan in place under the Smart Growth mandate of the state.

Ald. Treis, with consent of and a second by Ald. Krol, withdrew the previous motion and moved to hold the matter for two weeks –

Ald. Krol indicated that he is unsure of his position on this development but believes that public input is needed on something of this magnitude. There is potentially great benefit to our community, he noted. The Chair concurred with a two-week hold and the need for public input.

Ald. Kopischke commented that proceeding to a public hearing, which he felt would be appropriate, wouldn't necessarily commit to approval when it comes before Council. He indicated that he would hold until the next meeting any further comments he has as the Council's representative to the Plan Commission.

Vote on the motion, Ayes: 8

Mr. Kesner said he would probably recommend that there be an option to confer with legal counsel in closed session when this matter is next on the agenda.

CDBG Funds Allocated to Eschweiler Buildings

Ms. Welch reported on a request for reconsideration of \$50,000 in Community Development Block Grant (CDBG) funds allocated to the Eschweiler buildings that, along with funds for Jacobus Park and the Wil-O-Way Underwood Recreation Center, were held by the Common Council pending resolution of county grounds issues. Both the Jacobus Park and the Wil-O-Way

funding has since been released. The funds would be used to rehab the Eschweiler S-5 building on the county grounds.

Mark Wertz, 9110 Stickney Avenue, president of Land Information Services, a civil engineering and land surveying firm, reported that he recently moved his business of 40 employees from the Schlitz office park and invested \$13,000 on interior renovation/stabilization of the S-5 building. The exterior is also in great need of stabilization and the CDBG funds would be used wisely, he said.

Moved by Ald. Kopischke, seconded by Ald. Krol to recommend to Council that the CDBG funds allocated to the Eschweiler buildings be released. Ayes: 8

Proposed Zoning Ordinance Changes – Non-Conforming Structures and Lots

Reviewing her memo of April 24, 2003, Ms. Welch reported that Wauwatosa's zoning ordinance places certain setback requirements on lots that makes structures non-conforming even though they have stood unchanged for 50 or 60 years. Variances or Special Uses have been required in order to allow for additions to those structures that maintain or increase the non-conformity. New rulings, however, have made it difficult to grant variances except in extreme hardship. Also, banking institutions have become increasingly strict about their definitions of non-conforming properties and providing loans to maintain and improve those properties. Ms. Welch noted that Aids. Becker and Krol recently submitted a letter requesting that this situation be looked into. She believes that it is time to revisit the ordinance and address this and other changes needed to clean up our 30-year-old ordinance as well as create a master plan that meets the state's Smart Growth requirements. She recommended referral to the Joint Committee on Preparation of the Comprehensive Plan, a body made up of Plan Commission members and Council representatives.

Steve Matthai, 1925 Pleasant Street, urged action on the necessary changes. He said he would like to build an addition on his house, but his house has a 26-foot setback that does not conform to the required 30-foot setback. The addition would not look right and would be less functional if pushed back to 30 feet. The proposed changes would be good for the city, especially on the east side, he said, where there are a lot of young families that love Wauwatosa but don't have enough space in their homes. They are accustomed to multiple bathrooms and more bedrooms and could be forced to look for bigger houses outside of Wauwatosa, he felt. He added that he and his wife recently found that they have twins on the way.

Jackie Brandt, 1627 Ridge Court, said she has a similar problem. She would like to do a very small addition but is six inches short of the 10-foot setback required on her corner lot. The plan was redesigned and will be going before the Plan Commission, but this problem has delayed the project by several months and has been costly. She asked the committee to move forward with ordinance changes.

Moved by Ald. Becker, seconded by Ald. Krol to forward the matter of changes to the zoning ordinance to address non-conforming structures and lots to the Joint Committee on Preparation of the Comprehensive City Plan with a recommendation for action –

Noting a recent situation on his block, Ald. Becker reported that he and Ald. Krol often come across this same problem. Ald. Krol thanked the residents and Ald. Becker for their help in bringing this forward. He

commented that the Joint Committee should be aware that time is of the essence on this particular issue. It can help bring in tax dollars, make good neighborhoods better, and keep families from having to relocate to other communities. He urged all committee members to be concerned about this since it will probably involve other areas as well.

The Chair asked if the Joint Committee could be convened to expedite this single issue. Ms. Welch said that she wants to remind the committee of the overall vision for the city, but this is something that can be dealt with very speedily. Ald. Treis also urged that meetings be accelerated to get something in force to address this problem.

Ald. Sullivan felt that providing some additional flexibility is a good thing, but he cautioned that zoning conformity is what gives housing stock and neighborhoods the character that we love and is why people choose to live here. He would like people to be able to make improvements but would prefer that it does not become too easy to make changes that are not consistent with the general scope of our zoning laws. Ms. Welch responded that her interest in maintaining zoning standards in the city is one reason why this has taken so long to come forward. It is difficult to come up with reasonable standards without allowing wholesale changes, she said. Ald. Kopischke noted that the protection of Design Review Board oversight on all external changes would remain in place.

Vote on the motion, Ayes: 8

The meeting adjourned at 9:16 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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