

AGENDA
PUBLIC SAFETY & WELFARE COMMITTEE MEETING
Kenosha Municipal Building - Room 202
Monday, March 12, 2012 - 5:00 pm

Chairman:	Jesse L. Downing	Vice Chair:	Lawrence Green
Aldersperson:	Anthony Kennedy	Aldersperson:	Michael J. Orth
Aldersperson:	Rocco J. LaMacchia, Sr.		

Call to Order
Roll Call

A. APPROVAL OF MINUTES

A-1. Approval of the minutes of the meeting held on February 27, 2012.

B. DEFERRED

B-1. Proposed Ordinance - To Repeal and Recreate Subsection 2.02 B.8 *(of the Zoning Ordinance)* for the City regarding Delinquent Special Assessments. *(CP-Ayes 7:Noes 0) (Deferred from the February 27, 2012 meeting)*

C. REFERRED TO COMMISSION

C-1. Aldermanic Request for a No Parking Sign at 35th Avenue North of 60th Street. *(District 11)*

C-2. Proposed Ordinance - To Create Subsection 9.06 J *(of the Code of General Ordinance)* for the City regarding Delinquent Special Assessments.

DISCUSSION ITEMS:

1. Bus Stop on 85th Street & 26th Avenue *(District 13)*
2. Emergency Drive at Parkside Manor *(District 16 – formerly District 17)*
3. Safety for Students around Frank Elementary School *(District 2 – formerly District 8)*

CITIZEN COMMENTS/ALDERMEN COMMENTS/OTHER BUSINESS AS AUTHORIZED BY LAW

IF YOU ARE DISABLED AND NEED ASSISTANCE, PLEASE CALL 653-4050 BEFORE THIS MEETING

NOTICE IS HEREBY GIVEN THAT A MAJORITY OF THE MEMBERS OF THE COMMON COUNCIL MAY BE PRESENT AT THE MEETING, AND ALTHOUGH THIS MAY CONSTITUTE A QUORUM OF THE COMMON COUNCIL, THE COUNCIL WILL NOT TAKE ANY ACTION AT THIS MEETING.

PUBLIC SAFETY & WELFARE COMMITTEE
Minutes of Meeting held Monday, February 27, 2012

A meeting of the Public Safety & Welfare Committee was held on Monday, February 27, 2012 in Room 202 of the Kenosha Municipal Building. The meeting was called to order at 5:44 pm by Chairman Downing.

At roll call, the following members were present: Alderpersons Green, Orth, Kennedy, and LaMacchia. Staff members in attendance were Mayor Keith Bosman, Alderperson Theodore A. Ruffalo, and City Attorney Ed Antaramian.

It was moved by Alderperson Green, seconded by Alderperson LaMacchia, to approve the minutes from the meeting held on Monday, January 9, 2012. Motion passed unanimously.

C-1. Proposed Ordinance - To Repeal and Recreate Section 5.04 B. (*of the Code of General Ordinances*) for the City Regarding Temporary Closing of a City Street, to Clarify that a Street may be Closed for a Civic Event. (*Also referred to Public Works*)
Staff/Alderperson: Ed Antaramian and Alderperson Theodore A. Ruffalo spoke.
It was moved by Alderperson Green, seconded by Alderperson Kennedy, to approve. Motion passed unanimously.

C-2. Proposed Ordinance - To Repeal and Recreate Subsection 2.02 B.8 (*of the Zoning Ordinance*) for the City regarding Delinquent Special Assessments. (*CP-Ayes 7:Noes 0*)
Staff/Alderperson: Ed Antaramian spoke.
It was moved by Alderperson Orth, seconded by Alderperson LaMacchia, to defer for two (2) weeks. Motion passed unanimously.

C-3. Appointment of Mark Modory to the Kenosha City/County Joint Services Board of Directors, for a term to expire May 1, 2014.
Public Hearing: Mark Modory spoke.
Staff/Alderperson: Mayor Bosman spoke.
It was moved by Alderperson Green, seconded by Alderperson Orth, to approve. Motion passed unanimously.

C-4. Dredging of the Harbor.
Public Hearing: John Christiansen, John's Tree Service, spoke.
Staff/Alderperson: Alderperson Theodore A. Ruffalo spoke.
No action was taken.

Alderperson Kennedy left before the Discussion Item.

DISCUSSION ITEM:

1. Software Upgrade for Joint Services – Tom Genthner, Director of Joint Services, presented a presentation to the Committee.

CITIZEN COMMENTS: Mark Modory spoke briefly.

ADJOURNMENT - There being no further business to come before the Public Safety & Welfare Committee, it was moved, seconded and unanimously carried to adjourn at 7:11 pm.

Planning & Zoning Division 625 52 nd Street Kenosha, WI 53140 262.653.4030	Kenosha City Plan Commission FACT SHEET	February 23, 2012	Item #3
By the Mayor - To Repeal and Recreate Subsection 2.02 B.8 of the Zoning Ordinance for the City of Kenosha regarding Delinquent Special Assessments. PUBLIC HEARING			

LOCATION/SURROUNDINGS:

City - Wide

NOTIFICATIONS/PROCEDURES:

This Zoning Ordinance will also be reviewed by the Public Safety & Welfare Committee before final approval by the Common Council

ANALYSIS:

- Currently, the Zoning Ordinance requires that any past due real estate taxes be collected prior to the issuance of various City permits.
- At the end of each year, any outstanding real estate taxes are turned over to the County. The County then reimburses the City for the outstanding taxes and the County collects any money forwarded against those taxes.
- The City Attorney indicated that the City should not be collecting any outstanding taxes after they have been submitted to the County.
- However, the City should collect any delinquent Special Assessments, charges or Special Taxes before a Plan Review or Conditional Use Permit is issued.
- Additional information will be provided at the meeting from the City Attorney.

RECOMMENDATION:

For Commission review and recommendation.


 Rich Schroeder, Interim Deputy Director


 Jeffrey B. Labahn, Interim Director

ORDINANCE NO. _____

DRAFT 02/14/12

SPONSOR: THE MAYOR

**TO REPEAL AND RECREATE SUBSECTION 2.02 B.8 OF
THE ZONING ORDINANCE FOR THE CITY OF KENOSHA
REGARDING DELINQUENT SPECIAL ASSESSMENTS**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Subsection 2.02 B.8. of the Zoning Ordinance for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows.

8. Certificate of No ~~Past Due Real Estate Taxes or Delinquent~~ Special Assessments, ~~Special Charges, or Special Taxes.~~ The issuance of ~~Building Permits,~~ Conditional Use Permits, ~~Occupancy Permits~~ and Site Plan Review approval shall be conditioned upon applicant filing with the review authority a true and accurate certificate that there are no ~~past due real estate taxes or delinquent~~ special assessments, ~~special charges, or special taxes~~ with respect to the land which is the subject of development or use.

Section Two: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

ORDINANCE NO. _____

SPONSOR: THE MAYOR

**TO REPEAL AND RECREATE SUBSECTION 2.02 B.8 OF
THE ZONING ORDINANCE FOR THE CITY OF KENOSHA
REGARDING DELINQUENT SPECIAL ASSESSMENTS**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Subsection 2.02 B.8. of the Zoning Ordinance for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows.

8. Certificate of No Delinquent Special Assessments, Special Charges, or Special Taxes. The issuance of Conditional Use Permits, and Site Plan Review approval shall be conditioned upon applicant filing with the review authority a true and accurate certificate that there are no delinquent special assessments, special charges, or special taxes with respect to the land which is the subject of development or use.

Section Two: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

OFFICE OF THE CITY ATTORNEY
Municipal Building
625 - 52nd Street, Room 201
Kenosha, Wisconsin 53140
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EDWARD R. ANTARAMIAN
CITY ATTORNEY

MATTHEW A. KNIGHT
DEPUTY CITY ATTORNEY

WILLIAM K. RICHARDSON
ASSISTANT CITY ATTORNEY

JONATHAN A. MULLIGAN
ASSISTANT CITY ATTORNEY

To: City Plan Commission

From: Edward R. Antaramian
City Attorney

Date: February 22, 2012

Re: Ordinance Amendment Repealing the Requirement to
Withhold Licenses for Delinquent Real Estate Taxes

Dear Commissioners:

On your agenda is a proposed ordinance eliminating the prerequisite of payment of real estate taxes in order to obtain various permits

There are legal and practical reasons that this amendment is being presented.

LEGAL BASIS

As real estate taxes are sold each year by the City to the County, and the City is made 100% whole, there is no basis in the law for the City to withhold licenses to building-permit applicants who are delinquent in the payment of their real estate taxes.

In the case of *Tavern League v. City of Madison*, 131 Wis2d 477, 389 N.W.2d 54 (Ct. App. 1986), the issue of withholding licenses for failure to pay various taxes was addressed by the Court of Appeals. In particular, the City of Madison was withholding the issuance of liquor licenses for failure of the applicants to have paid state and federal taxes.

In holding that the City of Madison's actions were illegal, the Court considered the authority of a municipality. In particular, the Court determined that when making legislation the municipality may consider only its own economic best interests. Collection of state taxes and federal taxes has no direct substantial benefit to the City's economic health so Madison could not withhold licenses for failure to pay those taxes. Conversely, the Court would allow withholding of permits for failure to pay "local" taxes.

ITEM # 3

As what constituted “local” taxes was not an issue in *Tavern League*, the term was not dissected by the Court in its decision. Its holding, however, makes the application of law clear. There are broadly speaking two types of taxes imposed annually at the city level: real estate taxes and personal property taxes. Although the rate is the same, the collection procedure is statutorily different, necessitating different treatment under the *Tavern League* analysis.

Every year there are delinquencies in both rolls. As the City, County, Gateway Technical College, the School districts, and the state all share pro-rata portions of the tax bills, there are statutory mechanisms to make each jurisdiction whole when a taxpayer fails to timely pay. The process involves the City buying all portions of the personal property tax roll from all of the other jurisdictions. Wis. Stats. §74.30 (1)(i). Conversely, the County buys the real estate roll every August 20 from the other jurisdictions (specifically including the City). Wis. Stats. §74.29. That is why the County is the only taxing body that can obtain tax deeds to real estate.

Stated another way, the County pays the City on behalf of all delinquent real estate taxpayers. After the settlement, real-estate taxpayers may be delinquent to the County, but on the City’s rolls, there are no delinquencies. So, there can be no economic self-interest reason for the City to use real estate delinquencies as a basis to hold up licenses.

Conversely, the City may withhold licenses for failure to pay special assessments,¹ special charges,² and special taxes.³ These “specials” are not sold to the County with the real estate tax roll.

The ordinance provided to you allows for withholding of licenses for failure to pay special assessments, special charges, and special taxes as these are properly collectible by the City and able to be tied to a real estate parcel that would be benefited by the license.

PRACTICAL BASIS

The existence of this ordinance has created unintended, practical problems which caused the focus on the legal aspects of the problem. The City was faced earlier this year with two instances where a water lateral burst to a residence. In each case, the water flow was obstructed to an innocent tenant. Real estate taxes for the property were delinquent to the County (no real estate taxes were delinquent to the City). Under the ordinance, a plumbing permit to fix the waterline could not be legally issued.

In a similar manner, Verizon obtained a right from WE Energies and the underlying property owner to place a cell-phone antenna on a WE Energy pole located on a utility easement. As the underlying property owner has delinquent real estate taxes, a permit is not being issued to Verizon. This is despite no taxes of any sort being delinquent by Verizon to the City.

¹ Wis. Stats. §66.0701(1). The city may provide that the cost of installing or constructing any public work or improvement be charged to the property benefited as a special assessment. An example is sidewalk installation.

² Wis. Stats. §66.0627(2). A city may impose a special charge against real property for current services rendered to the property served. “Service” includes items such as snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, storm water management, including construction of storm water management facilities, and tree care.

³ Tax on a larger project that benefits a particular area of the City. *See, e.g.*, Wis. Stats. §62.18(16) (Cities shall have power impose a special tax within a sewerage district to construct systems of sewerage, including a sewage disposal plant and all other appurtenances thereto, to make additions, alterations and repairs to such systems and plants.)

Further, turning to foreseeable events, should a fire destroy the room of a house, the property could not be reconstructed if the real estate taxes were unpaid.

The same unfortunate situation would apply to a the building permit to replace important necessities such as a broken furnace or water heater where there was a delinquency of real estate taxes due to the County. The obstacle also applies to repairs responsive to City orders. Should the City encounter a fence disrepair and issue orders to replace appropriate sections of the fence, despite the presence of the orders, the property owner would be incapable of complying with the order if the property owner did not have the money to pay the delinquent real estate taxes.

Moreover, it is generally in the City's best interest for persons to improve their properties voluntarily. Improvements increase the value of the individual property and the values of the surrounding neighborhood. The same obstacle in the current ordinance applies to the less emergent, but important voluntary improvements such as window replacements, residing, or replacing a fence not subject to an order that is in disrepair. The same obstacle applies to tax-base-increasing improvements such as home additions. These latter items, although not emergencies, benefit the City by increasing home values and neighborhood values.

And the City will not be financially hurt with the provisions of the proposed ordinance. The proposed ordinance does allow for withholding of licenses for payment of special assessments, special charges, and special taxes.⁴

I am available should any of the commissioners have any questions.

CONCLUSION

For legal reasons, this ordinance should be adopted. For practical reasons, the ordinance makes good sense.

Respectfully submitted,



Edward R. Antaramian
City Attorney

cc: Mayor
City Administrator Frank Pacetti
Jeffrey Labahn, Director of Community Development and Inspections

⁴ Although even without the ordinance proposal, pursuant to statute, the City is near the front of the line on payments made to the Country on delinquencies. Pursuant to Wis. Stats. §74.12(11)(a) when the county treasurer receives a payment from a taxpayer which is not sufficient to pay all amounts due, the treasurer shall apply the payment to the amounts due, including interest and penalties, in the following order: (1) Personal property taxes; (2) Delinquent utility charges; (3) Special charges; (4) Special assessments; (5) Special taxes; (6) Real property taxes.



Engineering Division
Shelly Billingsley, P.E.
Director/City Engineer
Fleet Maintenance
Mauro Lenci
Superintendent
Parks Division
Jeff Warnock
Superintendent

Street Division
John H. Prijic
Superintendent
Waste Division
Rocky Bednar
Superintendent

C-1

DEPARTMENT OF PUBLIC WORKS

Michael M. Lemens, P.E., Director

Municipal Building · 625 52nd ST · RM 305 · Kenosha, WI 53140
Telephone (262) 653-4050 · Fax (262) 653-4056

March 9, 2012

To: Jesse Downing, Chairman
Public, Safety and Welfare Committee

From: Shelly Billingsley, P.E. *Shelly Billingsley*
Director of Engineering / City Engineer

Cc: Anthony Nudo
District 11

Subject: **Aldermanic Request for a 90-day Trial to replace a 2-Hour Parking Sign and a No Parking - East side of 35th Avenue located at 30 feet North of 60th Street.**

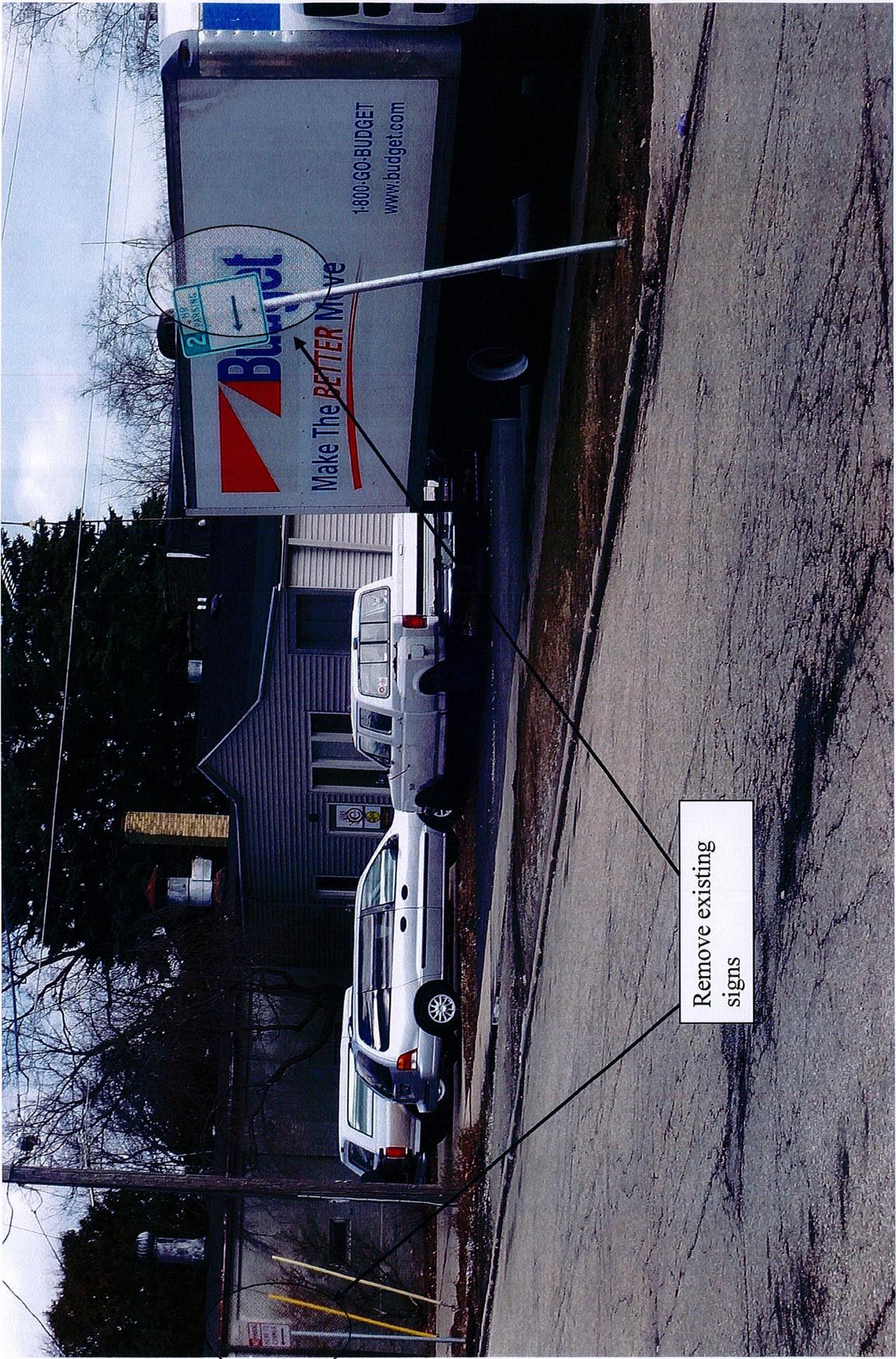
BACKGROUND INFORMATION

The District Alderman is requesting for parking to be prohibited on the East side of 35th Avenue, north of 60th Street. This section of 35th Avenue is 27 feet wide and 2-hour restricted parking is permitted on both sides of the street. When cars are parked on both sides of the street, only 11 feet wide room is available for travel and this available space cannot accommodate two-way traffic. Inadequate travel space creates congestion, delay, anxiety to motorists and overflow of traffic on 60th Street.

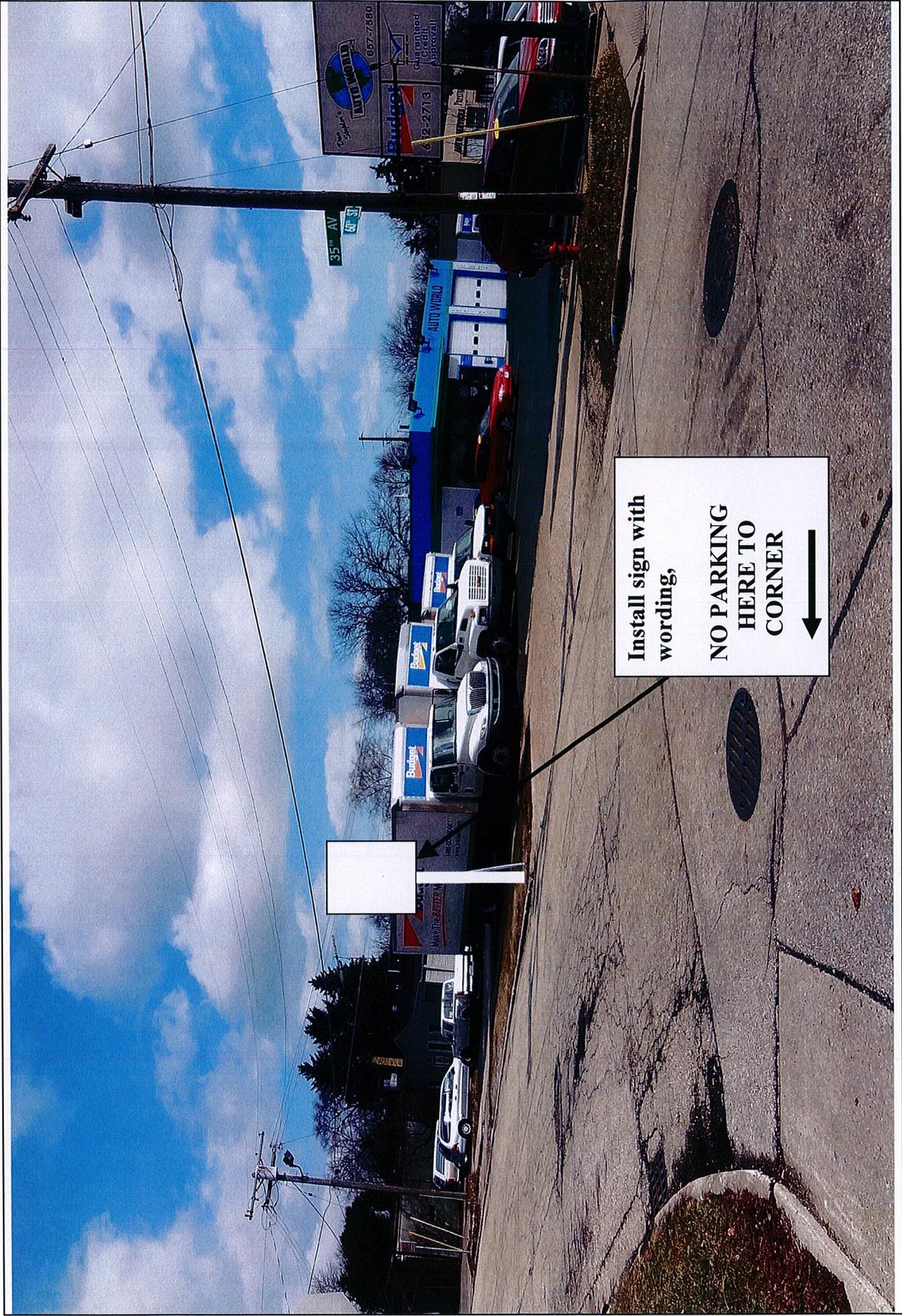
No parking on the East side of 35th Avenue will reduce congestion and improve traffic flow at the said location.

RECOMMENDATION

Staff recommends approval of the 90-day trial of the no parking on the East side of 35th Avenue north from 60th Street.



Remove existing signs



Install sign with
wording,
**NO PARKING
HERE TO
CORNER** ←

ORDINANCE NO. _____

SPONSOR: ALDERPERSON MICHAEL ORTH

**TO CREATE SUBSECTION 9.06 J OF THE CODE OF
GENERAL ORDINANCE FOR THE CITY OF KENOSHA
REGARDING DELINQUENT SPECIAL ASSESSMENTS**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Subsection 9.06 J. of the Code of General Ordinances for the City of Kenosha, Wisconsin, is hereby created as follows.

J. No Delinquent Special Assessments, Special Charges, or Special Taxes. The issuance of Permits under this Chapter 9 shall be conditioned upon there being no delinquent special assessments, special charges, or special taxes with respect to the real property upon which the Work will be performed.

Section Two: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney