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**COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, June 10, 2008**

PRESENT: Alds. Birschel, Hanson, Herzog, McBride, Meaux, Nikcevich, Stepaniak -7

EXCUSED: Ald. Treis

ALSO N. Welch, Community Dev. Dir.; A. Kesner, City Atty.; Chief B. Weber, Police Dept.;
PRESENT: J. Archanbo, City Admin.; Mayor Didier

Ald. Herzog as Chair called the meeting to order at 8:55 p.m.

Conditional Use – Church and parsonage at 2557 N. 74th Street, 2554 N. 75th Street

The committee reviewed a request by Immanuel Reform Church and Templo La Hermosa for a Conditional Use in the BB Two Family Residence District for a church and parsonage at 2557 N. 74th Street and 2554 N. 75th Street. The Plan Commission unanimously recommended approval. Ms. Welch reported that Templo La Hermosa is purchasing the existing Immanuel Reform Church building and parsonage. Several neighbors have called with concerns about parishioners' parked vehicles potentially blocking driveways. While there is no reason to believe that might happen, church representatives have been advised to be respectful to neighbors.

James Benz, 2504 N. 83rd Street, representing both churches, said that Templo La Hermosa has services at 1 p.m. on Sundays. An existing agreement between Immanuel and St. Pius for use of the St. Pius parking lot will continue with Templo La Hermosa, so it does not seem that parking will be a problem. For a trial service on May 25th, they directed parishioners into the lot even though on-street spaces were available. Mr. Benz noted that there has been a church on this site since 1929. The current structure was built in 1959 and improved in 2000. The churches have been good neighbors throughout the years, and Templo La Hermosa also looks forward to a good relationship with the neighborhood. Jose Vasquez and Maria Guajardo of Templo La Hermosa were present.

Ald. Stepaniak said that there have been several different churches over the years, and all have always figured out how to be good neighbors. He foresees no problems and welcomes Templo La Hermosa to the neighborhood.

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

Conditional Use – Expansion of Cooling Tower Units at 9250 Watertown Plank Road

The committee reviewed a request by John Hyland, WISVEST, for a Conditional Use in the Medical Center & Institutions District for expansion of cooling tower units at 9250 Watertown Plank Road. The Plan Commission unanimously recommended approval. Ms. Welch reported that this request is for the expansion of cooling tower units at the WISVEST Terminal Energy plant on the Milwaukee County Grounds. The expansion would be on the north side of the existing building and towers. It will consist of a

55 ft. long by 50 ft. high cooling tower and a 56 ft. long by 55 ft. wide concrete pad for future cooling tower expansion. Ms. Welch said that there will be some change in the view of the north side of the area but they do not anticipate doing any major tree cutting. Steve Fesco, 125 S. 84th Street, Milwaukee, was present representing the applicant.

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

Conditional Use – Cocktail Lounge at 11302 W. Blue Mound Road

The committee reviewed a request by John J. Picciurro for a Conditional Use in the AA Business District for a cocktail lounge at 11302 W. Blue Mound Road, the former location of Delhi Cafe. The Plan Commission unanimously recommended approval with hours of operation of 11 a.m. to 2 a.m. daily, music until 12 a.m.

John Picciurro, 457 N. 113th Street, said that he operated Club 113 at this location for 20 years without any problems and believes a piano bar will work out well. Ald. Hanson agreed that Club 113 was a very good establishment for the area. The exterior was very well kept and received a beautification award. He endorsed the use and said he looks forward to the opening.

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

Ordinance – Sunset for Residency Restrictions for Sex Offenders

Mr. Kesner reported that the proposed ordinance repealing Section 7.32.100 of the Code would eliminate the sunset provision of the sex offender ordinance passed last fall. If the Council does not act, the ordinance would become ineffective as June 30, 2008.

Dr. Stan Stojkovic, Dean of UW-M's School of Social Welfare and a resident at 7215 Aetna Court, reported that in 2005 he chaired a committee that examined the question of transitional living facilities in Milwaukee for sex offenders on supervised release. After seven months, the committee did not find any locations to house those people. He enumerated several concerns about sex offender residency ordinances:

- Communities should seek a broader focus than individual ordinances since most offenses occur within a family setting, which is not addressed. Also, they lack clarity in terminology used. People posing the greatest threat are "sexually violent persons," who actually represent 3-5% of the sex offending population. Research on handling those offenders is headed toward the issue of loitering and controlling places of residency. Sixty percent of those on the registry are convicted of only one offense that occurred when they were younger.
- There are unintended consequences such as offenders going underground and refusing to comply with registration requirements. Associated with that are the offenders already in the community. What have police done in the six months since passage? Police should be charged with developing a plan.
- In connection with concerns about becoming a dumping ground, it should be noted that there are over 600 communities in Wisconsin and about 22 with ordinances. Treatment is the only way to effectively intervene. Long-term protection is enhanced by knowing where they are and treating them. It is not necessarily true that all have a high recidivism rate; some have higher rates than others. The three predictors of success are job, home, and family support, with housing being key. There are places in Wauwatosa where they still may live.
- Most measures are more symbolic than substantive. The ordinance doesn't really have a beneficial effect and its unintended consequences are greater.

To the question of what should be done, Dr. Stojkovic advised doing nothing. The Department of Corrections (DOC) does an excellent job of working with these people; work with them to promote a true sense of public safety. Although some don't follow the rules, there is not one case of recidivism in a 10-year period.

Shari Hanneman, 3926 Maple Crest Drive, Franklin, co-founder and secretary of Citizens for a Safe Wisconsin, was present with other representatives of that group: John Pellman, vice president and a business resident of Wauwatosa; Tony Martinez, treasurer and a Franklin plan commissioner who worked on crafting the Franklin ordinance and associated zoning code. Ms. Hanneman read a statement explaining the group's agenda of protecting children from repeat sex offenders and also outlining their concerns. She urged repeal of the sunset clause enacting related land use provisions in the zoning code.

Randy Geipel, 1225 N. 123rd Street, and Vicky Ostry, 1409 N. 64th Street, each indicated support for repealing the sunset clause. Mr. Geipel said that arguments made last year remain, particularly concerns about being a dumping ground as other communities pass similar ordinances. If many offenses are by someone known to the victim, as has been stated, is there a guarantee that the offender will not choose another victim?

Mayor Didier spoke in support of maintaining the ordinance. Although there are at least 22 residency ordinances in Wisconsin, experts have stated that we have a high rate of offender registry, which counters the argument that offenders go underground. The ordinance doesn't deny treatment or access to family or ability to work. Even though the percentage who offend outside a family setting may be small, she feels it is irresponsible to do nothing. There is also the potential to become a dumping ground. There has been no harm, no foul and we need to be proactive to protect our children.

Chief Weber stated that some offenders do go underground and that there are probably some here that we don't know about. However, Franklin had at least two offenders who moved out and two who never moved in, which may be due to their ordinance. Although it doesn't prevent everything, it is a tool to maybe prevent one more incident.

Dr. Stojkovic cautioned against using fear as a way to develop public policy. Instead, work with the DOC and demand specific efforts of the police department, he advised. He referenced research on the loitering aspect and developing a specific strategy around areas where there is evidence that events are occurring.

Mayor Didier said that there have been incidents where sex offenders under the watch of the DOC live in places with a park in their backyard. She wants something on the books that prohibits that individual from being where hundreds of kids come every day to play.

Christopher Tyre, 2034 N. 84th Street, said he is a psychologist and supervisor of the DOC forensic evaluation unit that assists in matters for possible civil commitment. He felt that a lack of clear terminology regarding types of offenders should be addressed. He noted that there are 384 persons in the state designated as "sexually violent" and all but 15 are in secure treatment. As pointed out, the vast majority of offenders have committed one offense not involving a child. They are evaluated regularly, and the vast majority do not sexually recidivate. Mr. Tyre asked that the Council use caution in developing a policy that the DOC has spoken against. He suggested that the sunset date be extended for another six months and noted that there has been an attempt in the state legislature to prevent passage of residency ordinances until it is addressed as a statewide issue. Look at what the data says and whether it has had any impact on sex offending in Wauwatosa; then consider what would be the next approach in a proactive but responsible way. In response to questions from the Chair, Mr. Tyre said he feels that registration makes sense for high risk sex offenders, but it is complicated to say what high risk is. It probably represents about

5% of the offender population. He spoke of having seen the impact on individuals having to register 15-20 years later for acts that occurred as a 17-year old with a 16-year old. Sixty percent of those required to register are clearly low risk offenders with a recidivism rate ranging from 2.8 to 7%. Registration does seem to have an impact—the decrease seen in sexual offending is perhaps attributable to registration laws.

Mr. Geipel asked if there is any statistic on re-offense with another victim outside the family by those who originally offended with close family contacts. Dr. Stojkovic indicated that he is not aware of any such data and commented that making our society perfectly safe is an unrealistic expectation.

Chief Weber said that police can target people who are loitering if that is desired, although it is not really what police are supposed to do. He did not feel the ordinance gives a false sense of security but does a diligent job of protecting children. If we feel safer, then it is well served.

Moved by Ald. Hanson, seconded by Ald. Birschel to recommend adoption of the ordinance –

Ald. Hanson stated that the ordinance will help the community and not hurt it. Giving the police chief the tools is a starting point, he felt.

Ald. Meaux commented that the ordinance is very broad. It applies to anyone found guilty of any sex offense rather than being limited to all sexually violent persons and all those required to register. He outlined an amendment modeled on Green Bay's ordinance, which attempts to adopt some of the principles of the DOC but still captures the intent of the ordinance. It allows for exceptions to registration requirements that courts have the discretion to make.

Moved by Ald. Meaux, seconded by Ald. Stepaniak to amend the motion by adding a provision to amend Sections 7.32.030 A, B, and C and create a new Section 7.32.030A to describe a designated offender as any person who is required to register under Wis. Stat. Sec. 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. Sec. 301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. 301.46 (2) and (2m) –

Mr. Kesner explained that our current ordinance provides a lengthy definition and a list of offenses. It covers everyone convicted of those offenses whether or not they have to register. The amendment would refer back to the sex offender registration statute, which allows some leeway in sentencing through which the sentencing court can relieve a person from registering under certain circumstances. The Special Bulletin Notification status relates to notification when certain offenders are being released into the community.

Mayor Didier indicated acceptance of the amendment and asked for confirmation that it would have the same result as the existing ordinance. Mr. Kesner said that the ordinance currently covers more people, particularly those with offenses against other adults who may not be considered to be as much of a threat against children. With the amendment, it will cover a different subset—those who are required to register. Ald. Meaux added that it eliminates what is something of a piggyback effect for people who aren't required to register but are more or less doubly jeopardized 10-15 years later.

Ald. Stepaniak asked if the amendment would make the ordinance more legally defensible. Mr. Kesner said that both are constitutionally defensible and would withstand a challenge. The concept of using the least intrusive means to meet a stated government goal doesn't make either less defensible. Ald. Stepaniak expressed support for narrowing the ordinance to be more in line with some of the empirical data and logic

about particular offenders. Ald. McBride also supported the amendment, which he felt would make the ordinance more defensible as it uses the least intrusive means. Chief Weber felt it is a step in the right direction if it covers the types of offenders we want to guard against.

Ald. Nikceovich asked if there is something else that should be discussed that isn't covered in the original ordinance. Mr. Kesner said that a broad brush approach was used on the original ordinance to be sure it included people who might otherwise fall through the cracks. The amendment provides ability to protect against the people of most concern. The key difference is that the current language excludes those who are not required to register.

Roll call vote on the amendment: Ayes: 7
Vote on the original motion as amended: Ayes: 7

The meeting adjourned at 10:15 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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