



## CITY OF WAUWATOSA

MEMORIAL CIVIC CENTER  
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### COMMUNITY DEVELOPMENT COMMITTEE

Meeting – Tuesday, June 29, 2010

Committee Room #1

PRESENT: Alds. Birschel, Herzog, Jay, Meaux, Nikcevich, Organ, Pantuso, Wilke

ALSO PRESENT: Ald. K. Causier; J. Archambo, City Admin.; A. Kesner, City Attorney; N. Welch, Community Devel. Dir.; P. Enders, Econ. Devel. Dir.

Ald. Herzog as Chair called the meeting to order at 8:03 p.m.

#### **2900 N. 117<sup>th</sup> Street, Conditional Use massage therapy**

Ms. Welch commented that this is an existing chiropractic establishment and the applicants would like to add massage therapy to their business. The proposed hours of operation are Monday through Friday 9:00 a.m. to 9:00 p.m. and Saturday and Sunday 9:00 a.m. to 2:00 p.m.

Moved by Ald. Pantuso, seconded by Ald. Organ to recommend approval of the Conditional Use adding massage therapy to the existing chiropractic business contingent upon: 1) hours of operation Monday through Friday 9:00 a.m. to 9:00 p.m. and Saturday and Sunday 9:00 a.m. to 2:00 p.m., and 2) obtaining the necessary licenses and permits – 8

#### **3180 N. 124<sup>th</sup> Street, Conditional Use, pizza restaurant**

Ms. Welch commented that Jets Pizza will be a 2,000 square foot restaurant in the building that houses the Focus Credit Union branch. The proposed hours of operation are Monday through Friday from 10:00 a.m. to 11:00 p.m., Saturday from 10:00 a.m. to midnight and Sunday from 10:00 a.m. to 11:00 p.m. There will be pickup, delivery and limited seating.

Ald. Organ asked if this use was consistent with the planned development that was approved for that location. Ms. Welch responded that this use is consistent with the plan for that area.

Moved by Ald. Nikcevich, seconded by Ald. Meaux to recommend approval of the Conditional Use for a Jets Pizza contingent upon: 1) hours of operation Monday through Friday from 10:00 a.m. to 11:00 p.m., Saturday from 10:00 a.m. to midnight and Sunday from 10:00 a.m. to 11:00 p.m., and 2) obtaining any necessary licenses and permits – 8

#### **10950 W. Potter Road, Conditional Use, Bryant and Stratton College**

Ms. Welch told the committee that Bryant and Stratton College have been so successful at their Potter Road location they are expanding within the existing footprint by 13,000 square feet.

Pat Linnan, 36078 N. Beach Road, Oconomowoc, offered to answer any questions the committee might have.

Ald. Birschel noted that this is the second time Bryant and Stratton has expanded and everything went very well with the first expansion.

Moved by Ald. Birschel, seconded by Ald. Meaux to recommend approval of the Conditional use for a 13,000 foot expansion of Bryant and Stratton College --

Ald. Jay noted that she has had one person call to complain about the driving in the neighborhood. Mr. Linnan responded that in the original buildup for the college they implemented a “no right turn” sign at the exit of the property. In terms of people speeding, he said that it might be hard to identify if the drivers are from the college because that road is used by more people than Bryant and Stratton students.

Peter Pavone 2151N. Booth Street, Milwaukee, added that at orientation and through monitors in the hallways they alert students to the traffic signs and urge them to obey the traffic laws.

Vote on the motion was Ayes: 8

### **10425 W. North Avenue, Conditional Use, restaurant**

Ms. Welch noted that the applicant would like to open a Mexican restaurant in the former Suzy’s Café. They would also like to add some outdoor seating.

Ken Petershock 10425 W. North Avenue, owner of the building, added that the Plan Commission requested a six-month review.

Gay Leigh Mundy, 2225 N. 103<sup>rd</sup> Street, was concerned about the restaurant being open until 1:00 a.m. She didn’t think they needed to be open that late. She mentioned problems in her neighborhood with Dave and Buster’s restaurant and felt that this business being open so late would cause the same problems with noise and litter. She asked where the customers are going to park and where they will use the bathroom. Mr. Petershock responded that customers will have to go into the main building to use the rest rooms. The rest of the building will be secured. Ms. Mundy mentioned that an 8:00 or 9:00 p.m. closing would be acceptable, but not until 1:00 a.m.

Ms. Welch noted that the tables will not be in the public right-of-way. She added that the committee has the option to limit seating and also to establish a different time for closing the outdoor seating.

Ms. Mundy asked about the impact of the no smoking ban when it is implemented. Mr. Kesner pointed out that the state statute simply says that outdoor smokers need to be a reasonable distance from non-smokers.

Ald. Causier was also concerned about the lateness of the hours. She noted that the applicant said that he would consider closing earlier. Ms. Welch noted that her office will write a report in six months on the status of the business. Ald. Herzog stressed that Conditional Uses can always be reconsidered.

Moved by Ald. Pantuso, seconded by Ald. Organ to recommend approval of the Conditional Use for a restaurant with outdoor seating contingent upon: 1) hours of operation Sunday through Thursday 7:00 a.m. to 9:00 p.m. and Friday and Saturday from 7:00 a.m. to 1:00 a.m., 2) outdoor seating closed at 10:00 p.m., 3) staff review and approval of the outdoor seating plans, 4) obtaining the necessary licenses and permits, and 5) a review by staff in six months --

Ald. Nikceovich agreed with limiting the outdoor seating, but asked if they should be open until 10:00 or 11:00 p.m. instead of 1:00 a.m. Ald. Meaux asked if a condition could be added to the motion regarding cleaning up any trash in the area.

Ald. Herzog commented that he will support the overall motion to approve, but he thought that a 9:00 p.m. closing was too early. He noted that the mall closes at 9:00 p.m. and urged the committee to give the restaurant a little more time. He added that the outdoor seating will not be year round and the staff will submit a six month review.

Ald. Organ asked if the tables were close to any residents. Ald. Herzog noted that the tables will be in the front of the building away from residential homes adding that the building spans the entire block.

Ald. Nikceovich asked that a 10:00 p.m. closing be included in the motion.

Ald. Birschel and Ald. Meaux agreed that staff will review and approve of the outdoor seating plan and the maximum seating will be determined by them.

Both amendments were accepted by the motion and the second.

Vote on the motion as amended was Ayes: 8

### **11712 W. North Avenue, Conditional Use Tobacco Outlet Plus**

Ms. Welch commented that Tobacco Outlet Plus has already added beer sales to this location and would like to add liquor sales as well. They will add shelving to display the alcohol which will be sold in a variety of sizes. The hours of operation will stay the same. She added that the Plan Commission recommended denial.

Terry Schmitz, 1014 Reichow, Oshkosh, Tobacco Outlet Plus, commented that Kwik Trip wanted to restrict the tobacco being sold in convenience stores. Their tobacco stores are in outlets not outlet malls. The Wauwatosa store opened 13 years ago in May. Kwik Trip is a family style store with a variety of products from food to snacks and soft drinks. Tobacco Outlet Plus does not sell those things. They have a age restriction in all facilities and employees have to ask for identification. Underage people are not allowed in the store.

Moved by Ald. Birschel, seconded by Ald. Jay to recommend approval of the Conditional for liquor sales at Tobacco Outlet Plus --

Ald. Nikceovich felt that the liquor sales were a matter of convenience.

Ald. Pantuso noted that it looks like the applicant has done their due diligence and their staff has been responsible.

Vote on the motion was Ayes: 8

### **9125 W. North Avenue, Conditional Use Alterra Coffee Roasters**

Ms. Welch pointed out that the outdoor seating plan has undergone multiple revisions incorporating input from the Public Works Department, the Fire Marshal, and the Plan Commission. She showed the committee the original and compared it with the latest revision. The latest plan shows seating in the

grassy area. The Plan Commission also recommended a nine foot buffer between the sidewalk and the street.

Sean Phelan, 117 N Jefferson Street, Milwaukee, noted that the original plan had a three foot buffer and that was revised to a nine foot buffer with planters on the corners and bike racks. They will also be adding planting berms that mirror what Locker's had when they had the store there. This was something that the Fire Marshal had asked for. They are creating curved seating with a walking path going through. The planters will be custom made and they will work with the staff on what they will look like. They have worked on six revisions in order to make the seating be more of a transitional space. He added that the seating will be on crushed granite.

Russ Drover, 9116 Jackson Park Blvd., was concerned that the parking will not be adequate especially since one of the commercial spaces is still empty as well as one or two of the condos. He was also concerned that overflow parking will be on Jackson Park Blvd. His felt that property values will be affected. He stressed that both residential and business owners need to be respected. He urged the committee to deny the request.

Mr. Phelan presented a support letter that they had in the store for customers to sign. He estimated that there were about 1,000 signatures.

Kendall Hettich, 6508 Vista Ave., commented that she is an employee at Alterra and she rides her bike to work. She would like a place to park her bike when she gets there. A bike rack would be beneficial for her and for the customers that ride their bikes. She noted that there are a large number of customers that come from Jackson Park Blvd. She further noted that parking will always be an issue. Adding additional seating to the restaurant will benefit the community as a whole and Alterra puts money back into the community.

Ald. Organ asked where the employees park. Mr. Phelan responded that some ride bikes, some take public transit and some drive. The drivers park away from the store. Ald. Organ noted that the outdoor seating is further south and in front of the next store. She asked if that area will be open for others to sit there. Mr. Phelan responded that they operate on the honor system and people will be allowed to sit there. Ald. Organ was concerned that bikes would be sticking out onto the sidewalk. Mr. Phelan answered that they will make sure that the bikes would not be blocking the sidewalk.

Ald. Pantuso felt that the committee's job is to be affirming of the businesses in the city. In the beginning the committee reviewed the plans and then sent them back for revision. Mr. Phelan has addressed the requests for changes. He added that he goes to Alterra on his bike and he thought that the typical Alterra customer is more likely to use the bicycle for transportation. He expressed his support for the current plan.

Ald. Jay was interested in the design of the planters and gave some input on the materials and colors that could be used.

Ald. Herzog – asked if the planter boxes would be removed in the winter in the same way the tables and chairs would be put away. Mr. Phelan answered in the affirmative. Ald. Herzog added with regard to the planters, that city staff will look at design of planters.

Ald. Nikceovich commented that she is having a hard time with expanding 34 seats without enough parking for half a year and then taking it away. She asked why not expand into the rest of the building or the green space and decrease the number of seats. She felt the green space closer to the building could be utilized.

Ald. Meaux asked about screening. Mr. Phelan responded that a screen with wood and metal would provide a barrier and, according to the Fire Marshal, an additional buffer. The screens would be anchored and he will work with the staff on the height.

Ald. Meaux expressed support for the plan. He heard from a number of people against this plan, but he thought that the plan has been revised enough to address the issues involved. About a third of the building is vacant. He added that the city needs to balance success with parking issues. Overall, the outdoor seating in the village has had a positive effect. Revitalizing North Avenue will bring parking issues. He thought that the use of green space and parking are two different issues along with traffic flow.

The committee recessed at 9:15 p.m. and reconvened at 9:24 p.m.

Ald. Wilke commented that the parking, bike rack and outdoor seating should have been dealt with when the building was designed. He asked about the possibility of doing planting berms instead of planters and about the space next to the building.

Ms. Welch noted that the city has a number of encroachment agreements with a number of businesses that have outdoor dining.

Ald. Nikevich asked how the seating will be monitored for trash. She would also like to see the applicant come back with a plan utilizing more of the green space and a plan for trash. She felt that she couldn't support this plan.

Moved by Ald. Pantuso, seconded by Ald. Jay to recommend approval of the Conditional Use for additional outdoor seating at Alterra Coffee Roasters contingent upon city staff monitoring the aesthetics so that they match the building --

A question was asked about rent for the right-of way. Mr. Kesner responded that the space outside of Alterra Coffee Roasters is unused land. The only businesses that pay rent do so for land that the city normally uses.

Vote on the motion was Ayes: 5, No: 3 (Birschel, Nikevich, Wilke)

The meeting adjourned at 9:34 p.m.

Carla A. Ledesma, City Clerk  
Wauwatosa, Wisconsin

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