



CITY OF WAUWATOSA
77235 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917
Fax: (414) 479-8989
<http://www.wauwatosa.net>

**COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, March 27, 2007**

PRESENT: Alds. Birschel, Didier, Donegan, Herzog, Krill (8:10 p.m.), Meaux (8:10 p.m.), Minear, Treis -8

ALSO J. Archambo, City Admin.; N. Welch, Community Development Dir.; A. Kesner, City Atty.;
PRESENT Chief D. Redman, Deputy Chief W. Rice, Fire Dept.

Ald. Treis as Chair called the meeting to order at 8:05 p.m. -6

Conditional Use for Cellular Antennas and Equipment Storage – 11100 W. Center Street

The committee reviewed a request by the Wauwatosa School District for a Conditional Use in the AAA Single Family Residence District at 11100 W. Center Street for installation of cellular antennas and associated equipment. The Plan Commission unanimously recommended approval. A representative of T-Mobile, Jeff Fowl, was present.

Ms. Welch said that the School District and T-Mobile would like to install a 25-foot mono-pole near Whitman Middle School. The associated storage building would provide storage for the school and attached equipment storage related to the antenna. The overall dimension of the combined building is 40 feet long and 12 feet wide with a height of 11 feet 8 inches, exceeding the maximum size specified by code. Staff believes that the installation does not have any significant impact at this location, which is some distance from other buildings. Approval through the Conditional Use process would allow for the proposed building size and allows the School District to take the lead in governing their property.

Moved by Ald. Birschel, seconded by Ald. Minear to recommend to Council approval of the Conditional Use –

Ald. Didier noted concerns raised at the Plan Commission meeting about aesthetics of the antenna's placement. Ms. Welch acknowledged that the mono-pole will stand out; its height cannot be screened. The T-Mobile representative indicated that they would be willing to work with the School District on an acceptable landscape plan for the storage building.

Vote on the motion, Ayes: 6

Conditional Use for Outdoor Storage – 2900 N. 112th Street

The committee reviewed a request by JE Johnson Commercial Properties and Bill Brodd for a Conditional Use for outdoor storage in the AA Light Manufacturing District at 2900 N. 112th Street. The Plan Commission unanimously recommended approval. Bill Brodd, 11311 W. Locust Street, was present.

Ms. Welch reported that the applicants would like to use the vacant parcel south of their property, Weekes Forest Products, for outdoor storage of lumber. The site is adjacent to the railroad and is fenced. Staff recommends approval contingent upon adequate screening.

Moved by Ald. Donegan, seconded by Ald. Birschel to recommend to Council approval of the Conditional Use. Ayes: 6

(Alds. Krill and Meaux present. -8)\

Final Plan for Business Planned Development at 2717 N. Mayfair Road

The committee reviewed a request by Ned Brickman for Final Plan Approval for a Business Planned Development at 2717 N. Mayfair Road. The Plan Commission unanimously recommended approval.

Ms. Welch reported that the Preliminary Plan was approved by the Common Council with the following conditions for the Final Plan: 1) plans showing adequate sewer capacity, environmental remediation, and storm water management subject to approval by the City Engineer; 2) parking lot and traffic circulation plans showing adequate access for adjacent businesses subject to approval by the City Engineer; 3) plans for water supply to the site subject to approval by the Water Superintendent; 4) building plans designating design and materials recommended by the Design Review Board; 5) an emergency vehicle access plan subject to approval by the police and fire departments; 6) legal combination of the parcels; and 7) a final developer's agreement approved by the Common Council. Ms. Welch said that progress has been made on the foregoing conditions and she is confident at this point that the project can move forward and any remaining details can be resolved prior to issuing a building permit.

Brian Randall of Friebert, Finnerty & St. John, 330 E. Kilbourn Avenue, Milwaukee, representing the applicant, described the proposed development consisting of three buildings with retail and office uses. Mr. Brickman and the project architect were also present. Mr. Randall reported that they have been working with staff on the conditions imposed at the Preliminary Plan stage and should be in a position to satisfy all of them.

Moved by Ald. Krill, seconded by Ald. Donegan to recommend to Council approval of the Final Plan. Ayes: 8

Final Plan for Business Planned Development at 6745 W. Wells Street

The committee reviewed a request by William Ibach for Final Plan approval of a Business Planned Development to construct a mixed use development at 6745 W. Wells Street. The Plan Commission unanimously recommended approval. Ms. Welch reported that this mixed-use building would replace a currently vacant medical clinic at the southeast corner of N. 68th and W. Wells Streets. Twelve residential units and approximately 3,000 square feet of retail are proposed. The Common Council identified the following conditions for Final Plan approval: 1) adequately screened garbage and storage for recycling; 2) submission of hard engineering related to parking, lighting, grading, and utilities subject to approval by the City Engineer; 3) plans for a water supply to the site subject to approval by the Water Superintendent; 4) grading provided along the sides of the property to avoid runoff onto adjacent properties; 5) approval of sewer plans and adequate sewer credits approved by the City Engineer; and 6) an encroachment and maintenance agreement provided for the city right-of-way subject to approval by the City Engineer. Ms. Welch indicated that only the last details of the foregoing conditions remain and confident that those details could be resolved.

Bill Ibach, 2347 N. 100th Street, distributed copies of plans and renderings of the project. He said that at the Common Council hearing, 80% of those who spoke or submitted written comments were in favor of the project.

Pam Kramer, 805 N. 68th Street, reiterated concerns expressed at previous meetings about the size of the building, its closeness to the sidewalk, the residential nature of the neighborhood, adequacy of parking, increased traffic, and safety. Citing the opposition of the neighborhood, she questioned why the proposal keeps moving forward.

Louis Corrao, 6742 W. Wisconsin Avenue, also commented on neighbors' opposition to which he felt the developer has been insensitive. He said that the Design Review Board failed three times to recommend the project

as presented. He felt that approval of the final plan will represent failure to give this neighborhood a building that is in character with the area.

Russ Drover, 7530 W. State Street, compared land area coverage allowed under Medical Clinic zoning, which he favors, as opposed to Planned Development zoning where there are no specific guidelines. A similar development with less impact on the neighborhood would be more desirable, he felt.

James Loduha, 641 N. 77th Street, felt that the development is not out of character with the neighborhood and probably provides more parking than most of the other commercial uses on that corner. Traffic should not be a problem in that 24 more cars a day will not make any difference. Condos are needed as options for empty nesters who would like to remain in the city. The development will produce exceptional tax base for the city and improve neighborhood property values.

Vaso Sasic, 612 N. 68th Street, said that citizen input has not been taken seriously. This will change the complexion of the neighborhood. Condos are transient-type properties where people would live probably no more than seven years. The support mentioned by Mr. Ibach should not be accepted at face value. The people in this area are being pushed back because of an agenda for business that is contrary to their needs and wants.

Ken Leffel, 6128 W. Wells Street, noted that the size of the building has been reduced from 15 units to 12 and retail square footage reduced. He believes it will be an asset to the neighborhood.

Jack Shepherd, 500 N. 99th Street, spoke of changes in Wauwatosa during his 65 years of residency and said that some regeneration is necessary. Condos have become part of our life because people live longer and are looking for a way to stay in communities where they have been valuable residents. They provide a way to avoid losing the very people that helped build communities.

Ms. Kramer commented that the size of the building was changed early in the process but was never changed after the Design Review Board suggested it several times. She agreed that condominium residents do move on a regular basis. Residents here have stayed in this neighborhood. Her own building has had only two owners in 80 years.

Ald. Birschel said that the Design Review Board had a quorum and a tie vote at each of their two meetings on this project, but the makeup of those in favor was not the same at each meeting. He voted against the preliminary plan because there wasn't a consensus and will think seriously about this next vote. Part of that consideration will be based on favorable comments about a similar building, Locker's Pointe that is now under construction.

Asked for comment on the Design Review Board votes, Ms. Welch clarified that they talked about scale and massing, which is not the same thing as the size of a building. Their concern with mass was the way the building is formed. In some of the original plans, the building rose straight out of the ground and went straight to the top. There has been some improvement in that design with inset balconies and elements that break up the facade.

In response to further questions, Ms. Welch said that many of the issues cited in preliminary plan approval were engineering details that have since been worked out. Those that haven't are at the point where staff is confident they can be worked out before a building permit is issued. Resolution of the sanitary sewer issue depends on whether or not MMSD adopts the Facilities Plan. Because there is base flow in that basin but a lack of peak flow, the applicant has the option to construct "tight" sewers. If the Facilities Plan is adopted as staff has anticipated, there will actually be additional capacity that would allow for different solutions.

Ms. Welch noted that the zoning on this parcel has already been changed to Business Planned Development. Regarding a question of comparative traffic volume between previous and existing zoning, she said different types of medical practices might generate different volumes. The condo residents would likely leave in the morning and return at night. The retail space of about 3,000 square feet is about the same size as some of the smaller area businesses, and a fairly standard parking ratio would cover most uses. Something like a restaurant that could create

higher traffic volumes and increased parking needs would require separate Conditional Use approval. Likely uses not requiring that approval would be those that are similar to nearby retail uses such as a hair salon or book store.

Moved by Ald. Krill, seconded by Ald. Donegan to recommend to Council approval of the Final Plan. Ayes: 7; Present: 1 (Didier)

(The committee recessed at 8:55 p.m. and reconvened at 9:05 p.m.)

Conditional Use at 510 N. Mayfair Road

The committee reviewed a request by Richard Lepping for a Conditional Use to construct a new Taco Bell in the AA Business District at 510 N. Mayfair Road, the site of an existing Taco Bell. The Plan Commission recommended approval by a 3-2 vote. Ms. Welch reported that a similar proposal was made a few years ago as a Special Use and was denied by the Board of Zoning Appeals. Neighbors at that time expressed concerns about late hours, noise, unruly patrons, and maintenance. This type of use is now a Conditional Use. The Plan Commission recommended reducing the requested hours of operation from 3 a.m. to midnight. The applicant requested 1 a.m. closing on Friday and Saturday during summer months. There would be an enclosure for trash, and a boulder retaining wall with an 8-ft. fence on top would help deflect car lights, trash, and patron noise. The Plan Commission stipulated that there would be no future construction on the southern end of the property without city approval. There were some concerns about construction of the retaining wall and whether it would be possible to erect and maintain it without encroaching on neighbors' properties.

Ald. Treis said that he attended the Board of Zoning Appeals meetings held when the first proposal was made by the same owner but a different developer. He also commented on the poor handling of trash and unsightly retaining wall erected by the property south of this site that used the same developer.

Richard Lepping, 1634 Sherman Avenue, Madison, said that the revised plans feature new infrastructure, a new form of retaining wall, and a new building to replace the current one that is in terrible disrepair. They represent a cooperative effort with neighbors and the city. Neighbors have expressed none of the concerns that had been received over the past couple of years. Almost everything except the color of the building has been worked out and understood. Although there obviously is not total agreement, the plans have been substantially reworked. Mr. Lepping commented that this has been a learning process but the process works given the right tone and the right input from neighbors and the city. He noted that the developer of the property to the south is the same one he used originally, and the adjacent properties there still have retaining wall problems.

Architect Jim Gersich, Dimension IV, 313 W. Beltline Highway, Madison, passed out revised plans and board showing sample materials for the stone retaining wall, stone veneer, and some of the color schemes. He pointed out before and after illustrations of the view of the retaining wall from neighbors' properties. He clarified that the retaining wall stones are quarry boulders, not cast concrete.

Ald. Didier asked if the franchise agreement dictates the color of the building; i.e., does the back wall have to be yellow? Mr. Lepping said that the agreement with Taco Bell is that the wall facing the neighbors will be a single color. He was told that brown or something similar would be a hard sell. He worked very hard with signage, lighting, and everything the neighbors could see to keep it to one or two colors as much as possible. Asked if color was something he could pursue, he said he was told that it could impinge the process. It went through one committee at Taco Bell corporate, but he would be willing to pursue it further.

Lorelle Kramer, 620 N. Mayfair Road, owner of the only commercial property adjacent to the development, was concerned about proper water containment and grading of the site so that runoff doesn't reach her property. The restaurant is being moved from higher to lower ground that continues downward to her property line, and they are also building it up from her parking lot. She questioned if the catch basin, which would be right on the property line within the concrete trash enclosure, will function properly. She is also concerned with the location of that trash enclosure on Mayfair Road and at the front corner of her property, which apparently was placed there to be as far

from neighbors as possible even though it seems it could not be seen anyway. She suggested using parking space #4 at the rear, which is not adjacent to residents and would not be right on Mayfair Road.

David Schmalzer, 554 N. 107th Street, recalled that the original proposal for the McDonald's at 66th and North faced neighborhood opposition, but the end result looks nice and functions well. In this case, the height and size of the retaining wall is a concern for the majority of neighbors. The building would be 27 ½ feet tall if the land is raised, putting it 37 ½ feet above the street plane of the neighborhood. Another issue of concern to many is the parking to the rear of the building, where police officers will have no way to see what is happening given the size of the building. Operation of the drive-thru is also a concern. Under the current plan, patrons can buy food and turn back and park behind the building in secluded spaces until 1 a.m. Mr. Schmalzer said that he can't find anything else in residential areas that is allowed to be open until 1 a.m. He also mentioned that other nearby buildings have brick facades while this building will have only a little brick and mostly stucco.

Richard Reinders, 567 N. 107th Street, said that the vast majority of issues that lead to defeat three years ago are still there. The number one concern is the wall, which will span six properties. Its proposed height is 10 feet with an 8-foot fence above it. Also, hours of operation on the inside should be the exactly the same as the drive-thru. He questioned why the owner can't just knock down the current building and construct the new one in the same place without a massive wall. Five of the six owners affected by the wall would not grant an easement to access it. Christine Reinders, 567 N. 107th Street, described the quality of the neighborhood, the closeness of its residents, and their support for each other. She said that they are still as opposed to this as when they first spoke to Ald. Krill.

Damien Forest, 545 N. 107th Street, spoke of preserving the integrity of the neighborhood and the community. He mentioned concerns about the location of the building, the retaining wall, and kids who might hang out at the restaurant but emphasized that the wall is major issue and said he would not support an easement. He questioned if the new facility would be maintained any differently than the old one.

In response to some of the questions raised, Ms. Welch said that the City Engineer would look at grade plans and the catch basin prior to issuing permits. Pushing the basin to the middle doesn't work, she explained; the idea is to catch water before it runs off and hold it for a sufficient time so that it can drain to the storm sewer system.

Mr. Lepping said that he bought the building eight years ago from Taco Bell Corporation agreement as a package of stores with an attached franchise agreement that expires in a couple of years. This facility needs to be rebuilt because of its disrepair. The Health Department, which he is responding to that as well. He has met with neighbors on many occasions and changed things such as the wall, materials, dumpster, parking lot have resulted from neighbor's comments and suggestions. The wall is high on one end and then tapers down. The plan originally included a retaining wall for the entire length of the parcel. Regarding the drive-thru, he said that businesses of this type are typically 60% drive-thru and 40% dine-in. For the health and safety of customers and employees, he does not want the dining room open longer. The pattern has been that cars enter, order, and exit, and he sees no reason for that to change. He cannot reconstruct in the building's current space because that area is not conducive to eliminating the noise problem. Mr. Lepping acknowledged that the wall is a compromise in terms of what they can engineer and what is appropriate for the site. He believes that it can be built from his property alone but had hoped to have access from neighbors' properties. He has never mentioned easements but has just talked about the ability to get onto those properties with building material or equipment. Mr. Lepping said nothing will change dramatically in use or behavior; if anything, there will be better infrastructure and driveways to get people in and out more efficiently.

Ms. Reinders reported that her mother called the corporate office as an entrepreneur inquiring about facades and was told that they have some standards but it has to also meet the standards of the community. Mr. Lepping questioned whether that is the case but said he would be happy to research it. He noted that he is bound by his franchise and has to work through Taco Bell corporate. Mr. Schmalzer commented that similar statements were made about McDonald's redesign, but the building eventually constructed was wholly different.

Ald. Herzog noted that normally this committee is not addressing bricks, colors, and outside façade when reviewing Conditional Uses. Will this also go before the Design Review Board? Ms. Welch said they would need that board's approval before a building permit could be issued. Ald. Herzog then asked if the Conditional Use process is any different because a restaurant is already operating at this site. Ms. Welch explained that new Conditional Use is needed with new construction and said it is difficult to argue that a location with a fast food restaurant for 40 years has suddenly become unsuitable for that use. Asked about oversight on the retaining wall, Ms. Welch said that is a gray area. Technically the Design Review Board can review it, but as a Conditional Use, the committee has the right to impose some conditions. There are six properties that would have some form of retaining wall, although it drops back and is quite low at the north end. Ms. Welch indicated that staff would like to see some kind of continuous fencing across the property.

Ald. Herzog asked further questions about fencing and hours of operation of the drive-thru. Although a 6-foot fence is allowed in commercial areas, Ms. Welch reported that several years ago when neighbors expressed concerns about lights, trash, etc., an 8-foot fence was planned. The committee could require 6 feet or 4 feet, if desired. (Mr. Schmalzer reported that the current wood structure is probably 6 ½ to 7 feet.) This committee or the Design Review Board could address materials. The key issue is something that is durable and doesn't allow trash to penetrate. The drive-thru is currently open until 3 a.m. all year. The Plan Commission recommended midnight except from Memorial Day to Labor Day when they could stay open until 1 a.m. on Fridays and Saturdays. The Steak and Shake on 124th Street closes at midnight and opens at 4 a.m., but that area has people coming in on morning shifts. Regarding runoff to the north, Ms. Welch suggested conditioning approval on final engineering drawings that show that demonstrate there would be no runoff onto adjacent property.

Ald. Didier cited Lake Forest, Illinois as an example of a community controlling the exterior materials, signage, etc. of any fast food chains. She suggested that staff submit a letter to Mr. Lepping, for forwarding to Taco Bell corporate, stating the opposition to the color of the building. She suggested that a taupe color would be more appropriate than what is planned. She felt that height is in line with other buildings in the city but would like to see a style that is more conducive to the existing buildings in the neighborhood.

Moved by Ald. Didier, seconded by Ald. Birschel to hold this matter for two weeks or until there is reply from Taco Bell corporate to a letter to be provided to Mr. Lepping regarding community concerns –

The Chair for notification from Mr. Lepping when he gets a response so that this can be returned to the agenda.

Ald. Didier asked if the proposed hours would be unusual for fast food restaurants in Wauwatosa. Ms. Welch said it would not be unusual on Mayfair Road. An 11 p.m. close is enforced on North Avenue, recognizing that some commercial corridors are less active than areas along Mayfair Road or Blue Mound Road.

Vote on the motion, Ayes: 8

(The committee recessed at 10:02 p.m. and reconvened at 10:10 p.m.)

Fire Department Facility Study: Process and Possible Improvements to Fire Station #1

As directed at the previous meeting, Ms. Welch reported on a revised RFP she has drafted for development of the Blanchard and Underwood sites that places greater emphasis on construction of a fire station. She then summarized the three findings the committee has made thus far: 1) there is a need to change existing station #1 and station #2 as well; 2) administration, maintenance, training, and other functions currently found in the Fire Department headquarters should be housed together in a fire station site; and 3) the study's space analysis is an appropriate tool for laying out future plans for the station.

As stated in her March 20, 2007, memo to the committee, Ms. Welch reiterated that, as now drafted, the current RFP is an unusual way for a municipality to go about constructing a fire station. The normal procedure would be to

decide the type of station needed, develop plans and specifications, and then seek bids, thus giving the municipality complete control of design and construction. Ms. Welch emphasized the need to ensure that the end product supports the needs of the fire department. An RFP would be a way to get answers to some of the questions that the committee has asked, but if the goal is to find out what the development options and values are in relation to choosing a final site, she advised removing the fire station from the RFP and opening it just for development proposals. The issue is finding a site for the station, and an RFP is a way to get all the proposals out on the table for further discussion. The inclusion in the RFP of the fire station will limit those proposals.

Matt Mikolajewski, Executive Director of the Wauwatosa Economic Development Corporation (WEDC), 1414 Underwood Avenue, reiterated similar points contained in WEDC's March 22, 2007, letter to the committee. He said that the WEDC board has some concern regarding response to an RFP combining the design of a new fire station with redevelopment within the Village. Once a fire station site is determined, they foresee a greater response to a less restrictive RFP for development of the opposite property; i.e., the site not chosen for the station.

Russ Drover, 7530 W. State Street, questioned the conclusions reached in the Facilities Study about the current building's structural condition and the need for its replacement. Perhaps evaluation by another engineer is needed to confirm those conclusions. He supported the current location as being very serviceable for the present and future and said that a bigger development is not necessarily a good thing.

Bryan Olen, 1553 N. 117th Street, representing Wauwatosa Savings Bank, wanted to be sure the RFP includes language to preserve the amount of parking that currently exists in the Blanchard lot. Ms. Welch said that, whatever happens, all considerations have been to keep and perhaps increase parking there.

Ald. Donegan expressed support for the RFP process but said he has concerns given the comments of Ms. Welch and WEDC. If the consensus among developers is that one site is superior for development, would that not save some time and steps in deciding on a location? If there were consensus on the best site for development, would this committee still issue an RFP that may be complicated and prolong the process?

Ms. Welch said that the decision here depends somewhat on what the committee wishes to accomplish through an RFP. The best way to build a fire station guaranteed to meet the needs of the department is for the city to lead the process and have complete control of site selection, plans and specifications, and soliciting bids. If the committee wishes to have more information about developing and potential value of either site, she would recommend issuing the previous version of the RFP, which asks developers what they would put on either or both of the sites. If the committee wants to see what developers can offer and wants to make sure we are getting a developer-built fire station as part of the development, the current RFP would do that. The processes would give different results. Ideally, the point of the RFP is to bring some of the rumored proposals forward so that the committee can look at them. The committee would reserve the right to accept, reject, or modify all proposals.

Ald. Krill said that the committee wants to consider the development consequences of where a fire station is built but the focus is on building a station. An RFP may help us look at development potential, but we should pick the proposal that gives the best fire station. He is not worried about looking at 10 proposals but would worry about discouraging the best fire station proposal from coming forward.

Ms. Welch responded that, from a developer's viewpoint, it becomes extremely difficult to propose a mixed use that includes a fire station along with residential and/or commercial development. Without knowing the exact design of the fire station the city requires, a developer might just end up dedicating a "box" in the building for that purpose. The problem with fire station proposals isn't just about square footage but configuration, materials, and design. Added to that is the fact that most developers are thinking about 23-year depreciation, but we are talking about a fire station that will be there for 75-100 years, which adds an extra level of complexity in financial and structural calculations. Developers are often nervous about mixed use proposals, and this is a proposal that would potentially include not only commercial and residential use but also a fire station and a combination of taxable and non-taxable elements.

Ald. Krill commented that it could encourage someone who wants to build a fire station at the Underwood site. Ms. Welch said that nothing would preclude that, but if we truly want the best economic proposal for a fire station, why are we looking for a developer to tell us how to build it instead of bidding it out ourselves and keeping the overhead lower? It would only be advantageous if looking at some kind of development that provides a financial package. Asked if developers wouldn't have to propose a building that complies with the Zimmerman study, she explained that the study is not a design but a concept for a design that would need to be further developed.

Chief Redman agreed with WEDC's statement that inviting open proposals to build a fire station will limit the interest of potential developers. If the city instead gets proposals to determine which site provides the best development in terms of layout and economic dollars, the station could be put on the opposite site. Then, similar to the process used when the police station was built, we would proceed with a committee involving staff, design people, and an architect the city would hire. The Chief expressed confidence that such a process would satisfy the department's needs given that the Zimmerman study is a reasonable guide to space needs and functionality aspects.

Chief Redman continued that he has great reservations about the RFP as currently drafted with a primary goal of telling us how to build a fire station. Including that will probably restrict interest in potential economic development for two important pieces of city property. The city is better served by getting as many presentations as possible on reuse of those properties to spur development. The need for a fire station gets developers on track to make that happen, and the city might actually get new tax base from economic development 10 years sooner than if just building a station and waiting for something else to happen.

City Administrator Archambo said that one of the challenges of this issue is that there isn't a single right way to proceed. The current RFP would be issued with the understanding, first and foremost, that space dedicated to a fire station would be under the city's control 100% as to ownership, design, and everything else. Among the proposals the city may receive might be one to build only a fire station on one of the sites, or a developer for one site who is proposing commercial development that leaves the alternate location open for a fire station. Mr. Archambo cautioned that this would likely be only a step in a process to a conclusion rather than a conclusion itself. In addition, it should be understood by the committee and developers alike that all of the proposals may be rejected.

Ald. Donegan noted that development crept into the discussion due to the great cost of building a station, one part of which is lost development opportunity. Before we get into building the fire station, which is the primary focus, we should complete our thinking on the development element by identifying the best potential development site. Set the fire station aside for the moment and then spec out the fire station in the way staff recommends.

Discussion of the RFP process continued with further comments from committee members. Ald. Krill felt that proceeding with the RFP would at least move us forward and doesn't pose any great danger except possibly delay. Ald. Didier also favored the current RFP, which she said would at least provide an eyeshot view of development potential without losing the focus of the fire station. She asked about ensuring that the RFP reaches those who have built other stations. Ald. Meaux commented that the committee has somewhat accepted that economic development is driving this building, but he felt that folding that into the process creates more challenges to getting an 80-year building. The purpose of an RFP would be to help in site selection by ensuring that we are not minimizing any opportunity on the economic development piece.

Moved by Ald. Meaux, seconded by Ald. Didier to proceed with the RFP
as presented tonight –

Ms. Welch explained that any RFP that is sent out would be publicly posted and could also be sent to developers that have responded in the past. It is important to understand that architecture and engineering firms generally pair with developers because they don't have the financing capability to do this project themselves. There may be architecture firms with the ability to do that, but she is not aware of any municipality that has issued an RFP to developers for a fire station. Asked about possible collaboration, she said that is a possibility.

Ald. Krill commented that the process would be the same but just in a different order. Ald. Didier requested more aggressive action to seek out responses and get the best selection possible. Ald. Donegan questioned whether those who build fire stations would also be involved in assembling land. A general contractor's first question would be where the city wants to build the station. Ald. Didier responded that there are architectural possibilities that don't require assembling land. She recalled that the Zimmerman consultant answered affirmatively when asked if a station could be built on the existing site by either going up or down.

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

(The meeting recessed at 10:55 p.m. and reconvened at 11:02 p.m.)

Purchase and Sale Agreement with Cobalt Partners – Public Works Site South of Walnut Road

Because of confusion about executive/closed sessions in connection with this agenda item, the Chair said that he would like to clarify that this committee has gone into closed session only once with Cobalt Partners. No Cobalt representatives were present when the committee went into closed session other times to discuss the proposal and receive advice from the City Attorney.

City Attorney Kesner provided a new marked draft of a purchase and sale agreement with Cobalt Partners for the 18-acre public works site south of Walnut Road. As directed by the committee, he and Mr. Randall conferred about the suggestions Mr. Randall made at the previous and made changes as appropriate. Among the significant changes pointed out by Mr. Kesner were: an increase in earnest money to \$50,000; added language that requires potential development to match the terms of the previous MOU entered into by the city and Cobalt; a term to clarify that city property would become taxable upon transfer to Cobalt and, if it goes into tax exempt status because of transfer to the county, there would be a payment in lieu of taxes until the county site on Watertown Plank Road came to taxable status; a financing contingency requiring the buyer to prove, prior to the end of the 9-month period, that they will have the financing available for the projects on city land and on county land. Minor changes include such things as requiring copies of reports and inserting "time is of the essence" language.

Mr. Kesner said that the changes were not discussed with Cobalt in advance of providing them to the committee. Cobalt is now suggesting some additional changes in language that are relatively minor. The agreement continues to protect the interests of the city and ensure that the project would do what the Council intends.

Richard Bachman, 2229 N. 115th Street, requested more details on Tax Incremental Financing (TIF) that has been mentioned briefly. Ms. Welch responded that it is recommended that the TIF language be removed. We don't yet know what we are getting, how much it will cost, or what the revenue would be, so it is really very premature to talk about TIF. Mr. Bachman agreed that this committee had only one closed session with Cobalt but indicated that citizens in this area are concerned about lack of information. He remains concerned about increased traffic on 116th Street using his street as a bypass to North Avenue and about exactly what the county would transfer to this site. He said he cannot believe they would leave their sheriff's building next to what is described as a multi-million dollar project or visualize how the county uses would fit on the city's 18 acres.

Atty. Brian Randall, Friebert, Finnerty, & St. John, 330 E. Kilbourn Avenue, Milwaukee, reported on review with Mr. Kesner of his suggestions from the previous meeting. He clarified that he does not represent the city in this matter but merely made suggestions. In most instances, the City Attorney greatly improved the language or ideas that he offered. He agreed that the committee's past closed sessions were appropriate, properly noticed, and legal, but said that the "elephant in the room" to the public is the secret user. He noted that there have been a lot of rumors that the user mentioned by Cobalt is no longer going to be at this site. He then recommended inserting benchmark dates in the agreement to establish that particular steps are being taken during the course of the 270 days of the agreement. In that way, the city would not be left waiting for the entire 270-day period if certain benchmarks are not satisfied. If the committee considers benchmarks appropriate, he suggested that they ask staff to come up with an appropriate and workable framework.

Ald. Birschel reported on conversations with County Supervisors Schmitt and DeBruin in which he found that information they are getting from Cobalt differs from what the city is getting. Supv. DeBruin commented that the county board never deals with brokers, only with developers. They have seen nothing in writing and have set up no meetings. Apparently the only person Cobalt has talked to there is Bob Dennik in the economic development office. Ald. Birschel said he was told by the county director of public works that they would have about 340 light trucks and other vehicles coming and going to the county shop every day. He said that there is no way they could use 113th Street and Watertown Plank Road only and was concerned about having to traverse more signalized intersections than they do now. Miller Brands is concerned about traffic, and there are many other businesses in that area that generate heavy traffic and would also be concerned. The public works director said he is contemplating adding onto the county shop at its present site. A facility study for a new county shop estimated the cost at \$35 million. In addition, when DOT rebuilds the Zoo Interchange, they plan to rebuild the Watertown Plank Road intersection and reportedly are considering a 300-foot no-build zone on either side of the freeway.

In response to a question about the description of county operations in the agreement, Mr. Kesner said that Cobalt requested a little less specificity on which county operations would be moving because those are decisions the county may make. References to “adjacency” or “adjacent to” anticipate some merger of operations, which was the concept at the time. He also responded to questions regarding the requirement for letters of interest, noting that two different parties are involved. In the case of the GE development, a signed lease from GE with the developer basically acted as collateral from which to move forward. In this case, the letters of interest would give some level of guarantee that this could happen if everything else falls into place.

Regarding Ald. Birschel’s report, Ald. Meaux commented that he believes that is the developer’s issue and not ours. His own concern is the issue of secrecy. He would not want to spend a lot more time discussing this without finding a way to resolve that. In concept, he supports the agreement. Ald. Krill said that his position has not changed and commented that in some ways this is not that big of a secret. Comments he has heard make him believe that some kind of investigative reporting might reveal the secret.

Ald. Donegan said he does not believe that Cobalt has an end user yet. If we clear this site, a use will be found that is acceptable and will be very good for us. We should provide the 270 days that Cobalt needs to work out the situation with the county. Most people understand that not all information on very complicated real estate deals will be made public. This agreement thoroughly protects the city’s interests, nothing will be developed without the Council’s approval, and we are committing to a public process once the land is available and an end user is known.

Ald. Herzog said that this agreement is not the final result but the first step in a series that the developer has to take to move it forward. They want to have the land locked up for 270 days while they do some due diligence with the county and the end user. The city cannot contract away our zoning or approval rights on what will be developed. Ald. Herzog commented that 270 days is nothing compared with the 4-5 years since proposals for the public works site were first sought. The developer has a lot of things to do with the county, but we have WEDC as a potential partner looking out for our financial commitment.

In further discussion of the process, Mr. Kesner confirmed that a sale wouldn’t close until the county commits to the details of what is happening with moving their operations and clearing their site and we have given the necessary approval for development of the county site.

Moved by Ald. Donegan, seconded by Ald. Herzog to recommend to
Council approval of the Purchase and Sale Agreement in its current form –

Mr. Kesner outlined the specific changes requested by Cobalt that would become part of the agreement that moves forward. There was some discussion about payment in lieu of taxes (PILOT) being made equal to the *city’s* share of property taxes. Mr. Kesner said that it is a policy question of whether we accept just the city’s share or require all of the property taxes that would be due and distributed to all taxing entities. In normal circumstances, PILOT is a voluntary payment of what is essentially a donation to the taxing entity in question. Many are just for city tax amounts.

With consent of the second, Ald. Donegan amended the motion to include the changes requested by Cobalt and outlined by the City Attorney –

The Chair raised a question regarding earnest money versus option payments, which were discussed early in the MOU process in connection with Cobalt’s request for up to a three-year term. Mr. Kesner explained that it could be structured either way.

Roll call vote on the motion, Ayes: 3; Noes: 5 (Birschel, Didier, Krill, Meaux, Treis) Motion fails.

Mr. Kesner stated that, under Common Council procedures, this matter will be forwarded to the Common Council for their vote.

The meeting adjourned at 11:59 p.m..

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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