



CITY OF WAUWATOSA
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COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, January 30, 2007

PRESENT: Alds. Birschel, Didier, Donegan, Herzog, Krill, Meaux, Treis -7

ALSO N. Welch, Community Development Dir.; A. Kesner, City Atty.; Chief D. Redman, Deputy Chief
PRESENT W. Rice, Fire Dept.; J. Archambo, City Admin.

Ald. Treis as Chair called the meeting to order at 8:17 p.m.

Land Division – 9125 W. North Avenue

Ms. Welch explained that on April 4, 2006, the Common Council approved division of this site into three parcels. It was not possible to record the land division with the Milwaukee County Register of Deeds following preparation of the necessary documents, however, because more than six months have passed since Council approval. A new resolution approving the land division is needed so that the appropriate documents can be filed.

Moved by Ald. Krill, seconded by Ald. Herzog to recommend to Council adoption of a resolution approving the land division. Ayes: 7

Conditional Use – 4373 N. 92nd Street

The committee reviewed a request by Don Soderberg for a Conditional Use in the AA Single Family Residence District at 4373 N. 92nd Street for a worship and fellowship hall. Ms. Welch reported that the church would like to construct a 17,000 sq. ft. addition that will house new worship space and a fellowship hall. Existing space would be converted to classroom use for church members. The Plan Commission unanimously recommended approval. Don Soderberg, 2880 N. 117th Street, was present.

Moved by Ald. Herzog, seconded by Ald. Donegan to recommend to Council approval of the Conditional Use. Ayes: 7

Conditional Use – 12217 Watertown Plank Road

The committee reviewed a request by Joseph Kresl of Hawks Nursery for a Conditional Use in the AA Single Family Residence District at 12217 Watertown Plank Road for a retail addition. The Plan Commission unanimously recommended approval. Joseph Kresl, 12600 Gre Moor, Elm Grove, was present and indicated that the additional retail space will be constructed at the west end of the existing building.

Ms. Welch reported that a 2,980 sq. ft. retail addition and an 8,300 sq. ft. storage building were originally proposed, but the applicant dropped the storage building request when it became apparent that he had no details on it and there was some neighborhood concern. At this point, most neighbors' concerns seem to be resolved, although the applicant is requested to work with the city to resolve as many of the drainage and stormwater issues as possible.

Moved by Ald. Krill, seconded by Ald. Donegan to recommend to Council

approval of the Conditional Use. Ayes: 7

Conditional Use – 8828 W. North Avenue

The committee reviewed a request by William Poull of The Club Tap for a Conditional Use in the AA Business District at 8828 W. North Avenue to modify outdoor dining hours of operation and conditions. The Plan Commission unanimously recommended denial.

Ms. Welch reported that Mr. Poull initially applied for patio hours of 7 a.m. to 10:30 p.m. He also requested lifting of the requirement for alcoholic beverages to be served there only in connection with the consumption of food. The Plan Commission heard comments from neighbors, and there have been a number of recent e-mails, copies of which were provided to the committee. It was the opinion of the Plan Commission regarding outdoor service along North Avenue where adjacent to residential to maintain consistent 9 p.m. hours for all. Ms. Welch later reported that a check with the police department indicated there have been no problems with the business or the outdoor patio.

Bill Poull, 3810 Sunnycrest Drive, Brookfield, said that since his request for earlier hours met with great disapproval, he is asking only for an additional hour in the evening. He is also requesting use of the patio at any time during those hours without the requirement of food service, which is similar to a number of places in the Village area that operate later than 9 p.m. One has outdoor hours of 6 a.m. to 2 a.m. every night and can go until 2:30 a.m. on Friday and Saturday. This is an AA Business District, just like State Street. Mr. Poull said that a beer garden is not the image he wants, as claimed by one member of the Plan Commission. He wants to provide a place for people to enjoy Lalli's pizza beyond 9 p.m. The distance from the patio to the first property behind The Club Tap is about 180 feet. It would be rare for patio noise to travel over the building or around the corner to affect residents. There were no problems last year at all; none of the concerns about excessive drinking outdoors were realized. In answer to what he termed undeserved attacks on his integrity and his business, he said he runs a good, clean business where nothing gets out of hand. He outlined his financial support for McKinley School playground improvements, the Pasadena Neighborhood Association, the flag display on North Avenue, Friends of Tosa Red Raiders, an annual breast cancer bike ride fundraiser, and a raffle that earned \$500 for the food pantry. If his request is granted, he suggested coming back for review again in November, as occurred in 2006. He later reported that the patio seats a maximum of 16.

Comments in opposition by Neal Spear, 2335 N. 89th Street; Leo Tramm, 8712 Jackson Park Boulevard; Russ Drover, 9116 Jackson Park Boulevard; Karen Tramm, 8712 Jackson Park Boulevard; Kelly Kritz, 2329 N. 89th Street; Scott Bolte, 8836 Jackson Park Boulevard; Janet Blair, 2326 N. 89th Street; Leanne Jaques, 2341 N. 89th Street, included the following:

- Lack of excessive drinking on the patio during past summer can be attributed to the food requirement; releasing that contingency makes it another ballgame.
- Very small space, only about 5-1/2 feet between patio and curb—they are a sidewalk tavern.
- Who supervises drinking on the patio?—bartender cannot see that far.
- This is not the right image for this area of North Avenue; State Street has a different environment.
- Residents are very close; houses behind are separated by an alley and there are apartments on North Avenue.
- Proposal expands business at the expense of the neighborhood.
- Patio tends to grow louder as it gets later, and it is 7 days per week.
- Conditional Use is not a property right; it has to be established in line with the needs of the neighborhood.
- Allowing liquor without food will not serve the best interest of the neighbors; original use more appropriate.
- Many older homes in the area don't have air conditioning, noise is heard through open windows.

- North Avenue businesses shut down at 9 p.m.; after that, people can enjoy pizza on their own patio.
- Noise from The Club Tap is loud; do not want children kept up at night because of their parties.
- Club Tap has tried to pull the wool over the eyes of this committee with continuing requests.
- A bar that is one block from a grade school should not have asked to be open at 7 a.m.
- Concerned with bar on sidewalk, drunks, liquor without food.
- There are noise issues in the summer with people greeting each other and revving engines at bar closing time.
- Concerned about police coverage if drinking hours are extended. (The Chair assured residents that the city is and will continue to be fully protected at all times.)
- There are no other businesses on North Avenue that warrant a time beyond 9 p.m.

(Ald. Treis turned the Chair over to Ald. Herzog at 8:40 p.m. and reassumed the Chair at 8:56 p.m.)

Peter Subotich, 2557 N. 82nd Street; Richard Bachman, 2229 N. 115th Street; Jennifer Costigan, 2433 N. 88th Street; Dan Orth, 8837 Stickney Avenue; Andrew Grassel of Colonel Harts, 7342 W. State Street, and Mike Berg, 2323 N. 88th Street supported the request with comments including the following:

- Have never seen any problems in 16 years in the neighborhood, driving past at early morning closing; got only one call as alderman of the district for five years
- Club Tap has been a good neighbor to the Neighborhood Association and school.
- Those with complaints should contact Mr. Poull so that he can address them.
- In trips up and down North Avenue all summer, never saw the motorcycles mentioned in news article.
- When dining on patio, have enjoyed beverages separately before pizza arrived.
- Pedestrians in the Village have to walk single file past outdoor tables because of the lack of space.
- Business is no different than those in the Village, and all should be treated the same.
- There are homes close to the State Street businesses with patios, but here they are around the corner and down the street.
- Enjoy being able to walk to The Club Tap and sit on the patio with friends who also live in the area—extra hour would be great.
- Pasadena Neighborhood Association meets there, and The Club Tap donates to the association's trick or treat event.
- Nothing gets out of control; one extra hour is not too much.
- Don't understand how neighbors can possibly hear anything from the patio.
- Been operating with a patio from 11 a.m. to 10 p.m. without any problems since taking over Colonel Hart's almost three years ago. There are residents to the east, west, and immediately north, which is probably closer than any are to The Club Tap.
- If Colonel Hart's, Hector's, Bartolotta's, Vino 100 are granted these hours, Club Tap should be also.

Asked about compromising, Mr. Poull indicated that the extra hour would be more important than dropping the requirement for food. He had requested 7 a.m. to cover some bike ride events and didn't want neighbors to think there would be drinking at 7 a.m. He requested removal of the food requirement to be consistent with other businesses that have outdoor seating.

Alds. Krill and Birschel spoke in favor of extending the hours to 10 p.m., noting Mr. Poull's good record and similar operations in the Village. Ald. Meaux supported keeping existing conditions without extending the hours, but suggested that it could be looked at again in a year. Ald. Donegan deferred to the district alderperson.

As a representative of the district, Ald. Herzog said he has not received any complaints about the patio from neighbors. He would like to see more consistency throughout the city. If patio use is allowed until 2 a.m. in the Village, it would be a good compromise to allow it until 10 p.m. here at least on weekends. The patio's hours do not affect problems that occur at the 2 or 2:30 a.m. closing time, he noted.

Ald. Didier noted noise concerns but also spoke of considerations related to future development. It would be difficult to deny a future establishment extended hours if a precedent is set now. The Village is a much more distinct area, she felt. There is a need for consistency within each area, not citywide.

Moved by Ald. Didier, seconded by Ald. Meaux to keep the conditions as they now exist with food required along with beverages and with a 9 p.m. patio closing. Roll call vote, Ayes: 2; Noes: 5 (Birschel, Donegan, Herzog, Krill, Treis) Motion fails.

Moved by Ald. Krill, seconded by Ald. Meaux to recommend approval of the Conditional Use with extended hours to 10 p.m. and to allow alcohol to be consumed without food service –

Ald. Krill accepted an amendment from Ald. Meaux to restrict 10 p.m. closing to Friday and Saturday only –

Ald. Krill declined to accept an amendment from Ald. Didier to retain the food requirement –

Ald. Meaux withdrew his amendment and second.

Moved by Ald. Krill, seconded by Ald. Herzog to recommend approval of the Conditional Use with extended patio hours to 10 p.m. for Friday and Saturday nights and elimination of the requirement for food –

Ald. Herzog said that as a Conditional Use, this approval could be taken away by the Common Council at any time if there is a violation or any problems. He told residents to e-mail him or Mr. Poull with any concerns.

Ald. Krill accepted an amendment by Ald. Herzog to revisit the use in November –

Ald. Didier reiterated her concerns, seeing it as a “bait and switch” some months after the original approval. She mentioned Christ King and McKinley students passing this area and said that North Avenue is different from the Village. As redevelopment occurs, there needs to be a point of reference good for all businesses and the community as a whole.

Vote on the motion, Ayes: 5; Noes: 2 (Didier, Meaux)

(The committee recessed at 9:31 p.m. and reconvened at 9:39 p.m.)

Fire Department Facility Study – Proposed RFP

Moved by Ald. Donegan, seconded by Ald. Didier to remove this item from

the agenda due to the hour, the remaining issues to be discussed, and the need to review the RFP information submitted thus far. Ayes: 7

Installation of New Transit Shelters with Illuminated Advertising

Held from the previous meeting was a request by David Jasenski, Clear Channel Outdoor, to install new transit shelters with illuminated advertising under a Clear Channel contract with the Milwaukee County Transit System.

Mr. Kesner reported that he has investigated the committee's question of whether this type of advertising could be allowed in such a way that it wouldn't give the owner some type of property right to continue to do it into perpetuity. There have been situations in the past where billboards have been grandfathered into sign code changes because of an assertion of such a property right. The Council could prevent any property right from attaching by simply, at the time of approval, stating an end date or date certain that would end the right to have the signs in that location and put the owners on notice that there is no property right attached or right to have the advertising into perpetuity.

Ms. Welch reminded the committee of other issues such as placement within city right-of-way, location of the electrical source, snow removal, and other issues that should be discussed if there is a decision to proceed. She noted that the Public Works Director has stated that these shelters could not be run off the city street lighting system.

John Balzer, 7808 Geralayne Circle, said that as someone who has lived in the city for 10 years and takes pride in how the city looks, he feels that this would cheapen the look of the city. He strongly encouraged not opening the door to this type of installation.

Dan Palmer, Clear Channel Outdoor, 908 Silvernail Road, Pewaukee, distributed photos of 10 locations in Wauwatosa that they feel might be acceptable to the city. They are in commercial areas and are not next to schools, city hall, or the library. Regarding electrical connections, he said that where the Milwaukee street lighting system is on a circuit with a circular setup similar to Christmas lights, they are not able to tap in. In areas without that system, they do have access to the power grid and are billed once a year. In other cases, they go to adjacent property owners for power or work through WE Energies.

Ald. Krill said he wanted to hear from the City Attorney about legal issues but did take to heart comments that were made on the concept of this type of advertising and believes it is not the type needed in the city. He submitted for the file articles he found dealing with digital billboards used by Clear Channel, the concept of the constantly growing number of things for people to look at, and an article on a lawsuit challenging rights to erect billboards.

Ald. Meaux asked about other communities that Clear Channel has approached. Mr. Palmer said they are in discussions with West Allis and Waukesha. There has been some discussion with Glendale, and they are planning to talk to Shorewood where there is some interest in making the shelters part of streetscaping plans. None of those cities has committed to the shelters.

Referring to the photos presented by Mr. Palmer, Ald. Herzog pointed out that one proposed location is directly next to a crosswalk, which could distract drivers from noticing that warning sign. Another site conflicts with overhead direction signs directing drivers to health care at the medical complex. Despite being told that none were near residential areas, Ald. Herzog pointed out that the proposed site next to Serafino Square is residential and is not near any commercial establishments.

Moved by Ald. Didier, seconded by Ald. Krill to recommend to Council denial of the request for authorization to install new bus shelters with illuminated advertising. Ayes: 7

Multi-Jurisdictional Support for Park Development at Hartung Quarry Site

The committee reviewed a memo from the Director of Public Works forwarding a proposed resolution supporting the City of Milwaukee's plans to convert Hartung Quarry into a park and to seek Stewardship Grant funding for the project, with Phase I to be developed in 2008. Mr. Kappel reported that the draft resolution was approved by Wauwatosa's Parks and Forestry Board. The quarry site is along Menomonee River Parkway approximately between W. Keefe and W. Concordia Avenues. Owned at one time by the City of Wauwatosa, it was deeded to Milwaukee for use as a clean-fill site with the intent that it would become parkland when the landfill is closed/capped, which is expected within the next three or four years. Working with a group of neighbors brought together by Milwaukee Ald. Bohl, a landscape architect who is a Wauwatosa resident drafted the park plan provided in the committee's packets. Milwaukee proposes to develop the western portion of the property before the entire site is filled, primarily beginning with parkland in the corridor in the far southwest corner adjacent to Keefe Avenue and Menomonee River Parkway. The proposed resolution supporting that development will help give Milwaukee a better chance of obtaining the types of grants for which Hart Park would not qualify. The park would serve both Milwaukee and Wauwatosa. There would be no fiscal impact on Wauwatosa.

Lynne Woehrle, 10121 W. Highwood Avenue, a board member of the Hartung Park Community Association, which is a group of Milwaukee and Wauwatosa residents, noted that the Park Ridge neighborhood area does not have a park, although they have access to the Menomonee River Parkway land. Phase I development includes a play area, and there also are plans to create an environmental education experience to teach children about their neighborhood and the historical artifacts found underground in the quarry. The park community association endorses the process of creating the park as a joint effort since it affects both Milwaukee and Wauwatosa.

Ald. Grimm was present at this time and expressed a safety concern about the lower elevation of the street to the east of the park and also asked about possible plans by Milwaukee for condominiums there. Ald. Treis responded that the street to the east is in Milwaukee and probably is the highest point of the property. There has been some thinking about residential structures along the east and west sides of the overall park, but there is some uncertainty since acquisition/demolition of existing properties would be involved. Mr. Kappel added that the option of residential units would require using non-fill areas. There are some limited lots that could be developed in the northwest corner and along the east side of the fill, adjacent to 99th Street and wrapping around to the east side and to the northwest corner where there are existing condos. Acquiring the existing condos and putting in single-family homes or condos is being considered because proceeds from the sale of lots could be used for park development. The great majority of the site, however, will be parkland. Mr. Kappel noted that he is familiar the location of the fill areas because of his responsibility for the site while employed by the City of Milwaukee.

Ms. Welch was asked about the need for rezoning and indicated that she will look into that question.

Richard Bachman, 2229 N. 115th Street, a member of the Parks and Forestry Commission, said the commission reviewed the plans quite thoroughly and endorsed it 100%. He felt this would be a good benefit for the city.

Ald. Didier asked about potential impact on services such as policing and also was concerned about how graffiti would be addressed. Mr. Kappel said that discussions of police response with Ald. Bohl and his staff centered on this park and Center Street Park, which also abuts both communities. In essence, both police departments will

respond if there is an issue. He noted that often Wauwatosa police are able to respond a lot quicker. Graffiti responsibility is among the issues still to be discussed.

Moved by Ald. Birschel, seconded by Ald. Krill to recommend to Council adoption of a resolution of support. Ayes: 7

Development of Hart Park

Following a presentation to the Common Council's Committee of the Whole last week, Mr. Kappel said that this committee is being asked to look at the elements of the proposed park development and then forward it to the Budget & Finance Committee for discussion of funding. The plan can be moved ahead as it stands or direction on changing it can be given. Mr. Kappel noted that there was a lot of community input involved in getting to this point and asked what further information the committee would like from staff on the proposed elements. One element that was not included as the plan progressed is basketball courts, which had been a problem in the past and would not be supported by the recreation department.

Ralph McCarthy, 1665 N. 117th Street, said he served as an alderman for 21 years and initially ran on the issue of improving the Village area of the city. He endorsed approving the park plan in concept as another part of that effort.

Richard Bachman, 2229 N. 115th Street, a member of the Parks and Forestry Commission and a former alderman, said that the cost has risen \$1.5 million over the course of discussions. There were two public hearings, and the plan was also viewed by many at a concert in Hoyt Park in August. The Parks Board also had input from the design group and an ad hoc committee. Mr. Bachman recommended approval of the plan as presented, feeling that it will be of benefit to the city as a whole and to State Street and will generate a lot of tax base.

Committee members acknowledged the amount of work already put into the plan by the community, consultants, Parks Board, and staff and discussed how to proceed. Ald. Herzog suggested making a prioritized "wish list" of things that *should* be there, *maybe/could* be there, and *shouldn't* be there to assist in their deliberations

Various elements of the plan and related issues were discussed as follows:

- Orientation of the Rotary amphitheater – Can it be faced away from residential? Mr. Kappel said the orientation uses the natural slope and is the direction traditionally used for concerts in that area. There have been complaints in the past from residents immediately adjacent to Honey Creek Parkway to the south. Going the other way tends to allow sound to be absorbed before reaching residents.
- Closing 70th Street, using as a pedestrian bridge – Based on traffic volumes and the street's use as an emergency access route to the south, Mr. Kappel said that closing the street was not considered. Retaining 70th Street allows for an alternative should 68th Street close down for any reason.
- Bridge at Jacobus Park – Ald. Herzog saw this as probably being low on the priority list.
- Skateboard park funding – Mr. Kappel indicated that there is some uncertainty about the ability to raise sufficient private funding; the decision may come down to using city funds. Ald. Herzog questioned how a privately funded park could be closed down if that should ever be necessary, a point Mr. Kappel agreed is worthy of further discussion. The skateboard proposal is the result of grassroots efforts by the recreation department and police community support to locate a skateboard area. The skateboard group found the \$1.5

million estimated cost to be well beyond what they anticipated and would like to rework the design to bring the cost down. They would also like to know if there is any willingness on the city's part regarding cost. The estimate includes elements such as viewing stands, seating, and lighting for the pedestrian way that they feel should not be counted against the skateboard park itself. Mr. Bachman noted that the Parks Board recommended the skateboard park subject to private funding.

- Rotary stage/amphitheater - There would be a formal agreement about who is running the Rotary stage, possibly the Tosa Tonight group, who could probably do better at programming than parks staff. A public/private partnership to run the stage is in the development process. Rotary is ready to reinvest in the fundraising effort and hopes to have it open by June 2008.
- Second softball diamond – Mr. Kappel said that both the recreation department and the area businesses are convinced that the second diamond can be programmed as much as the current one, which is used constantly.
- Reserving open space areas – Mr. Kappel said that the open play areas could be mowed for use as practice fields, but they would not reserved for specific use. He would also like to have football practice there, especially if regular turf is retained at the football stadium. No restroom facilities are planned there, but portable units would probably be used. This is a passive recreation area, primarily with walking and biking trails and a chain of picnic areas off pathways.
- TIF funding – Some costs might be TIF eligible, which is one thing that will be determined when details of the budget are discussed.
- 70th Street reconstruction – The street was bowed out to increase the size of the parking area and add a traffic calming measure. It also allows for appropriate infrastructure to retain our train whistle blowing status.
- Entry points – Mr. Kappel raised the question of retaining entry points as designed by the consultant or making that a lower priority.
- Police patrolling – Ald. Didier said she would like to hear any thoughts police might have on patrolling. Mr. Kappel reported that they reviewed the plan for safety, especially regarding pedestrian lighting. On their advice, it was extended throughout the park and efforts were made to provide for clear visibility from the roadways.
- Restroom patrol, cleaning – Mr. Kappel indicated this would become a staff responsibility.
- Staffing – Mr. Kappel said that a lot depends on the artificial turf question for the football stadium, but he does not believe the current staff of five could maintain this park. Augmenting staff or contracting for services would need to be discussed going forward. If the park is built incrementally, maintenance needs would be similarly incremental.

There was further discussion of how to proceed with the prioritization process.

Moved by Ald. Herzog, seconded by Ald. Krill to direct Mr. Kappel to provide a list in two weeks to be used at the February 27th meeting to prioritize park elements; to invite input from the Parks and Forestry Commission including their cost breakdown; and to invite police input on safety; and to request response to the question of the ability to control privately funded portions of the park. Ayes: 7

The meeting adjourned at 11:05 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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