



CITY OF WAUWATOSA

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COMMUNITY DEVELOPMENT COMMITTEE MEETING

Tuesday, January 8, 2008

PRESENT: Alds. Birschel, Didier, Donegan, Herzog, Meaux, Minear -6

EXCUSED: Alds. Krill, Treis

ALSO PRESENT: A. Kesner, City Atty.; N. Welch, Community Dev. Dir.

Ald. Herzog as Chair called the meeting to order at 8:12 p.m.

Conditional Use – 3850 N. 124th Street

The committee reviewed a request by John Kuhn, JBK Properties, for a Conditional Use for an Aldi grocery store in the AA Business District at 3850 N. 124th Street. Ms. Welch reported that this store would be one of a number of retail tenants in space formerly occupied by Jewel-Osco. Some minor exterior modifications will be made, and there are a few other issues relating to ADA parking, water, and sewer that need to be addressed prior to issuance of a building permit. The Plan Commission unanimously recommended approval.

John Kuhn, 7040 N. Port Washington Road, Glendale, reported that the Design Review Board has approved the facade renovation and other minor changes. The building is adjacent to an existing Target store that also plans to remodel. PetSmart will occupy part of this building, and there is one other space still to be leased.

Linda Carlson, 11031 W. Hope Avenue, spoke of her satisfaction with the Aldi stores at which she has purchased family groceries, Girl Scout and church youth group supplies, and electronics items. She has found their prices to be extremely reasonable and the quality to be very good.

Ald. Birschel noted Ald. Maher's message in support to the committee and statement at the Plan Commission meeting. He said that his own attitude has changed since he visited Aldi's West Allis store, which he found to be efficient and attractive. Ald. Minear also supported the proposal as a good addition to the community.

Moved by Ald. Birschel, seconded by Ald. Minear to recommend to
Council approval of the Conditional Use –

Abby Litt, District Manager of Aldi's, 9342 S. 13th Street, Oak Creek, responded to a comment by Ald. Didier about differences between Aldi's stores. She reported that they have remodeled most of their stores, and she assured the committee that this store will be their new version.

Vote on the motion, Ayes: 6

Conditional Use – 2717 N. Mayfair Road

The committee reviewed a request by Cary Bilicki, Midland 325 LLC, for a Conditional Use in the Business Planned Development District at 2717 N. Mayfair Road for a Starbucks coffee shop with a drive-thru and 200 sq. ft. outdoor patio. Ms. Welch reported that the approved plans for One Mayfair Place included this drive-thru. Although they were reviewed by engineering staff as part of overall site plan review, Conditional

Use approval is also required. Hours of operation will be 5 a.m. to 10 p.m. Sunday through Thursday and 5 a.m. to 11 p.m. Friday and Saturday. The Plan Commission unanimously recommended approval.

Cary Bilicki, Prime Building Corp., 3885 N. Brookfield Road, Brookfield, representing the property and business owners, reported that he worked extensively with city staff to assure that the drive-thru's design would not create any stacking or traffic flow issues. He pointed out the location on a site drawing.

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 reported that, since the last discussion of the proposed public nuisance ordinance on October 30, 2007, there have been ongoing staff discussions as well as meetings with department heads and some alderpersons to discuss specific needs and clarify the ordinance's intent.

Changes contained in the current draft include: refining the definition of a public nuisance, clarifying the process of abatement by adding a few more steps, increasing penalties for multiple offenders, providing the ability to appeal, clarifying that appeals of citations will be handled through the regular municipal court process, and providing the ability to apply excess enforcement costs as a charge that ultimately could be added to a property's annual tax bill, if necessary. For rental properties, Mr. Kesner explained that tenants can initially be cited, but some action can be taken against the owner as well if there are multiple violations and notices. The ordinance also incorporates common and statutory law definitions of what would be recognized as a nuisance.

Staff is now much more comfortable with the ordinance, and Chief Weber maintains his support as well. The ordinance's greatest application would likely be for ongoing violations in problem situations that affect the neighborhood as a whole and don't quite fall under specific provisions of property maintenance or health codes.

Ald. Donegan posed questions about specific application in cases such as ongoing dog barking or the retaining wall concern raised in previous discussion. Mr. Kesner said that, depending on specific circumstances, the ordinance might be able to address a situation that isn't solved after multiple tries and affects the neighborhood as a whole. Even after removing some of the specific definitions, the ordinance still has broad powers.

Ald. Donegan noted that many nuisance-type behaviors occur sporadically and are not witnessed by police officers responding to a complaint. Mr. Kesner said that a common law concept that has historically been applicable is that repeat convictions for violations of the law are, per se, a public nuisance. In those cases, nuisance law allows us to take it one step beyond municipal citations. From an enforcement standpoint, a credible complaint of a violation might be considered disorderly conduct, which doesn't necessarily have to be witnessed by the officer, although it might be within the nuisance concept if it occurs a number of times. If the violation involves a tenant, the property owner could be noticed after several unsuccessful attempts to gain compliance.

Moved by Ald. Meaux, seconded by Ald. Donegan to recommend to Council adoption of the ordinance. Ayes: 6

The meeting adjourned at 8:39 p.m.

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Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin