CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917
Fax: (414) 479-8989

COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, October 25, 2005

PRESENT: Alds. Becker, Birschel, Kopischke, Krill, Krol, Sullivan, Treis (8:40 p.m.) -7

EXCUSED: Ald. Subotich

ALSO PRESENT: N. Welch, Community Dev. Dir.; F. Knapp, Bldg. Insp.; A. Kesner, City Atty.; T. Wontorek, City Admin.; Ald. Grimm, 4th Dist.

Ald. Kopischke as Chair called the meeting to order at 8:27 p.m. -6

Conditional Use – 10101 W. Capitol Drive

The Chair announced that the application by Bishop Joseph Tompkins and Jose Gonzales for a Conditional Use in the AA Business District at 10101 W. Capitol Drive to operate a day care has been withdrawn.

Conditional Use for Massage Therapy Establishment at 8722 W. North Avenue

The committee reviewed a request by Lauri Ashley for a Conditional Use in the AA Business District at 8722 W. North Avenue for a massage therapy establishment within an existing salon. Ms. Welch reported that the application had a scheduling conflict and was unable to attend tonight's meeting. She was previously approved to operate a massage therapy establishment at another location in Wauwatosa. Massage therapy has previously been offered at this location. The use meets all parking requirements. The Plan Commission unanimously recommended approval.

Moved by Ald. Krill, seconded by Ald. Krol to recommend approval of the Conditional Use. Ayes: 6

Conditional Use for Coffee Shop/Café at 6226 W. North Avenue

The committee reviewed a request by William Konstan for an expansion of a Conditional Use in the North Avenue Trade District at 6226 W. North Avenue for a coffee shop/café. Ms. Welch reported that this is an expansion of the use that was approved several months ago. The planned expansion will help with the kitchen layout, but restaurant seating will not increase dramatically. The approved hours of operation are 6 a.m. to 11 p.m. daily. The Plan Commission unanimously recommended approval.

William Konstan, 2332 N. 57th Street, Milwaukee, said he would appreciate having the extra room to spread out the layout of this small café. This space will increase seating by 5-10 people. Also, he might be able to have a small personal office in the basement in the future.

Matthew Mikolajewski of the Wauwatosa Economic Development Corporation (WEDC), 1430 Underwood Avenue, reported that WEDC has made a conceptual offer of a CDBG grant to assist with the tenant buildout of this space and supports this request.

Moved by Ald. Sullivan, seconded by Ald. Krol to recommend to Council approval of the Conditional Use. Ayes: 6

Expiration of Building Permit – 1354 N. 65th Street

The committee reviewed a memo from the Chief Inspector regarding expiration of a building permit for an addition to the rear of an existing residence at 1354 N. 65th Street. In accordance with the city code, the city may either extend the time period in which to complete construction or have the structure razed. The Chief Inspector recommended extending the time limit for completion to two years from the date of the permit along with payment of a permit fee equal to the original fee. The permit would expire on March 19, 2006.

Building Inspector Fred Knapp reported that the city received a request from the owner, Drew Noll, in May for an extension of time due to an accident he had suffered. That extension was granted but the work was not completed. In a letter dated September 3, 2005, Mr. Noll requested an additional extension or reissuance of the permit, which would require Council action. Mr. Noll was present and briefly acknowledged that work was delayed by his accident.

Dave Sundell, 6426 Vista Avenue, said he supports granting an extension. He said the property has not looked good for the past 15 years and he supports what Mr. Noll is trying to do. He questioned why neighbors were notified of this meeting but didn't receive notice of the original permit. Mr. Kesner explained that notification requirements are based on particular uses or the status of each change.

Ald. Birschel recalled it taking 13 years to complete a particular home in Wauwatosa many years ago. Considering that the neighbors are supportive, he said he would favor allowing Mr. Noll to complete the work.

Moved by Ald. Birschel, seconded by Ald. Krol to recommend that Council grant an extension of time as outlined by the Chief Inspector –

Ald. Krol recalled another property that was under construction for a number of years and caused some neighborhood concerns. He agreed that the neighbors seem supportive here and Mr. Noll is trying to improve the property.

Vote on the motion, Ayes: 6

Expiration of Building Permit – 2254 N. 61st Street

Mr. Knapp reported on the matter of expiration of a building permit for a rear addition to a residence at 2254 N. 61st Street. He said that the owner, Dean Sokol, proceeded with footing and foundations without the required inspections and also installed under-floor plumbing without a permit. The city subsequently ordered the footing, foundation, and plumbing removed for noncompliance with both state and city codes. The owner appealed that order to the Board of Public Works and was granted a conditional extension, but the conditions were not met and no progress was made. At this point staff recommends not renewing the building permit and having the foundation filled back in.

Mr. Sokol said that he has a pre-trial conference coming up in municipal court on November 28 on a siding citation. He requested an extension to that date since he plans to have the house siding done and the addition framing up and sided as well by that time. He believed that the issues of the foundation and plumbing had been resolved. The only plumbing below grade is actually a floor drain.

Mr. Knapp indicated that the floor drain could be accepted when tested. He explained that re-siding is a property maintenance issue for which a citation was issued and two extensions granted. He referred to letters and orders on the building permit going back to 2004. Although extra time was granted, no substantial modifications occurred.

(Ald. Treis present. -7)

Eric Gravenkamp, 2258 N. 61st Street, said that neighbors are frustrated and want things to move forward. He agreed that the foundation should be filled in due to the lack of progress in the last several years. Kelly Gravenkamp, 2258 N. 61st Street, presented photos of current conditions at the site. Not only has this project not been completed but numerous others were started and not completed either. She felt that completing the project would help raise the value of her own home.

David Kern, 2246 N. 61st Street, said the work done represents a lot of expense and is well done. He would like nothing better than to see it finished and would favor an extension if that is a promise that it will be done.

William Groff, 2243-45 N. 61st Street, said he bought his property four years ago, invested $40,000 over a brief period, and raised its value. During that time, he has seen nothing but deterioration of the exterior view of this property. He would support an extension with penalties if not met. Sharon Groff, 2245 N. 61st Street, said her parents have done amazing improvements to their home in a three-month time period and will soon be completing a garage within a month's time. She said the Sokols are great people but what they have in their backyard is equivalent to an in-ground pool with no fence, which is a safety issue. Ms. Groff said other neighbors have abided by the rules and she saw no reason to extend the permit. She has a real estate license and believes this situation does not help anyone's value on this street.

Mr. Sokol reiterated his intent to have the work done by November 28th. He said he would be willing to sign something regarding penalties, or the inspector could make a progress report every week.

City Attorney Kesner clarified that it is the municipal judge who has granted extensions on the property maintenance citation to complete the siding work. He pointed out that, by state law, when a governing body of the city issues a raze order, they are required to provide a time to comply as part of that order. The city could take action to have the project razed if work is not completed by the date ordered.

Ald. Becker said that the permit was issued in 2002 and the required two-year period has passed. He has talked to a lot of people in the area about this, and most feel it should be razed. This is not an easy decision but a fair decision for the people of the neighborhood. If Mr. Sokol subsequently wants to start again, restrictions could be in place. Ald. Becker said that he believes in strict enforcement of property maintenance and is disappointed this has gone on for so long.

Moved by Ald. Becker, to recommend that this project be razed --

Asked about a time frame, Mr. Knapp said that razing this project would involve talking out the block and footings and backfilling, which could be done within 30 days. There was further discussion of the need to establish a date certain by which compliance is achieved or a raze order issued. In order to allow Mr. Sokol to continue, the

building permit would have to be reinstated. Mr. Knapp questioned the level of completion being sought. Ald. Becker indicated that the outside should at least be done, which would satisfy the neighbors.

> Ald. Becker restated the motion, seconded by Ald. Sullivan to extend the building permit and require exterior completion by December 1, 2005, or the structure will be ordered razed –

Responding to questions from Ald. Krill, Mr. Sokol indicated that he has the time set aside and will have help to enable him to complete the work by December 1. Ald. Krill urged him to consider bringing in contractors to help, considering that the alternative of razing if not completed in time could be very expensive. Ald. Birschel concurred with the motion but was skeptical of the chances for completion.

Questioned by Ald. Treis, Mr. Knapp explained that the property maintenance violation on the siding is for the existing structure. Mr. Sokol intends to side the addition at the same time. The addition size was identified as 12 ft. by 14 ft. Mr. Knapp felt that the property would be an asset to the city when completed. He said that a common fee today for finishing an addition of this size is about $100 per square foot, but that can vary greatly. In response to further questions, Mr. Sokol explained that he incurred about $10,000 in water damage due to improper roofing work. Although he recouped the damages, at that point he decided to do all the work himself. He also felt that people who gave him bids were not competent or their prices were outrageous. He said that he does plan to hire siding people due to the current time frame.

Ald. Treis asked if a day-by-day fine could be imposed if work is not completed on time or if there is anything else that could be done as a means of encouragement. Mr. Kesner said that such a fine is not defined as an option. The municipal court judge could impose a per-day fine or forfeiture in connection with the property maintenance citation. He felt that the final date to either complete the work or raze is strong encouragement.

Ald. Krol felt that doing this work in a month is a tall order based on his own experience in buying and fixing up houses in Wauwatosa. The Chair commented that he will support the motion out of consideration for the neighbors.

> Vote on the motion, Ayes: 7

(The meeting recessed at 9:26 and reconvened at 9:32 p.m.)

<u>Rezoning and Preliminary Plan Approval – 6745 W. Wells Street</u>

The committee reviewed a request by William Ibach for a Change of Zoning from AA Medical Clinic District to Business Planned Development District and Preliminary Plan Approval for a mixed use development at 6745 W. Wells Street. Ms. Welch reported that the site first came before the Plan Commission over a year ago and has gone through various iterations in meetings with city committees and the neighbors. The project currently consists of 3,210 sq. ft. of commercial/retail space with 12 condominium units above. The building is essentially two stories with third floor lofts for four of the units. There would be 11 public parking spaces for the commercial portion and 25 secure underground spaces for residential. There has been much discussion about the site, the consensus being that the concept of mixed use is not inappropriate. Concerns have related to the massing of the building, details of the design, how it fits on the site, and how it will change that location. The former medical clinic on the site has been vacant for three years. If the project proceeds, the engineering department would need to review final details for storm and sanitary sewers before final approval. Other issues include sewer credits and some hard

engineering relative to parking lighting, grading, and utilities. Precise details of the final plan are needed before proceeding with some of those determinations.

The Chair noted that when the final plan comes forward it would have to meet all the conditions this committee might lay out on the preliminary plan. Ms. Welch emphasized that all issues should be identified in the preliminary process.

William Ibach, 2347 N. 100th Street, said he and his wife own the subject property. He has been a Wauwatosa resident for 59 years. The first presentation to the Plan Commission was on September 9, 2004. . Following that meeting and public comment, they completely redesigned the project, reducing it from 14 to 12 condominium units and from 4,000 sq. ft. of commercial space to 3,210.

Jack Shepherd, 500 N. 99th Street, noted that the first commercial building on this site goes back to 1910. The proposed building is two stories on each side. The loft area is simply four bedrooms within the attic on the north side of the building, similar to a use that may have occurred at various times above Rose's Flower Shop across the street. More underground parking has been introduced as well as a significant amount of landscaping covering 24% of the site, or 34% with the green space between the sidewalk and curb. This is more landscaping than any commercial building ever on this site. With the exception of the dental office on the west side of 68th Street, there is no landscaping on most of the nearby commercial properties. Mr. Shepherd noted that some earlier plans are still in circulation, but the *current* plan shows 25 underground, spaces. The 11 additional spaces available for customers or guests would be covered by the second level. At present the property pays approximately $8,000 in property taxes for the empty building and lot. Using last year's tax rate and the value the developers have estimated, they would initially pay about $70,130, which is before next year's citywide revaluation. Mr. Shepherd noted the high ceilings planned for the first floor, which will be 14 feet floor to floor, taking advantage of the fact that the property immediately behind is six feet higher. The north elevation will have the 14 ft.-high commercial space and a single level of two-bedroom condos above. They believe the units will most likely appeal to "empty nesters" and people working in Wauwatosa rather than families with children. Mr. Shepherd said that the questions raised by the Design Review Board were responded to as the process moved along. Their two motions for approval had tie votes on both occasions. Members commented that they felt it was an attractive building but they were concerned about neighbors' comments about the mass of the building and sent it to the Plan Commission for an opinion in that regard. The developers believe it is a comfortable fit for a mixed use building, that it reflects the neighborhood, and that it provides residential character. They do not expect that the commercial space will contain any type of fast food use.

Mr. Shepherd reported that he mistakenly told some people who called him today that it was unlikely that they would be allowed to speak at this meeting. He found out later that was not correct.

Pam Kramer, 3516 W. Old Oak Drive, Greenfield, owner of 805-817 N. 68th Street, said she believes that the building is too large but is unsatisfied with response to that viewpoint at the various city meetings she has attended. The Design Review Board said that the size is not under their jurisdiction but the mayor later said that it is. The size doesn't make sense on that lot in a neighborhood with more homes than businesses. The building's surface is something that the Design Review Board questioned at each of their meetings. Residents will be looking at a cement block building. Also, traffic in this area is heavy, being a route into and out of Wauwatosa from the freeway. Responding to some comments made at other meetings, Ms. Kramer said that whether this is a good investment for Mr. Ibach should not be their responsibility. Regarding a comment that they can't match the old buildings in the neighborhood, she said that is what the Design Review Board is for—to make it look similar to what is there. Countering comments that more condos are needed in the city, she said that is no reason to "shove this down the throats" of the neighborhood. She felt that 11 parking spaces for employees, businesses, and guests

is inadequate and noted that there will be at least 15 air conditioners on the south side of the building adjacent to residents. She commented on the amount of green space and questioned how something can get this far with so many questions. She said the property should be a parking lot, green space, or another medical center.

Fred Haase, 6614 W. Wisconsin Avenue, said he is on the board of the neighborhood association and has handled business memberships for the past 10 years. He is concerned about the density of the building and feels they are trying to put as many people in that building as there are in the entire block to the east. Although the third floor is not complete, it still looks like a three story building, which is objectionable to neighbors. Most of the surrounding buildings are one story high; only a portion of the Rose's Flower Shop building is 2 ½ stories. A building accommodating 6 or 8 families might be acceptable, he said, but 12 condos plus three businesses is too much. He noted that only three of the people who have spoken in favor live in the neighborhood, but all who have spoken in opposition are neighborhood residents.

Mike Newman, 6630 W. Wisconsin Avenue, said this is probably the fifth meeting he has attended on this project and typically a majority of the neighbors expressed opposition. There were large numbers at the Design Review Board meetings where 3-3 and 4-4 votes were recorded. He questioned how it can be before this committee when it hasn't passed the Design Review Board. They had grave concerns—at least four members registered their opposition. This seems to be a reasonable proposal aside from its size. If it had six residences and three businesses, there probably wouldn't be legions of immediate neighbors showing up meeting after meeting.

Dorothy McLatchie, 6710 W. Wisconsin Avenue, supported a smaller building with more green space.

Louis Corrao, 6742 W. Wisconsin Avenue, said he is also speaking for the neighbor immediately to his east. The proposed building would extend the full length of his property. It does not have enough green space and doesn't fit into the neighborhood. It is significant that the Design Review Board failed to pass it on two different occasions and saw it as a three-story building. There is traffic congestion in this area, and 68th Street is a speed corridor. Mr. Corrao reported that a number of residents approached Mr. Ibach last year and suggested a meeting to submit their ideas, but he wasn't willing to meet. The people who spoke in favor at the public hearing don't live in the area, but he lives right behind the site. He urged the committee not to approve a zoning change.

Ginnie Sue Haase, 6614 W. Wisconsin Avenue, said she has attended nearly every meeting since last September and typically there have been many neighbors speaking in opposition, the primary concern being size. She believes the concept of the commercial space is a good idea but there are too many condos. Residents adjacent to the south elevation will have a massive wall of balconies and windows looking down on their house, which will devalue their property to some degree.

Ald. Grimm said he is disturbed with a statement by the city planner that a higher density level is the only way to make development of this site financially feasible. He feels the project is much too big. He cited the two tied Design Review Board votes and also noted potential problems with snow removal. Although the developers have reported that they knocked on neighbors' doors and received a largely positive response, he has been told that residents were presented with a set of plans and had no input. Most of those who have spoken in favor live far away. Ald. Grimm also noted that it has been said that he accepted a lunch from Mr. Shepherd, which is untrue. Mr. Shepherd has apologized for the misunderstanding, but Mr. Ibach has not.

Mr. Shepherd disagreed that the Design Review Board ever said this is a three-story building. It was his impression that the board agreed that it was the same as the flower shop building across the street, as did the Plan Commission. He said that people from outside the neighborhood were, for the most part, Wauwatosa residents who are interested in owning a condo.

Ms. Welch was asked to explain the process for planned development proposals. She said that the ordinance requires review of the preliminary plan by the Plan Commission, Design Review Board, and Community Development Committee. Both the Plan Commission and Design Review Board are advisory bodies that make a recommendation. Their approval is not required and they cannot stop the process. It is the Common Council that makes a final decision on approval or denial of an application. The tie vote of the Design Review Board seems to indicate a mixed opinion on their recommendation. They function as an aesthetic review board, making aesthetic judgments on context, scale, and mass. There is a difference between the aesthetic concept of size and the more literal concept of size, which relates to such things as the number of units, setbacks, and lot coverage, all part of the zoning ordinance. Some of the confusion results from overlaying of some of those issues. The Plan Commission rules on physical aspects and Design Review over aesthetic aspects. Upon this committee's recommendation, the Common Council would vote on both the zoning change and the preliminary plan, including any recommended conditions. The developer would then need to refine the details of the plan and come back with a final plan, again through the Plan Commission and this committee. The Design Review Board could be part of that final approval process, although the idea is that the final plan lays out compliance with conditions set by this committee.

Asked by the Chair about records of the Design Review Board's deliberation, Ms. Welch said that they do not keep complete minutes. Her conversations with the chair indicate that the members had divided feelings on the plan. This committee could ask them to revisit the issue or prepare a more substantial report.

Ald. Birschel reported that he has attended all the meetings on this proposal. He noted that neighbors have asked for concessions and the developers have complied. He contrasted the lot size of approximately 100 ft. by 146 ft. with specific residential lots of varying sizes that have huge homes accommodating up to 8-10 residents. On the question of homogeneous architecture, he said that the building occupied by Simma's is not at all homogeneous with the building housing Rose's but it adds to the flavor of the area. The height of Rose's is actually greater than the proposed building. There have been comments in favor by several area residents and businesspeople. Ald. Birschel said that he would vote in favor of the rezoning and preliminary plan based on his review.

Ald. Becker said that although the flower shop section of the building across the street is probably the same size, the rest of the building levels off to one story. There is a parking lot behind that building, so adjoining residents do not actually face a building wall. The fact that the Design Review Board did not come to an agreement sends up a red flag, he felt. He saw this as a great project that may call for some compromise on size. He suggested sending the matter back to the Design Review Board.

Ald. Krol agreed with Ald. Birschel that size is not really an issue. Even if it were one story, it would still create a wall to the south for adjoining property owners. The exterior treatment seems to be attractive. With a variety of architecture styles on the four corners, it would be difficult to choose one that would be compatible with everything else. It seems that a lot of effort has gone into trying to work within the city's guidelines and the different commissions involved, but it may be appropriate to turn it back over to the Design Review Board.

Ald. Treis asked what could be built there under current zoning. Ms. Welch replied that it would accommodate medical uses such as another clinic up to 2 ½ stores and 35 feet in height. Ald. Treis then asked if the zoning change could be acted upon separately. Ms. Welch said that there is a precedent to rezone to Business Planned Development without approving a preliminary plan. Uses under Business Planned Development would be subject to the approval of this committee and the Common Council.

Moved by Ald. Treis, seconded by Ald. Krol to recommend to Council

adoption of the ordinance rezoning 6745 W. Wells Street from Medical Clinic District to Business Planned Development –

The Chair expressed some reservation with proceeding with a zoning change without some kind of plan going forward. Ms. Welch said that under Medical Clinic District zoning there are prescribed uses, whereas Business Planned Development zoning gives the Common Council control but there are essentially no guidelines. If a new developer came in on this site, there would be nothing to tell him what might be acceptable.

There was further discussion on the merits of proceeding with rezoning including comments on the degree of Common Council control implicit in Business Planned Development zoning.

Vote on the motion, Ayes: 5; Noes: 2 (Kopischke, Becker)

Mr. Kesner outlined the available options regarding the preliminary plan under consideration: recommend approval as presented; recommend denial; recommend approval with specific conditions; hold it; or send it to some other body for further review.

Moved by Ald. Krol, seconded by Ald. Becker to forward the preliminary plan to the Design Review Board for further review –

Ald. Becker said he would like them to look at and give some direction on the building's mass.

The Chair said that he would prefer asking for a fuller report. Since they are an advisory board, their approval is not needed in order to move forward. Ms. Welch said the Design Review Board does not typically have a clerk taking official minutes. Any comments recorded are those that the chair or members write down on each item.

With consent of the second, Ald. Krol amended the motion by adding that a clerk should be present to record the board's comments –

Ald. Becker asked if those supporting and opposed to the project would be allowed to speak during the board's review. Mr. Kesner said that it would not be a full due process type of hearing. Ms. Welch added that the Design Review Board is there to provide technical expertise, similar to when staff submits an engineering report. Opinions either for or against are irrelevant, but answers to questions of fact would be appropriate. Although the Design Review Boards are typically staffed by building inspectors, she will attend the review session.

The Chair asked about the mention of a line of air conditioners on the south side of the building. Mr. Ibach said they would be in groups on the roof and would be screened. He doubted that there would be any noise problems. The cooling tower now on the site creates a lot more noise than all the air conditioners combined. The Chair then asked how close to the curb the building would be and how that compares with others in the area. Mr. Ibach said it would be 5 feet back from the sidewalk on Wells Street and 6-8 feet back on 68th Street.

Vote on the motion, Ayes: 5; Noes: 2

<u>Proposed Ordinance – Fences</u>

Mr. Kesner distributed copies of the latest version of changes to Chapter 15.28 of the Code, first reviewed at the previous meeting. It includes some of the changes discussed then regarding fence materials, horizontal boundary,

and a provision that the police and fire departments may prescribe additional restrictions when necessary for public safety purposes.

Mr. Kesner noted that Ald. Birschel has submitted a draft of an additional section stating that no fence shall be constructed that "…impedes, hinders, or prohibits access, vehicular or otherwise, to abutting properties, or impedes, hinders, or prohibits maintenance of structures or landscaping features of said abutting properties."

> Moved by Ald. Sullivan, seconded by Ald. Krill to recommend adoption of the proposed ordinance with the suggested additional section –

Mr. Kesner cautioned that the additional section would actually prescribe what a neighbor could do on his own property. While the intent is understood, we cannot require someone to allow a neighbor to cross their property line.

Ald. Birschel described situations where residents can't get to an air conditioner, can't open a car door, or can't cut their own grass because of a neighbor's fence. The Chair said that the concern here would be with creating a property right to a buffer zone. A person does not have the right to push a fence back because it impedes getting to an air conditioner; that air conditioner should have been placed far enough away from the property line to avoid that problem. Mr. Kesner added that there are setback requirements within the code that would apply in those situations.

> With consent of the second, Ald. Sullivan restated the motion: to recommend adoption of the ordinance as submitted by the City Attorney. Ayes: 7

Community Event Videos

Reviewing his memo of October 20, 2005, Mr. Wontorek outlined an inquiry from Time Warner Wisconsin on Demand about airing videos of Wauwatosa community events on Channel 1111, Wisconsin on Demand. Municipalities provide their own videotapes or DVDs to Time Warner for inclusion on the channel. Mr. Wontorek recommended providing video recordings of city-sponsored events such as the July 4th parade and National Night Out. There is no cost to the city other than the cost of the DVD or tapes.

It was the consensus of the committee to provide video recordings of city-sponsored community events to Time Warner Wisconsin on Demand. The Chair suggested periodic counts on viewership.

Enforcement of Sign and Zoning Ordinances for Detached Ornamental Features

It was the committee's consensus to hold this matter until the next meeting.

Update on threatened litigation between the State of Wisconsin, Milwaukee Metropolitan Sewerage District, and member communities

> Moved by Ald. Krill, seconded by Ald. Birschel to convene into closed Session per Wis. Stat. 19.85(q)(g): Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, with the option of reconvening into open

session. Ayes: 7

The committee convened into closed session at 11:10 p.m.

The meeting adjourned at 11:32 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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