



CITY OF WAUWATOSA
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COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, January 17, 2006

PRESENT: Alds. Becker, Birschel, Kopischke, Krill, Krol, Subotich, Sullivan (7:15 p.m.), Treis -8

ALSO PRESENT: N. Welch, Community Dev. Dir.; Alds. Herzog, Maher, Purins

Ald. Kopischke as Chair called the meeting to order at 7:00 p.m. -7

Conditional Use for Massage Therapy Establishment at 11050 W. Blue Mound Road

The committee reviewed a request by Douglas Baretz and Paula Brookmire for a Conditional Use in the AA Business District at 11050 W. Blue Mound Road for a massage therapy establishment. The Plan Commission unanimously recommended approval. Ms. Welch reported that Ms. Brookmire would like to relocate from an existing Wauwatosa location to this site. Parking requirements are met. Ms. Brookmire was present and commented that she has operated at her previous location for 10 years.

Moved by Ald. Becker, seconded by Ald. Krill to recommend approval
of the Conditional Use. Ayes: 7

Conditional Use for Restaurant at 3140 N. 124th Street

Held from previous meetings for further discussion of hours of operation, the committee reviewed a request by Joe Denis and Peter Barrette for a Conditional Use in the AA Business District in the Burleigh Square development at 3140 N. 124th Street for a 24-hour Steak and Shake restaurant with a drive-thru and outdoor seating. Ms. Welch reported that staff has not yet received storm water plans for the entire Burleigh Square development and wishes to reserve final approval of the site plan for this establishment until an overall plan has been reviewed.

Joe Denis, 202 Astoria Court, Barrington, Illinois, said that Steak and Shake wants to become a part of the community. He commented that he respects residents' views on hours of operation but is subject to corporate approval, part of which requires 24-hour operation and a drive-thru. Although they do have 20-hour dine-in hours and 24-hour drive-thru at an Illinois location similar to Wauwatosa, corporate would not be willing to make an exception for the first unit in a market because those conditions are part of their brand.

Ald. Maher, 8th District, said he is fine with everything except 24-hour operation, having heard opposition to that from area residents not only with respect to this application but also the previously approved Walgreens. He indicated that he would support hours of 4 a.m. to midnight for both the restaurant and drive-thru.

Ald. Herzog, 6th District, said that he welcomes this business to the community and feels that it would be a great asset. The drive-thru and outdoor seating would not be a problem, but there are concerns about 24-hour operation. He discovered that a Steak and Shake in Janesville operates from 10 a.m. to 1 a.m., establishing some precedent for limited hours in Wisconsin. He felt that hours should be limited along the lines of those discussed at the previous meeting, closing at midnight and reopening at 5 a.m. Ald. Herzog distributed information to the committee about the Janesville restaurant and hours for other restaurants in the city.

Ald. Purins, 7th District, reported that over the past several days he talked to a number of people who oppose 24-hour operation and also opposed a 24-hour Walgreens. Residents indicated they would be happy to see this type of operation a block or two to the north but consider this site to be in their backyard. The same problem will occur with development east of Hwy. 45 to Mayfair Road. He felt that the problem stems from the lack of a citywide plan that would address that issue, perhaps through a 24-hour zone or district. He also commented on the need to inform applicants of possible community opposition.

Charity Pook, 3026 N. 121st Street, submitted petitions with 31 signatures opposing 24-hour operation. The committee also received copies of previously submitted petitions, an e-mail from a resident expressing opposition, and a letter from Thomas Savage of Briggs & Stratton supporting the requested hours.

Mike Toye, 3025 N. 122nd Street, agreed that standards are needed for this development as well as any development to the east. He noted that they have signatures of at least 80 residents in Districts 6, 7 and 8 who oppose 24-hour operation and are confident they could get more. Many neighbors were frustrated that they didn't know of this proposal, and he encouraged committee to find ways to ensure that people are better informed. He felt that the restaurant should have the same hours as Walgreens, no later than 10 p.m. and no earlier than 7 a.m.

Sue Mraz, 2880 N. 122nd Street, said she was not aware of this proposal until seeing a previous meeting on TV. Over the past week, she has helped inform neighbors, resulting in close to 40 people at a neighborhood meeting last night. They were primarily concerned about the 24-hour aspect of the proposal.

Bill Rudolph, speaking in favor on behalf of Briggs & Stratton Corporation, 12301 W. Wirth Street, said they are this site's closest neighbor and discussion here raises a concern that neighbors will be asking them to discontinue their own 24-hour operation, which would be a hardship. A year ago that 24-hour operation included this site and has not caused any problems of which he is aware.

(Ald. Sullivan present. -8)

Ald. Becker noted that the difference with the Briggs & Stratton operation is that people arrive there at specific times rather than throughout a 24-hour period. He asked Mr. Denis his position on simply voting the project up or down as opposed to limiting the hours. Mr. Denis indicated he would take any decision that is made back to corporate but has been told that 20 hours would be the limit. He knows they would like a 24-hour drive thru, although he did not question them specifically about reduced drive-thru hours. Because they are considering closing the Janesville as well Kenosha and Madison restaurants, hours of operation have been cut back there.

Ald. Sullivan said he doesn't want any more 24-hour operations, and he felt that is more of a secondary issue for Steak & Shake's business model. His concern, he said, is not what comes from their corporate office but with how it fits within the context of this city. There is nothing going on that can't be done between 6 a.m. and midnight—they could still serve people coming to Briggs at 11 p.m. and 7 a.m., he noted.

Moved by Ald. Sullivan, seconded by Ald. Becker to recommend to Council approval of the Conditional Use with a drive-thru and outdoor seating contingent upon hours of operation of 6 a.m. to midnight for the entire operation including the drive-thru –

Ald. Krill said he intended to support 24-hour operation tonight and still believes it would be appropriate but understands the neighborhood's opposition. Looking at some of the issues of concern such as bar times and disorderly conduct, perhaps 6 a.m. to midnight is the best that can be approved, although he favors 4 a.m. to midnight as a compromise for both sides.

Moved by Ald. Krill, seconded by Ald. Treis to amend to motion by allowing hours of operation of 4 a.m. to midnight for the entire operation –

Ald. Birschel referred to police reports on incidents at Denny's and George Webb's, both 24-hour operations on North Avenue. Webb's didn't have much of a problem, he said, but there was a list of disorderly conduct, thefts, frauds, etc., at Denny's. Considering that, he would support the 6 a.m. to midnight hours of the original motion.

Ald. Treis commented on the decision-making process, noting that additional facts keep coming in on this issue. He has reviewed a list from the police of violations at 24-hour restaurants and found that Denny's has substantially more than others, most in connection with patrons who left without paying. There were not many calls for drunkenness, vandalism, or related issues. There are development areas in a number of places in the city and we don't really mean that no 24-hour businesses will be allowed here, but a decision is needed on types of businesses and how far such businesses have to be from residences. There should also be a mechanism for including residents in the notification process, even when they are not within the required 200-ft. notification area. He suggested undertaking a study, with the help of the City Attorney and Community Development Director, to come up with a solution for this issue when it arises again.

Ald. Krol said he favors limiting the hours and can support a compromise of 4 a.m. to midnight. He commented on the need for standards and noted that a precedent would be set by allowing 24-hour operation

Ald. Subotich objected to the limited time in which to have a meaningful discussion, considering that committees are meeting tonight prior to the regular Common Council meeting.

Roll call vote on the amendment, Ayes: 4; Noes: 3 (Becker, Birschel, Sullivan);
Present: 1 (Subotich)

Roll call vote on the motion as amended, Ayes: 5; Noes: 2 (Becker, Birschel);
Present: 1 (Subotich)

The Chair endorsed establishing standards regarding 24-hour operations, either in the context of the Comprehensive Plan or separately. He also felt that concerns about notification should be pursued and indicated that he may bring something forward soon.

The meeting adjourned at 7:49 p.m.

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Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin