



CITY OF WAUWATOSA

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COMMUNITY DEVELOPMENT COMMITTEE

Meeting – Tuesday, March 13, 2012

Committee Room #1

PRESENT: Alds. Birschel, Jay, Nikcevich, Organ, Pantuso, Roznowski, Wilke – 7

ALSO PRESENT: Alds. P. Donegan, C. Wilson; J. Archambo, City Admin.; A. Kesner, City Atty.;
Police Chief Weber; P. Enders, Econ. Dev. Dir.

Ald. Organ as Chair called the meeting to order at 8:02 p.m.

Land Division by Certified Survey Map – 11300 W. Burleigh

Ms. Enders said that this request is to subdivide the larger “Burleigh Triangle” parcel into four smaller parcels to accommodate the Business Planned Development that received preliminary approval last year. There is an existing landlocked parcel in the middle of the site that is not owned by HSA Commercial as well as a newly created landlocked parcel at the northern portion of the site which is owned by HSA Commercial. Cross access agreements/easements will need to be developed and recorded with or as part of the Certified Survey Map to ensure permanent street access and utilities for all parcels. The Plan Commission recommended approval 7-0 contingent upon completion of cross access agreements/easements.

Present in favor: Brian Randall, Friebert, Finerty, St. John, 330 E. Kilbourn Avenue, Milwaukee

No one present in opposition.

Mr. Randall noted that this is a technical step in the Business Planned Development process.

Moved by Ald. Pantuso, seconded by Ald. Wilke to recommend
approval of the Land Division by Certified Survey Map contingent
upon completion of cross access agreements/easements – 7

Special Events Permits

Mr. Kesner explained that this is an adaption of the parade permit to address the need for a special event permit. This permit would be required whenever there might be a need for police presence. It addresses the concerns of Police Chief Weber and was requested by him due to a couple of public events that needed a police presence.

Nicholas Schweitzer, 2749 N. 75th Street, asked of the police department would use their discretion in granting the special event permits. Mr. Kesner replied that the police have the ability to determine if there will be a need for their personnel. Mr. Schweitzer was concerned that events on private property could be vetoed; therefore, violating the constitutional right to assemble. Mr. Kesner explained that the right to assemble can be controlled and is not inappropriate in the case of a peaceable gathering. Mr. Schweitzer asked about the efficacy of saying an event won't be peaceable beforehand. Chief Weber responded that if a group is rallying in a neighborhood, that is no problem, but it would be appropriate to make that call for a public property. Mr. Kesner stressed that the ordinance language details times when the police department might make the decision to deny a permit.

Mr. Schweitzer noted that the recent political rally in Hart Park didn't fit the circumstances for being not peaceable. Mr. Kesner replied that the rally would not have been denied, but the police department would have been able to charge for the manpower and overtime they ended up providing. Chief Weber reiterated is that public or private property, their only concern is if there is going to be a need to a police presence.

Ald. Wilke left at 8:27 p.m. and returned at 8:42 p.m. (- 6)

Mr. Kesner stressed that in the case of an unplanned or unpermitted event, if there is behavior that needs the police there might not be enough officers on hand to handle the event and the needs of the rest of the city.

Ald. Jay thought it would be a good idea to add the wording "in such circumstances where the event has effects on the public property, streets or sidewalks."

Moved by Ald. Jay, seconded by Ald. Roznowski to recommend adoption of an ordinance amending Chapter 7.50 of the Wauwatosa Municipal Code to require permits from the Police Department for parades and special events which are held on public property or otherwise require a police presence contingent upon adding wording to the effect "in such circumstances where the event has effects on the public property, streets or sidewalks" --

Mr. Kesner explained that the city approved a management agreement with Tosa Tonight and this ordinance should be given to them and the Parks and Forestry Board.

Vote on the motion was Ayes: 3, Noes: 4 (Birschel, Organ, Nikcevich, Wilke)

The committee considered adoption of the ordinance without the added language.

Moved by Ald. Nikcevich, seconded by Ald. Birschel to recommend adoption of an ordinance amending Chapter 7.50 of the Wauwatosa Municipal Code to require permits from the Police Department for parades and special events which are held on public property or otherwise require a police presence. Vote on the motion was Ayes: 6, Noes: 1 (Jay)

Conditional Use

6102 W. North Avenue

Ms. Enders said the applicants are requesting to operate a 6,500 s.f. O'Reilly Auto Parts retail store in the building that formerly housed Blockbuster Video on North Avenue. If not for the size of the existing structure, this would be a permitted use under the zoning regulations but a Conditional Use is required for any use over 5,000 square feet. The main intent of this regulation was to make sure new development in the corridor was compatible with the existing character. The proposed hours of operation are 7:30 a.m. to 9 p.m. daily, which are within the hours allowed in the Trade District.

There are concerns that this proposal does not fit the vision of the recently adopted East Tosa North Avenue plan (the Plan), which identifies some potential redevelopment sites as well as the creation of four subdistrict centers along North Avenue; this site is identified in both. This site was selected due to the common knowledge that the Blockbuster chain was struggling (p. 39) and this could eventually be a vacant building, thus providing an opportunity for redevelopment. The potential development site

discussion (p.39) identifies that this should become a mixed use development with sufficient parking. The subdistrict plan expands on the earlier discussion by proposing the installation of a neighborhood commons on the southwest corner of the site and a mixed use development on the remainder as well as a redesign of 61st Street (p. 62, 63). However, the Plan's market study also identifies automotive part sales as an underserved market in the North Avenue corridor (p.34, 37).

There have been many conversations between the applicant, elected officials, city staff, and neighborhood representatives to develop conditions that will move the development towards a more palatable proposal that incorporates some of the vision identified in the Plan while realizing the redevelopment will not be accomplished at this time. Most of the discussion has been focused on exterior site improvements, primarily related to "greening" up the parking lot and other aesthetic concerns. The proposed use has more parking than is required by the zoning code. There are 46 spaces whereas only 13 spaces are required so it is technically possible from a zoning standpoint to provide additional greenspace on site by removing existing parking spaces. The plan recommends development of design guidelines for the corridor that includes retrofitting existing buildings by creating pedestrian connections from the sidewalk to the building entrance (p. 78). Additional conditions are identified below.

The Design Review Board approved the landscape plan and the majority of the exterior changes to the building. The project needs to return to the Design Review Board for final approval of the monument sign and awnings.

Ms. Enders said staff recommended approval with the following conditions based on input from alderpersons and neighborhood representatives:

1. establishing hours of operation
2. prohibition of auto repair in parking lot and plan to ensure enforcement
3. no overnight parking of vehicles
4. signage to be reviewed and approved per Municipal Code 15.14 and 15.16
5. conformance with approved site plan showing landscaping, exterior lighting, pedestrian connection from the public sidewalk per master plan, improved site ingress/egress, additional green space, and parking configuration.
6. acknowledgment to provide shared parking with surrounding businesses if approached
7. providing security cameras/video surveillance of parking lot and allowing Police Department access
8. six month review after issuance of Certificate of Occupancy, and
9. obtaining any additional permits and licenses

Present in favor: Dan Cohen, Owner of the Property, 6144 N. Berkeley Avenue, Whitefish Bay
Brian Randall, Friebert, Finerty, St. John, 330 E. Kilbourn Avenue, Milwaukee
Mark Wold, O'Reilly Regional Manager, 25685 100th Street, Zimmerman, MN
Nicholas Schweitzer, 2749 N. 75th Street
Kevin Wadhams, 4253 Raymir Circle
Kathy Ehley, 7437 Kenwood Avenue
Mike Claffey, 4263 Raymir Circle
Ald. Pete Donegan, First District, 2202 N. 73rd Street
Jesse Macias, Phoenix Design Group, 1435 N. 4th Street, Phoenix, AZ

Present in opposition: Joel Tilleson, 7915 W. Clarke Street
Mary Perry, 2519 N. 68th Street

Mr. Cohen described the history of the property citing that for 50 years the majority of the uses were automotive related. He is re-tenanting the property with an O'Reilly Auto Parts store. The Conditional Use approval is needed only because the size of the building is over 5,000 square feet. He gave a history of the property from its purchase to today. He noted that he and his team have spent a long time trying to recruit new businesses to the building after Blockbuster left. When they found that O'Reilly's was interested in the site they met with staff, four of the alderpersons, the Mayor, twice with the Design Review Board, and people from the neighborhood. They have reached out as much and as often as they could.

Mr. Cohen described the look of the building once they redo the façade. He noted that the parking is more than adequate and they will be taking two parking spaces at each end of the front row for extra landscaping.

Mr. Wold noted that there are close to 4,000 O'Reilly auto parts stores in 48 states. He gave a brief history of the company of the company and its history in the Milwaukee area. He stressed that they offer employees and customers a clean, safe place to work and shop. People have the idea that auto parts stores are greasy, dirty, and smelly. O'Reilly is not like that. They don't allow car repairs in the parking lot. The only things they might do in the parking lot is install wiper blades, light bulbs, and batteries especially if the weather is really bad. They have two deliveries per store and inventory delivery to the store once a day two or three times per week. The deliveries are in the front.

The committee recessed at 9:26 and reconvened at 9:39 p.m.

Mr. Wold noted that they have no more crime involving their stores than any other store.

Chief Weber stressed that if there were any car repairs being done in the parking lot the police department would contact the business and ask for compliance. He added that Blockbuster closed at 10:00 p.m. at that location. O'Reilly will be closing at 9:00 p.m. The police department would not require any security cameras for the store. That would be up to the store owner.

Mr. Randall commented that the Comprehensive Plan was adopted last year for North Avenue. His client is not trying to change the zoning or do any redevelopment. This is a permitted use for the zoning. The application of the Conditional Use is specifically for the size of the building. There is no basis to delay this project. Mr. Cohen has a signed contract with O'Reilly's. They are willing to accept the revised contingencies set by the Plan Commission. Mr. Randall felt that his client was being treated differently from other Conditional Uses that have recently been approved in Trade District zoning.

Mr. Schweitzer commented that the tenant is the most important person in this process and the private property owner should be respected. People may wish for better, but the land owner comes first.

Mr. Tilleson commented that an auto parts store is not part of the Comprehensive Plan. He believes that crime is big chain stores. He is opposed to the Conditional Use because of his concern about crime.

Mr. Wadhams said he was all for O'Reilly's and the project should get done.

Ms. Perry commented about her opposition to the project. She added that just because it is a permitted use doesn't make it desirable. It doesn't fit with the neighborhood. The customer service element such as changing wiper blades is a slippery slope to more extensive repairs. She would like to have a prohibition put on any customer service in the parking lot. An auto parts store is not compatible with the Comprehensive Plan. The city was patient with getting Sendik's. She did not want to see the east side of Wauwatosa become the "scruffy" part of town that let's anything go on there.

Ms. Ehley was very encouraged by changes in the landscaping plan. She was pleased to see which company will be doing the landscaping. They are very reliable. It is more important to have a good business in that location than an empty building.

Ald. Donegan felt that was no consensus of objection to O'Reilly's occupying the building. He also didn't think there was a legal basis to deny their Conditional Use. He noted that many of the objections have been connected to the Comprehensive Plan. Auto parts stores was one of the primary needs mentioned in the Comprehensive Plan for this area of Wauwatosa. He cautioned that decay breeds decay. O'Reilly's is a good corporate citizen and will add to the area. The risk of further decay would be worse than any disappointment that might be felt.

Mr. Tilleson, reiterated that he was representing the person that owns the yoga studio two blocks west. She is very worried about O'Reilly's bringing crime to the area.

Ald. Pantuso expressed confidence that if there are any problems O'Reilly management and the police department will be able to handle that. Mr. Wold noted that half the business is done with credit cards and half with cash. He didn't think this was a high crime area and their company doesn't bring criminals to the area. Ald. Pantuso commented that this will go through and he was happy that someone was investing in the area. It is just what the area needs; however he felt that he had to vote no in order to fairly represent the views of the constituents that have been contacting him.

Moved by Ald. Pantuso, seconded by Ald. Nikcevich to recommend approval of the Conditional Use contingent upon: 1) hours of operation from 7:30 a.m. to 9:00 p.m. daily, 2) no vehicle repairs (e.g., oil changes, brake jobs, tire replacement, muffler installations, etc.) shall be allowed in the parking lot and adjacent streets by customers or employees, 3) no overnight parking of vehicles, 4) establish pedestrian connection to the public sidewalk, 5) landscape Plan approved by the Design Review Board, 6) signage to be review and approved per Municipal Code 15.14 and 15.16, 5) Freestanding and exterior signs approved by the Design Review Board, and 6) obtaining any additional licenses and permits --

Moved by Ald. Nikcevich, seconded by Ald. Roznowski to add the words "with the exception of lights, batteries, and windshield wipers" to condition # 2 --

Moved by Ald. Nikcevich to add language "four spots taken for expanded landscaping on the west side of the parking lot, one space put back on the east end" added to condition number five --

Motion failed for lack of a second.

Ald. Nikcevich was concerned that large chains can't be good citizens. She felt the Mr. Cohen did not contact the neighbors when looking for tenants. There also needs to be more attention paid to the Comprehensive Plan and this owner did not do that. She didn't trust that they will do what they say they will do.

Mr. Cohen reiterated that they had numerous meetings with city staff and contact with the neighbors.

Ald. Birschel stressed that the fears will not be realized He noted that this item has been discussed for almost 7.5 hours between two committees and it should be decided.

Mr. Macias commented that they have to meet the Americans with Disabilities Act (ADA) group. He explained that they could not put the handicapped space in the areas near the door because there is too much of a grade to offer direct access. When they submit all the drawings it will go through approval. They have already received approval for the color palette by the Design Review Board.

Moved by Ald. Roznowski, seconded by Ald. Jay to recommend adding additional language to condition #3, “no parking of customer vehicles overnight with the exception of company owned vehicles” --

Ald. Organ listened to the comments about the North Avenue Plan. She observed that after the plan was approved the public expected it to be implemented right away. The plan will not happen now, but it can happen in the future. Her concern was regarding delivery trucks beeping when they back up and idling in the parking lot. Mr. Cohen pointed out that the trucks can only pass through the parking lot, there is no place to back up. Mr. Kesner stressed that vehicle idling must be attended.

Vote on amending condition #2. Ayes: 6, Noes: 1 (Jay)

Vote on amending condition #3. Ayes: 7

Moved by Ald. Pantuso, seconded by Ald. Nikcevich to recommend approval of the Conditional Use contingent upon: 1) hours of operation from 7:30 a.m. to 9:00 p.m. daily, 2) no vehicle repairs (e.g., oil changes, brake jobs, tire replacement, muffler installations, etc.) shall be allowed in the parking lot and adjacent streets by customers or employees with the exception of lights, batteries, and windshield wipers”, 3) no overnight parking of customer vehicles except for company owned vehicles, 4) establish a pedestrian connection to the public sidewalk, 5) trash and recyclable containers shall be located close to the building; containers shall be periodically emptied or emptied whenever they are full, 6) the parking lot shall be periodically inspected and any trash or recyclables shall be picked up, 7) landscape Plan approved by the Design Review Board, 8) signage to be reviewed and approved per Municipal Code 15.14 and 15.16, 9) Freestanding and exterior signs approved by the Design Review Board, and 10) obtaining any additional licenses and permits. Vote on the motion as amended was Ayes: 5, Noes: 2 (Nikcevich, Pantuso)

The meeting adjourned at 12:10 a.m.

Carla A. Ledesma, City Clerk
City of Wauwatosa

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