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COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, July 12, 2005

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

ABSENT: Ald. Subotich

ALSO PRESENT: N. Welch, Community Dev. Dir.; A. Kesner, City Atty.; T. Wontorek, City Admin.; B. Jacobsen, Admin. Intern; Ald. Maher

Ald. Kopischke as Chair called the meeting to order at 8:10 p.m.

Conditional Use – 12345 W. Capitol Drive

The Chair announced that the request for a Conditional Use for a drive-thru at the existing Starbucks has been withdrawn.

Conditional Use – 12132 W. Capitol Drive (Quizno's)

The committee reviewed a request by Gurmeet Chawla and Jason Stammer for a Conditional Use in the AA Business District at 12132 W. Capitol Drive for a Quizno's restaurant. Mr. Chawla was present. The Plan Commission unanimously recommended approval.

Ms. Welch said that this is one of the first tenants in the new retail center on the former Mobile Shredding site and, along with the Noodles & Company restaurant to be discussed next, represents an intense use in terms of available parking. The owner of the retail center has been cautioned that additional uses will need to be less intense in order to meet parking needs.

Moved by Ald. Treis, seconded by Ald. Krol to recommend approval of the requested Conditional Use –

In response to further questions about parking limitations, Ms. Welch added that the owner is aware of what the average parking needs to be for the remainder of the uses. That concern is also on record in Plan Commission discussions and it will be reviewed upon application for a building permit.

Vote on the motion, Ayes: 7

Conditional Use – 12132 W. Capitol Drive (Noodles & Company)

The Committee reviewed a request by Robert Lacourciere and Stephen Cable for a Conditional Use in the AA Business District at 12132 W. Capitol Drive for a Noodles & Company restaurant that would include outdoor

dining. A representative of the applicants was present. The Plan Commission unanimously recommended approval.

Ms. Welch reiterated concerns about parking requirements mentioned in the previous discussion. The property owner is aware that additional uses at this site will need to be less intense in order to meet parking needs.

> Moved by Ald. Treis, seconded by Ald. Krol to recommend approval of the requested Conditional Use. Ayes: 7

Land Division – N. 124th and W. Burleigh Streets

The committee reviewed a request by Jason Williams, Continental 164 Fund, LLC, for a Land Division by Certified Survey Map in the AA Business District at the northeast corner of N. 124th and W. Burleigh Streets. The Plan Commission unanimously recommended approval.

Ms. Welch noted that the 22-acre site was recently subdivided from the remainder of the Briggs & Stratton site to the north. The applicants now wish to divide those 22 acres into four parcels for various uses. While the parcels meet zoning requirements such as lot size and width, cross easements will be needed to ensure permanent street access for all parcels. Engineering staff also has some concerns regarding utilities and storm water management for each parcel. It is important to ensure that there would be no problems for the lots to function individually should any one be sold off in the future. On the corner parcel, for example, it would be difficult to add another driveway access. There is some precedent for this arrangement with the individual parcels at Mayfair shopping center.

Atty. Deborah Tomczyk of Reinhart Boerner, Van Deuren, 1000 N. Water Street, indicated that easements will be recorded to cover access, storm water, and other concerns. Separate parcels are essential primarily for financing purposes, she said.

Ald. Krol supported the request with the understanding that the Community Development Director and City Attorney will review the easement structure. He noted that it is best to proceed now rather than at some later point after the site has been developed.

> Moved by Ald. Krol, seconded by Ald. Birschel to recommend approval of the Land Division contingent upon further review and approval of easement language by staff. Ayes: 6; Present: 1 (Krill)

Conditional Use – N. 124th and W. Burleigh Streets

Ms. Welch reported that the Plan Commission has reviewed and recommended approval of the request by Michael J. Fox, Continental Properties, for a Conditional Use at the northeast corner of N. 124th and W. Burleigh Streets for a large retail site with over 50,000 square feet of development. A 138,000 square foot Lowe's Home Improvement store with a garden center to the east is planned for the 22 acre site. Some additional retail stores do not have identified tenants at this time. A Walgreens pharmacy with a drive-thru is planned at the corner.

Ms. Welch noted that staff has worked extensively with the developers over the past several months. The Design Review Board has devoted considerable time as well, ultimately approving the current design, which is a more modern, industrial type esthetic designed to reflect the site's industrial-light manufacturing history. One of the critical conflicts with the city's big box ordinance is placement of the buildings away from the street, which became

necessary due to the site's slope and other conditions including environmental contamination and existing foundations. The Plan Commission last night wrestled with some of the remaining issues, primarily engineering in nature, and reached the point where the plans could basically be approved in concept. There will be some engineering details and refinements to be worked out before a building permit can be issued, but there is nothing that will change the layout of the site.

Citing the city's overall concerns on the issues of flooding and storm water management, Ms. Welch highlighted the need for innovative measures such as "green roofs" to reduce the amount of storm water flowing off the site. The proposed plan includes detention basins, bio-swales, and rain gardens, which will mark this as a unique retail development. The developers have also agreed to a public art project on the site.

Ald. Sullivan commented on the additional benefit of shared, shielded access for Lowe's and Briggs & Stratton trucks. He asked about other water management options such as green roofs and permeable surfaces, which are included in the design guidelines for the county grounds. Ms. Welch said that numerous options were explored. Since the developers do not believe a green roof is feasible, they concentrated on bio-swales and rain gardens. There will also be some pervious pavement and use of some underground connections to direct water to the basin where it can be retained from 24-48 hours and gradually released. Ald. Sullivan noted the possibility of savings in storm water fees if more of the innovative measures were employed. Mr. Kesner reported that the highest credit allowed under the storm water fee ordinance is 54% of the normal fee total.

In response to other questions, Ms. Welch said that grading changes in the parking lot reduced the scale of existing detention basins, which were oversized and felt to be hazardous, so that they are now 6-7 feet deep at most. They are designed to hold enough water for a 100-year-flood event. The matter of inlets in the parking lot is one of the details still to be worked out. A variety of methods will be used to get water to the detention basins.

Atty. Deborah Tomczyk of Reinhart, Boerner, Van Deuren, SC, 1000 N. Water Street, Milwaukee, commended the work of the Community Development Director, City Engineer, and City Attorney over the past months. The Design Review Board, after seven meetings, has now signed off on all of the aesthetic aspects, the site plan, all building elevations, all site details including building placement, retaining walls, fences, vehicle barriers, signage, landscape and the lighting plan. Last night the Plan Commission also moved forward. Because Briggs & Stratton has a very tight time frame, it would be helpful to continue to move this forward to the Common Council.

Ms. Tomczyk noted that Briggs & Stratton to the north still has 1.5 million square feet of building space and the JC Penney building to the east has 1.6 million square feet, so the 138,000 square feet at Lowe's fits within the character of this area. She noted that there are three deviations from the big box ordinance requirements: 1) The site does not have two functional stories, but they have worked closely with the Design Review Board to arrive at a two-story elevation; 2) The roof does not include two or more roof planes, which would be difficult from a maintenance standpoint, but there are multiple roof lines; and 3) More than 60% of parking will be located at the front of the buildings, which is necessary due to narrowness of the site, environmental concerns, and steep grade changes. Also, the building is sited to act as a cap for some remaining contaminants and use some existing footings.

Ms. Tomczyk next cited elements beyond big box ordinance requirements. The architecture is far from any of the prototypes that have been seen and is a trendsetter for Lowe's. Storm water management has been improved through innovative techniques such as rain gardens, bio-swales, and use of some pervious pavement. Through enhanced landscaping, green space will increase from 10.4% to 18.6%. Significant pedestrian corridors and improved bus stop connections will enhance pedestrian accessibility and use of public transit. The project will incorporate a signature public art piece by a local professional artist who will work with the local school district.

Environmental remediation has upgraded the site. Lowe's has committed to contribute $7,500 to a community project that meets their criteria, possibly the Little Red Store.

Referring to the questions of green roofs and porous pavement, Ms. Tomczyk said that the purpose of green roofs is not primarily for storm water but for dealing with urban heat islands and providing green space in dense urban areas. The structure and weight needed for a green roof would add a lot of cost and change the entire structure. It would also prevent screening of rooftop units. Green roofs have experienced a lot of leakage, presenting maintenance problems from a retailer's standpoint. Heat elements can be addressed through use of a thermoplastic membrane. There will be pervious pavement in some less heavily traveled areas of the project. Experience has shown that pervious pavement doesn't withstand heavy truck traffic and customer vehicles with relatively heavy loads. A 75% failure rate within two years has been cited. There would also be some concern with using porous pavement too close to the environmental cap.

Jim Jenk of Arnold and O'Sheridan, 4125 N. 124th Street, Brookfield, responded to a question about underground detention. There is a 48-inch diameter pipe beneath the pavement that is part of the storm system that goes into the detention pond. Water will back up into the pipe and then go to the detention facility once the level there begins to drop. He explained the structure of the drainage system under the rain garden areas and the use of native plantings with deeper root systems that will help create a filtration process and improve water quality. Paved surfaces and some of the roof systems will feed to those areas.

Krol commended the development team and city staff and supported the project as a good use for the site and a benefit to the community. Ald. Birschel commented that the developers did well in changing the architectural concept.

The Chair noted that he had asked questions about green roofs awhile back but first received answers, which he found somewhat vague, at last night's Plan Commission meeting. He has talked with engineering staff about a rooftop retention concept in which there is some temporary retention and slow drainage for about 48 hours in larger events, which seems worth exploring. He also questioned the extent that pervious surfaces will be used, noting that staff found that Lowe's has used pervious surfaces on a Washington state project. Engineering staff has suggested using standard asphalt in the drive aisles and pervious surfaces in the parking spaces in order to get more pervious surface in the lot. Perhaps it could be used in the Walgreens lot. Ald. Kopischke said that he would like to see storm water management efforts maximized and something really significant in exchange for concessions made by the city.

Ms. Tomczyk responded that Lowe's has looked at green roofs at a number of locations but has never built them because of the added mass and weight on the building and their huge cost. Those that use them often get some kind of concession. A German community, for example, gave a $3 million concession to the property owner. The climate here, where salt and sand clogs the pavement, is an important factor in the use and maintenance of pervious pavement; Washington is a different environment. Customer traffic and fork lifts would be enough to tear it up. It wouldn't be effective and attractive and would be a maintenance issue.

Judson Klein, Herschman Architects, Inc., 25001 Emory Road, Cleveland, Ohio, said he has seen the Washington lot and can confirm the situation is quite different, particularly in winter. People often drive overloaded trucks into these sites, and movement in the pavement of the regular parking lot can be seen from these overloaded vehicles. Pervious pavement can be a maintenance headache and creates a safety hazard also. It is proposed for lighter traffic areas that would expect regular car traffic rather than heavier trucks. The value of these strategies has to be tempered against the conditions and utilization of the site.

The Chair asked if the need for the detention basins could be eliminated altogether by getting a few more bits and pieces elsewhere. Mr. Jenk said that the best way to deal with storm water in terms of surface-area dollars is usually on the ground in detention facilities. Reducing detention facilities would take away the number one piece of the plan. With other choices come potential problems that weigh on the system. The project meets the original requirements of the city ordinance and goes above and beyond with other issues. The Chair observed that part of the reason for going above and beyond is the concessions involved in the developer's agreement.

Terry Patrick, a consultant for Briggs & Stratton, said he assisted in working through some of these issues. He explained that Briggs & Stratton has a constraint in that they have two settling ponds downstream that ultimately control the outflow from this site. The entire Briggs system is in line before any of this goes into the public flow. This site contributes less than previously by a considerable amount. The physics of the site work against using the other measures being discussed. There is substantial storage in the two ponds, and they are over-excavated as a controlled retention area as well as detention. Any rooftop measures would be just detention, so eliminating the ponds would decrease water quality. The City Engineer has done a good job of re-engineering storm water to what is a very effective storm water plan. The plan right now is subject to his review. The Chair said that he is aware that there is more than the City Engineer would like to do, some of it in line with discussions here. Ms. Tomczyk said that they will continue to work with the City Engineer and staff and are aware they will not get a building permit until engineering details are resolved.

Ald. Krol noted that this had been a large industrial site with impervious surfaces. Green space and the look of the site will be improved, and it will be beneficial to the community. The architecture is sensitive to the surrounding structures. This is creating something more efficient, eye appealing and of greater value to the community.

> Moved by Ald. Krol, seconded by Ald. Becker to recommend approval of the Conditional Use contingent upon any further permitting or approvals that are required including final approval from the City Engineer regarding any site provisions on storm water, sanitary sewers, and water main easements, and completion of a developer's agreement that outlines all the stipulations and conditions and all details that have been discussed –

Ald. Sullivan said that he understands that a green roof would be a major expense but it could be marketed well and would be a wonderful initiative. He suggested requiring pervious surfaces as an additional condition in the Walgreens portion of the site where there aren't any issues of trucks or grade.

Ms. Tomczyk said that they have not yet done the engineering to figure out where pervious surfaces will make sense. They may be able to do a little more pervious pavement, perhaps at Walgreens and at the detention pond.

Ald. Sullivan asked about options to include more pervious pavement in the future if approval is granted now without that condition. Ms. Welch explained that this approval is for the entire site. Separate Conditional Uses would be required only for added uses such as a restaurant or grocery store or if changes are made in the site plan. Mr. Kesner said that additional use of permeable surfaces could be explored through the general engineering review and incorporated into the storm water plan. The Common Council retains continuing jurisdiction to review a Conditional Use at any time. Ms. Welch added that no permit will be issued without an acceptable storm water management plan. There is not yet a detailed plan on the concept of rain gardens and bio-swales, and there is still a need to ensure proper design.

> Moved by Ald. Sullivan to amend the motion by requiring the use of additional permeable pavement subject to approval of the City Engineer with a report to

this committee on the overall storm water management plan –
Amendment fails for lack of a second.

Asked by Ald. Sullivan if there is a clear message on seeking additional permeable pavement, Ms. Welch confirmed that it helps to have encouragement to continue to explore options when working out final details. The City Engineer would like to see more accommodation for storm water, and more pervious pavement may be an alternative.

Mr. Jenk indicated that they could add more pervious pavement and said he would be comfortable doing so.

Ald. Treis spoke of the many hours of time that have been devoted to this project and the continuing efforts to work out drainage, grading, and other issues. He noted that this is part of the overall flood improvement efforts in the city. Staff is working on and will need to approve many more items for this project than those mentioned here. He recommended approving the concept and letting staff put the details together.

It was clarified that the Conditional Use is contingent on a finalized developer's agreement that won't be complete until all details have been worked out. Mr. Kesner said that the developer's agreement will incorporate a lot of engineering details, maps, and plans and will probably come back to this committee in its final form to authorize its execution. Exceptions to the big box ordinance can be made only through a developer's agreement approved by the Common Council. The developers could proceed with plans and designs, but that approval is needed before building permits can be issued. Ms. Welch said that the final storm water management plan could be reviewed at the time the developer's agreement is forwarded to this committee.

The Chair clarified that the Conditional Use under consideration is for development of a large retail site including the Lowe's store and also a 24-hour Walgreens with a drive-thru. Other specific uses on this site that need Conditional Use permits would come forward separately.

Questions were raised and discussion ensued regarding Walgreens' 24-hour operation. It was noted that others in the area have similar hours, that it is convenient and doesn't cause injury, and that it could be seen as an alternative to using a 24-hour emergency clinic. The Plan Commission unanimously approved the use as proposed.

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

Conditional Use Review and Approval Process

Mr. Wontorek said that his report on the Conditional Use review and approval process is carried over from the review of Special Uses undertaken last year. It is an administrative process that is not currently outlined by ordinance or resolution.

Under the current process, an application is reviewed by staff, proceeds to the Plan Commission for a public hearing, and then is forwarded to this committee for a recommendation on final Common Council action. When Design Review Board action is necessary in the case of new construction or extensive modification, their review occurs within or after that sequence.

Mr. Wontorek proposed that the Design Review Board instead review designs before they are finalized and presented to the Plan Commission and then have the opportunity for final review of any changes following the Plan Commission hearing, Community Development Committee recommendation, and final Council action. This

process allows the Design Review Board to have an early look before the Plan Commission hearing and then one last look to be sure of the final plan.

Ms. Welch said that the proposed change somewhat reflects the sequence specified in the big box ordinance. Otherwise, the Plan Commission reviews what is really a conceptual plan that could be changed substantially by the Design Review Board to achieve a better project. The end result might not really reflect what the Plan Commission and Community Development Committee viewed. The change also recognizes that specific physical recommendations should often be part of the conditions placed on the use.

This committee could allow public input when reviewing each Conditional Use or could refer only to the record of public comments made at the Plan Commission's public hearing. Ms. Welch explained that "public hearing" refers to the hearing required by state law in zoning cases. There is no requirement for multiple public hearings, but the custom has been to allow public comment at the committee level. Mr. Kesner added that there is actually no requirement to allow the public to comment on any committee items, although it has been the practice to do so. The Chair can control the extent of public discussion at a committee meeting because it is not a formal hearing. An official public hearing would be before the Plan Commission or Common Council.

Following further discussion, it was the committee's consensus to modify the administrative procedure for Conditional Uses by providing for initial review by the Design Review Board. Public comment would be allowed at the committee level while making it clear that the official public hearing is also part of the record being considered.

The Chair pointed out that some type of report from the Design Review Board will be needed for the items forwarded to the Plan Commission. It should summarize the issues discussed and what was approved. Mr. Wontorek agreed with the need for a better record and suggested that a comprehensive check list may be helpful.

The Chair asked if there would be any confusion about the role of the Design Review Board or if they would be taking on more responsibility coming earlier in the process. Ms. Welch said that the process should be clarified so that the Design Review Board, Plan Commission, and Community Development Committee responsibilities are clearer. By reviewing plans earlier, the Design Review Board is more clearly providing an advisory recommendation. Giving them more initial control over shaping the project seems appropriate, and it gives this committee the ability to review what they have recommended. The Chair cautioned that developers should be made aware that initial Design Review Board approval doesn't mean that there isn't further review of the plan.

Mr. Wontorek indicated that there may be some need to clarify the Design Review Board section of the Code.

The Chair confirmed the previously stated consensus on the proposed change.

The meeting adjourned at 10:22 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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