



CITY OF WAUWATOSA  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
Telephone: (414) 479-8917  
Fax: (414) 479-8989  
<http://www.wauwatosa.net>

**COMMUNITY DEVELOPMENT COMMITTEE MEETING**  
**Tuesday, October 9, 2007**

PRESENT: Alds. Birschel, Didier, Donegan, Herzog, Meaux 8:10 p.m.), Minear, Treis -7

EXCUSED: Ald. Krill

ALSO N. Welch, Community Dev. Dir.; A. Kesner, City Atty.;  
PRESENT: Chief B. Weber, Police Dept.; Asst. Chief J. Hevey, Fire Dept.

Ald. Treis as Chair called the meeting to order at 8 p.m. -6

**Conditional Use – 10849 W. Blue Mound Road**

The committee reviewed a request by Christian Kramer for a Conditional Use for a restaurant expansion in the AA Business District at 10849 W. Blue Mound Road. Ms. Welch noted that the applicant currently operates the adjacent Suburpia Restaurant and would like to expand into this space.

Jeffrey DeCora, 2021 N. 71st Street, said that the added space would provide seating for approximately 40 patrons. Suburpia currently has counter seating but no tables. Based on discussions with the fire department, a sprinkler system would be needed if capacity exceeded 50.

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

**Conditional Use – 10100 W. Blue Mound Road**

The committee reviewed a request by Allen Kinn for a Conditional Use for medical offices in the AA Institutions District at 10100 W. Blue Mound Road. Ms. Welch reported that the applicant would like to add an outpatient medical clinic within the St. Camillus complex operated by Wheaton Franciscan Healthcare. It would include three exam rooms and office, reception/waiting room and lab/supply room space. The clinic would be open and available to the public. Ten parking spaces will be added, which would meet ordinance requirements.

Mark Steigerwald, 5310 W. State Street, Milwaukee, was present representing the applicant. He confirmed that the clinic would be open each day until 5 p.m.

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

**Proposed Public Nuisance Ordinance**

City Attorney Kesner outlined a proposed ordinance regarding public nuisances that was drafted in response to requests by a number of alderpersons for a more effective way to pursue remedies against those types of properties. The city has had a limited amount of authority to take action against nuisance properties other than through health or property maintenance measures. Public nuisance is a common law concept adopted by the state and has a long historical context for use for various types of violations including unique cases brought forward by the attorney general's office ranging from voter fraud to land use. Cities have the power to bring nuisance actions in Circuit

Court. By creating an ordinance at the local level, enforcement officers can write a ticket and bring it to municipal court to start the process and move to Circuit Court, if necessary, for injunctive relief. The ordinance provides a lot more enforcement power in marginal situations that reduce property values and enjoyment of neighborhoods.

(Ald. Meaux present. -7)

Randy Geipel, 1225 N. 123rd Street, displayed photos and described continuing concerns about the condition of a retaining wall that abuts his property. He said that it has eroded into his yard, has been overgrown with weeds, and is an eyesore. He felt that this ordinance is a good first step but would like to see a full retaining wall code that addresses materials, permitted height, construction methods, etc. This ordinance leaves the door open for substandard construction and does not specify the amount of time for required repairs. In communications with staff, he has provided a retaining wall code from another community. The Chair suggested that Mr. Geipel present any additional comments on retaining walls to the City Attorney.

Mr. Kesner confirmed that the intent is to address problems similar to Mr. Geipel's. Ald. Birschel commented that he and the property maintenance inspector plan to speak to Mr. Geipel's neighbor, and this ordinance would back them up. The Chair asked if the requirement would then be for a safe wall or something that looks better. Ms. Welch commented that if it is an unsafe condition, the city can even now demand correction. There is a more difficult situation when something doesn't get done as quickly or in the manner desired by neighbors. Mr. Kesner said that this ordinance allows the city to order someone to correct a nuisance condition but doesn't say how to do it, although it would have to be done in a safe manner.

Ald. Donegan asked who makes the determination that something is a nuisance per this ordinance. Mr. Kesner indicated that enforcement expertise will be sought based on the situation in the field. Ald. Donegan spoke of a nuisance situation in his neighborhood involving the behavior and care of an animal, buildup of feces in the yard, and teenagers and their friends who behave badly, all of which he believes fits the definition of a nuisance. A neighbor whose house is for sale was told by the realtor that the price needs to be reduced by \$20,000-30,000 due to the neighbors. What has to happen here—do enforcement officials need to specifically witness the nuisance?

Mr. Kesner said that police would have a report history that could be used as a basis, but they do have to see what is in place in a particular situation. Ald. Donegan asked Chief Weber if he would be satisfied that a nuisance exists if officers never quite saw the nuisance but heard of it from neighbors over the course of time. Chief Weber indicated that he would likely write a ticket and tell the neighbors to come to court at the appropriate time.

Ald. Donegan observed that the ordinance's strength is in fines ranging from \$50 to \$2,000, and he asked how the specific amount is determined. Mr. Kesner explained that officers always write an initial dollar amount, but the judge makes the final determination. Just like other issues in the law enforcement world, he noted, not every violation will get a ticket every time. Chief Weber added that efforts would be made toward getting compliance before writing a ticket.

Ald. Meaux said that there are a number of these matters in his district. Typically, he believes, a municipal ordinance citation would be written first. It is after repeated attempts that he would see the public nuisance citation coming into play. Unruly behavior would be documented, for example, and after enough complaints, a public nuisance citation would be issued. This does not seem to be drafted to jump right to public nuisance but to use it when other measures fail over a period of time. Mr. Kesner said that this is an additional power along with what enforcement staff already has. It provides a lot of discretion in how to handle enforcement of particular situations. We can continue to use human health hazard or property maintenance ordinances but also will have this action to address problem situations.

Ald. Donegan felt that the ordinance allows the city to enter into some issues that we don't now have tools to address. Most have to do with behavior that threatens "quality of life and total community environment, the tone of commerce in the City, property values and the public health, safety, morals and welfare," as stated in the ordinance's introduction. It will allow us to go beyond what can be done now to discourage some of that behavior. He asked if there is any concern about the amount of discretion given to officers. Chief Weber responded that he is not worried

because they do already have a lot of discretion. Resolving neighbor problems is a slow process, he emphasized, and the effort is to get the person to comply. Ald. Donegan said he will support the ordinance and commented that he doesn't think the city has a big problem but there are enough small problems that cannot be tolerated.

Mr. Geipel supported mention of impact on property values. He asked if his repeated communications with the city would carry any weight. Mr. Kesner said they would be part of the background information, but a violation under this ordinance would have to occur after the ordinance is in place. Ald. Birschel explained the approval process, noting that the ordinance will come back to this committee before proceeding to Council for adoption and then must be published before it takes effect.

Moved by Ald. Donegan, seconded by Ald. Birschel to recommend to Council introduction of the ordinance. Ayes: 7

### **Proposed Sex Offender Residence Locations Ordinance**

City Attorney Kesner reported that a number of cities around southeastern Wisconsin and throughout the state are in the process or have passed ordinances to limit residences of convicted and registered sex offenders as they relate to facilities that children frequent. The ordinance he has drafted was modeled from Franklin and Glendale ordinances as well as a draft prepared for the Milwaukee Common Council's review. It contains a fairly extensive list of properties that designated offenders can't be near that was drawn from the Glendale ordinance. It would prohibit convicted sex offenders from living in residences within 500 feet of schools, parks, playgrounds, daycare centers, and other facilities designed for the use of children. It would prevent private landowners from knowingly selling or renting residential properties to such persons, and it would also prohibit offenders from loitering in the vicinity of parks, playgrounds, daycare centers, and other facilities that children frequently visit.

Mr. Kesner reported that maps illustrating the 500-ft. restriction have not yet been completed due to some complications with GIS limitations, but he expected them to be available at the next meeting. He noted that some cities have set limitations as far out as 2,000 feet. It is important to consider, however, that we can regulate where sex offenders can live but cannot prohibit them entirely. He displayed a map illustrating that a 2,000-foot limitation in the City of Milwaukee would leave little land available. A map showing Cudahy's 500 foot limitation illustrated a more reasonable set of circumstances. While the ordinance prohibits loitering in certain locations, a more extensive absolute prohibition from certain zones was not included since it would be impossible to police and enforce. Mr. Kesner said it is important to have an ordinance that would withstand any legal challenge. He noted that the ordinance was drafted at the request of Ald. Didier.

Ms. Welch commented that it would be difficult to identify day care centers in the city other than those that have required Conditional Use approvals. There are many other centers and home-based businesses that we have no record of, making it difficult to enforce.

Noting her interest in this issue and research over the past two years, Ald. Didier spoke of a responsibility to be proactive regarding public safety. The proposed ordinance restricts most violent offenders, which it has been stated have the highest rate of re-offending. She cited other communities in Wisconsin and the United States that have similar ordinances and have seen positive results. She noted that many people locally thought we already had something in place. This ordinance will help maintain a positive image and empower police to take appropriate steps when necessary. Ald. Didier noted that this is a good time to address this when we don't have a pressing public issue with an offender needing to be placed in our community. It is a starting point toward moving in the right direction. A statement about state licensed day care facilities may be needed, and an appeals process will also be included.

Moved by Ald. Didier, seconded by Ald. Herzog to recommend to Council introduction of the proposed ordinance subject to changes by the City Attorney regarding potential distance based on a map, the addition of an appeals paragraph, and confirmation of the requirement that they have to have committed the crime in Wauwatosa in order to be placed in Wauwatosa –

Ald. Herzog thanked Ald. Didier and staff for their efforts and commented that Wauwatosa is fortunate to not have a lot of offenders here already, the majority being within county grounds facilities.

Mr. Kesner responded to a question from Ald. Meaux about the definition of sexually violent offenders, noting that it includes a number of more extreme offenses by people who have a psychological issue along with committing a crime. “Designated offender” is a much broader definition. There are a number of state regulations on placement of more violent offenders. This ordinance would not require anyone to move who had been placed prior to its implementation.

Ald. Meaux said he is not opposed to the ordinance but will not support a motion to move forward until a map is prepared. He is concerned about creating zones within the city that potentially could pool sex offenders, especially considering the breadth of locations that could be encompassed. It is also very questionable whether this type of an ordinance truly has the effect of assuring safety, since a lot of research says these types of proposals are based more on fear and myth. Even websites associated with missing children question the use of residency restrictions, and Iowa is seeking to amend some of their residency requirements. Ald. Meaux noted that 80-85% of those victimized by sexual assault know the offender, and the offense is likely to occur in someone’s home. Most offenses are relationship based. He questioned the positive results that have been cited and suggested questioning whether this is really good public policy or if it is a more reactionary desire to do something that may make a lot of sense on the face of it but does not achieve the desired result.

Ald. Birschel asked if the drafted exceptions would provide the opportunity to establish a halfway house for offenders in the city. Mr. Kesner indicated that it would not—that is a zoning question that would have to be addressed from that standpoint.

Ald. Didier indicated that she has read the papers referred to and does not feel this is reactionary. She believes it is a responsibility and a right to protect children any way we can. Municipalities she spoke to have seen direct, positive results of the ordinance. Ordinance language stating that we will take offenders back if they committed the crime here is very important in assuring that we don’t become the dumping ground. There are equally as many papers saying this is effective in ensuring safety as there are papers that disagree. Regarding the possibility of pooling, that is why a 500-ft. limitation is being proposed. The maps will show that we have enough area that there isn’t going to be a lopsided situation.

Chief Weber supported the ordinance, stating that if it prevents one child from becoming a victim then it has done what is expected. It provides one more tool to prevent someone from becoming a victim.

Mr. Kesner clarified that maps available at the next meeting are likely to be a first draft version of 500-ft. restrictions. The City of Milwaukee moved to ask for state legislation to create a uniform state statute regarding residency, which would take precedence over a local ordinance, although some additional restrictions could possibly remain in place.

Vote on the motion, Ayes: 6; Noes: 1 (Meaux)

The meeting adjourned at 9:10 p.m.

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Carla A. Ledesma, City Clerk  
Wauwatosa, Wisconsin