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COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, February 8, 2005

PRESENT: Alds. Becker, Birschel, Kopischke, Krol, Subotich, Sullivan, Treis -7

EXCUSED: Ald. Krill

ALSO PRESENT: A. Kesner, City Atty.; N. Welch, Community Dev. Dir.; W. Kappel, Dir. of Public Works; M. Mulroy, Library Dir.; T. Wontorek, City Admin.

Ald. Kopischke as Chair called the meeting to order at 8:11 p.m.

Rotary Club Plans for Renovation of Village Fountain Area

Dave Gliczinski, president of the Mayfair Rotary Club, said that the Rotary Club is proposing renovation of the Village "fountain" area, the triangular area at Harwood and Wauwatosa Avenues, as a community project in connection with celebration of Rotary's 100th anniversary this year.

Bill Wandsnider, a Rotary Club member and registered landscape architect, displayed drawings of the proposed project. He said that the fountain no longer works and the area currently is somewhat in disrepair and in need of maintenance. This will be a renovation-type project rather than ripping everything out and starting anew. The city would demolish some of the major items including the fountain and some of the concrete structures. The emphasis would be on horticultural rather than architectural elements, with any material choices consistent and in context with the surrounding buildings and structures. A proposed evergreen could be used for the annual tree lighting ceremony, a seating area would also accommodate displays and performances, and some type of historical art piece is being considered as a focal point. The project would be targeted for completion in time for Tosafest in September.

Mr. Kappel indicated that this is on public property and under the purview of the Board of Public Works, but the board also wanted to make elected officials aware of the project. The city has an interest in any decisions affecting long-term maintenance and upkeep. Staff would be involved in demolition and also assist with electrical work. There also would be some city cost for replacing the old water main under this area, which is deemed appropriate while the area is disrupted. The next step would be Rotary Club fundraising. The Village Business Improvement District (BID) BID indicated they would be able to provide some financial assistance.

Ald. Sullivan thanked the Rotary Club for undertaking this project and asked about cycling color in the landscaping plan and also about any increase in impervious surfaces. Mr. Wandsnider said that there are some areas where annual flower beds could be installed, but maintenance requirements would be a concern. There will be some circulation paths and other paving surfaces, but total impervious surfaces will not be increased. There are large areas that will absorb water. Mr. Wandsnider said that the type of decorative sidewalk material used will largely depend on the level of funds available.

Ald. Birschel spoke of the need to raise $200,000 and the types of fundraising being considered. He asked about future maintenance by the city when completed. Mr. Kappel said the city is responsible for the area right now. The Beautification Committee maintains an area across the street and might be willing to maintain any flower beds here as well. The city would be responsible for watering the beds as well as snow removal.

With thanks to the Rotary Club, Ald. Krol said this is a great public/private venture. He asked what would be involved in naming this area "Rotary Village Green" as the Rotary plans suggest. Mr. Wandsnider said that the Rotary Club would like to have naming giving some recognition to the club. He indicated that there would be many naming possibilities in connection with fundraising from 50 to 100 primary items, including the Lannon stone benches, to 200-300 individual bricks.

Asked about scheduling of demolition and construction, Mr. Wandsnider said that not all details are worked out yet. The construction schedule will be somewhat related to the fundraising, potentially starting in early to mid-July, so there could be a bit of a gap between demolition and final implementation. Mr. Kappel indicated that there is a prime time for availability of public works crews between the end of the snow/ice season and the beginning of summer work but he could adjust, if necessary.

The committee discussed the appropriate recommendation at this point. Asked if review by the Design Review Board would be appropriate, Ms. Welch said that it wouldn't be required but is an option. They typically review projects that require building permits.

> Moved by Ald. Sullivan, seconded by Ald. Krol to endorse the proposal in concept and forward it to the Design Review Board for their approval with the intention that it would then be forwarded to Council –

Ald. Krol suggested that review by the Community Development Director, the City Engineer, and the Director of Public Works may be sufficient, with which Ald. Becker concurred. Mr. Kesner suggested that this could move forward with approval of the concept but should come back to Council at a later date for approval of an indemnification agreement and dedication to the city. The Board of Public Works has responsibility for work in the public right-of-way and can oversee the project.

> With consent of the second, the motion was amended by Ald. Sullivan to forward the proposal to Council with a recommendation for approval of the concept and to direct staff to seek input from the Design Review Board on the general plan and return once fundraising is at the point that the project will proceed. Ayes: 7

Conditional Use – 6330 W. North Avenue

The committee reviewed a request by Brandon Adams for a Conditional Use in the AA Business District at 6330 W. North Avenue to offer massage therapy as part of a day spa and training facility. The Plan Commission unanimously recommended approval. Ms. Welch reported that the applicant is the new owner of the building. Renovation plans include a spa that will offer massage therapy among its services. In addition, some professional training will be provided on site, and the remainder of the building will be for office use, allowing the applicant to meet parking requirements at this location.

Earl Bradfield, Bradfield Commercial Real Estate, 250 E. Wisconsin Avenue, was present representing the applicant together with Chandra Adams, 6166 W. Washington Circle, who will operate the spa. He said the intent is to renovate the building and bring new businesses to North Avenue.

Matt Mikolajewski, Economic Development Coordinator for the Wauwatosa Economic Development Corporation (WEDC), said that WEDC has offered the business a CDBG (Community Development Block Grant) grant to use toward renovation of the building, which has been vacant for several years. Noting that this will bring new business to

the east end of North Avenue, he encouraged approval. Ald. Sullivan welcomed the applicants as a new business in his aldermanic district.

> Moved by Ald. Sullivan, seconded by Ald. Becker to recommend approval of the Conditional Use contingent upon: 1) hours of operation from 8 a.m. to 7 p.m. Monday through Saturday and from 9 a.m. to 5 p.m. on Sunday; 2) obtaining any additional licenses and permits; and 3) a maximum class size of 10 students –

Ms. Adams said there may be occasions when one more student or teacher needs to attend training.

> With consent of the second, Ald. Sullivan amended the third contingency to a maximum class size of 12 students. Vote on the motion as amended, Ayes: 7

Land Division – 10101 W. Wisconsin Avenue

The committee reviewed a request by Rick L. Johnson, St. Camillus Health System, Inc., for a land division by certified survey map in the AA Institutions District at 10101 W. Wisconsin Avenue. The Plan Commission unanimously recommended approval. The applicant was present. Ms. Welch reported that this is basically a housekeeping matter. St. Camillus owns three parcels and is slightly altering boundaries to accommodate a recently approved building expansion.

> Moved by Ald. Krol, seconded by Ald. Birschel to recommend approval of the land division. Ayes: 7

Conditional Use – 6119 W. North Avenue

The committee reviewed a request by Daniel Druml and Ai Lin Wang for a Conditional Use in the AA Business District at 6119 W. North Avenue for a take-out restaurant. The applicants were present. The Plan Commission unanimously recommended approval. Ms. Welch reported that there previously was a Chinese take-out restaurant at this location. Ald. Becker, who represents this area, noted that there were never any problems with the former business.

> Moved by Ald. Becker, seconded by Ald. Krol to recommend approval of the Conditional Use contingent upon: 1) hours of operation from 11 a.m. to midnight daily; and 2) obtaining any additional licenses and permits. Ayes: 7

Conditional Use – 10110 Watertown Plank Road

The committee reviewed a request by Tony Durocher and Jeffrey Allen for a Conditional Use in the Municipal and Public Works District at 10110 Watertown Plank Road for outdoor storage of vehicles. The Plan Commission recommended approval by a 5-1 vote. Ms. Welch reported that the Blood Center of Southeastern Wisconsin would like to park seven vehicles on the park-and-ride lot north of Watertown Plank Road and west of Hwy. 45. This location is very close to the warehouse where they store many of their blood bank items. The vehicles are used for deliveries during the day and will be parked there at night and on weekends.

Jeffrey Allen, representing The Blood Center of Southeastern Wisconsin, 638 N. 18th Street, Milwaukee, said the seven parking spaces would effectively be adjacent to where the vehicles are used every day. A colleague displayed a map, pointing out the spaces and the nearby warehouse where they are a tenant. The trucks are used daily to take

supplies to multiple blood drives and then transport blood to local hospitals. The spaces will allow for the most efficient means for delivering the supplies and getting them back in a timely manner. The only alternative would be to have the drivers come to the headquarters office each morning to pick up the trucks, go to the warehouse, and return the trucks to headquarters at the end of each day.

Tony Durocher, representing Milwaukee County, 10310 Watertown Plank Road, said he is responsible for care of the buildings and grounds and overseeing utilities. When asked by the Blood Center about parking, he investigated and found that the subject lot with 340 spaces was an ideal spot since their material is in the warehouse just to the west. Considering the work they do in the community and all over Wisconsin, he supported their request and felt this use would enhance their operation.

Ald. Birschel said he had some security concerns but noted that the county sheriff's department is based nearby. He said that he is in favor of the Conditional Use but will vote "present" due to his status as a former county employee.

Ald. Becker was concerned about parking during Summerfest and similar events when he felt that all possible park and ride spaces should be available. Mr. Durocher said he is aware of the problem, which peaks especially during State Fair week, and will make arrangements for other spaces for the trucks at those times.

Ald. Treis asked about parking at the Blood Center's nearby site, since the parking lot there is not used at night. Mr. Allen said it is a matter of efficiency and convenience to be able to park near the distribution warehouse.

Moved by Ald. Krol, seconded by Ald. Treis, to recommend approval of the Conditional Use. Ayes: 6; Present: 1 (Birschel)

Proposed Ordinance – Election Signs

Mr. Kesner said that after a court case in 2000, the city entered a settlement where we agreed we would, at some point, alter our election sign code to comply more closely with state and constitutional law, which is constantly evolving. The draft copy of the ordinance contained notations on the constitutionality of each point. This ordinance allows a little more than the previous code, which became totally unenforceable according to a number of courts, and it is fairly consistent with the city's practices in the absence of regulations over the past few years. It contains a size limitation and a location limitation based on size that, hopefully, will keep larger signs from being very close to the store. If a sign becomes permanent, it must meet stricter regulations. Billboards are regulated separately.

Moved by Ald. Krol, seconded by Ald. Birschel to recommend adoption –

Ald. Treis asked about signs erected by home improvement contractors that remain in place for length periods as well as election signs that are still in place. He related advertising signs to uncut grass that the city orders taken down after a particular period. Mr. Kesner said that strict time limitations for election signs were found to be unconstitutional. Construction signs are a separate issue under the code and are only allowed during the construction. Grass cutting comes under the city's police powers under property maintenance provisions, under which commercial signs left up too long can be ordered removed. Commercial speech or property maintenance issues can be more highly regulated than political speech, which is one of the most sacrosanct. In response to a further question, Mr. Kesner explained that "temporary" and "permanent" designations are used in business districts because signs there are regulated differently than in residential areas.

Vote on the motion, Ayes: 7

(The committee recessed at 9:09 p.m. and reconvened at 9:17 p.m.)

Date for Public Hearing on Continued Participation in Milwaukee Federated Library System (MCFLS)

Referring to his memo of February 4, 2005, Mr. Wontorek said that Library Director Mary Mulroy and Mary Newton, Library Board Chair, would report on their request for the Common Council to set a public hearing date of April 5, 2005, for considering the possibility of the Wauwatosa Public Library leaving the Milwaukee County Federated Library System.

Ms. Newton explained that some changes in this year's MCFLS membership agreement would result in a loss to the city of up to $330,000 per year for the next three years. Reductions over the past three years have already necessitated cutting positions as well as the book and operating budgets. The only place left is further staff reduction, but once that happens the library can no longer physically provide the unlimited service to non-residents that is required as a member of MCFLS. MCFLS membership and its benefits are valued, but the inter-library loan provisions cost money; and Wauwatosa's costs are much higher than those of most other communities. Ms. Newton said that the options for the Wauwatosa Library are to either find more money or leave the system. They are continuing to work on options from the state, which is where the requirements for library membership originate.

Moved by Ald. Treis, seconded by Ald. Becker to recommend to Council setting a public hearing date of April 5, 2005 –

Ald. Sullivan said that a public hearing would be the first step in separating from the larger metro-area library system, which seriously concerns him. It would be a move in the opposite direction from intergovernmental cooperation and our role in the metro area.

Mr. Kesner explained that state law requires a certain process to withdraw from a federated library system. The governmental body must make a decision at least six months before the end of its fiscal year, which would have to be before June in order to be effective by the end of the year. The library needs to at least begin this process in order to have the ability to move forward with potential independent operations. This is not a vote to withdraw from the library system, but it is a necessary step if that were to happen by the end of the year.

The Chair thanked Ms. Mulroy and Ms. Newton for their report. He said that setting a public hearing date is important in order to talk about the ramifications in a public setting.

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

Proposed Ordinance – Development of Large Retail Sites

Held from previous meetings was the proposed ordinance creating Chapter 24.25 and Sections 24.23.090 and 24.24.035 to create additional restrictions on the development of large retail sites. Ms. Welch distributed a chart summarizing the provisions of "big box" ordinances in other Wisconsin communities. Although it represents considerable research, she noted that it does not cover every ordinance in the state.

John Albert, 1922 N. 122nd Street, a member of the Plan Commission, said that any absolute restrictions on the size of retail developments should be considered very carefully since an unintended consequence could make some existing retail sites such as Target, Home Depot, and Mayfair Mall non-conforming. He pointed out that Home Depot rebuilt a run-down, dilapidated industrial area into a retail area that benefits the city. They paid for intersection and traffic signal improvements, and their development is now spawning an adjacent strip mall. Mayfair Mall is one of our best corporate citizens and largest taxpayer. Mr. Albert suggested dealing with large developments through development agreements rather than an absolute limit.

Matt Mikolajewski, Economic Development Coordinator, Wauwatosa Economic Development Corporation (WEDC), said that the high quality the ordinance promotes, particularly in its design guidelines, will benefit the city's future economy. He, also is concerned, however, about an absolute cap for retail development. With numerous potential development opportunities over the next 20 years, he envisioned proposals that could exceed the limits in total but have a footprint within the cap, or there could be a big-box store that is highly desirable to residents and beneficial to the community.

Gina Hansen, National Association of Industrial and Office Properties, Waukesha, said that the land conservation fund amendment made at the last meeting, which imposes a fee of 20 cents per square foot on new retail over 50,000 square feet, is far superior to the demolition bond provision. It has a predictable cost that, while not insignificant, is not burdensome and would enable developers or potential tenants to make a business decision. Some demolition bond language still appears in paragraph B of the new provision and could, perhaps, be changed to state that a plan for adaptive reuse should be provided within 12 months. Ms. Hansen said that environmental and economic impact studies are costly requirements and create delays. The environmental impact of retail is not necessarily the same as manufacturing, for example, where pollutants may be created. The impact for an existing site has already taken place, negating the need for another study. Environmental impact is already heavily regulated at the federal, state, and local levels. Information on storm water management, erosion control, and endangered species could be found in the state's requirements. Ms. Hansen felt that much of any required economic impact information could be obtained informally at the Plan Commission or Council level. Economic analysis is already required if a TIF (Tax Incremental Financing) is involved. Ms. Hansen concurred with concerns about an absolute cap.

Ald. Sullivan spoke of the goal of achieving an ordinance that isn't a prohibitive burden to developers and is in the best interest of the community. He said that a change in the language on an absolute cap has been drafted so that it is not absolute but a guideline that the Council can move beyond through a Conditional Use. The draft also has language on 70,000 square feet as a footprint, the definition of a single development, and lot coverage. He felt that environmental impact analysis shouldn't be a prohibitive challenge. It should be fairly easy, for example, to show a positive when requesting approval of something being remediated from industrial use. Doing it in conjunction with staff allows for more flexibility in meeting requirements or the opportunity for further review if there is a concern. Ald. Sullivan mentioned he possibility of combining environmental and economic impact analyses into a community impact analysis that, in conjunction with staff, would have some flexibility in terms of how rigorous it would be.

Mr. Kesner distributed draft language outlined by Ald. Sullivan. A new version of the amendment on an absolute cap allows for Conditional Use consideration for a single building that is over 70,000 square feet or that covers more than 35% of a parcel of 2.5 acres or more. The Conditional Use process would be applied along with the other proposed requirements. A second draft contains the same language as the first version but adds a requirement for a community impact statement, which would include traffic and parking, utilities, and other information.

Ms. Welch responded to a question on denial of Conditional Use requests. She said the Council has the opportunity to place conditions to moderate any impacts that are identified, but there could be reason for denial if it was felt that a hazard could not be minimized and the negative impact on the community would far outweigh any positives. Traffic was a critical factor with the Home Depot project, she noted, but negotiations to moderate those impacts made it possible to proceed. In response to a further question, she said that a separate part of the draft ordinance deals with storm water, and there is an entire section of the city code devoted to storm water. DNR and MMSD regulations also apply, although our ordinance is actually stricter than state or MMSD regulations.

Ald. Birschel reported on his review of studies regarding the economic impact of specialty stores and big box stores. For every $100 of consumer spending at specialty stores, it was found that $68 stays in the local economy; but only

$43 remains in the local economy with big box stores. When revenues were compared with expenditures for infrastructure and police/fire costs, big-box retail was a washout, he said.

The Chair supported the Conditional Use option since it puts the decisionmaking on elected officials and requires a public hearing [before the Plan Commission]. He was uncertain about 70,000 square feet being the correct level at which it would apply but supported combining economic and environmental impact into a community impact analysis. He suggested incorporating a statement to the effect that the scope of each element of the analysis would be at the discretion of the city planner based on the site and the nature of the existing and proposed developments.

> Moved by Ald. Sullivan, seconded by Ald. Birschel to adopt version #2 of proposed language on a cap, which includes a provision for conditional use consideration and a community impact analysis, and to include the language suggested by the Chair on the scope of the analysis –

Ald. Treis asked about making any existing properties legal non-conforming. Mr. Kesner said the changes would not create any non-conforming parcels among properties that are currently conforming. In answer to a further question, he explained that there are two tiers: 50,000 square feet is the level at which the big-box ordinance is proposed to apply; a development of 70,000 square feet or more, or one with 35% lot coverage, would additionally require a community impact statement and approval as a Conditional Use. Ald. Treis indicated that he may want to ask more questions but could do that during the ensuing week if the ordinance proceeds to Council.

> Vote on the motion, Ayes: 6; Present: 1 (Treis)

The Chair introduced revised language on the land conservation fund provision that addresses the concern about paragraph B raised by Ms. Hansen. Under language approved at the previous meeting, Mr. Kesner explained that a contribution to the city's existing land conservation fund, created a number of years ago for a similar purpose, would replace the escrow or bond requirement. A fee of 20 cents per square foot.would provide seed money toward funds for condemnation or other land acquisition action. The provision of concern required the owner or operator to provide for reuse within 12 months of vacating a facility. In the new draft, the owner or operator, within 12 months, must "*submit to the Plan Commission a plan contemplating the removal or reuse of the facility*." The Plan Commission may extend the time limit or, if unable to provide an acceptable plan, the city may utilize the land conservation fund or other appropriate funds "*to take whatever action is permitted by law to assure appropriate redevelopment or reuse of the facility.*" Mr. Kesner noted the possibility that an owner or operator may not want to reveal in public any plans for reuse of a vacant building or may consider it a trade secret. Under open records and open meetings laws, such plans could be accepted and discussed in closed session.

Mr. Kesner said the subject revision also clarifies that the contribution to the land conservation fund would be made at the time of application for a building permit. In setting the fee at 20 cents per square foot, it was presumed that the city will not have to buy or tear down every building that goes up. Secondly, informal research yielded an estimate by our engineers of $1 per square foot for demolition of big-box-retail-type buildings. If action would need to be taken on one-fifth of the projects, contributions from five developments would yield enough money to remove one. The finance director would create a special revenue fund that would be invested and accumulate. The fee itself is a non-statutory provision that is contained in the consolidated fee schedule, which is reviewed every year and changed as needed by action of the Common Council. A fee like this could be applied elsewhere, when relevant, to anything that would have an applicable impact.

> Moved by Ald. Sullivan, seconded by Ald. Becker to approve the draft language on the land conservation fund contribution as drafted. Ayes: 7

Moved by Ald. Birschel, seconded by Ald. Sullivan to recommend to Council adoption of the ordinance as amended –

The Chair commended the work of the City Attorney and Community Development Director and their staffs, work done by this committee, and comments from members of the public and the development community.

Vote on the motion, Ayes: 6; Present: 1 (Treis)

The meeting adjourned at 11:09 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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