



## CITY OF WAUWATOSA

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### COMMUNITY DEVELOPMENT COMMITTEE MEETING Tuesday, November 11, 2008

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

EXCUSED: Ald. Treis

ALSO

PRESENT: A. Kesner, City Atty.; D. Wheaton, Chief Bldg. Official; J. Archambo, City Admin.

Ald. Herzog as Chair called the meeting to order at 8:15.m.

#### **Ordinance – Technical Changes to Flood Plain Regulations**

The committee reviewed a proposed ordinance amending Section 15.02.170 and portions of Chapter 24.47 of the Code regarding technical changes to flood plain regulations. Mr. Kesner reported that the changes are required by the Wisconsin Department of Natural Resources (DNR) to maintain eligibility for the FEMA flood insurance program. Additional changes requested by the DNR since the ordinance was introduced cover remodeling, placement of fill, or new construction on any parcel subject to flood plain regulations.

Mr. Kesner clarified that the City's approved flood plain map does not incorporate Hart Park improvements and the detention basins on the county grounds. New maps will be prepared and adopted once those improvements are in operation. A September 28, 2008, deadline for the subject ordinance amendments precluded waiting for those changes.

Moved by Ald. McBride, seconded by Ald. Hanson to recommend to  
Council adoption of the ordinance. Ayes: 7

#### **Property Maintenance Code Changes**

Reporting on a proposed amendment to Chapter 15.32.070 of the Code, Failure to Comply, Mr. Wheaton explained that consistent language regarding reinspection fees is needed in the property maintenance, building, plumbing, and electrical codes. A property maintenance reinspection fee approved in 1998 was not implemented due to a pending lawsuit against the City of Milwaukee that challenged the use of such fees against owners who fail to make timely repairs. That State Supreme Court has now ruled in favor of the City of Milwaukee. A reinspection fee should work very well here as another tool to gain compliance. As previously established, the fee is \$75 for each reinspection, rising to \$300 at the fourth field inspection. There is no charge for final inspection. The fees would be implemented beginning in January 2009.

In response to questions, Mr. Kesner explained that limitations on gaining compliance primarily relate to the limited powers of the municipal court. Some see municipal court citations as being similar to a parking ticket. Another factor is that the municipal court system in Milwaukee County allows substitution, which

means that the case of anyone who requests another judge is transferred to another municipality at some cost to the City for our assistant city attorney, inspector, and witness time. Mr. Wheaton explained that some communities have gone to a system of forfeitures that increase over the time they remain unpaid, which could be pursued, although he would first like to see if instituting reinspection fees helps resolve cases more quickly. He will evaluate the results by the third quarter of 2009 and may then propose something in the fee schedule. Mr. Kesner added that many violation amounts in the property maintenance and building codes have increased, and many increase further upon the second or third violation. The judge has the power, however, to reduce forfeitures when rendering a final judgment. In response to further discussion, Mr. Kesner later clarified that the municipal judge cannot sentence someone to the House of Correction but can place someone there to pay off forfeitures. The City has to forgive \$50 per day of the forfeiture amount and pay the county \$28 per day for housing, so we have a net loss of \$78 per day.

Ald. Stepaniak urged consideration of a somewhat conservative ramp-up for successive violations. In his experience with problem properties over the years, it is sometimes quite unclear whether the owner is motivated and has funds to attend to the issue or is almost just playing the system. Mr. Wheaton indicated that an increase in \$50 increments has been used in other areas. He commented that although some degree of revenue will be generated, the goal is to gain compliance.

Moved by Ald. McBride, seconded by Ald. Nikceovich to recommend to Council introduction of an ordinance amendment. Ayes: 7

#### **Agreement – Federally Funded Road and Bridge Projects in County Parks System**

Mr. Kappel reported on a proposed programmatic agreement that Milwaukee County may enter into with the Federal Highway Administration, U.S. Army Corps of Engineers, and the Wisconsin State Historic Preservation Officer to ensure appropriate recognition and consideration of historic properties in connection with rehabilitation and/or reconstruction projects on historic structures or infrastructure. Milwaukee County is going through this process in connection with repair of some of their infrastructure along parkways, particularly bridges. They have invited Wauwatosa to be a signatory with them to the programmatic agreement, draft copies of which were provided. Mr. Kappel noted that bridges on Underwood Creek Parkway, Honey Creek Parkway, and Menomonee River Parkway for which the City is responsible are either in the process of being listed on the National Register of Historic Places or are eligible for such a listing. Staff sees no disadvantage to participating as a signatory to the agreement since there is no cost to the City at this time. If we do encounter a federally funded project involving an historic structure, we would be able to expedite the review process.

Moved by Ald. Birschel, seconded by Ald. McBride to recommend approval. Ayes: 7

#### **Conditional Use – Approx. 741 Honey Creek Parkway**

The Chair announced that the Plan Commission has held until next month a request by Jennifer Wright, MMSD, for a Conditional Use in the Parks and Open Space District at approximately 741 Honey Creek Parkway for a pumping station emergency generator.

Moved by Ald. McBride, seconded by Ald. Birschel to hold this matter pending a recommendation from the Plan Commission. Ayes: 7

#### **Land Combination – 2201/2215 N. Mayfair Road**

The committee reviewed a request by Ewald Real Estate 2201, LLP and Ewald Real Estate 2215, LLP for a land combination in the AA Business District at 2201 and 2215 N. Mayfair Road. The Plan Commission unanimously recommended approval. Craig Ewald, 2201 N. Mayfair Road, was present and explained that this land combination was one of the conditions of the Conditional Use recently approved for this site. It would be contingent upon closing of the transaction with Dave & Buster's.

Mr. Kesner said that attaching the contingency mentioned by Mr. Ewald is the best way to proceed. If the approved use goes forward, it is appropriate to combine the parcels. If the use does not go forward, the properties would retain their current separate status. As with all land divisions or combinations, staff must follow through with the County Register of Deeds within six months of Council action.

Moved by Ald. Birschel, seconded by Ald. Meaux to recommend to Council approval of the land combination. Ayes: 7

The meeting adjourned at 8:39 p.m.

Carla A. Ledesma, City Clerk  
Wauwatosa, Wisconsin

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