

CITY OF WAUWATOSA
MEMORIAL CIVIC CENTER
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917
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COMMON COUNCIL
Regular Meeting, Tuesday, July 17, 2007

PRESENT: Alds. Stepaniak, Treis, Becker, Birschel, Didier, Donegan, Ewerdt, Grimm, Hanson, Krill, Krol, Maher, Meaux, Minear, Purins -15

EXCUSED: Ald. Herzog

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Chief Weber; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Mayor Estness in the Chair

The Mayor called the meeting to order at 7:35 p.m.

It was moved by Ald. Grimm, seconded by Ald. Didier that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -15

PUBLIC HEARING

The first item was a public hearing concerning the following proposed ordinance:

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 24.02 DEFINITIONS AND CHAPTER 24.04.110 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS AND COURTS

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

Part 1. Chapter 24.02 is amended to add the following:

24.02.518 Trellis.

A frame of lattice work used as a screen or as a support for climbing plants. The trellis, exclusive of the planting materials, shall not exceed a maximum opacity of 50%. The length of a trellis shall not exceed the maximum trellis height, which is six feet. Not an arbor.

Part 2. Chapter 24.04.110 is hereby amended to read as follows:

Obstructions	Residential District				
	Front Yards	Rear Yards	Side Yards- Interior	Side Yards- Abutting a Street	Courts
Trellises	P 14	P 14	P 14	P 14,15	P 14

14 No more than two freestanding trellises per yard side.

15 On side yards abutting a street, a trellis may be placed the side of a yard along the side street provided that it is at least 18 inches off of the side property line and does not obstruct the vision triangle. The vision triangle is an area formed by measuring 20 feet along each property line from the corner where the two street sides of the property meet. Connecting these two lines with a diagonal line completes the triangle and forms the corner vision triangle.

Part 3. This ordinance shall take effect and be in force from and after its passage and publication.

Proof of publication is in the file.

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI,

The City Plan Commission, to whom was referred the request by city staff for a zoning code amendment to create trellis regulations, recommends to the Common Council that the request be approved.

Dated this 11th day of June 2007.

Nancy L. Welch, Secretary
City Plan Commission

No one of the public present wished to be heard in favor of the proposed ordinance.

Greg Zeimet, 2350 N. 91st Street spoke in opposition to the proposed ordinance. A ten-year resident, Mr. Zeimet installed a 4.5-foot fence some years ago, followed by a trellis with plantings. Both he and the neighbors feel it is an attractive addition to the yard and provides some measure of privacy. This proposed ordinance would take away a resident's right to install other ornamentation besides a fence. Will the height of bushes and trees be regulated next?

No one of the public present had any other comments or questions. The public hearing was declared closed. Ordered held to the Community Development Committee meeting on July 31, 2007.

PUBLIC HEARING

The second item was a public hearing concerning the following proposed ordinance:

ORDINANCE

AN ORDINANCE AMENDING CHAPTERS 24.23 AA BUSINESS DISTRICTS AND CHAPTER 24.24 AA COMMERCIAL DISTRICTS TO ALLOW CONVENIENT CASH BUSINESSES AS A

CONDITIONAL USE AND CREATING SECTION 24.46.100 ESTABLISHING RESTRICTIONS UPON THE LOCATION OF CONVENIENT CASH AND OTHER SIMILAR ESTABLISHMENTS

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

Part 1. Chapter 24.23 AA Business is hereby amended to add convenient cash businesses as a conditional use subject to Section 24.46.100.

Part 2. Chapter 24.24 AA Commercial is hereby amended to add convenient cash businesses as a conditional use subject to Section 24.46.100.

Part 3 Section 24.46.100 is created to read as follows:

A. Purpose.

The purpose of this chapter is to provide for the regulation of convenient cash and other similar establishments.

It is recognized that convenient cash businesses have the potential to be harmful to the public welfare, both in regards to the community harmony and with respect to potential effects on the quality, aesthetics and functional aspects of the community. The purpose of regulating convenient cash services is to ensure compatibility with surrounding uses and properties and to avoid an unchecked proliferation of convenient cash services that may result in the displacement of other necessary commercial and financial services.

Such businesses tailor their services to make them attractive to persons experiencing unfavorable economic circumstances, often aggravating those circumstances. Additionally, it has been found that through their business practices, convenient-cash businesses are susceptible to attracting criminals seeking to commit robberies. Finally, when clustered in an area or strung out along an arterial street, such concentration creates an unwarranted negative impression regarding the economic vitality of a commercial district and the community at larger. Based on their proliferation, their susceptibility to crime, and the negative effects of their proliferation, the Common Council finds that the health, safety and welfare of the residents of the City of Wauwatosa should be protected by legislation limiting the geographic proliferation of convenient-cash businesses.

It is therefore the intent of this title to regulate the locations and hours of operation of convenient cash businesses in the City of Wauwatosa.

B. Definition.

“Convenient cash business” is a business licensed pursuant to Wis. Stats. Secs. 218.05 or 138.09, engaged in the “payday loan business”, “title loan business”, “currency exchange business” (also know as “check cashing”), or any other substantially similar business. Convenient cash businesses do not include financial institutions as defined below. For purposes of this code the following definitions apply:

1. “Business” includes an individual or individuals, firm, partnership, association, corporation, limited liability company or any other business entity.
2. “Currency Exchange business” means in accordance with Sec. 218.05, Wis. Stats., any business except banks incorporated under the laws of this state and national banks organized pursuant to the laws of the United States and any credit union operating

under Ch. 186, Wis. Stats., pursuant to a certificate of authority from the Wisconsin commissioner of credit unions, engaged in the business of and providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or nonnegotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state, who in the course of such business or profession and, as an incident thereto, cashes checks, drafts, money orders or other evidences of money.

3. "Financial Institutions" means any business authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan associations and credit unions. This term does not include a currency exchange, payday loan business or a title loan business.
4. "Payday loan business" means a business that provides unsecured loans with an initial term of 91 days or less in which the amount borrowed does not exceed \$2,000 and is usually for a period from the time of the loan until the borrower's next payday for which the lender charges either fees or interest for the loan.
5. Title loan business any business providing loans to individuals in exchange for receiving title to the borrower's motor vehicle as collateral.

C. Location and operation of convenient cash businesses.

1. Convenient cash businesses shall not be located within two thousand (2000) feet of any other convenient cash business.

2. Convenient cash businesses shall not be located within five hundred (500) feet from a residential district (use?) as measured by the shortest line between the parcel to be occupied by the proposed convenient cash facility and the property line of the nearest residential property.

3. Hours of operation. Convenient cash businesses shall not operate between the hours of 9:00 p.m. and 9:00 a.m.

4. Business shall keep a glass entrance and exit doors with all windows clear of any signs or advertisements.

5. The building or portion thereof that is dedicated to the check cashing use shall have a minimum size of 1500 square feet of building floor area.

6. All convenient cash businesses shall purchase and provide to the City of Wauwatosa, based upon specifications provided by the city, one outdoor surveillance camera and wireless subscription module [total cost not to exceed five thousand dollars (\$5000.00)] to be positioned in close proximity to said business at a location determined by the City. The City shall be the owner of this equipment and responsible for its repair and upkeep.

7. Applicant must provide a security plan that addresses the following:

- a. Limits on amount of cash immediately available for withdrawal
- b. Lighting plan for the business showing both exterior and interior lighting.
- c. Plans for maintaining visibility into the interior of the check cashing facility.
- d. Plans for security of the check cashing area of the facility.
- e. A program for graffiti and litter abatement.
- f. Hours of operation.
- g. Use of security guards and cameras plan.

8. It strongly recommended that the convenient cash business work with the City and the police department to allow specific access by the police department to interior security cameras in the event of an emergency.

Part 4. This ordinance shall take effect and be in force from and after its passage and publication.

Proof of publication is in the file.

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI,

The City Plan Commission, to whom was referred the request by city staff for a zoning code amendment for convenient cash businesses, recommends to the Common Council that the request be approved.

Dated this 11th day of June 2007.

Nancy L. Welch, Secretary
City Plan Commission

The following members of the public present wished to be heard in favor of the proposed ordinance:

Dennis McBride, 7003 Cedar Street, a resident and present on behalf of Milwaukee Inner City Churches Allied for Hope (MICAHA), spoke in favor of the proposed ordinance, both from a moral standpoint and for the continued positive redevelopment of North Avenue. Typically these establishments charge very high interest to customers and tend to prey on the poor. Their presence is neither good for residents nor business.

Karen Freiberg, 2031 Martha Washington Drive, another member of MICAHA and a home owner, opined that these businesses prey upon people who can least afford their fees. The presence of this business will not enhance property values on the east side of Wauwatosa.

Lisa Williams, 1935 Underwood Avenue, noted that while these kinds of businesses are legal, it has been difficult for the state to regulate them. This is the city's chance to make a positive impact on a negative business.

Mary McCarthy, 2223 N. 70th Street, stated that much effort has gone into the redevelopment of North Avenue and the improvements are valued. Locating this business on North Avenue will be a major detriment to that effort.

The following members of the public present registered in favor of the proposed ordinance, but did not speak:

Donald Hill, 6434 W. North Avenue
Melissa/Phillip Theesfeld, 2217 N. 63rd Street
Meg Miller, 2466 N. 72nd Street
Jeff DeCora, 2021 N. 71st Street
Jason Thom, 2550 N. 65th Street
Victoria Ostry, 1409 N. 64th Street
Ruth/Pat O'Donnell, 2449 N. 73rd Street

Conor Williams, 1935 Underwood Avenue
Eileen Bussler, 2207 N. 65th Street
Gregory Zeimet, 2350 N. 91st Street
Mary Beth Geiger, 2376 N. 64th Street
Scott Koranda, 2374 N. 65th Street
Nicholis/Jennifer Maxwell, 2409 N. 62nd Street
Lois Kohl Marks, 10507 W. Auer Avenue

Ed Heiser, Whyte, Hirschboeck, Dudek, 555 E. Wells Street, Milwaukee, spoke in opposition to aspects of the proposed ordinance as a representative of EZ Corp. His client is a short-term lender, and not a check-cashing establishment. It is licensed by the state. Customers come to EZ Corp – EZ Corp does not go door-to-door soliciting business, nor do they call potential customers. Patrons of this kind of business know why they are going there – for a short-term loan. Customers find themselves facing an emergency and they need money; this is the need that short-term lenders fill. EZ Corp is not a rent-to-own company. A law did pass the state legislature containing many restrictions on this type of industry; however, Governor Doyle vetoed it. The industry had provided input on this bill.

In addressing the proposed ordinance, Mr. Heiser took exception with the wording, “Such businesses tailor their services to make them attractive to persons experiencing unfavorable economic circumstances, often aggravating those circumstances.” A typical EZ loan customer has a median income of \$40,000. He noted that while the firm’s terms might be \$20 per \$100 borrowed, a bank’s \$29-per check overdraft fee on a checking account is also very high. All EZ customers have checking accounts; they are eligible for credit cards, and are free to apply for bank loans. However, they choose to patronize a short-term lender. The firm is not a predatory lender.

Mr. Heiser again referenced the wording of the proposed ordinance, “...convenient-cash businesses are susceptible to attracting criminals seeking to commit robberies” and opined that this is simply untrue. Their stores are well-lit, in contrast to some poorly-lit ATM machines which *are* attractive to criminals.

EZ Corp does not oppose this ordinance, but is seeking some reconsideration: Rather than the ordinance stating where these types of businesses *cannot* be located, please outline areas acceptable for their operation. Allow the business the opportunity to post some window signs, just as other retailers are allowed to do. Existing EZ Corp outlets, for example, currently post signs advising patrons of the use of surveillance cameras on premises. EZ Corp uses a sophisticated surveillance system already; the proposal to require installation of an additional outside surveillance camera and the hiring of a security guard ought to be more flexible in light of this fact.

In response to a question by Scott Koranda, 2374 N. 65th Street, the mayor stated that this issue would be considered at the next Community Development Committee meeting on July 31, 2007. The public hearing was declared closed.

APPOINTMENTS BY THE MAYOR

Citizens Advisory Solid Waste Recycling Committee

Deb Karpfinger, The Flower Lady, 1460 Underwood Avenue
(Term ends 5/30/10)

Committee for Citizens with Disabilities

Susan Klawein, Respite and Recreation Director, Kindcare Easter Seals, 7111 W. Center Street
Bridget Bannon, Director, Milwaukee County Office for Persons with Disabilities, 901 N. Ninth Street, Milwaukee
(Terms end 12/31/10)

It was moved by Ald. Birschel, seconded by Ald. Krill
to concur with the foregoing appointments. -15

APPLICATIONS, COMMUNICATIONS, ETC.

1. Milwaukee Metropolitan Sewerage District 2006 Comprehensive Annual Financial Report and Proceedings of the 2006 Commission meetings
Place on file
2. City of Wauwatosa Statement of Financial Condition as of 6/30/07
Place on file
3. Letter from Delbert Reynolds, Director, U.S. Dept. of Housing & Urban Development Milwaukee Office, informing the city that its 2007 entitlement funding is available for the Community Development Block Grant Program
Director of Community Development
4. Letter from Ald. Birschel requesting enactment of a retaining wall maintenance ordinance
Director of Community Development, Chief Inspector, Director of Public Works
5. Letters from Jean Radtke, President, Tosa Taxpayers Alliance, requesting to appear before the Employee Relations Committee on July 24th and July 31st regarding health insurance
Director of Human Resources, City Administrator
6. Letter from Mrs. Jane Miller, 1224 N. 117th Street, expressing her support for maintaining the Health Department at its current level
Place on file

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-157

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT permission be and the same is hereby granted to Mark Riggio and Teresa Jennings and Mary and Jeffrey Kartz to divide the parcel located at 1120 N. 124th Street, Wauwatosa. This parcel is more particularly described as follows:

Parcel 1 of Certified Survey Map No. 2784 as approved by the City of Wauwatosa Common Council on September 16, 1975, and

A portion of 1112 N. 124th Street more accurately described as commencing at the southwest corner of Certified Survey Map No. 2784 thence easterly 24.29 feet, thence southerly 4.90 feet, thence westerly along the same bearing of the south line of Certified Survey Map No. 2784 26.30 feet said point being on the west Right-of-way of N. 124th Street, thence northerly along the west line of N. 124th Street 4.90 feet, thence 2.01 feet easterly to the point of beginning., being a subdivision of a part of the Northwest ¼ of the Southeast ¼ and the Northeast ¼ of the Southwest ¼ of Section 30, in Township 7 North, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin.

All in accordance with the survey 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-07-158

WHEREAS, Mitchell Braverman, agent for AT&T, and AT&T Wisconsin have applied for a Conditional Use in the AAA Single Family Residence District at 3116 N. 106th Street for a pad mounted fiber conversion cabinet, 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Mitchell Braverman, agent for AT&T, and AT&T Wisconsin for a pad mounted fiber conversion cabinet in the AAA Single Family Residence District at 3116 N. 106th Street subject to the following conditions:

- 1) contingent upon AT&T obtaining all permits, licenses, franchises and permissions required under federal, state or local law prior to AT&T’s commencement of the use of the facilities to provide any video programming or other programming services, as those terms are defined in 41 U.S.C. Section 522, as amended, to subscribers in the City, and
- 2) AT&T agrees it will not use the facilities described in this Conditional Use Permit as part of a network for the provision to subscribers in the City of video programming or other programming service, as those terms are defined in 47 U.S.C. Section 522, as amended, unless AT&T provides the City Clerk 30 days’ prior written notice, with a copy to the City Attorney.
- 3) except for the grant of this Conditional Use Permit by the City of Wauwatosa, this action by the city shall not constitute nor be construed as a grant of any other permit, license, franchise or permission otherwise required under federal, state or local law, and
- 4) screening to the highest degree possible with a mix of fencing and shrubbery; and
- 5) addressing safety of fiber conversion cabinets, and
- 6) resolution of the noise and transformer concerns, and
- 7) changing labels posted on cabinets from orange to a less obtrusive white, and
- 8) obtaining all other necessary licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-159

WHEREAS, Mitchell Braverman, agent for AT&T, and AT&T Wisconsin have applied for a Conditional Use in the AA Single Family Residence District at 2369 N. 61st Street for a pad mounted fiber conversion cabinet, 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Mitchell Braverman, agent for AT&T, and AT&T Wisconsin for a pad mounted fiber conversion cabinet in the AA Single Family Residence District at 2369 N. 61st Street subject to the following conditions:

- 1) contingent upon AT&T obtaining all permits, licenses, franchises and permissions required under federal, state or local law prior to AT&T's commencement of the use of the facilities to provide any video programming or other programming services, as those terms are defined in 41 U.S.C. Section 522, as amended, to subscribers in the City, and
- 2) AT&T agrees it will not use the facilities described in this Conditional Use Permit as part of a network for the provision to subscribers in the City of video programming or other programming service, as those terms are defined in 47 U.S.C. Section 522, as amended, unless AT&T provides the City Clerk 30 days' prior written notice, with a copy to the City Attorney.
- 3) except for the grant of this Conditional Use Permit by the City of Wauwatosa, this action by the city shall not constitute nor be construed as a grant of any other permit, license, franchise or permission otherwise required under federal, state or local law, and
- 4) screening to the highest degree possible with a mix of fencing and shrubbery; and
- 5) addressing safety of fiber conversion cabinets, and
- 6) resolution of the noise and transformer concerns, and
- 7) changing labels posted on cabinets from orange to a less obtrusive white, and
- 8) obtaining all other necessary licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-161

WHEREAS, Ned Brickman and David Birdsall have applied for a Conditional Use in the AA Business District at 2717 N. Mayfair Road for a restaurant with outdoor dining, 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 Ned Brickman and David Birdsall for a restaurant with outdoor dining in the AA Business District at 2717 N. Mayfair Road subject to the following conditions:

- 1) hours of operation to be 11:00 A.M. to 10:00 P.M., and
- 2) obtaining any required licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-162

WHEREAS, Gary L. Vogel has applied for a Conditional Use in the Business Planned Development District at 2930 N. 117th Street for outdoor dining, 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Gary L. Vogel for outdoor dining in the Business Planned Development District at 2930 N. 117th Street subject to the following conditions:

- 1) hours of operation to be 11:00 A.M. to midnight, and
- 2) obtaining any required licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-163

WHEREAS Craig A. Ewald has applied for a Conditional Use in the AA Business District at 1728 and 1750 N. Mayfair Road for the display, sales, and service of Airstream recreational 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Craig A. Ewald for the display, sales, and service of Airstream recreational vehicles in the AA Business District at 1728 and 1750 N. Mayfair Road subject to the following conditions:

- 1) hours of operation to be 9:00 A.M. to 9:00 P.M Monday through Friday and 9:00 A.M. to 5:00 P.M. on Saturday, and
- 2) obtaining any required licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-164

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, September 18, 2007, in the City Hall of the City of Wauwatosa, Wisconsin at which time

all persons interested, or their agents or attorneys, will be heard concerning the adoption of a public participation plan to be used during the formulation of a City Comprehensive Plan.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

It was moved by Ald. Treis, seconded by Ald. Krill to approve the seven foregoing resolutions. -15

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION

WHEREAS, Lincoln Fowler has applied for a Conditional Use in the AA Business District at 9125 W. North Avenue for a restaurant with outdoor dining, 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Lincoln Fowler for a restaurant with outdoor dining in the AA Business District at 9125 W. North Avenue subject to the following conditions:

- 1) hours of operation to be 6:30 A.M. to 11:00 P.M on the interior and 6:30 A.M. to 9:00 P.M for outdoor dining, and
- 2) completion of landscaping requirement per Common Council Resolution R-06-85, and
- 3) obtaining any required licenses and permits.

It was moved by Ald. Treis, seconded by Ald. Birschel to approve the foregoing resolution and to amend it to provide that outdoor dining hours be from 7 a.m. to 9 p.m., and on the west side of the building only. -15

It was further moved by Ald. Treis, seconded by Ald. Hanson to install landscaping on the north side of the building, not to permit outdoor dining on that side at present, but to perhaps consider it at a future time when the landscaping is proposed. Roll call vote, Ayes 10, Noes 5 (Becker, Didier, Ewerdt, Grimm, Maher)

The amended resolution is as follows:

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

AMENDED RESOLUTION R-07-160

WHEREAS, Lincoln Fowler has applied for a Conditional Use in the AA Business District at 9125 W. North Avenue for a restaurant with outdoor dining, 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Lincoln Fowler for a restaurant with outdoor dining in the AA Business District at 9125 W. North Avenue subject to the following conditions:

- 1) hours of operation to be 6:30 A.M. to 11:00 P.M on the interior and 7:00 A.M. to 9:00 P.M for outdoor dining on the west side of the building only, and
- 2) completion of landscaping requirement per Common Council Resolution R-06-85, and
- 3) obtaining any required licenses and permits.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-165

WHEREAS, the 2006 approved budget contains \$60,000.00 to replace an air compressor for the Department of Public Works; and

WHEREAS, the City of Wauwatosa Fleet Manager recently found a Milwaukee County Highway Department bid for a compressor which would meet the needs of Wauwatosa, but at a price that will allow 2 such compressors with appropriate accessory equipment to be purchased at a total price of \$29,432.50, resulting in a savings of over \$30,000.00; and

WHEREAS, the use of 2 new air compressors with appropriate attachments would aid in the increased necessity to utilize such compressors, especially for the purposes of graffiti removal, which appears to be increasing;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to purchase 2 air compressors with appropriate accessories at a total cost not to exceed \$29,432.50 consistent with the description in a memorandum of the Director of Public Works on July 3, 2007, utilizing the Milwaukee County Highway Department bid from Volvo Corporation.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-166

WHEREAS, the City of Wauwatosa previously authorized an expenditure of \$30,000.00 as a matching share of the Wisconsin Department of Natural Resources grant to assist with restoration of a wall at Schoonmacher Creek in the City of Wauwatosa; and

WHEREAS, the total projected project cost is \$120,000.00, with \$60,000.00 being reimbursed from the DNR upon project completion and \$30,000.00 to be paid by the Washington Homes Association; and

WHEREAS, previously approved funds for this project in 2006 were not carried over at the year's end and such funds lapsed into the Stormwater Reserve, but remain available for this purpose;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby reauthorized to utilize \$30,000.00 in Stormwater Reserve funds along with \$30,000.00 from the Washington Homes Association and \$60,000.00 to be reimbursed by the Wisconsin Department of Natural Resources upon completion of the project for purposes of Schoonmacher Creek wall restoration as previously approved by the Common Council of the City of Wauwatosa.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-167

WHEREAS, the City Attorney's office has requested an additional transfer from the Reserve for Contingencies for interim funding for litigation costs related to the matter of Covenant Healthcare v. City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the amount of \$64,419.15 is hereby transferred from the Reserve for Contingencies to the City Attorney Sundry Contractual Services Account to fund immediate and known litigation and litigation support expenses in the property tax exemption matter of Covenant Healthcare v. City of Wauwatosa.

It was moved by Ald. Stepaniak, seconded by Ald. Maher to approve the three foregoing resolutions. -15

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 7/4/07 – 7/17/07 --

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 7/4/07 – 7/17/07: \$1,238,168.77

It was moved by Ald. Meaux, 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 15

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-07-168

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Edward and Susan Frey, 2374 N. 117th Street, Wauwatosa, WI, to encroach onto City right-of-way along 116th Street with landscape plantings, subject to the applicants executing unto the City of Wauwatosa an indenture setting forth the terms, provisions and conditions relating to the granting of the aforesaid permission by said City to said applicants.

It was moved by Ald. Maher, seconded by Ald. Birschel to approve the foregoing resolution. -15

There being no further business, the meeting adjourned at 8:20 p.m.

cal

Carla A. Ledesma, CMC, City Clerk