

CITY OF WAUWATOSA  
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**COMMUNITY DEVELOPMENT COMMITTEE MEETING**  
**Tuesday, July 8, 2003**

PRESENT: Alds. Becker, Ecks, Herzog, Kopischke, Krol, Sullivan, Treis -7

EXCUSED: Ald. Heins

ALSO N. Welch, Community Dev. Dir.; B. Aldana, Asst. City Atty.; W. Kappel, Dir. of Public Works;  
PRESENT: Capt. J. Reit, Police; Lt. D. Weiss, Police

Ald. Ecks in the Chair called the meeting to order at 8:09 p.m.

**Land Division – 2303, 2323, 2351, and 2365 N. Mayfair Road**

The committee reviewed a request by Richard G. Jacobus for a land division in the AA Business District at 2303, 2323, 2351, and 2365 N. Mayfair Road. The Plan Commission recommended approval by a 6-0 vote. Ms. Welch reported that the request was held from a previous meeting to allow for clarification of ownership on one parcel, which has been accomplished. The land division would slightly modify the boundaries of the properties, resulting in three parcels.

Timothy Hale, 7443 N. 107th Street, Milwaukee, property manager for Richard Jacobus, said that the applicant purchased several small parcels, two from Union Pacific Railroad to the west and one from an adjoining property owner to facilitate adequate parking for the office building and hotel on this site. This will also clean up the legal descriptions and combine seven parcels into three.

Moved by Ald. Herzog, seconded by Ald. Krol to recommend to Council approval of the land division as requested –

Ald. Treis asked about the matter of establishing some type of frontage road along the rear. Ms. Welch reported that it was determined that there was not a good way to facilitate this. Mr. Hale noted that there is a two-lane drive aisle in front of the office building that acts as a frontage road between that building and the hotel property.

Vote on the motion, Ayes: 7

**Land Combination – 6846 Milwaukee Avenue**

The committee reviewed a request by John and Amy Thorson for a land combination in the BB Two Family Residence District at 6846 Milwaukee Avenue. The Plan Commission unanimously recommended approval. The applicants were present.

Ms. Welch reported that the applicants own two properties at the northeast corner of N. 69th Street and Milwaukee Avenue. They wish to have their water service connected from 69th Street but have been told that they cannot cross a property that isn't the lot of record. Combining the lots would facilitate that connection.

Moved by Ald. Becker, seconded by Ald. Treis to recommend to Council approval of the land division as requested –

In response to a question, Ms. Welch indicated that the parcels are of such a size that they are conforming and could be re-divided. Ald. Becker noted that the applicants do not intend to ever separate the lots, but Ald. Treis observed that a new owner would still have that right.

Vote on the motion, Ayes: 7

### **Proposed Vehicular Noise Ordinance**

Ald. Kopischke requested discussion of the proposed vehicular noise ordinance that this committee previously placed on hold until September. He reported receiving a number of complaints since the earlier discussion and felt further review at this point would be especially relevant given the major event [Harley Davidson 100th anniversary] that will be taking place here later this summer.

Ed Michael, Harley Davidson's Director of Regulatory Affairs, said that the company does a great deal of work nationally and internationally related to vehicle noise, emissions, and safety regulations. He felt that the proposed ordinance has some flawed parts, as drafted, that he would be glad to discuss with this committee or with legal staff. Jerry Steppe of Harley Davidson said they would welcome the opportunity to assist in developing a reasonable noise standard, which could take some time. He said that Section 11.38.040 of the draft ordinance is a portion that could conflict with the EPA federal noise test for on-highway motorcycles, with which every motorcycle leaving a manufacturer must comply. Julie Chichlowski, Product Line Manager, said the company has been working hard to get ready for the 100th anniversary celebration, including working with the community on shared concerns to be sure it occurs in a safe and appropriate manner.

Chris Bolin, 512 N. 68th Street, said he is less concerned about the 100th anniversary than at his situation as a resident near two relatively busy streets with day-in and day-out noise, primarily from motorcycles, busses and trucks. There is tremendous noise on a daily basis, he said.

John Sekula, 532 Crescent Court, presented a petition bearing 25 signatures requesting passage of the proposed vehicular noise ordinance. He outlined some of his efforts and findings during the past two years of working on this issue. He spoke of being awakened by motorcycle noise from as far away as 84th Street at midnight and 2 a.m. These are not stock motorcycles, he emphasized, but ones on which stock mufflers have been replaced. Legal cycles have noise levels of 86 decibels or less, and pain starts at 120 decibels, he said. Knowing that the mufflers are illegal, he has called the police about enforcement, but they have informed him that it would be difficult to stop traffic that is moving through the area. He has also contacted his district alderperson and has talked to the city attorney, who said that the police really have no way to enforce noise violations or determine if a cycle has a modified muffler. Mr. Sekula reported that he has been working with the state for passage of a motorcycle inspection system to ensure safety and legal noise levels. He cited citation revenue and decibel level standards in various communities including Providence, Rhode Island; Carefree, Arizona; Daytona Beach; Denver, Greenwich Village, and Vancouver. He said that this noise is destroying the neighborhood and he is considering moving despite having lived there for 20 years. He supported passage of the proposed ordinance.

Mr. Michael acknowledged that modified vehicles can be very loud but said those are not the vehicles sold by Harley. He said that there are a number of methods for doing effective noise abatement, but the proposed ordinance is not appropriate and is pre-empted by the federal government and EPA noise regulations.

The Chair asked if Harley Davidson has a mechanism to exclude motorcycles with modified mufflers from the sanctioned parade from the zoo to the lakefront. Mr. Michael said there is nothing in place, to his knowledge, that would delineate noise levels. Using a monitor in a non-controlled environment becomes extremely difficult. In order

to get an effective measurement there would have to be certain ambient background conditions. It is not possible to simply use some type of box that cyclists would drive through. A new Harley Davidson motorcycles complies with the 86 decibels at 50 feet standard.

Assistant City Attorney Aldana noted that the draft ordinance may contain an error in its reference to 80 decibels at *15 feet*. This may have been intended to be *15 meters*, which is the EPA requirement. Mr. Steppe said that, without mentioning total test conditions, that clause becomes meaningless and leads to situations where any legal on-highway motorcycles could be failed.

Ms. Aldana noted that the general noise ordinance does not address motor vehicles specifically but we do require vehicles to have mufflers in good working order to prevent excessive or unusual noise and annoying smoke and we have an ordinance that prevent muffler cutout.

Moved by Ald. Kopischke, seconded by Ald. Sullivan to remove this matter from hold and refer it back to staff for further review before returning it to this committee –

Discussion of implementation timelines followed. The Chair indicated that it may be possible to adopt an ordinance prior to the late summer Harley event. Ald. Krol favored bringing the matter back in September as originally intended. Ald. Kopischke indicated that his intent is to move forward in a productive way right now, regardless of when it can be adopted. His motion would include review of police enforcement issues. He encouraged the Harley Davidson representatives to maintain good will with their host community in the meantime. Illegal mufflers only bring bad will upon Harley, he said, so people should be encouraged to be considerate in the way they operate their vehicles.

Roll call vote on the motion, Ayes: 5; Noes: 2 (Becker, Krol)

### **Selection of Consultant to Prepare Master Plan and Design Guidelines for 65-Acre County Grounds Parcel**

Ms. Welch reported that in December and January, Mayor Estness and County Executive Walker hosted two joint meetings at which they solicited input from the public on use of the 65-acre county grounds site bordering Watertown Plank Road and Swan Boulevard, including the Eschweiler buildings. The public sessions gathered input and laid out a process to allow the city and county to proceed on creating a master plan, solicit developer proposals, and eventually develop the site. As a first step, the Common Council authorized staff to prepare and issue an RFQ for consultants to prepare a master plan and design guidelines. Six responses to the RFQ were reviewed by a team consisting of the county's economic development director, the city administrator, the director of public works, and the community development director. The responses were evaluated based on criteria including experience, completeness of the proposal, and price, and two consultants were invited back for interviews that included clarifying expectations for the project. A summary of the review team's recommendations was provided in the committee's packet. Milwaukee County is providing part of the funding for the consultant.

Ms. Welch said that the review team recommends Kubala Washatko Architects in collaboration with Conservation Design Forum and Earth Tech for this project. Asked what made this group stand out, she said that one of the critical issues here is how environmental issues will be addressed, and Conservation Design Forum is nationally recognized for their abilities in that area. Also, Kubala Washatko has a great deal of experience dealing with historic buildings. They previously prepared guidelines on historic neighborhoods for the city, have been very good to work with, and came in with a good price.

Ald. Krol expressed concern that price was not the main criteria. The contract should relate the end product received to what the proposal was, he felt, so that extras don't escalate the price to that which another firm might have locked in. Ms. Welch agreed, noting that the RFQ outlined a fairly specific procedure for developing the master plan and

design guidelines. There was an additional meeting at which the review team and the consultants went over the expected final product, and there will be a further meeting to prepare the final contract.

Ald. Krol commented that it is important to understand that the county is actually helping the city with a substantial contribution. Ms. Welch said that it was made clear from the first meeting that the city and county would work together. When the county solicits development proposals, they would be submitting the subject master plan and design guidelines for the developers to follow when submitting their proposals. She clarified that the Council will have an opportunity to review and approve the master plan and design guidelines that are drafted.

Moved by Ald. Krol, seconded by Ald. Becker to recommend to Council approval of the selection of Kubala Washatko Architects in collaboration with Conservation Design Forum and Earth Tech to prepare a master plan and design guidelines –

In response to questions from Ald. Herzog, Ms. Welch said that Kahler Slater would have been the second choice. Both Kahler Slater and Kubala Washatko are consulting firms with backgrounds in sustainable and ecologically friendly designs, but the review team's choice of Kubala Washatko was unanimous, she said. She explained that Kubala Washatko's original estimate of \$43,796 was adjusted to a final proposal of \$38,600 after expectations were refined.

Ms. Welch said there would be no need to include this master plan in the city's comprehensive master plan, although that may make it more legally binding. The Joint Committee on the Comprehensive Plan has not yet reached the point of looking in depth at this area, so timing may be thrown off by taking it there. It will be important for the council to adopt the master plan and design guidelines as the direction the city wants to take. It is hoped that a draft will be provided by October. Ms. Welch noted that the county would also like to proceed as soon as possible. The matter has gone through the appropriate channels there to offer funding and does not require county board approval at this point since the city is entering into the subject contract.

Responding to questions from Ald. Sullivan, Ms. Welch clarified that the consultants will not be drawing up the development plan and implementing it. Interested firms were specifically told that participation in this part of the process would not exclude them from the development process and, likewise, would not give them any advantage in the development process. Ald. Sullivan was concerned about having input during the course of the immediate process rather than being asked to approve a finished plan, and Ms. Welch assured him that a progress report would be provided.

Vote on the motion, Ayes: 7

### **Space "Reservation" Practices along 4th of July Parade Route**

Capt. Reit reported that the police department has requested some type of ordinance that would prohibit placing unattended chairs or other measures to reserve space prior to 6 a.m. the morning of the 4th of July parade. A responsible adult would have to oversee any otherwise unoccupied chairs. Capt. Reit reported that problems have increased in the past few years as pre-placed chairs have increased from perhaps 500 to several thousand. There have been complaints about difficulty exiting vehicles or having to climb over chairs, blocked handicapped access, and dangerous stakes nailed into the ground as well as tape and rope causing tripping problems. Perhaps the chairs should be treated as abandoned property, he said.

Lt. Weis said that this year chairs were placed as early as Monday evening for the Friday morning parade. Chairs chained to poles had to be cut free with bolt cutters and a blowtorch because they were blocking access. Some even put chairs in a bus shelter. High winds during the week resulted in 10 man-hours for three individuals to clear chairs from the roadway. Most of the chairs blown into the street by the storm on Friday morning could be left there for subsequent retrieval by the owners since the street was closed shortly thereafter. Lt. Reit said this has become a safety issue that needs to be addressed so we don't have a problem next year.

Robert Brunow, 10401 W. Vienna Avenue, a 25-year member of the Civic Celebration Commission, spoke of the hours of preparation for a parade that residents can be proud of. Although he was disappointed to see chairs out so early, he felt that it does make a statement that people enjoy it. He said that some kind of control is needed, and he favored allowing chairs to be placed the day before the parade.

Sherryl Wedel, 6131 Washington Circle, president of the Civic Celebration Commission, said this has been debated by the commission over the past few years. Businesses find it detrimental, she said, and there have been complaints of adults not allowing small children to come forward and sit at the curb. The commission realizes that there is a problem but has no recommendation, she indicated. They will defer to the judgment of the council and the police.

Don Birschel, 1225 N. 122nd Street, another Civic Celebration Commission member, spoke of pride in the parade, which is one of the best in the state. He said he was distressed to hear the situation discussed and referred to as “trashy” on talk radio. He agreed that this is something that the council and police should address so that we have a safe parade.

(The meeting recessed at 9:16 p.m. and reconvened at 9:23 p.m.)

Mr. Kappel said that the question is whether the council wants a policy. There are ordinances that can be invoked regarding public right-of-way, which is under his jurisdiction, that would allow confiscation of all chairs on right-of-way in advance of the parade. That may not be wise, he said, but the problem is escalating. There are issues of access to businesses, and access for the handicapped was impaired. Many hours were spent by police and public works personnel removing chairs from the street and placing them back on the curb. Mr. Kappel said he is not yet prepared to make a final recommendation but would bring something forward if the committee wants to consider establishing a policy.

Ald. Krol said that the situation has gotten more than citywide attention. He commented that the most important issue is safety. Also, businesses lose revenue due to the inconvenience to customers. Since it came before the committee rather quickly, he felt it would be appropriate to refer it back to staff for recommendations.

Moved by Ald. Krol, seconded by Ald. Kopischke to refer the matter to staff with the intention of discussion recommendations at a future meeting –

Ald. Kopischke spoke of his participation in the parade through the years in various capacities. He said that people could channel their enthusiasm into getting up earlier on the day of the parade to secure their seats instead of chaining chairs. He has noticed that there is plenty of room along the parade route, including some stretches of empty space, so there is not a big need to get chairs out early. The key to any policy that is established will be in publicizing it in a very positive way, he said.

Ald. Herzog said that notification and reasonableness are the keys. Constituents from his district, which is along the parade route, have said that something needs to be done.

The Chair asked if the status of being abandoned is different if someone is there with the chairs. Mr. Kappel said that a lot of problems were caused by unattended chairs. It may be necessary to say that chairs cannot be tied to street fixtures, or that 10 chairs can't be put out and attended by a child. He was certain that local newspapers would pick up on the issue and remind residents of any new policy that is established.

Asked by the Chair about any ordinance prohibiting people from camping out, Ms. Aldana said she is not aware of a separate ordinance; it would be a matter of encroaching on the city right-of-way, and the city has the right to remove any encroachment. That is distinct from abandoned property where here are notice issues involved.

Ald. Casey was present at this time and commented on changes in practices over the past 5-6 years. After several calls last year, he talked to the city attorney and checked with Cedarburg and Mequon, which had been featured in

the media. Apparently those communities did not pass any ordinances, but they may have adopted policy resolutions. He noted that the transit system called police this year about chairs blocking bus stops, but there were no signs instructing people to stay a certain distance away from those areas. He felt that Wauwatosa should have an official policy before next year's parade that establishes a time after which chairs may be placed and makes people responsible for them after they are placed.

Vote on the motion, Ayes: 7

The meeting adjourned at 9:39 p.m.

Carla A. Ledesma, City Clerk  
Wauwatosa, Wisconsin

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