



**CITY OF WAUWATOSA**  
7725 WEST NORTH AVENUE  
WAUWATOSA, WISCONSIN 53213  
Telephone: (414) 479-8917  
Fax: (414) 479-8989  
Web Site: www.wauwatosa.net

## **COMMITTEE OF THE WHOLE**

Tuesday, February 19, 2013  
Council Chambers

**PRESENT:** Alds. Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso (7:25p.m.), Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson – 15

**EXCUSED:** Ald. Ewerdt

**ALSO PRESENT:** Mayor Ehley; J. Archambo, City Admin.; A. Kesner, City Atty.; P. Enders, Development Dir.; T. Szudy, Principal Planner

Ald. McBride as chair called the meeting to order at 6:08 p.m.

### **Revision of the City Zoning Code**

Mr. Kesner noted that this is the end of a very long project. The last time the zoning code was addressed was in the 1970s. He stressed that establishing a zoning code is one of the most important things local government is responsible for. Duncan Associates and their representative Kirk Bishop prepared most of the presentation. Duncan Associates reviewed the old zoning code and found that many of the zoning descriptions were redundant or confusing.

Mr. Kesner gave a general description of the significant changes noting that there is greater certainty and predictability to the code requirements such as landscaping and pedestrian standards. One difference is that variances will be a use it or lose it situation as opposed to the variance being permanent to the property. He explained accessory and temporary uses and other uses that have been simplified. Duncan Associates have done additional work with Planned Developments as well as set back rules, garages, drive thrus, parking, and historic preservation. There will no longer be Special Uses. Conditional Uses have been renamed as Permitted Uses. The uses that have been eliminated are: 1) telegraph services, 2) stenographic services, 3) videotape rental, 4) bottled gas, 5) civil defense, 6) sewage pressure control stations, and 7) legitimate theater.

Mr. Kesner noted that Land Division/Combinations and Design Review have been moved to other parts of the code. He stressed that the legal framework for code compliance is if the request for a type of use is not in the code then it just can't be done. He stressed that changes in residential zoning would add consistency to lot sizes.

Mr. Kesner spoke about the addition of overlay districts and special purpose districts where a couple of single districts are combined. Chapter 24.07 covers the allowed uses and also provides for consistency in addressing regulations. He also explained how to use the tables throughout the zoning code document to determine what is different in code. He added that there are use regulations and supplementary regulations, accessory and temporary uses as well as parking and loading. The goal is to provide consistent enforcement in all areas. He noted that the new zoning code also adds the position of Licensed Landscaping Architect.

Mr. Kesner added that the category of Natural Resources have only minor changes because any changes in this area have to be approved by the Department of Natural Resources (DNR). In response to questions regarding the GIS System, Mr. Kesner commented that the system the city has now is very rudimentary and it is also not for the public. A newer version will be installed soon.

Moved by Ald. Roznowski, seconded by Ald. Organ to approve the new zoning code as written --

Ald. Tilleson asked about adding an amendment to the plan. The East Tosa Alliance has created a demand for retailers to come into the area. There is broad support among the neighbors. Mr. Kesner stressed that the plan amendment could be added to C1 or to just the North Avenue overlay district. He mentioned the Alliance's use of the word "formula restaurants". With regard to that description, Mr. Kesner noted that the language does not provide a finding of fact and there is no specific threshold.

Ald. Wilson asked if such a body would be able to make arbitrary decisions about the businesses that would be allowed to locate on North Avenue. He didn't have much issue with adding businesses to North Avenue especially if they fit the North Avenue plan. Ald. Berdan noted that she was pro-business and pro-citizen.

Ald. Birschel noted that if a formula restaurant wanted to go in where another formula restaurant was located he would be able to support that. Ald. Roznowski cautioned against unintended consequences. He added that it was important to get more of a public response. Ald. Causier concurred.

Ald. Wilke said that if it was just for North Avenue the Alliance's input it would probably be alright. Ald. Donegan supported the amendment, but he didn't object to public input.

Ald. Pantuso spoke with his constituents and the people around North Avenue are in support of the amendment.

Ald. McBride commented that initially he was positive about this amendment. It seems wrong not to allow the residents to have a say.

Moved by Ald. Tilleson, seconded by Ald. Berdan to include Chapter 24.05.030 of the Zoning Code to include input by the North Avenue Alliance regarding formula restaurants in the area --

Mr. Kesner noted that a class two notice would have to be sent in order to hold a public hearing.

Moved by Ald. Birschel, seconded by Ald. Causier to send the amendment To the Plan Commission and to the Community Development Department – 13

Vote on the original motion was – 15

The meeting adjourned at 7:40 p.m.

Carla Ledesma, City Clerk  
City of Wauwautosa

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