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**COMMUNITY DEVELOPMENT COMMITTEE**  
**Meeting – Tuesday, January 29, 2013**  
**Committee Room #1**

PRESENT: Alds. Berdan, Causier, McBride, Moldenhauer, Pantuso, Roznowski, Walz-Chojnacki, Wilke – 8

ALSO PRESENT: P. Enders, Economic Dev. Dir.; T. Szudy, Principal Planner, E. Miller-Carter, Asst. City Atty.; A. Kesner, City Attorney; J. Archambo, City Admin.; Mayor Ehley

Ald. Roznowski as Chair called the meeting to order at 8:08 p.m.

Alds. Pantuso and Moldenhauer excused. -6

**Request for Street Festival Permit for Tosafest 2013**

The committee reviewed a request from Sherry Carlin, Wauwatosa Village Taskforce, for a street festival permit for use of the Village area for Tosafest 2013 on September 6 and 7. The area would include Harwood Avenue from Wauwatosa Avenue to the Harmonee bridge and State Street from the 7500 block to Harmonee Avenue.

Ald. Causier noted that this has been an exciting event for the city for many years, with profits going directly back to city organizations.

Moved by Ald. Causier, seconded by Ald. Walz-Chojnacki  
to recommend approval of the request. Ayes: 6

**Request for Conditional Use – Pitch’s Baby Grand Bar and Restaurant, 11320 W. Blue Mound Road**

Ms. Enders outlined a request by John Picciurro, Pitch’s Club 113 Inc., for a Conditional Use in the AA Business District at 11320 W. Blue Mound Road to operate Pitch’s Baby Grand bar and restaurant. There would be seasonal outdoor dining at the front of the building, and an existing drive-thru at the rear of the building would be used. Following Plan Commission review, proposed hours of operation are now daily from 9 a.m. to midnight for the restaurant, 10 a.m. to bar time for the bar, and 9 a.m. to 10 p.m. for outdoor dining and the drive-thru. Staff recommends approval.

John Picciurro, 457 N. 113<sup>th</sup> Street, confirmed his concurrence with the proposed hours of operation.

Moved by Ald. McBride, seconded by Ald. Walz-Chojnacki  
to recommend to Council approval of the Conditional Use –

Ms. Szudy and Ms. Enders confirmed that the restaurant hours are generally consistent with other Wauwatosa establishments, aside from some variation in the Trade District. A few complaints about the current business exceeding outdoor dining hours were resolved through the alderperson.

Mr. Picciurro was reminded of the need to adhere to the stipulated hours and be mindful of neighbors.

Vote on the motion, Ayes: 6

(Ald. Pantuso present. -7)

**Final Plan Approval of Phase 1A of Business Planned Development at Approximately 11500 W. Burleigh Street**

Ms. Enders reported on the request by Tim Blum, HSA Commercial, for final plan approval of Phase 1A of a Business Planned Development at approximately 11500 W. Burleigh Street to construct a retail development. This is the first phase of a multi-phase development, The Mayfair Collection, which will eventually redevelop the approximately 70-acre site. Phase 1A is the westernmost parcel adjacent to Hwy. 45, with approximately 275,000 square feet of primarily retail uses. Preliminary plans for the entire development were approved in May 2011, and tax incremental financing was recently approved.

Final plans must comply with the conditions set during preliminary review, as delineated by Council resolution. The applicant submitted information on how they have met or will meet the 14 conditions that were set with no major deviations from preliminary plans. Ms. Enders noted the following:

- The Design Review Board has approved final building plans designating design and materials.
- Adjustments are needed for traffic and access improvements as a result of the traffic impact analysis (TIA) recommendation for additional lanes on Burleigh including dedicated turn lanes, alignment of driveways with 112<sup>th</sup> and 114<sup>th</sup> Streets, and closure of existing medians. The property owner is continuing to coordinate with the City and the Wisconsin Department of Transportation (WDOT) on traffic improvements.
- A phasing plan and marketing materials have been developed to attract desirable uses for future phases consistent with the Burleigh Triangle Redevelopment Plan.
- The applicant intends to maintain in good repair existing buildings and open spaces that are part of future phases and understands the need to obtain City approvals for future development phases.

There are other items needing resolution prior to construction and/or occupancy that do not impact final development approval. A development agreement is being coordinated with the City Attorney and will be forwarded to this committee at a later date.

Atty. Brian Randall of Freibert & Finnerty was present to answer questions on behalf of the applicant.

Moved by Ald. Pantuso, seconded by Ald. Walz-Chojnacki to  
Recommend approval –

Ald. Pantuso asked Mr. Randall about collaboration/sharing of information between this project and the Meijer project on the south side of Burleigh. Acknowledging that he represents Meijer as well as HSA, Mr. Randall said that City staff plays an instrumental role in reviewing traffic impact analyses in this type of situation. HSA been hard at work on plans and studies, working with WDOT. Meijer will piggyback on that insofar as they will have to deal with the same information and justify their plans.

Ald. McBride commented on the value of using Tax Incremental Financing (TIF) in developing difficult areas. It takes investment from the City as well as the developer to make something like this happens, and it should not be seen as a handout. TIFs can only be used in “but for” situations where land could not otherwise be developed. Under TIFs we create a partnership to create a higher and better use and also add value where there is none or very little. There is considerable benefit to taxpayers over time, he said.

In response to a question regarding timelines, Mr. Randall said that, as momentum builds, another round of lease announcements can be anticipated. Demolition will begin in spring, possibly March. The pending final development agreement, a combination TIF-zoning agreement, should be forthcoming in February. Work will proceed through 2014 with tenants on site in 2014-15. A lot of work will be needed on Burleigh, the freeway overpass, on-site infrastructure, and utility work.

Vote on the motion, Ayes: 7

### **Proposed Ordinance – Keeping of Chickens**

Ms. Miller-Carter, Assistant City Attorney, reported that all of the changes/corrections requested at this committee's last meeting are now incorporated in the ordinance.

Moved by Ald. Pantuso, seconded by Ald. Walz-Chojnacki to recommend adoption –

Ald. Pantuso reported that he discussed this issue in a chance meeting with Milwaukee Mayor Barrett, who reiterated the lack of problems in Milwaukee.

Ald. Walz-Chojnacki expressed strong support, stating that it is reasonable and fair to give this a trial.

Ald. Berdan said that she is still opposed, especially considering that the City Attorney's office, Health Department, and building inspectors were not supportive. Considering the unknowns, she feels that the cost is too high to take that risk. The common perception is negative; it would change the character of Wauwatosa and affect property values.

Ald. McBride commented that we are trying to see if we can maximize freedom within the context of adjusting to the needs of our neighbors. He named a number of other U.S. cities that allow chickens.

Ald. Roznowski commented that we try things when people approach with ideas. He believes this does add to the character of Wauwatosa.

Vote on the motion, Ayes: 6; Noes: 1 (Berdan)

### **Ordinance Repealing and Recreating Chapter 24 of the Wauwatosa Municipal Code Pertaining to a New Zoning Code**

Ms. Enders reported that the last comprehensive update of Wauwatosa's zoning code was in 1972. While periodically amended, it has not kept pace with best practices. Proposed changes are identified in the new code through use of footnotes. Graphics and illustrations will be added in its final form. Staff anticipates making housekeeping amendments as needed in the future. Ms. Enders listed multiple opportunities for public input during the two-year process of recreating the code. The Plan Commission reviewed and approved the draft in November, and staff recommends approval.

The City's consultant, Kirk Bishop of Duncan Associates, 212 W. Kinsey, Chicago, presented an overview of the updated zoning code. He emphasized that this is not a rezoning; there are no zoning map changes. The guiding principles were to: establish new organization and format; make it easier to use and understand; modernize and update; ensure consistency with adopted plans; remove unnecessary regulatory and procedural obstacles; protect existing community character; and provide common-sense flexibility/decision-making authority. Mr. Bishop explained the proposed organization and district framework, featuring use of tables and charts to present relevant information including broad categories of uses with similar operational characteristics.

Mr. Bishop said that he has been working very closely with staff over the past two years and has also met with various groups and appeared at multiple meetings. He believes that the ordinance will serve the City well and adhere to Wauwatosa's principles and values. He foresaw the need for periodic housekeeping moving forward.

Russell Drover, 9116 Jackson Park Boulevard, objected to the zoning code revision. He spoke of concerns regarding planned unit developments in areas very close to residential neighborhoods where, he felt, they can have significant impact. He feared density being increased and setbacks being compromised. He emphasized a need for sensitivity to nearby properties.

Asked for an example of the effect of a specific change, Ms. Enders cited parking requirements for a new business such as a restaurant. Under the existing code, the number of required spaces is based on seating and there is little flexibility. In the new code, required on-site parking is much more clear and shared parking is encouraged, either using other lots or public parking.

Ms. Enders clarified that there are some changes in the permitted and conditional use categories, which are shown in a table. Conditional Uses would still be reviewed by the Plan Commission and Community Development Committee prior to Council approval. In another example, she said that garage height might now be approved at staff level.

In response to further questions, Ms. Enders expressed confidence in changes such as making massage establishments permitted rather than conditional uses. In discussions with the City Attorney and staff, it was determined that some uses typically don't generate a lot of controversy and simply move through the process. No changes are proposed in those that do generate neighborhood concern.

City Attorney Kesner responded to Mr. Drover's concerns about planned unit developments. Under the new code, everything has underlying zoning. Through the zoning process, the Common Council can apply the planned unit overlay. Each time, it will require the same full process as any zoning change including a number of hearings on the plan.

(Ald. Moldenhauer present. -8)

Ald. McBride spoke of changes that have occurred in the city in the 40 years since the last zoning code revision. Updates are needed in so many different ways; we need to streamline our processes.

Moved by Ald. McBride, seconded by Ald. Berdan to  
recommend adoption --

Ald. Wilke felt there is a need for more discussion and education, including specific scenarios walking through some of the new procedures. That could take place at meetings of this committee or a Committee of the Whole for the benefit of the entire Council.

In ensuing discussion, Mr. Kesner addressed questions regarding storm water and related issues. He explained that the entire Natural Resources section of the ordinance cannot be changed without DNR approval, so that section and others we cannot immediately incorporate will be revised and approved separately. We are able to implement the new watershed permit because DNR rules take precedence.

The question of whether to forward the ordinance to Council or how otherwise to proceed prompted further debate. Some voiced the need to more thoroughly review the ordinance and be better informed on specifics. There was a question of scheduling in terms of potential review by Committee of the Whole,

which is tightly scheduled right now, as well as in terms of moving the process forward. Staff offered individual or group meetings as an option.

Moved by Ald. McBride, seconded by Ald. Pantuso to hold the ordinance to the next committee meeting for further discussion with an emphasis on substantive changes in procedure –

It was agreed that the next meeting should be scheduled so that members of the Budget and Finance Committee are able to attend and there is adequate time for discussion.

Ms. Enders asked that alderpersons forward examples of issues they would like discussed.

Vote on the motion, Ayes: 7; Noes: 1 (Berdan)

The meeting adjourned at 10:10 p.m.

Carla A. Ledesma, City Clerk

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