



CITY OF WAUWATOSA  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
Telephone: (414) 479-8917  
Fax: (414) 479-8989  
<http://www.wauwatosa.net>

**COMMUNITY DEVELOPMENT COMMITTEE MEETING**  
**Tuesday, September 8, 2009**

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

ALSO N. Welch, Community Dev. Dir.; B. Aldana, Asst. City Atty./HR Dir.; K. Walbrant, Parks  
PRESENT: & Forestry Supt.; J. Archambo, City Admin.

Ald. Herzog as Chair called the meeting to order at 8:06 p.m.

**Conditional Use – Subway Restaurant at 10940 W. Capitol Drive**

The committee reviewed a request by John and Patricia Petroff for a Conditional Use in the AA Business District at 10940 W. Capitol Drive for a Subway restaurant. Ms. Welch, Community Development Director, reported that the business would occupy 1,500 square feet of the storefront at the former Aetna Hardware location. The Plan Commission unanimously recommended approval with hours of operation of 7 a.m. to 10 p.m. daily.

Brett Patel, 11118 W. Meinecke Avenue, indicated that the hours recommended by the Plan Commission are acceptable. He said that he would have three full time and four part-time employees. The maximum capacity of the restaurant is 49.

Moved by Ald. Meaux, seconded by Ald. McBride to recommend approval of the Conditional Use. Ayes: 8

**Zoning Code Amendment – Building Height Definition**

Ms. Welch briefly outlined a request by the City of Wauwatosa for a zoning code amendment to clarify how height is determined, particularly for garages. This committee will have an opportunity to discuss the matter in more detail following a Common Council hearing.

Moved by Ald. McBride, seconded by Ald. Birschel to recommend approval of a resolution setting a public hearing date and introduction of an ordinance to amend the zoning code. Ayes: 8

**Updates to Hart Park Rules, Proposed Field and Track Use Rules**

Mr. Walbrant, Parks & Forestry Superintendent, reported on proposed updates to Hart Park rules and proposed new field and track use rules that were approved by the Board of Parks and Forestry Commissioners. Among significant changes, dogs would now be allowed in the park if licensed and kept on a leash, and owners would be required to clean up and properly dispose of any pet litter. Tents would be allowed in the park only by permit approved by the Parks Board. Other changes in the proposed text were highlighted. Park hours are unchanged.

Mr. Walbrant explained that prohibiting dogs has been basically unenforceable, and the Parks Board felt it appropriate to adopt a more reasonable rule. Partially because of the bike trail, walking dogs in the park has

been very popular, and there have been virtually no problems. There has been some thought of providing specific refuse containers and bags for dog waste.

The proposed field and track rules specifically address the new artificial turf, Mr. Walbrant said. They are based on other communities' rules as well as recommendations of the manufacturer and other area turf managers.

Ald. Stepaniak reported receiving an inquiry from a runner about public access to the track at times other than stated hours, which are 7 a.m. until dusk Monday through Friday and 8 a.m. to dusk on Saturdays, Sundays, and holidays when there is not a scheduled event. Mr. Walbrant noted that opening the gates to the track also allows access to the artificial surface of the field. The concern is that there is no security on site other than at the specified times.

Moved by Ald. Dennik, seconded by Ald. Hanson to recommend approval as drafted. Ayes: 8

### **Restated and Amended Boundary Agreement – N. 99<sup>th</sup> Street Parcels**

The committee reviewed a memo from the City Attorney and a Restated and Amended Boundary Agreement with Franciscan Healthcare-Southeast Wisconsin, Inc., relating to nine residential properties on the east side of N. 99<sup>th</sup> Street between W. Wisconsin Avenue and W. Blue Mound Road.

Ms. Welch reported that when the Heart Hospital was constructed, Wheaton Franciscan owned a number of properties on the east and west sides of N. 99<sup>th</sup> Street. The parcels on the west side became the site of a medical office building. Residents were very concerned that the institution would continue to encroach into the east side of the street. To allay those fears, Wheaton Franciscan entered into a 2003 agreement to maintain those parcels as residential for a period of 20 years. Now planning to sell the properties, they propose entering into a restated and amended agreement requiring any future owner to maintain them as residential until 2023. Even without the agreement, Ms. Welch noted, any change from current residential zoning would require Council approval.

Atty. Paul Hoffman, 385 Sand Hill Lane, Dousman, representing Wheaton Franciscan on behalf of Michael Best & Friedrich, said that the residential parcels were part of the package when Wheaton Franciscan acquired the former Lakeview Hospital. The agreement entered into at that time placed restrictions on the institutional entity rather than on the land itself, which the restated and amendment agreement would correct. Wheaton Franciscan plans to sell to a single investor who specializes in renovating and reselling, which would get the properties back into the hands of owner-occupants. A former employee currently occupies one home, but the other eight are vacant.

Ald. Herzog disclosed that his sister-in-law is involved in this transaction as general counsel for Wheaton Franciscan Services, Inc., but he has no connection that would cause a conflict of interest. Asst. City Atty. Aldana confirmed that there is no conflict.

Further discussion established that there is consideration and benefit to both parties to the agreement.

Moved by Ald. McBride, seconded by Ald. Stepaniak to recommend approval of execution of the restated and amended agreement. Ayes: 8

The meeting adjourned at 8:30 p.m.

es

Carla A. Ledesma, City Clerk  
Wauwatosa, Wisconsin