



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, September 2, 2008**

PRESENT: Alds. Nikcevich, Organ, Purins, Stepaniak, Treis, Walsh, Birschel, Donegan, Ewerdt, Hanson, Herzog, Jay, Krol, Maher, McBride, Meaux -16

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; Mr. Wehrley, City Engineer; Ms. Ledesma, City Clerk; Ms. Van Hoven, Deputy City Clerk

Common Council President Krol in the Chair

The Acting Mayor called the meeting to order at 7:30 p.m.

It was moved by Ald. McBride, seconded by Ald. Organ that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. – 16

**OLD BUSINESS**

The following item was held after the public hearing before the Common Council on August 5, 2008:

**ORDINANCE** O-08-18

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF WAUWATOSA BY REZONING THE PROPERTY LOCATED AT 1701/1801 N. MAYFAIR ROAD FROM AA LIGHT MANUFACTURING DISTRICT TO AA BUSINESS DISTRICT.

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

Part I. The Official Zoning Map of the City of Wauwatosa is hereby amended to reflect the following change:

An area described as follows:

Parcel A being that part of the Northeast ¼ of Section 19, Town 7 North, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin commencing at a point in the east line of said ¼ section which is 83.75 feet north of the southeast corner of said ¼ section running thence south 89°59'10" west and parallel to the south line of said ¼ section 519.23 feet to a point in the easterly line of the Chicago & Northwester right-of-way; thence north 1°09'40" east on and along said right-of-way 643.13 feet to a

point; thence north 89°59'10" east and parallel to the south line of said ¼ section 506.18 feet to a point in the east line of said ¼ section thence south on and along the east line of said ¼ section 6463.00 feet to the place of beginning and excepting therefrom the north 223 feet and the east 60 feet and

Parcel B being that part of the Northeast ¼ of Section 19, Town 7 North, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin commencing at the southeast corner of said ¼ section; running thence south 89°54'10" west on and along south line of said ¼ section 520.92 feet to a point in the easterly line of Chicago & Northwestern Transportation Company right-of-way; thence north 1°09'40" east on and along said right-of-way 83.77 feet to a point in the east line of said ¼ section thence south on and along the east line of said ¼ section 83.75 to the point of beginning except the east 60 feet thereof

is rezoned from AA Light Manufacturing District to AA Business District.

Part II. The City Administrator is hereby directed to change the Official Zoning Map of the City of Wauwatosa to conform to the provisions of the Ordinance, and said Map is declared amended accordingly.

Part III. This ordinance shall take effect on and after its date of publication.

It was moved by Ald. Herzog, seconded by Ald. Birschel to adopt the foregoing ordinance. Roll call vote, Ayes 13, Noes 3 (Nikcevich, Stepaniak, McBride)

### **APPOINTMENTS BY THE MAYOR**

#### Community Development Block Grant Board

Michael Yamat, 9102 Stickney Avenue  
Alvaro Garcia-Velez, 613 N. 72<sup>nd</sup> Street

#### Board of Health

Chris Shaw, PhD, FNP, 2353 Lefebber Avenue  
(Term expires 12/31/12)

Foregoing appointments ordered held as this was the first reading.

### **APPLICATIONS, COMMUNICATIONS, ETC.**

1. Notice of Claim: Time Warner Cable, 1320 N. Martin Luther King Jr. Drive, Milwaukee; Aracelio Zabala, 2571 N. 98<sup>th</sup> Street; WE Energies, P.O. Box 1132, Milwaukee  
**City Attorney**
2. E-mail from Brett West, West Development Partners, attaching a traffic impact analysis for 1701/1801 N. Mayfair Road, and including a letter from Art Baumann, WI Dept. of Transportation, and a traffic impact study prepared by Graef, Anhalt, Schloemer Assoc.  
**Community Development Dir., City Engineer**

3. Letter from Sernorma L. Mitchell, U.S. Dept. of Housing and Urban Development regarding the 2007 Annual Community Assessment  
**Community Development Director**
4. E-mail from Jean Radtke suggesting referendum on affordable health care  
**Place on file**
5. E-mail from Rep. Leah Vukmir, 14<sup>th</sup> Assembly District, regarding her opposition to a resolution promoting government run health care  
**Place on file**
6. Special Use application by Matthew and Ling Naiva for a garage height over 16 feet in the AA Single Family Residence District located at 2439 N. 72<sup>nd</sup> Street  
**Plan Commission**
7. Conditional Use application by Drew Heiden, AT&T Wisconsin and Midland 3521, LLC for a telecommunications cabinet in the Business Planned Development located at 2727 N. Mayfair Road  
**Plan Commission, Committee on Community Development**
8. Special Use application by Mark Tourek, Pampered Paws, for a pet grooming business in the AA Business District located at 1826 N. Mayfair Road  
**Plan Commission**
9. Conditional Use application by Deborah K. Dreyer and Kelly Sparacino for a food kiosk in the AA Business District at Mayfair Mall, 2500 N. Mayfair Road  
**Plan Commission, Committee on Community Development**
10. Conditional Use application by Joseph F. Klein, Milwaukee Electrical JATC Trust, for a training center, school and offices for construction, electricians and apprentices in the AA Industrial District at 11001 W. Plank Court  
**Plan Commission, Committee on Community Development**
11. Wauwatosa Water Utility Statement of Receipts and Disbursements for the period ending July 31, 2008  
**Place on file**
12. City of Wauwatosa, Statement of Financial Condition for the period ending July 31, 2008  
**Place on file**
13. E-mails from Jeanne Jarecki, 12231 W. Underwood Parkway and Maureen Goetz, 610 Honey Creek Parkway, in support of the Conditional Use for 1701/1801 N. Mayfair Road  
**Added to existing file**

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION**

1. Ordinance amending Chapters 24.02 and 24.04.110 pertaining to trellis regulations  
**Re-referred to originating committee**
2. Ordinance amending the zoning code by rezoning 2283 Ludington Avenue from AA Business District to AA Single Family Residence District  
**Re-referred to originating committee**

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-08-163**

WHEREAS, John W. Schaal, Jr. of Vino 100, 1442 Underwood Avenue, Wauwatosa, WI, has requested a temporary extension of the licensed premises to include the parking lot on September 5th and 6th, 2008;

NOW, THEREFORE, BE IT RESOLVED THAT the licensed premises of Vino 100 be extended to include the parking lot of the building on September 5th and 6th, 2008, until 11:30 p.m. each night;

BE IT FURTHER RESOLVED THAT the proprietors of Vino 100 shall perform garbage cleanup on neighboring properties resulting from the outdoor event and will cooperate with any requested noise abatement.

It was moved by Ald. Birschel, seconded by Ald. Hanson to approve the foregoing resolution. -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-08-164**

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT permission be and the same is hereby granted to West Development Partners, LLC for a Land Combination in the AA Commercial District at 1701 and 1801 North Mayfair Road. These parcels are more particularly described as follows:

Parcel A being that part of the Northeast ¼ of Section 19, Town 7 North, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin commencing at a point in the east line of said ¼ section which is 83.75 feet north of the southeast corner of said ¼ section running thence south 89°59'10" west and parallel to the south line of said ¼ section 519.23 feet to a point in the easterly line of the Chicago & Northwester right-of-way; thence north 1°09'40" east on and along said right-of-way 643.13 feet to a point; thence north 89°59'10" east and parallel to the south line of said ¼ section 506.18 feet to a point in the east line of said ¼ section thence south on and along the east line of said ¼ section 6463.00 feet to the place of beginning and excepting therefrom the north 223 feet and the east 60 feet and

Parcel B being that part of the Northeast ¼ of Section 19, Town 7 North, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin commencing at the southeast corner of said ¼ section; running thence south 89°54'10" west on and along south line of said ¼ section 520.92 feet to a point in the easterly line of Chicago & Northwestern Transportation Company right-of-way; thence north 1°09'40" east on and along said right-of-way 83.77 feet to a point in the east line of said ¼ section thence south on and along the east line of said ¼ section 83.75 to the point of beginning except the east 60 feet thereof

All in accordance with the application 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-08-166**

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, October 21, 2008 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 a proposed amendments to Chapter 24.02 Definitions and Chapter 24.04.110 Permitted Obstructions in Required Yards and Courts regarding the definition of and installation of a trellis.

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.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-08-167**

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, October 7, 2008 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 a change of zoning at 2283 Ludington Avenue from AA Business District to AA Single Family Residence District.

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.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-08-168**

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, October 21, 2008 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 vacation of several street right-of-ways within the Hart Park area including N. 71<sup>st</sup> Street, N. 72<sup>nd</sup> Street, N. 73<sup>rd</sup> Street, N. 74<sup>th</sup> Street, N. 75<sup>th</sup> Street, Chestnut Street, and that portion of River Parkway west of N. 68th Street.

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. Herzog, seconded by Ald. Hanson to approve the four foregoing resolutions. -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION**

WHEREAS, West Development Partners, LLC, has applied for a Conditional Use in the AA Business District at 1701/1801 North Mayfair Road for a large retail establishment 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 West Development Partners, LLC for a large retail establishment in the AA Business District at 1701/1801 N. Mayfair Road subject to the following conditions:

- 1) approval of a developer's agreement outlining all stipulations and conditions related to the approved development plan, if determined to be necessary by the City Attorney, and
- 2) hours of operation daily from 6:00 a.m. to midnight, and
- 3) obtaining any required licenses and permits, and
- 4) submission of a water utility plan subject to the approval of the Water Superintendent, and
- 5) building permit shall not be issued until all details regarding the site plan and storm water details have been submitted and approved by the City Engineer in accordance with the conceptual plan submitted.

It was moved by Ald. Herzog, seconded by Ald. Hanson to approve the foregoing resolution. –

It was moved by Ald. Stepaniak, seconded by Ald. Nikcevich to refer the matter back to the Community Development Committee. –

Ald. Treis called for the question on the motion. Ald. Herzog objected. Discussion continued.

Roll call vote on the motion to refer back to committee, Ayes 4 (Nikcevich, Stepaniak, Walsh, McBride), Noes 12. –Motion failed.

It was moved by Ald. Donegan, seconded by Ald. Meaux to amend the original motion by approving creation of a developer's agreement (thereby eliminating the decision by the city attorney concerning its creation). -16

Roll call vote on motion, as amended, Ayes 12, Noes 4 (Nikcevich, Stepaniak, Walsh, McBride)

The amended resolution is as follows:

**AMENDED RESOLUTION** R-08-165

WHEREAS, West Development Partners, LLC, has applied for a Conditional Use in the AA Business District at 1701/1801 North Mayfair Road for a large retail establishment 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 West Development Partners, LLC for a large retail establishment in the AA Business District at 1701/1801 N. Mayfair Road subject to the following conditions:

- 1) approval of a developer's agreement outlining all stipulations and conditions related to the approved development plan, and
- 2) hours of operation daily from 6:00 a.m. to midnight, and
- 3) obtaining any required licenses and permits, and
- 4) submission of a water utility plan subject to the approval of the Water Superintendent, and
- 5) building permit shall not be issued until all details regarding the site plan and storm water details have been submitted and approved by the City Engineer in accordance with the conceptual plan submitted.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION** R-08-169

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Joe Karius for damages be and the same is hereby denied and placed on file for the reason that no liability exists on the part of the City;

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized and directed to notify said claimant of this action of the Common Council as provided by law.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION** R-08-170

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Courtney Thomey for damages be and the same is hereby denied and placed on file for the reason that no liability exists on the part of the City;

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized and directed to notify said claimant of this action of the Common Council as provided by law.

It was moved by Ald. Maher, seconded by Ald. Walsh to approve the two foregoing resolutions. -16

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 8/6/08 – 9/2/08 --

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 8/6/08 – 9/2/08: \$10,149,796.52

It was moved by Ald. Purins, seconded by Ald. Meaux that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote, Ayes 16

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-08-171**

BE IT RESOLVED by the Common Council of the City of Wauwatosa that the proper city officials be and they are hereby authorized and directed to enter into a contract with D.C. Burbach, Inc., for the work of street repaving of portions of N. 73rd, N. 74th, N. 75th, N. 84th, and N. 85th Streets, and Elm Lawn and Robertson Street, and work incidental thereto under Contract 08-7 at and for their bid price of \$1,087,979.00, this being the lowest and best bid.

BE IT FURTHER RESOLVED that the surety deposits, if any, be returned to the unsuccessful bidders.

It was moved by Ald. Birschel, seconded by Ald. Organ to approve the foregoing resolution. -16

There being no further business, the meeting adjourned at 9:22 p.m.

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Carla A. Ledesma, CMC, City Clerk