



CITY OF WAUWATOSA

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COMMUNITY DEVELOPMENT COMMITTEE MEETING Tuesday, May 26, 2009

PRESENT: Alds. Birschel, Dennik, Hanson, Herzog, McBride, Meaux, Nikcevich, Stepaniak -8

ALSO

PRESENT: N. Welch, Community Dev. Dir.; A. Kesner, City Attorney; J. Archambo, City Administrator

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

Conditional Use – Fiber Conversion Cabinet at 7916 Gridley Avenue

The committee reviewed a request by Patricia Boyd and Kevin Stoeveken, agent for AT & T Wisconsin, for a Conditional Use in the BB Two-Family District at 7916 Gridley Avenue for a fiber conversion cabinet. Ms. Welch reported that the cabinet would be located along the rear lot line. A site plan with photos was provided. A neighbor has raised some concerns about property maintenance issues along the alley, which would be referred to the property maintenance inspector. The Plan Commission recommended approval with standard contingencies including a requirement for white rather than orange labels. Additional landscaping was discussed but not specifically included by the Plan Commission.

Moved by Ald. Birschel, seconded by Ald. Meaux to recommend to Council approval of the Conditional Use contingent upon use of white rather than orange labels and obtaining any other licenses and permits – With consent of the mover, Ald. Meaux added a requirement for appropriate screening landscaping. Ayes: 8

Kevin Stoeveken of MI-Tech Services, agent for AT & T, 16510 W. Rogers Drive, New Berlin, indicated that screening is part of the landscaping plan.

Conditional Use – Aldi Grocery Store at 12140 W. Burleigh Street

The committee reviewed a request by Eric Thom, Continental 164 Fund LLC, for a Conditional Use in the AA Business District for a 16,000 sq. ft. Aldi grocery store at 12140 W. Burleigh Street, Burleigh Square. Ms. Welch reported that hours of operation would be Monday through Saturday from 9 a.m. to 8 p.m. and Sunday 10 a.m. to 6 p.m. The Plan Commission unanimously recommended approval.

Eric Thom and Kiera Smith of Continental 164 Fund LLC, W134 N8675 Executive Parkway, Menomonee Falls, were present along with Marsha Sperber of Aldi, 9342 S. 14th Street, Oak Creek.

Moved by Ald. Dennik, seconded by Ald. Hanson to recommend to Council approval of the Conditional Use –

Ald. Stepaniak asked if the developer has fulfilled all of the conditions of the original development agreement. Ms. Welch said that the condition of the rain gardens is a remaining issue. Continental gave a tour a year ago and described their efforts, and they will be encouraged to continue their review and schedule another walking tour in July.

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

Proposed Ordinance – Naming of City Property

The committee reviewed a proposed ordinance creating Section 1.34 of the Code establishing a process for the naming of City property. City Attorney Kesner reported that the ordinance now incorporates changes discussed at the previous meeting. It would not affect the current program for engraving of bleacher seats at Hart Park. Common Council approval would be required for naming of \$5,000 or more.

Jill Gaertner, 6829 Terrace Court, who previously spoke in support, said she is even more in favor after hearing of problems that Chicago had due to not having an ordinance in place.

Ald. Dennik questioned the need for an ordinance and its effect on ongoing bleacher sales. Mr. Kesner said that the Common Council does have control over naming of City facilities, and this ordinance provides guidelines. The Chicago Parks District denied naming rights to a particular entity but was held liable and forced to use the name because they did not have a written policy setting out their criteria. This ordinance would avoid that type of problem in the future. The ordinance would not affect the current naming program for bleacher seats because the seats themselves are not a facility.

Ald. Dennik asked about similar legislation elsewhere in the state. Ald. McBride said that Walworth County and the Greendale library are two Wisconsin examples he used in drafting the ordinance. Ald. Dennik said he believes some of this is overkill and would like a formal opinion from the City Attorney as to need.

Moved by Ald. Dennik, seconded by Ald. Hanson to request a formal opinion from the City Attorney regarding the need for the ordinance –

Ald. Stepaniak commented that need is a legislative question, not a legal question. Ald. McBride concurred, citing possible issues. He noted that Hooters reportedly has approached the County about having their name on several facilities but has been rejected. In Missouri, the Ku Klux Klan won a court case allowing them to be named on highways, along with civic organizations such as a Rotary Club, as the organization maintaining a particular area. There are other cases where municipalities named a facility for an entity that was later discredited in some way or who did not financially fulfill sponsorship. Using examples from across the country, he tried to find the clearest and least controversial language.

Ald. Meaux suggested making section A 3 *[When considering whether to name City Property, it is the City's preference to commemorate the contributions of individuals or families to the Wauwatosa and Milwaukee communities, to the State of Wisconsin, or to the United States of America. However, the City also may receive and consider applications to name City Property for an individual contributor or for a commercial enterprise or nonprofit entity.]* part of the naming criteria cited in Section B. Anything under \$5,000 would be left up to City staff, with all others coming to the Common Council. Without some direction, he was concerned that revenue could become a driving force rather than a name with a strong connection to Wauwatosa.

Mr. Kesner indicated that his formal opinion would be similar to what he has already stated and would likely be ready by the June 9th meeting.

At the suggestion of the Chair, the mover and second agreed to include a request that the formal opinion also address whether the ordinance applies to the ongoing bleacher sales. Roll call vote on the motion as amended, Ayes: 4; Noes: 4 (McBride, Meaux, Nikceovich, Stepaniak)

Moved by Ald. Nikceovich, seconded by Ald. Meaux to recommend to Council adoption of the ordinance –
With consent of the mover, Ald. Meaux added moving Section 3A to Section B, Naming Criteria –

The Chair favored requiring a majority vote of the Common Council rather than two-thirds of those present and raising the level requiring Council approval from \$5,000 to \$25,000. In Section B 3(c) *[is associated in any manner with alcohol, tobacco, gambling, or other matters which might reflect poorly . . .]* he recommended deleting “in any manner.”

Ald. McBride said the latter statement was intended to be something of a catch-all. Each situation would have to be looked at individually. For those under \$5,000, responsibility is assigned to the Community Development Director, who could probably investigate fairly quickly through the Internet or other resources without turning to the Police Department. If raised to \$25,000, who would have the task of screening those between \$5,000 and \$25,000? Mayor Didier and her committee will screen the bleacher seat naming requests, which are \$200 each.

The Chair restated the changes he suggested, additionally recommending a statement that no police resources would be used and that it does not apply to the ongoing bleacher program.

Alds. Nikceovich and Meaux supported requiring Council approval at the \$5,000 threshold. Ald. Dennik felt that amount to be too low given other Community Development tasks.

Roll call vote on the motion, Ayes: 5; Noes: 3 (Hanson, Dennik, Herzog)

Street Festival Permit – Grecian Festival 2009, June 12-14, 2160 Wauwatosa Avenue

The committee reviewed a request by Alex Marlis of Sts. Constantine & Helen Greek Orthodox Church, 2160 Wauwatosa Avenue, for a Street Festival Permit for Grecian Festival 2009 on the church grounds on June 12-14, 2009. The festival would follow the same format, rules, and regulations as last year’s festival.

Ms. Welch reported that over the years the City has worked up a list of conditions that appear to be working without significant difficulties. She noted the need for an emergency contact number for use by police and public works staff during the festival.

Gus Haramis, 1245 Indianwood, Brookfield, representing Sts. Constantine & Helen, confirmed that there will be no change from past years. He provided his phone number as the responsible party.

Ald. Nikceovich reported hearing of concerns about parked cars overlapping driveways, drunkenness, and public urination, and she asked that the festival be aware and monitor the area to control that behavior. In view of recent events elsewhere, Ald. Stepaniak asked that responsible officials from the church contact the Police Department prior to the event to work out any appropriate arrangements and to be proactive on any security issues.

Moved by Ald. Nikcevich, seconded by Ald. Stepaniak to recommend to Council approval of the Street Festival permit. Ayes: 8

Amendment to Conditional Use at Taco Bell, 510 N. Mayfair Road

Ms. Welch reported that at the time the Conditional Use for the new Taco Bell at 510 N. Mayfair Road was approved there was some disagreement about whether a 6 ft. fence was adequate screening or if an 8 ft. fence was needed. The Common Council approved a 6 ft. fence. Since then, Ald. Hanson has been in contact with neighbors and the property owner, who is willing to erect an 8 ft. fence. Typically, the City does not allow 8 ft. fences, but it is within the Common Council's authority to make that amendment to the Conditional Use.

Richard Reinders, 567 N. 107th Street, said that the plan always showed 6 ft. but the fence was always discussed as being 8 ft. There is a temporary chain link fence along the top of the retaining wall that is 6 ft. External building lights are very bright and shine right over the top. The hope is that an 8 ft. fence would remedy that.

Ald. Hanson clarified that Mr. Lepping, the property owner, is willing to put up an 8 ft. fence on approximately 60 feet at the north end with the balance being 6 ft.

Moved by Ald. Hanson, seconded by Ald. Birschel to recommend to Council approval of an amendment to the Conditional Use to allow an 8 ft. fence for a distance of approximately 60 feet –

Ald. Birschel noted that this is also the area of the drive-thru.

Mr. Reinders indicated that his neighbors are aware of this request.

Vote on the motion, Ayes: 8

The meeting adjourned at 8:47 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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