

COMMON COUNCIL
Regular Meeting, Tuesday, February 15, 2005

PRESENT: Alds. Krill, Krol, Maher, McCarthy, Stepaniak, Subotich, Sullivan, Treis, Bruderle-Baran, Becker, Birschel, Casey, Grimm, Herzog, Jenkins, Kopischke -16

ALSO PRESENT: Mr. Wontorek, City Administrator; Mr. Braier, Finance Director; Mr. Kesner; City Attorney; Mr. Kappel, Dir. of Public Works; Ms. Welch, Community Development Director; Police Chief Weber; Fire Chief Redman; Mr. Wojcehowicz, Water. Utility Supt.; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Mayor Estness in the Chair

The Mayor called the meeting to order at 7:30 p.m.

A plaque was presented by Mayor Estness and Common Council President Stepaniak to retiring Ald. Ralph McCarthy in recognition of his years of service to the City of Wauwatosa as 7th District Alderperson.

A certificate of completion of the Executive Fire Officer course at the National Fire Academy was presented to Deputy Fire Chief Bill Rice by Mayor Estness, Common Council President Stepaniak, and Fire Chief Redman.

It was moved by Ald. Grimm, seconded by Ald. Kopischke that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -16

OLD BUSINESS

The following ordinance was held for two weeks after a public hearing on February 1, 2005.

ORDINANCE

AN ORDINANCE CREATING CHAPTER 24.25 AND SECTIONS 24.23.090 AND 24.24.035 TO CREATE ADDITIONAL RESTRICTIONS ON THE DEVELOPMENT OF LARGE RETAIL SITES

The Common Council of the City of Wauwatosa do ordain as follows:

Part I. Section 24.23.090 of the Wauwatosa Municipal Code is created to read as follows:

24.23.090 Development of Large Retail Sites

A. All parcels or development sites with 50,000 or more square feet of retail development, as defined in section 24.25.010 of this code, shall be subject to the provisions of Chapter 24.25.

B. In addition to the requirements of Chapter 24.25 of this code, when applicable, any single retail building 70,000 or more square feet in size, or which covers more than 35% of the surface of a parcel

which is 2.5 acres or more in size, is a conditional use, and must be approved in the same manner as those uses described in sec. 24.23.015, above.

C. At the time of submission of a conditional use application for a development subject to this section, the applicant must provide to the City a Community Impact Statement as described in sec. 24.25.015.

Part II. Section 24.24.035 of the Wauwatosa Municipal Code is created to read as follows:

24.24.035 Development of Large Retail Sites

A. All parcels or development sites with 50,000 or more square feet of retail development, as defined in section 24.25.010 of this code, shall be subject to the provisions of Chapter 24.25.

B. In addition to the requirements of Chapter 24.25 of this code, when applicable, any single retail building 70,000 or more square feet in size, or which covers more than 35% of the surface of a parcel which is 2.5 acres or more in size, is a conditional use, and must be approved in the same manner as those uses described in sec. 24.24.015, above.

C. At the time of submission of a conditional use application for a development subject to this section, the applicant must provide to the City a Community Impact Statement as described in sec. 24.25.015

Part III. Chapter 24.25 of the Wauwatosa Municipal Code is created to read as follows:

24.25 LARGE RETAIL DEVELOPMENTS

24.25.010 Purpose and Definitions

The purpose of this section is to apply design standards and additional conditions to large developments proposed in the City of Wauwatosa in order to ensure that such developments are properly located and compatible with the surrounding area and community character, and that such developments do not negatively affect the City and property owners in the future. These large developments should present high quality materials and design, promote pedestrian-friendly environments, encourage responsible stormwater management practices, and ensure that the development is beneficial to the community. Any developer’s agreement approved by the common council pursuant to this chapter shall conform as closely as possible to these standards, but shall have the flexibility to consider the unique requirements of the individual development. Large developments are defined as individual free-standing buildings and group developments in which the combined total of all structures and outdoor sales areas within a development (regardless of diverse lotting, use or tenancy) combine to more than 50,000 square feet. Any single retail building 70,000 or more square feet in size, or which covers more than 35% of the surface of a parcel which is 2.5 acres or more in size, is a conditional use within any zoning district where such use would otherwise be permitted. Conditional use approval does not exempt such use from the provisions of this chapter, when applicable.

24.25.015 Community Impact Statements

The purpose of conditional use review is to provide for detailed analysis of certain land uses which, because of their scale or intensity of use, have the potential for significant impact on the health, safety or general welfare of residents, including negative effects on the environment, abutting property values, the character of the surrounding neighborhood, demand for services and infrastructure, and traffic safety.

A. At the time of submission of an application for conditional use for a property subject to this chapter, or as otherwise required by law, the applicant shall submit to the City a Community Impact Statement, prepared to appropriate professional standards, which shall evaluate the potential impact of the development upon the factors below. The scope and detail of the Community Impact Statement shall be subject to the discretion of the Director of Community Development.

1. Traffic and parking conditions on site and within the surrounding area;
2. Municipal utilities and services including water supply, sewage, disposal, storm drains, police, fire protection, emergency services, schools, and other town services;
3. The physical and ecological characteristics of the site and the surrounding land, including wetlands, floodplain vegetation, wildlife habitat, and other environmental conditions;
4. The character of the community, including scenic, historic and archaeological conditions
5. The economic impact of the project on local businesses and residents, including number and types of jobs created, amount of local labor to be used, the amount, type and location of potential spin-off development, impact of changing land use patterns and potential for development pressure on surrounding neighborhoods.

B. The costs of all studies and investigations reasonably necessary to prepare a Community Impact Statements required under this section shall be borne by the applicant. If it becomes necessary for the City to hire outside professionals to review the impact statement, the cost of hiring the consultant(s) shall be borne by the applicant.

24.25.020 Aesthetic and Visual Guidelines

Unless otherwise specifically provided in a developer's agreement approved by the common council, all parcels or development sites with a total of 50,000 or more square feet of retail development shall be required to comply with the following provisions, subject to review by the Design Review Board:

A. **Smaller Retail Stores.** The presence of smaller retail stores gives a center a "friendlier" appearance by creating variety, breaking up large expanses, and expanding the range of the site's activities. Windows and window displays of such stores should be used to contribute to the visual interest of exterior facades. When principal buildings contain additional, separately owned stores, which occupy less than 50,000 square feet of gross floor area, with separate customer entrances:

1. The street level façade of such stores shall be transparent between the height of three feet and eight feet above the walkway grade for no less than 60% of the horizontal length of the building façade of such additional stores.
2. Windows shall be recessed and should include visually prominent sills, shutters, or other such forms of framing.

B. **Facades and Exterior Walls including Sides and Backs.**

1. The building shall be designed in a way that will reduce the massive scale and uniform and impersonal appearance and will provide visual interest consistent with the community's identity, character, and scale. Buildings shall have at least two functional stories unless approved by the Plan Commission. Long building walls of at least 100 feet shall be broken up with projections or recessions of sufficient depth along all sides, and in sufficient number, to reduce the unbroken

massing into lengths of approximately 50 feet or less along all sides of the building. Projections from the façade can be used as an alternate approach.

2. Along any public street frontage, the building design should include vision windows, arcades, awnings or other acceptable features along at least 60 percent of the building length. Arcades and other weather protection features shall be of sufficient depth and height to provide a light-filled and open space along the building frontage. Architectural treatment, similar to that provided to the front façade shall be provided to the sides and rear of the building to mitigate any negative view from any location off-site and any public area (e.g., parking lots, walkways, etc.) on site. Where the façade faces adjacent residential uses an earthen berm shall be installed, no less than 6 feet in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of 15 feet on center. Additional landscaping may be required by the Plan Commission or Design Review Board to effectively buffer adjacent land use as deemed appropriate.

C. Detail Features. The building shall include architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effect by breaking up the building wall, front, side, or rear, with color, texture changes, wall offsets, reveals, or projecting ribs.

D. Roofs. The roof design shall provide variations in rooflines and add interest to, and reduce the massive scale of, large buildings. Roof features shall complement the architectural and visual character of adjoining neighborhoods. Roofs shall include two or more roof planes. Parapet walls shall be architecturally treated to avoid a plain, monotonous look.

E. Materials and Color. The buildings shall have exterior building materials and colors that are aesthetically pleasing and compatible with materials and colors that are used in adjoining neighborhoods. This includes the use of high-quality materials and colors that are low-reflective, subtle, neutral, or earth tone. Examples of acceptable high-quality materials include: brick, wood, sandstone, and other native stone. Certain types of colors shall be avoided such as fluorescent or metallic although brighter colors in limited quantities as building trims and as accents may be considered at the discretion of the Plan Commission or Design Review Board. Construction materials such as tilt-up concrete, smooth-faced concrete block, prefabricated steel panels, and other similar materials shall be avoided unless the exterior surface is covered with an acceptable architectural treatment.

F. Entryways.

1. The building design shall provide design elements which clearly indicate to customers where the entrances are located and which add aesthetically pleasing character to buildings by providing highly-visible customer entrances. Large retail buildings are encouraged to feature multiple entrances. Multiple entrances reduce walking distances from cars and facilitate pedestrian and bicycle access from public sidewalks. Multiple entrances also mitigate the effect of unbroken walls and neglected areas that often characterize building facades that face bordering land uses.

2. If a building faces multiple public or private rights-of way, it shall feature at least one customer entrance on those sides. Where the principal building faces more than two abutting public or private rights-of-way, this requirement may be interpreted to apply only to the two sides of the building facing the primary street and one secondary street. Where additional stores will be located in the principal building, each store shall have at least one exterior customer entrance, which shall conform to the above requirements. The number of entrances shall be addressed at the preliminary development plan stage.

G. Screening of Mechanical Equipment. Mechanical equipment shall be screened to mitigate noise and views in all directions. If roof-mounted, the screen shall be designed to conform architecturally to the design of the building either with varying roof planes or with parapet walls.

24.25.030 Site Design and Relationship to Surrounding Community

Unless otherwise specifically provided in a developer’s agreement approved by the common council, all parcels or development sites with a total of 50,000 or more square feet of retail development shall be required to meet additional design guidelines as stated below:

A. Traffic impacts. The applicant shall have a traffic impact study prepared according to the Standard Traffic Methodology. In addition to the general standards of the methodology, the traffic impact study shall include weekend traffic generation and impact analysis. The traffic impact study shall also study intersections within an area designated by the City Engineer to take into account the regional traffic draw of a large-scale retail establishment.

B. Vehicular Access. The use shall provide safety and protection to adjacent uses by having motor vehicles access only from an arterial, major or business district road as designated in the Master Plan.

C. Stormwater Management. Every application must be accompanied by a Stormwater Impact Statement in order for the permit application to be considered. The City Engineer shall prescribe the form(s) and information that shall be submitted to determine compliance with Title 18 of the Wauwatosa Municipal Code and other applicable stormwater rules. Applicants are encouraged to pursue more innovative stormwater management practices such as bioswales and pervious pavement if they are determined to be appropriate for the site by the City Engineer.

D. Landscaping. Each parking area shall be surrounded by a 10 foot wide landscaped area around its edge. Shade and ornamental trees are also required in the parking areas, with the amount and placement to be determined through consultation with the City Forester. Species should be suitable for their location including resistance to salt damage and appropriateness for climate. Landscaping must be in compliance with Section 24.44 and receive approval from the Design Review Board.

E. Buffers. The use shall provide visual and noise buffers to nearby residential uses. This can be accomplished by providing a substantial building setback from a residential use or residentially zoned property that is adjacent to the site. A landscape buffer of substantial width should be provided adjacent to the site property line where it adjoins residential uses or zones. The landscape buffer should include canopy trees at regular intervals to provide noise, light, and visual screening. No other uses, such as, but not limited to, parking or storage, are permitted within the landscape buffer area.

F. Pedestrian Flows. The project shall provide pedestrian accessibility, safety, and convenience to reduce traffic impacts and enable the development to project a pedestrian-friendly, inviting image. Continuous internal pedestrian walkways, no less than six feet in width shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. Sidewalks shall also connect the store to transit stops on or off-site and to nearby residential neighborhoods. If possible, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50 percent of their length. Sidewalks shall be provided along the full length of any building along any façade featuring a customer entrance, and along any façade abutting public parking areas. Such sidewalks shall be located at least six feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the

façade. Internal pedestrian walkways shall provide weather protection features such as awnings or arcades within 30 feet of all customer entrances, constructed parallel to the façade of the building. This is not intended to extend into the driving aisles or parking areas. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

G. Central Features and Community Spaces. The project is to provide attractive and inviting pedestrian scale features, spaces, and amenities. Entrances and parking lot locations shall be functional and inviting with walkways conveniently tied to logical destinations. Bus stops should be considered internal parts of the configuration whether they are located on-site or along the street. Customer drop-off/pick-up points that may be provided should also be integrated into the design and should not conflict with traffic lanes or pedestrian paths. Special design features such as towers, arcades, porticos, light fixtures, planter walls, seating areas, and other architectural features that define circulation paths and outdoor spaces shall anchor pedestrian ways. Examples are outdoor plazas, patios, courtyards, and window shopping areas. Each development should have at least two of these areas.

H. Outdoor Lighting. The applicant must provide an outdoor lighting report which provides information on how outdoor lighting will be accomplished to minimize impacts on adjacent properties or roadways. Outdoor lighting should provide clear visibility and a feeling of security. This can be accomplished by aiming the lights down and placing hoods on them. The light element should not protrude below the lower edge of the hood. To minimize any indirect overflow of light on adjacent residential properties, the height of any proposed parking lot light standard should be as short as possible and should stair step down to a lower height when close to residential uses or residentially used properties.

I. Outdoor Sales and Storage. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping and shall be permanently defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or fences shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall be similar in materials and colors to those that are predominantly used on the building façade. Outdoor sales areas shall be considered as part of the gross floor area of the retail establishment. Outdoor storage of products in an area where customers are not permitted is prohibited. This prohibition includes outdoor storage sheds and containers.

J. Delivery and Loading Spaces.

1. Delivery and loading operations shall be designed and located to mitigate visual and noise impacts to streets and adjoining residential neighborhoods. If there is a residential use or residentially zoned area adjacent to the site, such operations shall not be permitted between 9 pm and 6 am. (Section 7.46 Noise of the Municipal Code) For good cause shown, the Plan Commission may permit deliveries at additional times provided the applicant submits evidence such deliveries will not negatively impact nearby residential uses. Delivery and loading areas shall be substantially set back from a residential use or residentially zoned property that is adjacent to that site. A landscape buffer of substantial width should be provided adjacent to the delivery and loading area where it adjoins residential uses or zones. The landscape buffer should include evergreen shrubs and/or trees plus deciduous canopy trees at regular intervals to provide noise, light, and visual screening. If the delivery and loading spaces are located within an enclosed building or underground, no such set back and buffer area shall be required.

2. Delivery trucks shall not be parked on the premises during non-delivery hours with motor and/or refrigerators/generators running, unless the truck noise is mitigated so that it does not significantly affect nearby residential properties.
3. The delivery and loading areas shall be screened or enclosed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways or adjacent properties. The screen shall be of masonry construction and at least 10 feet high or of a design approved by the Design Review Board to screen the noise and activity of the loading dock.

K. Accessory Uses. All accessory uses must be compatible with the proposed development and be an allowed use under AA Business District zoning. The parking lot shall not provide space for overnight camping, storage of vehicles, or additional activities with the exception of those uses approved under other sections of this ordinance. The applicant must demonstrate that any accessory uses will not have negative impacts on adjacent residential uses, residentially zoned properties, or adjacent properties. Any accessory uses must be oriented to face away from any residential use or residentially zoned property that is adjacent to the site.

L. Temporary or Seasonal Uses. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. No such sales/displays shall be allowed unless reviewed and approved by The Board of Public Works.

M. Trash Collection Area and Time Limitations. Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas should be gated and screened, recessed or enclosed so that they are not visible from adjoining properties and/or public streets,. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances. No area for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public street, public sidewalk or pedestrian right-of-way. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are substantially different from or inferior to the principal materials of the building and landscape. In locations where applicable, refuse collection shall be subject to the time limitations in Section 7.46.060 of the Wauwatosa Municipal Code.

N. Parking Lots and Structures. Parking areas must provide safe, convenient and efficient access for vehicles and pedestrians. They must be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks, and to reduce the overall scale of the paved surface. Ideally, no more than 30% of the total parking provided should be located on any side facing a street unless approved by the City Plan Commission. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance. No more than 60 percent of the off-street parking area for the entire property shall be located between the front façade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by outlot development and additional tree plantings and/or berms. Landscaping shall be used to define parking areas, primary vehicular drives and pedestrian areas in an aesthetically and environmentally pleasing manner. Parking structure facades

should achieve the same high quality design and appearance as the buildings they serve. The parking structure's utilitarian appearance should be minimized by utilizing effective design treatments such as colonnades, arcades, awnings, street furniture and other public amenities. Compatible materials, coordinated landscaping and screening, appropriate building color, sensitive lighting and signage should all be considered for garage facades.

24.25.040 Maintenance and Reuse of Properties

Unless otherwise specifically provided in a developer's agreement approved by the common council, all parcels or development sites with a total of 50,000 or more square feet of new retail development shall be subject to the following provisions:

A. The owner shall maintain the property in compliance with all provisions of the Wauwatosa Municipal Code or a plan approved as part of a developer's agreement approved by the common council. If the property is not found to be in compliance with the code or the approved plan, the City may take action to correct the situation, after providing the owner or operator with notice of the defective condition and an opportunity to cure the alleged defective condition. Costs of any such corrective action by the City shall be assessed as a special charge against the property, to be added to the property tax bill pursuant to Section 66.0627 of the Wisconsin Statutes.

B. If the facility is vacated, the owner or operator, within twelve months, shall submit, to the Plan Commission, a plan contemplating the removal or reuse of the facility. The time limit may be extended by the Plan Commission. If the owner or operator is unable to provide a plan which is acceptable to the Plan Commission, the City may utilize the Land Conservation Fund described in sec. 20.14, Charter Ordinances, or other funds which may be made available for such purpose, to take whatever action is permitted by law to assure appropriate redevelopment or reuse of the facility.

C. Prior to issuance of a building permit for any development subject to these provisions, the building owner shall be required to contribute to the Land Conservation Fund described in Section 20.14, Charter Ordinances, City of Wauwatosa. The amount of such contribution shall be calculated based upon the number of square feet of retail space being created, and shall be as set forth in the Consolidated Fee Schedule.

Part III. The Consolidated Fee Schedule shall be amended by the addition of a "Land Conservation Fund Contribution - Large Retail Developments" in the Buildings and Safety Division, which fee shall initially be set at \$0.20 per square foot.

Part IV. This ordinance shall take effect on and after its date of publication.

It was moved by Ald. Kopischke, seconded by Ald. Sullivan to adopt the foregoing ordinance with the proviso that the word, "permitted" be substituted with the word, "allowed" in 24.25.010. --

It was moved by Ald Treis, seconded by Ald. Sullivan to amend the ordinance by deleting references to "70,000 square feet" and replacing that with "50,000 square feet." --

It was moved by Ald. Herzog, seconded by Ald. Jenkins to refer the matter back to committee because this proposed

change is significant and merits public input. Roll call vote, Ayes 4 (McCarthy, Grimm, Herzog, Jenkins), Noes 12. Motion failed.

Roll call vote on the amendment, Ayes 12, Noes 4 (McCarthy, Stepaniak, Casey, Herzog.)

Roll call vote on the original motion, as amended, Ayes 16.

The amended ordinance is as follows:

ORDINANCE O-05-7

AN ORDINANCE CREATING CHAPTER 24.25 AND SECTIONS 24.23.090 AND 24.24.035 TO CREATE ADDITIONAL RESTRICTIONS ON THE DEVELOPMENT OF LARGE RETAIL SITES

The Common Council of the City of Wauwatosa do ordain as follows:

Part I. Section 24.23.090 of the Wauwatosa Municipal Code is created to read as follows:

24.23.090 Development of Large Retail Sites

- A. All parcels or development sites with 50,000 or more square feet of retail development, as defined in section 24.25.010 of this code, shall be subject to the provisions of Chapter 24.25.
- B. In addition to the requirements of Chapter 24.25 of this code, any development subject to that chapter is a conditional use, and must be approved in the same manner as those uses described in Sec. 24.23.015 above.
- C. At the time of submission of a conditional use application for a development subject to this section, the applicant must provide to the City a Community Impact Statement as described in sec. 24.25.015.

Part II. Section 24.24.035 of the Wauwatosa Municipal Code is created to read as follows:

24.24.035 Development of Large Retail Sites

- B. All parcels or development sites with 50,000 or more square feet of retail development, as defined in section 24.25.010 of this code, shall be subject to the provisions of Chapter 24.25.
- B. In addition to the requirements of Chapter 24.25 of this code, any development subject to that chapter is a conditional use, and must be approved in the same manner as those uses described in sec. 24.24.015, above.
- C. At the time of submission of a conditional use application for a development subject to this section, the applicant must provide to the City a Community Impact Statement as described in sec. 24.25.015

Part III. Chapter 24.25 of the Wauwatosa Municipal Code is created to read as follows:

24.25 LARGE RETAIL DEVELOPMENTS

24.25.010 Purpose and Definitions

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24.25.015 Community Impact Statements

The purpose of conditional use review is to provide for detailed analysis of certain land uses which, because of their scale or intensity of use, have the potential for significant impact on the health, safety or general welfare of residents, including negative effects on the environment, abutting property values, the character of the surrounding neighborhood, demand for services and infrastructure, and traffic safety.

A. At the time of submission of an application for conditional use for a property subject to this chapter, or as otherwise required by law, the applicant shall submit to the City a Community Impact Statement, prepared to appropriate professional standards, which shall evaluate the potential impact of the development upon the factors below. The scope and detail of the Community Impact Statement shall be subject to the discretion of the Director of Community Development.

1. Traffic and parking conditions on site and within the surrounding area;
2. Municipal utilities and services including water supply, sewage, disposal, storm drains, police, fire protection, emergency services, schools, and other town services;
3. The physical and ecological characteristics of the site and the surrounding land, including wetlands, floodplain vegetation, wildlife habitat, and other environmental conditions;
4. The character of the community, including scenic, historic and archaeological conditions
5. The economic impact of the project on local businesses and residents, including number and types of jobs created, amount of local labor to be used, the amount, type and location of potential spin-off development, impact of changing land use patterns and potential for development pressure on surrounding neighborhoods.

B. The costs of all studies and investigations reasonably necessary to prepare a Community Impact Statements required under this section shall be borne by the applicant. If it becomes necessary for the City to hire outside professionals to review the impact statement, the cost of hiring the consultant(s) shall be borne by the applicant.

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1. The street level façade of such stores shall be transparent between the height of three feet and eight feet above the walkway grade for no less than 60% of the horizontal length of the building façade of such additional stores.
2. Windows shall be recessed and should include visually prominent sills, shutters, or other such forms of framing.

B. **Facades and Exterior Walls including Sides and Backs.**

1. The building shall be designed in a way that will reduce the massive scale and uniform and impersonal appearance and will provide visual interest consistent with the community's identity, character, and scale. Buildings shall have at least two functional stories unless approved by the Plan Commission. Long building walls of at least 100 feet shall be broken up with projections or recessions of sufficient depth along all sides, and in sufficient number, to reduce the unbroken massing into lengths of approximately 50 feet or less along all sides of the building. Projections from the façade can be used as an alternate approach.
2. Along any public street frontage, the building design should include vision windows, arcades, awnings or other acceptable features along at least 60 percent of the building length. Arcades and other weather protection features shall be of sufficient depth and height to provide a light-filled and open space along the building frontage. Architectural treatment, similar to that provided to the front façade shall be provided to the sides and rear of the building to mitigate any negative view from any location off-site and any public area (e.g., parking lots, walkways, etc.) on site. Where the façade faces adjacent residential uses an earthen berm shall be installed, no less than 6 feet in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of 15 feet on center. Additional landscaping may be required by the Plan Commission or Design Review Board to effectively buffer adjacent land use as deemed appropriate.

C. **Detail Features.** The building shall include architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effect by breaking up the building wall, front, side, or rear, with color, texture changes, wall offsets, reveals, or projecting ribs.

D. **Roofs.** The roof design shall provide variations in rooflines and add interest to, and reduce the massive scale of, large buildings. Roof features shall complement the architectural and visual character of adjoining neighborhoods. Roofs shall include two or more roof planes. Parapet walls shall be architecturally treated to avoid a plain, monotonous look.

E. **Materials and Color.** The buildings shall have exterior building materials and colors that are aesthetically pleasing and compatible with materials and colors that are used in adjoining neighborhoods.

This includes the use of high-quality materials and colors that are low-reflective, subtle, neutral, or earth tone. Examples of acceptable high-quality materials include: brick, wood, sandstone, and other native stone. Certain types of colors shall be avoided such as fluorescent or metallic although brighter colors in limited quantities as building trims and as accents may be considered at the discretion of the Plan Commission or Design Review Board. Construction materials such as tilt-up concrete, smooth-faced concrete block, prefabricated steel panels, and other similar materials shall be avoided unless the exterior surface is covered with an acceptable architectural treatment.

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G. Screening of Mechanical Equipment. Mechanical equipment shall be screened to mitigate noise and views in all directions. If roof-mounted, the screen shall be designed to conform architecturally to the design of the building either with varying roof planes or with parapet walls.

24.25.030 Site Design and Relationship to Surrounding Community

Unless otherwise specifically provided in a developer’s agreement approved by the common council, all parcels or development sites with a total of 50,000 or more square feet of retail development shall be required to meet additional design guidelines as stated below:

- A. Traffic impacts. The applicant shall have a traffic impact study prepared according to the Standard Traffic Methodology. In addition to the general standards of the methodology, the traffic impact study shall include weekend traffic generation and impact analysis. The traffic impact study shall also study intersections within an area designated by the City Engineer to take into account the regional traffic draw of a large-scale retail establishment.
- B. Vehicular Access. The use shall provide safety and protection to adjacent uses by having motor vehicles access only from an arterial, major or business district road as designated in the Master Plan.
- C. Stormwater Management. Every application must be accompanied by a Stormwater Impact Statement in order for the permit application to be considered. The City Engineer shall prescribe the form(s) and information that shall be submitted to determine compliance with Title 18 of the Wauwatosa Municipal Code and other applicable stormwater rules. Applicants are encouraged to pursue more innovative stormwater management practices such as bioswales and pervious pavement if they are determined to be appropriate for the site by the City Engineer.

D. Landscaping. Each parking area shall be surrounded by a 10 foot wide landscaped area around its edge. Shade and ornamental trees are also required in the parking areas, with the amount and placement to be determined through consultation with the City Forester. Species should be suitable for their location including resistance to salt damage and appropriateness for climate. Landscaping must be in compliance with Section 24.44 and receive approval from the Design Review Board.

E. Buffers. The use shall provide visual and noise buffers to nearby residential uses. This can be accomplished by providing a substantial building setback from a residential use or residentially zoned property that is adjacent to the site. A landscape buffer of substantial width should be provided adjacent to the site property line where it adjoins residential uses or zones. The landscape buffer should include canopy trees at regular intervals to provide noise, light, and visual screening. No other uses, such as, but not limited to, parking or storage, are permitted within the landscape buffer area.

F. Pedestrian Flows. The project shall provide pedestrian accessibility, safety, and convenience to reduce traffic impacts and enable the development to project a pedestrian-friendly, inviting image. Continuous internal pedestrian walkways, no less than six feet in width shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. Sidewalks shall also connect the store to transit stops on or off-site and to nearby residential neighborhoods. If possible, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50 percent of their length. Sidewalks shall be provided along the full length of any building along any façade featuring a customer entrance, and along any façade abutting public parking areas. Such sidewalks shall be located at least six feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade. Internal pedestrian walkways shall provide weather protection features such as awnings or arcades within 30 feet of all customer entrances, constructed parallel to the façade of the building. This is not intended to extend into the driving aisles or parking areas. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

G. Central Features and Community Spaces. The project is to provide attractive and inviting pedestrian scale features, spaces, and amenities. Entrances and parking lot locations shall be functional and inviting with walkways conveniently tied to logical destinations. Bus stops should be considered internal parts of the configuration whether they are located on-site or along the street. Customer drop-off/pick-up points that may be provided should also be integrated into the design and should not conflict with traffic lanes or pedestrian paths. Special design features such as towers, arcades, porticos, light fixtures, planter walls, seating areas, and other architectural features that define circulation paths and outdoor spaces shall anchor pedestrian ways. Examples are outdoor plazas, patios, courtyards, and window shopping areas. Each development should have at least two of these areas.

H. Outdoor Lighting. The applicant must provide an outdoor lighting report which provides information on how outdoor lighting will be accomplished to minimize impacts on adjacent properties or roadways. Outdoor lighting should provide clear visibility and a feeling of security. This can be accomplished by aiming the lights down and placing hoods on them. The light element should not protrude below the lower edge of the hood. To minimize any indirect overflow of light on adjacent residential properties, the height of any proposed parking lot light standard should be as short as possible and should stair step down to a lower height when close to residential uses or residentially used properties.

I. Outdoor Sales and Storage. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping and shall be permanently defined and screened with walls and/or fences. Materials, colors and design of screening walls and/or fences shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall be similar in materials and colors to those that are predominantly used on the building façade. Outdoor sales areas shall be considered as part of the gross floor area of the retail establishment. Outdoor storage of products in an area where customers are not permitted is prohibited. This prohibition includes outdoor storage sheds and containers.

J. Delivery and Loading Spaces.

1. Delivery and loading operations shall be designed and located to mitigate visual and noise impacts to streets and adjoining residential neighborhoods. If there is a residential use or residentially zoned area adjacent to the site, such operations shall not be permitted between 9 pm and 6 am. (Section 7.46 Noise of the Municipal Code) For good cause shown, the Plan Commission may permit deliveries at additional times provided the applicant submits evidence such deliveries will not negatively impact nearby residential uses. Delivery and loading areas shall be substantially set back from a residential use or residentially zoned property that is adjacent to that site. A landscape buffer of substantial width should be provided adjacent to the delivery and loading area where it adjoins residential uses or zones. The landscape buffer should include evergreen shrubs and/or trees plus deciduous canopy trees at regular intervals to provide noise, light, and visual screening. If the delivery and loading spaces are located within an enclosed building or underground, no such set back and buffer area shall be required.

2. Delivery trucks shall not be parked on the premises during non-delivery hours with motor and/or refrigerators/generators running, unless the truck noise is mitigated so that it does not significantly affect nearby residential properties.

3. The delivery and loading areas shall be screened or enclosed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways or adjacent properties. The screen shall be of masonry construction and at least 10 feet high or of a design approved by the Design Review Board to screen the noise and activity of the loading dock.

K. Accessory Uses. All accessory uses must be compatible with the proposed development and be an allowed use under AA Business District zoning. The parking lot shall not provide space for overnight camping, storage of vehicles, or additional activities with the exception of those uses approved under other sections of this ordinance. The applicant must demonstrate that any accessory uses will not have negative impacts on adjacent residential uses, residentially zoned properties, or adjacent properties. Any accessory uses must be oriented to face away from any residential use or residentially zoned property that is adjacent to the site.

L. Temporary or Seasonal Uses. Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. No such sales/displays shall be allowed unless reviewed and approved by The Board of Public Works.

M. Trash Collection Area and Time Limitations. Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas should be gated and screened, recessed or enclosed so that they are not visible from adjoining properties and/or public streets,. While

screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances. No area for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public street, public sidewalk or pedestrian right-of-way. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are substantially different from or inferior to the principal materials of the building and landscape. In locations where applicable, refuse collection shall be subject to the time limitations in Section 7.46.060 of the Wauwatosa Municipal Code.

N. Parking Lots and Structures. Parking areas must provide safe, convenient and efficient access for vehicles and pedestrians. They must be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks, and to reduce the overall scale of the paved surface. Ideally, no more than 30% of the total parking provided should be located on any side facing a street unless approved by the City Plan Commission. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance. No more than 60 percent of the off-street parking area for the entire property shall be located between the front façade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by outlot development and additional tree plantings and/or berms. Landscaping shall be used to define parking areas, primary vehicular drives and pedestrian areas in an aesthetically and environmentally pleasing manner. Parking structure facades should achieve the same high quality design and appearance as the buildings they serve. The parking structure’s utilitarian appearance should be minimized by utilizing effective design treatments such as colonnades, arcades, awnings, street furniture and other public amenities. Compatible materials, coordinated landscaping and screening, appropriate building color, sensitive lighting and signage should all be considered for garage facades.

24.25.040 Maintenance and Reuse of Properties

Unless otherwise specifically provided in a developer’s agreement approved by the common council, all parcels or development sites with a total of 50,000 or more square feet of new retail development shall be subject to the following provisions:

A. The owner shall maintain the property in compliance with all provisions of the Wauwatosa Municipal Code or a plan approved as part of a developer’s agreement approved by the common council. If the property is not found to be in compliance with the code or the approved plan, the City may take action to correct the situation, after providing the owner or operator with notice of the defective condition and an opportunity to cure the alleged defective condition. Costs of any such corrective action by the City shall be assessed as a special charge against the property, to be added to the property tax bill pursuant to Section 66.0627 of the Wisconsin Statutes.

B. If the facility is vacated, the owner or operator, within twelve months, shall submit, to the Plan Commission, a plan contemplating the removal or reuse of the facility. The time limit may be extended by the Plan Commission. If the owner or operator is unable to provide a plan which is acceptable to the Plan Commission, the City may utilize the Land Conservation Fund described in sec. 20.14, Charter Ordinances, or other funds which may be made available for such purpose, to take whatever action is permitted by law to assure appropriate redevelopment or reuse of the facility.

C. Prior to issuance of a building permit for any development subject to these provisions, the building owner shall be required to contribute to the Land Conservation Fund described in Section 20.14, Charter Ordinances, City of Wauwatosa. The amount of such contribution shall be calculated based upon the number of square feet of retail space being created, and shall be as set forth in the Consolidated Fee Schedule.

Part III. The Consolidated Fee Schedule shall be amended by the addition of a "Land Conservation Fund Contribution - Large Retail Developments" in the Buildings and Safety Division, which fee shall initially be set at \$0.20 per square foot.

Part IV. This ordinance shall take effect on and after its date of publication.

APPOINTMENTS BY THE MAYOR

Historic Preservation Commission

Lelia Lupianez, 1532 Ridge Court
(Term ends 11/3/07)

Civic Celebration Commission

Sarah Weseloh, 6407 Powell Place
James Strobel, 1531 N. 116th Street
Judith Q. Randall, 317 N. 89th Street (reappointment)
Sherryl Wedel, 6131 Washington Circle (reappointment)
Robert Brunow, 10401 W. Vienna Avenue (reappointment)
Patricia Luebke, 6220 Upper Parkway North (reappointment)
Kenneth Robinson, 6220 Upper Parkway North (reappointment)
(Terms end 12/31/08)

It was moved by Ald. Birschel, seconded by Ald. Grimm
to concur with the foregoing appointments. -16

APPLICATIONS, COMMUNICATIONS, ETC.

1. Letter from Patrick Fitzpatrick, property owner of 8404 Watertown Plank Road, requesting permission for building tenants to temporarily park their vehicles overnight on N. 85th Street, north of Watertown Plank Road during construction at the Medical Complex
Director of Public Works

2. Notices of Claim: Exel Inns of America, Inc., 115 N. Mayfair Road
Maureen Byrne, 1015 N. 121st Street
City Attorney
3. Letter from Jay Hollis, 6823 W. North Ave., requesting a change in parking restrictions in front of the Rosebud Cinema from one hour to three hours
Director of Public Works
4. Wauwatosa Water Utility Statement of Receipts and Disbursements for month ended January 31, 2005
Place on file
5. E-mail from Betsy Flood, 8332 Gridley Avenue, requesting any rezoning request or construction of a parking structure at the Medical Complex be delayed or rejected
Add to existing file
6. City of Wauwatosa Investment Summary as of January 31, 2005
Place on file
7. Letter signed by 14 residents of the 1200 block of N. 85th Street requesting “no parking to corner” restriction be placed on the east side of N. 85th Street in the 1200 block
Director of Public Works
8. Letter from Kate Pizzi, 8360 Gridley Avenue, along with a petition with 32 signatures requesting temporary parking restrictions on the south side of Gridley Avenue, west of Robertson Street
Director of Public Works
9. Letter from Gina M. Hansen, National Assn. of Industrial and Office Properties, expressing concerns regarding the proposed ordinance placing restrictions on the development of large retail sites
Add to existing file
10. Letter from James Paul Trost, 1261 N. 85th Street, and petitions with 18 signatures requesting parking restrictions in the 1200 block of N. 85th Street
Director of Public Works
11. Donation: \$20 donated anonymously to the fire department donations for equipment jobs account
Place on file

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-05-26

WHEREAS, Michelle A. Borden, 3560 N. Frederick Avenue, Shorewood, WI, has applied for an operator’s license in conjunction with her employment at the Cheesecake Factory, 2550 N. Mayfair Road;

NOW, THEREFORE, BE IT RESOLVED THAT Michelle A. Borden, 3560 N. Frederick Avenue, Shorewood, WI, is hereby issued an operator’s license for the period ending June 30, 2005.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-05-27

WHEREAS, Nicole Collier, 360 Concord Drive, Brookfield, WI, applied for an operator’s license in conjunction with her employment at Jo Jo’s Martini Lounge, 418 N. Mayfair Road, Wauwatosa, WI,

WHEREAS, Nicole Collier was requested to appear three times before the Committee on Legislation, Licensing & Communications in conjunction with that application; and

WHEREAS, Ms. Collier failed to appear on January 25, 2005, January 11, 2005, and September 14, 2004, said failures are conduct which is inconsistent with the activity of responsibly selling alcoholic beverages in the City of Wauwatosa pursuant to the regulations of alcoholic beverage sales by the City of Wauwatosa; and

WHEREAS, applicant failed to disclose a 2002 underage alcohol conviction on either form filled out;

NOW, THEREFORE, BE IT RESOLVED THAT the operator license application for Nikki B. Collier is hereby denied;

BE IT FURTHER RESOLVED THAT the City Clerk is hereby directed to notify the applicant of the denial in writing and the reasons therefor.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-05-28

WHEREAS, Boback F. Fotouhi, 2176 N. 63rd Street, Wauwatosa, WI, has applied for an operator’s license in conjunction with his employment at the Cheesecake Factory, 2550 N. Mayfair Road;

NOW, THEREFORE, BE IT RESOLVED THAT Boback F. Fotouhi, 2176 N. 63rd Street, Wauwatosa, WI, is hereby issued an operator’s license for the period ending June 30, 2005.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-05-29

WHEREAS, Francisco Martinez-Perez, 9220 N. 75th Street, Milwaukee, WI, has applied for an operator’s license in conjunction with his employment at The Cheesecake Factory, 2550 N. Mayfair Road;

NOW, THEREFORE, BE IT RESOLVED THAT Francisco Martinez-Perez, 9220 N. 75th Street, Milwaukee, WI, is hereby issued an operator’s license for the period ending June 30, 2005.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-05-30

WHEREAS, Eric A. Sampson, 405 Sheffield Road, Waukesha, WI, has applied for an operator’s license in conjunction with his employment at P. F. Changs, 2500 N. Mayfair Road;

NOW, THEREFORE, BE IT RESOLVED THAT Eric A. Sampson, 405 Sheffield Road, Waukesha, WI, is hereby issued an operator’s license for the period ending June 30, 2005.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-05-31

WHEREAS, Kristine R. Simon, 1813 E. Greenwich Avenue, Milwaukee, WI, has applied for an operator's license in conjunction with her employment at P. F. Chang's, 2500 N. Mayfair Road;

NOW, THEREFORE, BE IT RESOLVED THAT Kristine R. Simon, 1813 E. Greenwich Avenue, Milwaukee, WI, is hereby issued an operator's license for the period ending June 30, 2005.

It was moved by Ald. Treis, seconded by Ald. Becker
to approve the six foregoing resolutions. -16

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-05-33

WHEREAS, Brandon Adams has applied for a Conditional Use in the AA Business District at 6330 W. North Avenue to offer massage therapy as part of a day spa and training facility, and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Brandon Adams for a Conditional Use in the AA Business District at 6330 W. North Avenue to offer massage therapy as part of a day spa and training facility contingent upon the following conditions:

- 1) Hours of operation from 8 a.m. to 7 p.m. Monday through Saturday and from 9 a.m. to 5 p.m. on Sunday;
- 2) Obtaining any additional licenses and permits, and;
- 3) A maximum class size of 12 students.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-05-34

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT permission be and the same is hereby granted to Rick L. Johnson, St. Camillus Health System, Inc., for a land division by certified survey map in the AA Institutions District located at 10101 W. Wisconsin Avenue, Wauwatosa. These parcels are more particularly described as follows:

A redivision of Parcel 2 of Certified Survey Map No. 5480, Parcel 1 of Certified Survey Map No. 7121 and Parcel 4 of Certified Survey Map 7122, being a part of the Northeast ¼ of the Southwest ¼ of Section 29, Town 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, Wisconsin.

All in accordance with the application attached hereto and made a part of this resolution, and in compliance with Section 24.56.010 of the Code of the city of Wauwatosa and subject to the payment of all outstanding special assessments on the aforescribed property which is being subdivided.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-05-35

WHEREAS, Daniel Druml and Ai Lin Wang have applied for a Conditional Use in the AA Business District at 6119 W. North Avenue for a take-out restaurant and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Daniel Druml and Ai Lin Wang for a Conditional Use in the AA Business District at 6119 W. North Avenue for a take-out restaurant contingent upon the following conditions:

- 1) Hours of operation from 11 a.m. to midnight daily, and;
- 2) Obtaining any additional licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

ORDINANCE O-05-8

AN ORDINANCE AMENDING SECTIONS 15.14.180 AND 15.14.290 OF THE WAUWATOSA MUNICIPAL CODE REGARDING ELECTION SIGN REGULATION

The Common Council of the City of Wauwatosa do ordain as follows:

Part I. A new subsection is created in Section 15.14.180 – Residential Districts to read:

F. Election signs in compliance with Section 15.14.290 of this code.

Part II: Section 15.14.290 is amended to read, in its entirety:

15.14.290 Election Signs

Except as specifically provided in this section, all election signs shall comply with the applicable provisions of Chapter 15.14 of this code.

A. Freestanding signs: Freestanding signs shall not exceed thirty-two square feet in size or fourteen feet in height.

B. Wall Signs: Wall signs shall comply with the provisions of Section 15.14.400 of this code.

C. Business Districts:

1. In business districts, election signs in place more than six months shall be considered permanent signs and shall count toward the total area and number restrictions of Section 15.14.220 of this code.
2. Signs in place less than sixty days prior to an election are presumed to be temporary signs and shall not be subject to said restrictions.

D. Residential Districts:

1. Signs over twelve square feet in size must be set back at least five feet from any lot line.
2. Signs over twenty-four square feet in size must be set back at least ten feet from any lot line.
3. Freestanding signs within the front setback or side yard abutting a street of any residential lot shall not exceed four and one-half feet in height.
4. Signs in residential districts shall not be illuminated, nor contain any electrical, mechanical or audio auxiliary.

E. No election signs shall be placed in the public right of way.

F. Permits are not required for temporary election signs, except that the appropriate City officials may issue orders to a property owner or sign's sponsor for immediate correction or removal of a sign with structural or regulatory defects. If City officials undertake immediate corrective action for a sign defect in the event that traffic or pedestrian safety is impaired by a sign, or for any other reason permitted by law, a notice shall be placed in the first class mail or otherwise provided within two days to the property owner or the sign's sponsor, stating the date and time of the corrective action, and describing the reason for said action.

Part III. This ordinance shall take effect on and after its date of publication.

It was moved by Ald. Kopischke, seconded by Ald. Krol to approve the three foregoing resolutions and to adopt the foregoing ordinance. -16

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-05-32

WHEREAS, the Mayfair Rotary Club has proposed, in association with the Rotary's 100th Anniversary during the year 2005, a renovation of the green space at the corners of Harwood and Wauwatosa Avenues in the Village of Wauwatosa area, which area currently contains a nonfunctioning fountain and deteriorating concrete structures; and

WHEREAS, the Wauwatosa Department of Public Works has agreed to participate in assisting with this project in the demolition of existing structures; and

WHEREAS, the Mayfair Rotary Club, after receiving initial approval from City officials, intends to pursue fundraising in order to accomplish this project; and

WHEREAS, the initial design presented to the Board of Public Works and the Committee on Community Development for the project appear to be in the best interests of the City,

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to proceed toward the necessary arrangements for the Mayfair Rotary Club to redesign and renovate the above described green space in a manner consistent with the designs initially proposed, in order the Mayfair Rotary Club may pursue donations to fund the project;

BE IT FURTHER RESOLVED THAT upon receiving sufficient funding and the submission of more detailed plans, appropriate City officials are authorized to negotiate an agreement for construction and dedication of the project to the City of Wauwatosa with the Mayfair Rotary Club, which agreement shall be approved by the Common Council prior to actual construction of the project.

It was moved by Ald. Kopischke, seconded by Ald. Krol to approve the foregoing resolution. -16

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-05-36

WHEREAS, Tony Durocher, Milwaukee County, and Jeffrey Allen, Blood Center of Southeastern Wisconsin, have applied for a Conditional Use in the Municipal and Public Works District at 10110 Watertown Plank Road for outdoor storage of vehicles, and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Tony Durocher, Milwaukee County, and Jeffrey Allen, Blood Center of Southeastern Wisconsin, for a Conditional Use in the Municipal and Public Works District at 10110 Watertown Plank Road for outdoor storage of vehicles.

It was moved by Ald. Kopischke, seconded by Ald. Krol to approve the foregoing resolution. Ayes 15, Present 1 (Birschel)

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-05-37

WHEREAS, the Wauwatosa Public Library has participated in the Milwaukee County Federated Library System since its inception; and

WHEREAS, the proposed member agreement for the years 2005 and beyond in the Milwaukee County Federated Library System provides no reimbursement to the Wauwatosa Public Library for items lent to other libraries in the system; and

WHEREAS, budget reductions of up to \$330,000.00 per year will be required as a result of this lack of funding; and

WHEREAS, the necessary staff reduction as a result of this reduced funding will eliminate the capability of Wauwatosa Public Library staff to process requests and participate in lending activities for citizens of other member communities; and

WHEREAS, the Wauwatosa Public Library Board has suggested that it may be necessary for the library to withdraw from the Milwaukee County Federated Library System at the end of the year 2005; and

WHEREAS, Section 43.18(3)(a) of the Wisconsin Statutes requires a public hearing on proposed withdrawal from a Federated Library System after publication of a Class I Notice and Notice of the Hearing being provided by registered mail to the governing body of every member municipality in the library system at least 30 days prior to the date of the hearing;

NOW, THEREFORE, BE IT RESOLVED THAT a public hearing before the Common Council of the City of Wauwatosa is hereby scheduled for April 5, 2005 in the matter of whether the Wauwatosa Public Library will withdraw from the Milwaukee County Federated Library System at the end of the year 2005,

BE IT FURTHER RESOLVED THAT a Class I Notice of this proposed hearing shall be published and notice of the hearing shall be given by registered mail no less than 30 days prior to the hearing date to the governing body of every other municipality participating in the Federated Library System, to the Federated Library System Board and to the Wisconsin Department of Public Instruction.

It was moved by Ald. Kopischke, seconded by Ald. Krol to approve the foregoing resolution. Ayes 15, Noes 1 (Sullivan)

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-05-38

WHEREAS, the city’s Community Development Block Grant for 2005 will be less than original projections;

WHEREAS, due to decreased CDBG funding levels all applicants and projects will likewise require a funding level less than originally approved by the Common Council in November, 2004;

WHEREAS, to achieve a fair and equitable reduction all proposed applicants and projects will each receive 3% less funding than the amount approved by the Common Council on November 2nd, 2004;

WHEREAS, these revised funding recommendations were reviewed and approved by the Budget & Finance Committee on February 8th, 2005;

NOW, THEREFORE BE IT RESOLVED THAT the Common Council of the City of Wauwatosa approves the revised use of \$1,357,568 in 2005 CDBG funds for the following purposes:

<u>Admin & Planning - \$258,900</u>		\$5,800	Tosa Food Pantry
\$121,000	Admin	\$4,800	Tosa for Kids
\$26,600	Metro Fair Housing		
\$38,700	Water Study		
\$24,200	WEDC Economic Dev. study		
\$48,400	TIA study		
<u>Public Services - \$203,460</u>			
\$148,300	Senior Center		
\$15,500	Interfaith		
\$10,180	ARC Milwaukee		
\$10,180	Elena's House		
\$8,700	PEP Program		
			<u>Public Facilities, Econ Devp, Rehab - \$822,100</u>
		\$313,500	Storm Sewers
		\$186,200	Sanitary Sewers
		\$246,700	Water mains
		\$48,300	WEDC
		\$22,600	Lead Abatement Program
		\$4,800	Badger Assoc for the Blind
			\$73,108 - Contingencies

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-05-39

WHEREAS, the purchasing department solicited bids for a two year contract for the printing of the "City Watch" Neighborhood Watch Newsletter ending December, 2006; and

WHEREAS, 5 bid responses were received and tabulated by the Purchasing Manager and are attached to his memorandum dated January 24, 2005; and

WHEREAS, the low bidder was A to Z Printing, a company which has previously performed the contract satisfactorily;

NOW, THEREFORE, BE IT RESOLVED THAT the bid of A to Z Printing for printing of the City Watch Neighborhood Watch Newsletter at a cost of \$1,100.00 per issue during a two year period ending December, 2006, is hereby approved as being in the best interest of the City.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-05-40

WHEREAS, the Wauwatosa Engineering Department will be unable to provide water main replacement design, contract administration and inspection services to the Wauwatosa Water Utility for a project scheduled along Swan Boulevard in the area of Christ King Church and School in the City of Wauwatosa during the summer of 2005; and

WHEREAS, the Water Utility solicited proposals for a professional services contract for the provision of these services from qualified engineering firms; and

WHEREAS, the proposal of the firm of Graef, Anhalt, Schloemer and Associates, Inc. correctly identified the critical needs of the City and is the best overall proposal relative to the scope of the project, with a maximum fee of \$19,820.00; and

WHEREAS, the funding for this service has no impact on the City tax roll, as it will be funded entirely through the Wauwatosa Water Utility;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to enter into the professional services contract with Graef, Anhalt, Schloemer and Associates, Inc. for water main replacement design, contract administration and inspection services in an amount not to exceed \$19,820.00 for the Swan Boulevard water main replacement during the summer, 2005.

It was moved by Ald. Bruderle-Baran, seconded by Ald. Stepaniak to approve the three foregoing resolutions. -16

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 2/2/05 – 2/15/05 --

The Committee on Budget and Finance hereby reports to the Common Council that it has examined the accounts of bills and claims and hereby certifies the same as correct and recommends that each of said accounts be allowed and paid.

Total bills and claims for 2/2/05 – 2/15/05: \$897,552.76

It was moved by Ald. Casey, seconded by Ald. Maher that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote, Ayes 16

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-05-41

WHEREAS, Contract 03-4, Storm Sewer Spot Improvements was approved at the bid amount of \$154,305.00; and

WHEREAS, after amendments during the execution of the contract, the total cost of the contract was \$169,578.00, which is below the originally budgeted amount of \$206,040.00;

NOW, THEREFORE, BE IT RESOLVED THAT the final payment of Contract 03-4, Storm Sewer Spot Improvements, in the amount of \$5,000.00, is hereby approved.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-05-42

WHEREAS, JCH Water Meter Testing and Repair has performed testing of large water meters for the Wauwatosa Water Utility since 1995; and

WHEREAS, by letter dated February 1, 2005, JCH has agreed to maintain the same pricing for conducting this testing during the year 2005 as when the service began in the year 1995;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa is hereby authorized to issue a purchase order for the testing and repair of large water meters during the year 2005 to JCH Water Meter Testing and Repair of Wauwatosa, WI, and the competitive bidding process is hereby waived.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-05-43

WHEREAS, WE Energies has approached the city to participate in a pilot program allowing them to control air conditioning units in commercial and industrial buildings, and

WHEREAS, the public works building air conditioning units qualify for this pilot program, and

WHEREAS, the labor union and the employees in the areas have agreed to participate recognizing that the information gained by the pilot program is for the greater public good, and

WHEREAS, there is a small financial incentive for participation,

NOW THEREFORE BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does hereby authorize the Director of Public Works to act as its agent as a participant in the WE Energies C/I AC Load Control Program, and

BE IT FURTHER RESOLVED THAT appropriate city officials are directed to assist in this matter as appropriate.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-05-44

WHEREAS, the Wauwatosa Purchasing Manager solicited proposals from nurseries to meet the City's requirements for trees to be planted during the Spring season; and

WHEREAS, the responses are outlined in a table attached to the February 8, 2005 memorandum of the Purchasing Manager to the Board of Public Works; and

WHEREAS, different nurseries provided prices most advantageous to the City depending upon particular tree types and related costs for purchase;

NOW, THEREFORE BE IT RESOLVED THAT purchases of trees from nurseries as recommended in the February 8, 2005 memorandum of the Purchasing Manager are hereby approved.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-05-45

WHEREAS, the Common Council of the City of Wauwatosa did, by a resolution passed and dated December 16, 2003, approve and adopt a report of the Board of Public Works in connection with repaving, and work appurtenant thereto, in the following streets:

<u>Assessed</u> <u>Street & Location</u>	<u>Ald.</u> <u>Dist.</u>	<u>Exist&(Prop)</u> <u>Width</u>	<u>Pavement</u> <u>Constr. Type</u>	<u>Sdwk.</u> <u>Work</u>
N. 70TH ST. St. James St. to Blanchard St.	4	24'	B	Yes
N. 70TH ST. Blanchard St. to 340' N of Blanchard	4	30'	B	Yes
N. 113TH ST. North Ave. to 350' N of North Ave	7	30'	C	No
N. 116TH ST. North Ave. to Center St	7	36'	C	No
N. 123RD ST. Diane Dr. to Cul-de-sac	7	30'	C	No
BLANCHARD ST N. 70th to N. 71st St	4	26'	B	Yes
* BLUE MOUND RD N 60th St. to N. 66th St.	4	60'	A-Conc	Yes
CLARKE ST N. 61st St. to N. 68th St.	5	30'	B	Yes
GLENDALE AVE N. 100th St. to East End	8	40'	C	No
HILL ST Glenview Ave. to N. 85th St.	3	30'	B	Yes
HOPE AVE N. 92nd St. to W Palmetto Ave	8	30'	C	No
MARION ST N. 92nd St. to N. 95th St	8	30'	C	No
MEINECKE AVE N. 68th St to N 74th St	5	24'	B	Yes
PORTLAND AVE N. 76th St to Kavanaugh Pl	3, 4	36'	C	No
RIVER PARK CT Hoyt Park Dr to Cul-de-sac	2	36'	C	No
WALNUT RD N 116th St to N 124th St	7	36'	C	No
ALLEY from Fiebrantz to Sarasota/ N. 99th St to N 100th St/north portion	8	20'	A-Conc	No
ALLEY from Fiebrantz to Sarasota/ N. 99th St to N 100th St/south portion	8	20'	C	No
ALLEY from Jackson Park Blvd to Stickney/ 90th St. to Swan Blvd.	2	20'	C	No
ALLEY from Jackson Park Blvd to Stickney/ Swan Blvd to Stickney	2	20'	C	No
ALLEY from Meinecke Ave to North Ave/ 101st to 102nd	6	20'	C	No
ALLEY from Stickney to Menomonee Riv Pkwy/ 91st St to Swan Blvd	2	18'	C	No

* Joint project with the City of Milwaukee (Milwaukee lead agency).

WHEREAS, the construction of the improvement above-described having now been completed in the aforementioned streets, it is the desire of the Board of Public Works to place the special assessments on the tax roll.

WHEREAS, it is the desire of the Board of Public Works to adjust the assessments for approaches and service walks, contained in said report, in relation to the costs of construction involved.

WHEREAS, the Director of Public Works has prepared amended special assessments taking into account the aforementioned differences.

NOW, THEREFORE, BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin, as follows:

Section 1. That the special assessments for paving set forth in the aforesaid reports of the Board of Public Works, approved by resolution passed and dated as listed are hereby directed to be entered upon the tax roll as hereinafter set forth and as reiterated in the special assessments attached hereto.

Section 2. That the attached amended special assessments for approaches and service walks, against the respective lots, tracts, and parcels of land abutting on the aforementioned streets be and the same are hereby approved and adopted and are directed to be entered upon the tax roll as hereinafter set forth.

Section 3. That the owners of the respective parcels of land fronting or abutting the street improvements on which public hearings have been held and preliminary assessments have been confirmed, shall have payment of the special assessments scheduled as follows:

(a) Each special assessment and special charge, pursuant to Section 66.0627 of the Wisconsin Statutes, levied in an amount of \$200 or less against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in one installment.

(b) Each special assessment for improvements levied in an amount exceeding \$200. against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in five equal annual installments of principal together with interest at the rate of twelve percent (12%) per year or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the sale of corporate purpose bonds, which include the project which is the subject of the special assessment, whichever figure is less, on the unpaid balance of said assessment. Individual assessments shall run concurrently except as provided under Section 3.08.040 of the City Code.

(c) Each special assessment levied against any parcel of land in the City of Wauwatosa for the installation of sanitary sewer main or water main or construction of permanent street pavement shall not be entered in the tax roll until all installments of special assessments for sanitary sewer or water main or construction of permanent street pavement levied previously against the same parcel of land have been entered into the tax rolls and have been paid. Such subsequent special assessment shall be deferred and only interest at the rate of twelve percent (12%) per year, or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the issuance of General Obligation Debt, which include the project which is the subject of the special assessment, whichever figure is less, on such subsequent special assessment shall be carried into the tax rolls in addition to the scheduled installments of such prior assessments. After the last installment of such prior special assessment has been entered in the tax rolls, installments of the subsequent special assessment shall, beginning with the next subsequent tax roll, be entered in the tax rolls pursuant to Section 3.08.030 of the City Code.

(d) Whenever special assessments are levied against the frontage and side of a corner parcel of land in the City of Wauwatosa for the installation of sanitary sewers or water mains or construction of permanent pavements arising out of the same public works project, such special assessments levied against a corner parcel of land shall be deemed to be two separate special assessments, and the special assessment levied against the frontage of the corner parcel of land shall first be scheduled on the tax rolls for payment as provided in Section 3.08.030 of the City Code and the special assessment levied against the side of the corner parcel of land shall be scheduled on the tax rolls pursuant to (c) above, following such scheduling of the special assessment levied against the frontage of the corner parcel of land.

(e) Notwithstanding the provisions of (c) and (d) above, any owners of parcels of land assessed may at their option elect to pay both the scheduled installments of prior assessments as well as scheduled installments of subsequent special assessments on the same tax rolls as entered on those tax rolls pursuant to Section 3.08.030 of the City Code.

(f) If, after special assessments have been placed on the tax rolls in installments or otherwise, the taxpayer fails to pay the same within the time allowed for payment of general taxes, the same shall become delinquent and shall be treated in the same manner and subject to the same laws as delinquent general property taxes.

Section 4. That the City Clerk publish the installment assessment notice, as by Section 66.54 of the Wisconsin Statutes provided, including therein that the owners of the property benefited by said improvement may elect within thirty (30) days from the date of said notice to pay the said assessment on their property on or before the next succeeding November 1.

It was moved by Ald. Herzog, seconded by Ald. McCarthy
to approve the five foregoing resolutions. -16

There being no further business, the meeting adjourned at 8:37 p.m.

cal

Carla A. Ledesma, CMC, City Clerk