



CITY OF WAUWATOSA

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

COMMUNITY DEVELOPMENT COMMITTEE MEETING

Tuesday, June 26, 2007

PRESENT: Alds. Birschel, Didier, Donegan, Herzog, Krill, Minear, Treis -7

EXCUSED: Ald. Meaux

ALSO N. Welch, Community Dev. Dir.; B. Aldana, Asst. City Atty./Personnel Dir.;

PRESENT J. Archambo, City Admin.

Ald. Treis as Chair called the meeting to order at 8:00 p.m.

Proposal by Toldt Development for Public Works Site South of Walnut Road

Held from the previous meeting was development of the 18-acre public works site south of Walnut Road. Ms. Welch said that the question at this time is whether or not residential development should be pursued and, if so, if it should be the Toldt Development proposal. If proceeding with residential development, staff should be authorized to enter into negotiations. The committee may wish to provide guidance for those negotiations. If the choice is not to pursue residential development, they should state their preference for the type of future development given that there is interest in the site. If the committee doesn't want any development on the site, that should be stated.

Helmut Toldt, 4040 N. Calhoun Road, Brookfield, and his attorney, Brian Randall, of Friebert, Finerty & St. John, S.C., 330 E. Kilbourn Avenue, Milwaukee, were present. Mr. Toldt asked the committee to decide tonight whether the \$55 million development he is proposing is worthwhile. Without any city subsidy, he is offering to build a development that would exceed the value and quality of adjacent housing units on land that has never generated any income for the city.

Mr. Toldt said that there are fewer than 200 condominium units in Wauwatosa, which has a population of almost 50,000 and roughly 20,000 housing units. Fewer than 450 non-market-rate, non-elderly, non-subsidized units have been built in the past 15 years, and half of those were in one development, the Reserve. The current residential vacancy rate in the city is less than 3%. Three-fourths of the city's housing stock is 40-75 years old. Twenty per cent of the population is over the age of 65, but less than 3% of the housing stock has been built specifically to meet their needs. The city's daytime population doubles to more than 100,000, yet available housing for many of them doesn't exist. While population has decreased by about 8% since 1980, the demand for all types of housing in the city has increased. Sales prices have risen considerably as have rents. At the Underwood Station development on 115th Street south of Watertown Plank Road, rents are in the \$1,200 range despite the fact that patios and balconies are 15 feet from a railroad right-of-way.

Mr. Toldt said that the issues here seem to be the question of using this site for residential and concerns about traffic. He noted that the 2002 RFP attracted seven development proposals, six of them for residential, by very successful developers. Belinski, for example, has been the largest developer of housing in the metro area for the past 20 years, and their ability to evaluate appropriate parcels cannot be disputed. Others who made excellent proposals also saw the value of good quality housing on that site. Many developers are reassessing where they want to develop because the new generation of buyers and renters wants to be closer to the city in areas with a neighborhood feel rather than on large lots outside the city. Even in affluent suburbs, housing can be seen next to abandoned buildings, railroad trestles, parking lots, and the like. Mr. Toldt reported that some time ago he

contacted two of his regular lenders who do a lot of business in large-scale, multi-family developments and are familiar with this site. Both offered a financial commitment, demonstrating confidence that the site is appropriate for residential.

Mr. Toldt said he understands the concerns about more people, traffic congestion, and interaction with trucks coming in and out of the public works facility. He doesn't have all the answers but would like to bring in experts to prepare reports and to work with the neighbors and public works people on addressing those concerns. He pointed out that there are almost 60 existing buildings containing more than 200 apartment units on 116th Street between Watertown Plank and Walnut Roads, something that might be questioned if being newly proposed although it seems they have not created problems for the city. He asked the committee to give him the opportunity to try to move forward or otherwise bring it to an end tonight.

Ald. Krill noted that Cobalt Partners is still interested in this site as part of a land swap with the County involving their public works site on Watertown Plank Road. That seems to be the only choice for an industrial-type use unless the committee wants to re-invite proposals, but it is becoming increasingly doubtful that it would ever be possible. A county supervisor has cautioned him that the county board has not been vetted on it; he felt there is not much chance of it moving forward. Therefore, Ald. Krill said, he believes that the Cobalt proposal should not be considered unless there is some assurance of real interest by the county. In addition, he doesn't see the county contributing a tremendous amount of money toward it. We could have the site tied up for years and get nowhere. He felt that serious consideration should be given to the Toldt residential proposal.

Ald. Donegan asked about other interest in the site. Ms. Welch said that several people have expressed interest but have not submitted a proposal to the Common Council, although a few have submitted letters of interest as a communication to the Council. If choosing not to proceed with residential, she would recommend that the committee refine what they want and issue a new RFP that would bring in multiple proposals and place all interested parties on an even playing field. She has seen variations on the warehouse or light manufacturing theme with values anywhere from \$10 million to \$15 million, but some that weren't specific might have a greater value. Generally speaking, however, a higher value will be found in residential use. Ms. Welch attributed the fact that nothing formal has been submitted to the perception that the committee is either not serious about developing the site or that it is not worthwhile to submit anything because the committee was already entertaining other proposals. If the committee made its desires clear, there would be a different response.

Asked by Ald. Donegan for her recommendation on how to proceed, Ms. Welch said she believes residential is appropriate. The site is adjacent to residential, and the residential developers are so far the only ones willing to construct infrastructure without requesting a TIF or otherwise asking the city to provide it. The original RFP in the late 1990s yielded light manufacturing interest; but after review of the potential increase in tax base and the infrastructure that would be needed, it was deemed to not be feasible. If the choice now is to issue another RFP, the committee needs to decide what type of development is desired. To release an RFP again that is completely open would make a travesty of the process. People will respond in good faith to a reasonable RFP but won't respond if they feel they would be tied up in committee for two years waiting for a decision. Ald. Donegan stated that his inclination is to move forward with Mr. Toldt's proposal.

Ald. Birschel cited the pros and cons of the Toldt proposal, the pros being that there would be no need for TIF money for infrastructure and cons being that area residents have in the past indicated a preference for some type of light industrial use similar to others in the area south of Watertown Plank Road. He said that he cannot support housing, particularly with as many rental units as proposed. He noted that there are currently many "for rent" signs along 116th Street and on Diane Drive. Ald. Birschel later added that some alderpersons as well as the mayor have commented that they do not think residential is ideal for this particular site.

Ald. Herzog asked about any plans for access at Walnut Road. Mr. Toldt said that the one and only site plan he has presented has a termination point at the north where 113th and Walnut would intersect. He has never proposed using Walnut Road or 116th Street. He does feel that it would be appropriate to use those streets but understands there is opposition to doing so.

Asked about the process if proceeding with the Toldt proposal, Ms. Welch said that she would recommend a Memorandum of Understanding or other means to approve a sale subject to certain conditions such as an additional traffic study, addressing infrastructure issues, and an opportunity to comment on the design. What we have now is basically a conceptual plan. The developer is willing to proceed but wants some assurance that the city will work with him. The site would also have to go back through the zoning process since it reverted to Light Industrial zoning when no planned was approved.

Ald. Didier commented that another RFP would not be the right course of action. She felt that those additional developers who have contacted Ms. Welch should have submitted something if they were really serious and their interest was high. She indicated that she would want some public comment before doing anything.

Mr. Toldt responded to questions about converting rental units to condos or putting in more condos initially. He said that the rental units would be built to allow for easy convertibility to condos. There is a practical reality of what the market would support, so the possibility of building more units as condos initially would require further consideration. Asked about the rental history at his Underwood Station building on 115th Street, he said that he has never had more than two vacancies in any month. The initial market study forecast that the units would be rented over a period of seven months, but total rental occurred in just over six weeks.

Moved by Ald. Donegan, seconded by Ald. Krill to recommend residential development of this property on an expeditious basis and exclusively consider the plan submitted by Toldt Development subject to: a) another thorough and public presentation of the plan; b) public comment; c) developer's response to public comments including traffic surveys and the like, as suggested, with approval of the plan subject to finding that response satisfactory in the estimation of the Community Development Committee.

Roll call vote, Ayes: 6; Noes: 1 (Birschel)

Conditional Use at 414 N. 116th Street

The committee reviewed a request by Edward Polito, agent for AT & T., and AT & T Wisconsin for a Conditional Use for a pad mounted fiber conversion cabinet in the AA Single Family Residence District at 414 N. 116th Street. The Plan Commission unanimously recommended approval. Ms. Welch advised that the primary concern is ensuring there is proper landscaping and screening and to include the language related to this use as recommended by the City Attorney and included in the Plan Commission's recommendation.

Ed Polito, 16510 Rogers Drive, New Berlin, said that installation is on property owned by AT & T on which they have a hut. They would add the cabinet to the west.

Asked about other locations where AT & T plans similar installations, Ms. Welch said that they have provided a list of proposed locations to the City Attorney that is considered privileged information.

Moved by Ald. Herzog, seconded by Ald. Krill to recommend to Council approval of the Conditional Use subject to landscaping/screening approved by the Community Development Director and other provisions as recommended by the Plan Commission; and further subject to use of unobtrusive numbering or lettering as discussed in previous installations.

Ayes: 7

Conditional Use at 8624 Watertown Plank Road

The committee reviewed a request by Mark Russert, agent for T-Mobile, for a Conditional Use for a cellular antenna and related ground equipment in the Medical Center and Institutions District at 8624 Watertown Plank

Road. The Plan Commission unanimously recommended approval. Ms. Welch said that this location is near the water tower on the county grounds. It should be adequately screened for view from Watertown Plank Road.

Jeff Fowle, agent for T-Mobile, 600 W. Virginia Street, Milwaukee, confirmed that a landscape plan will be submitted.

Moved by Ald. Herzog, seconded by Ald. Birschel to recommend to Council approval of the Conditional Use subject to landscaping/screening approved by the Community Development Director and other provisions as recommended by the Plan Commission. Ayes: 7

Conditional Use at Approx. 4701 N. 119th Street

The committee reviewed a request by James Wied and Jeff Fowle, agent for T-Mobile, for a Conditional Use for a cellular antenna and related ground equipment in the AA Industrial District at approximately 4701 N. 119th Street. The Plan Commission unanimously recommended approval. Ms. Welch explained that they will be using an existing antenna mounted on a tower and installing ground equipment in an existing fenced area. Extensive landscaping is not appropriate here since the site is beneath power lines and is subject to WE Energies policies about plantings.

Moved by Ald. Krill, seconded by Ald. Herzog to recommend to Council approval of the Conditional Use subject to landscaping/screening approved by the Community Development Director and other provisions as recommended by the Plan Commission. Ayes: 7

Conditional Use at 11707 W. North Avenue

The committee reviewed a request by Edward Polito, agent for AT & T, and Cedarbrook Investments Ltd. Partnership for a Conditional Use for a pad mounted fiber conversion cabinet in the AA Business District at 11707 W. North Avenue. The Plan Commission unanimously recommended approval. Ms. Welch reported that the site is in an alley behind a commercial building. There is not enough space for extensive landscaping, but they have been asked to provide a fence or other type of screening. The applicant is aware that the installation should be at least 18 inches off the alleyway.

Edward Polito, 16510 Rogers Drive, New Berlin, confirmed that AT & T will provide screening. He displayed photos of the site.

In response to a question about addressing multiple applications of this type more expeditiously, Mr. Polito explained that he might work on 1-4 sites in a given month. Some take 2-3 months before an agreement is reached. AT & T has agreed to work with private property owners as much as possible to avoid installations on public right-of-way. As an agent for AT & T, he is not aware of their overall master plan. Ms. Welch said that information on future locations has been given to the City Attorney, and AT & T has been working with the public works department to ensure that locations are away from public right-of-way. Because they are considered a utility, the city's ability to deny requests is limited, but we can ensure sites are adequately fenced and screened and that installations do not obstruct vision or present safety hazards. They have plans for about 80 sites but believe that revealing the locations or their grid would give an advantage to any competitor. Ald. Donegan requested that the City Attorney disclose to this committee as much as possible of AT & T's master plan.

Ald. Herzog indicated that he would abstain from voting on this item due to a possible conflict.

Moved by Ald. Didier, seconded by Ald. Birschel to recommend to Council approval of the Conditional Use subject to landscaping/screening approved by the Community Development Director and other provisions as

recommended by the Plan Commission. Ayes: 6; Present: 1
(Herzog)

(The committee recessed at 8:53 p.m. and reconvened at 9 p.m.)

Conditional Use at 12324 W. North Avenue

Re-referred by Council, the committee again reviewed a request by Jennifer Matovich, McDonald's, for a Conditional Use in the AA Business District at 12324 W. North Avenue for a speaker board/intercom ordering system. Ms. Welch said that when McDonald's was originally approved, neighbors to the east were concerned about the sound of the speaker and requested a face-to-face ordering system instead. McDonald's now wishes to move ordering from the east side to the south side, away from the neighbors to the east. Staff recommends upholding the previous decision unless something has changed to remove the inconvenience to neighbors. It is staff's understanding that the new speaker board may reduce the negative impact to neighbors, but the burden of proof should be on McDonald's to show that result.

The committee received copies of a letter from Ralph McCarthy, 1655 N. 117th Street, former alderman for this area, citing the original agreement and urging denial of the current request.

Jennifer Matovich, N95 W16548 Richmond Drive, Menomonee Falls, said that this site was a gas station prior to the current McDonald's/convenience store/gas station. She presented a site plan showing where the proposed speaker box would be located. It would improve their ordering system and the sound quality, and they also want to try to alleviate any noise problems. She explained that the positioning of current ordering system allows crews about one minute to prepare an order. Having an ordering point on the south side would give crews an additional minute of prep time. Noise from the speaker would go directly into the customer's car, and the customer's voice would go to the speaker and be blocked by the building. The system would pick up general conversational levels.

Ms. Matovich said that McDonald's has been a good neighbor. There have been no property maintenance complaints or police reports about noise in the past seven years. They did not have a chance to address concerns since they were not made aware of any noise problems. Ms. Matovich described a 12-minute video filmed at the Menomonee Falls McDonald's that she would like to show to the district aldermen and residents. In the video, she placed herself 52 feet, 80 feet, and 120 feet away from the system and recorded the speaker sound, which ranged from a slight mumble to absolutely nothing. She also would consider taking residents to Menomonee Falls to see and hear the quality and sound level of this type of system to prove that this would be a good move for everyone.

William Reilly, 1616 N. Water Street, owner of the Courtyard apartment complex at 12250 W. North Avenue, said his concern is not with the mechanics of running McDonald's but with the quality of life of his residents. The burden of proof of lower sound is on McDonald's, and it would have to be independently verified, perhaps by pre- and post-installation decibel readings taken by a registered engineer. The onus should be on them to remove the new system and return to the status quo if results were not favorable.

Ald. Purins, 7th District, questioned the committee's procedures relating to information presented at a meeting that has not yet been seen by the Community Development Director. He also commented on concerns raised at the previous meeting about setting a precedent. He said that a Conditional Use implies that the use is unique to the site, making any decision in and of itself not precedent setting. He reported that he was disappointed in the previous discussion about noise and potential noise. Ms. Welch has confirmed to him that McDonald's has not generated any complaints on health or safety issues that would have required staff investigation during the past five years. Both he and Ald. Birschel have not received any complaints. It is unclear where the issue of neighborhood noise comes from.

Ald. Purins reported that he recently spent several hours at the site. During a period from 6-7 a.m., it was relatively noisy at the edge of the westernmost apartments with the sound of bush trimming or lawn maintenance in the distance. At 6:45 a.m., Waste Management picked up garbage at two dumpsters, making a lot more noise than

anything in the background in the previous hour. Subsequently, sitting on benches at the front of the Courtyard buildings during a lunch period from 11:30 a.m. to 1 p.m., he heard ambient noise and talked to some residents who said they had never complained because they didn't see it as an issue. Today he stopped at various other fast food franchises around the city and found that similar ordering devices are being used in more densely packed neighborhoods. He established that the distance from the subject McDonald's to the south face of the northernmost building is about 270 feet, which is more than in a typical neighborhood along North Avenue or Mayfair Road and in other areas where speakers are allowed. Speaking in a normal voice, he was able to accomplish his order. He supported giving McDonald's and interested parties some time to meet and discuss this issue.

Lorraine Wiegand, 12210 W. North Avenue, reported that a tenant on the west upper side of her four-family building did have a complaint about noise at 6 a.m. but did not call the city but instead informed her. When she contacted management, they toned it down. She asked about hours of operation for the speaker system. Ms. Matovich said it would be from 6 a.m. to 10 p.m.

Mr. Reilly said that the committee should listen to the personal testimony of Courtyard residents who live with it every day. He does not want the noise issue downgraded as something less than a problem. Virginia Kaney, 12250 W. North Avenue, then reported being told by an employee that McDonald's is open from 5 a.m. to 11 p.m., which is the period during which she hears noise, especially with windows open. Since the last meeting, however, she has noticed that it is a little quieter. Regina Ackerman, 12250 W. North Avenue, said she lives on the third floor to the north and hears the most noise when the wind is from the south. She agreed that it has been quieter lately.

Moved by Ald. Krill, seconded by Ald. Donegan to hold this matter to the July 31 meeting to allow time for McDonald's to make a presentation to the neighbors and local alderpersons –

Ald. Birschel referred to Mr. McCarthy's stand on denying this request but indicated that he is willing to meet with McDonald's representatives to see some of these things in operation. The Chair stated that the issue at this point is that there is a sound problem, not how it got there. He supported the motion and commented that the problem should be resolved without any lawsuits or confrontations.

Vote on the motion, Ayes: 7

Conditional Use at 9122 W. North Avenue

The committee reviewed a request by Kyungjae Lee for a Conditional Use for a laundry and dry cleaning service in the AA Business District at 9122 W. North Avenue. The Plan Commission unanimously recommended approval. Ms. Welch said that the site is currently the temporary location of Locker's Florist and was a sub shop before that. Parking requirements are grandfathered.

Chae Yi, 2815 Cambridge Circle, Brookfield, speaking for the applicant who was also present, said that there were some concerns at the Plan Commission meeting about humid air and odor. He assured the committee that the business will use the most up-to-date technology with environmental solvents and new machines.

Ms. Welch agreed that laundry and dry cleaning is evolving and is no longer an extensive chemical process. She said that most of the issues at the Plan Commission meeting were concerns about traffic or available parking. She would not disagree that there is a lot of traffic at that corner but said that the community isn't served by having a vacant storefront. There is no reason to believe this business will be any more obtrusive than previous businesses.

Ald. Birschel commented that the neighborhood seemed able to handle the traffic generated by a former bakery at this site.

Moved by Ald. Birschel, seconded by Ald. Donegan to recommend to Council approval of the Conditional Use. Ayes: 7

Conditional Use at 6909 W. North Avenue

The committee reviewed a request by Devona Blanchard for a Conditional Use for a video game club in an existing candy store in the Trade District at 6909 W. North Avenue. The applicant would like to add a video game area that would be screened from the candy area and limited to no more than four members at one time. The Plan Commission recommended approval by a 4-3 vote. Ms. Welch reported that until just prior to the Plan Commission meeting, the store was unlicensed because the health inspector had not yet been inside to inspect the premises. Since then, they have been inspected and received a license.

Devona Blanchard, 539 N. 117th Street, spoke of issues she didn't fully address at the Plan Commission meeting. Although most customers ride bikes, there has not been a problem with blocking the sidewalk. They have space at the front and rear of the building and an additional area in their lower storage area. With only four game seats available at any time, those customers could place their bikes in the rear and candy customers could still park in front. Noting that neighbors seem to believe this would be promoted to persons outside of the community, Ms. Blanchard said the intent is to serve Wauwatosa. They have had some experience with the pitfalls of allowing in the wrong people at a different store and plan to have strict control over who can and cannot be a member. Anyone displaying negative behavior will not be able to schedule an appointment. Memberships will be sold only in three-month increments with renewal contingent upon acceptable behavior.

Ms. Blanchard explained that adding games will help them to be profitable. They now gross \$5-\$20 per day, and that amount has taken a hit with another candy store down the street. At \$3 per hour for video gaming over the course of an eight-hour day, they expect to take in about \$570 per week or \$2,300 per month plus increased candy and snack sales. Finding another location would be a great inconvenience and a financial hardship to the building owner. The space is rather unique, limiting potential businesses, and had been empty for quite some time. They will not in any way bring down the integrity of the city and the great work on North Avenue. During the first three months, they would enroll only 10 members to see how scheduling and other issues work out. Ms. Blanchard asked for a six-month trial period. She submitted a letter of support from Bryan Beauher, owner of this building and of Laabs Appliance at 6907 W. North Avenue. She also submitted pictures of the interior, noting that the gaming area would be set up with partitions. No one who is not a member and doesn't have an appointment will be allowed to be in the game area. Members will need permission slips signed by parents, and parental signatures would be confirmed within seven days.

Ald. Birschel, who spoke on behalf of George Grbich, the owner of Walter's on North, at the Plan Commission meeting, said that Mr. Grbich does not approve of the business. Also, he is aware that Ald. Becker has some concerns that he intends to address when this is before Council. Ald. Donegan read a letter submitted to the Plan Commission by Donald Bartz of Bartz Displays, Inc. Citing the improvements made in this area of the North Avenue business district in recent years, Mr. Bartz felt a video game club would be a step backward. He saw it as a haven for rowdy teenagers that would turn away the new customers businesses have worked hard to encourage. Ms. Blanchard responded that Mr. Bartz was not aware that the gaming area would not be open to the public. It would be heavily controlled and would not become a gathering spot.

Ald. Donegan recalled two similar businesses in the area, a comic book shop and a card gaming site serving similar ages that was patronized by one of his children. He did not recall any problems and, as a parent, was happy that his child was able to walk there to play games. He sees this as a legitimate service, a place for kids to play in a supervised and controlled environment. He conceded that he would rather see something more upscale but said the property is probably not capable of supporting that.

Ald. Didier asked about the delay in licensing. Ms. Welch said there was a lot of back and forth in trying to schedule a time when the store was open. An inspection was finally arranged and a license issued just prior to the Plan Commission meeting. The application may have been made 4-6 months prior to that. Ms. Welch confirmed that no additional license is needed for games. Ald. Didier felt that this could be seen as an indication of the response time that might be expected should other issues arise.

Ms. Blanchard said that she obtained all the necessary permits at the time she opened the store; it was all taken care of last July. She found out about the health inspector's concerns in approximately mid-April. Because they changed the hours to 3-5 p.m., the inspector did not realize they were still in business. She received a letter about the second week in May and had the first voice contact with him two weeks before the Plan Commission meeting.

In answer to further questions from Ald. Didier, Ms. Blanchard said they have talked about allowing only Wauwatosa residents, but that is not stated officially. They are looking for kids 12 years and up with parental permission. They have not set forth clear criteria but believe it will be connected with grades. Having only three-month memberships will allow them to monitor conduct before renewing. They will have a variety of games rated from E (Everyone) to M (Mature), and parents will be able to designate the rating level allowed. They will structure appointment times so that 12-year-olds aren't there when 20-year-olds are playing more mature games. They will feature different games with different ratings on particular days. The game area will be completely partitioned off from people who are purchasing candy. No sound would be heard since gamers would use ear buds.

Referring to problems with the former arcade area at Mayfair, Ald. Didier said that kids will try to get around things. She felt this would not be advantageous to the community or to children. Ms. Blanchard reiterated that this would be private with no more than four at a time. Ald. Herzog also referred to issues with the Mayfair arcade and said he doesn't see this as the city's vision for that part of town. The area has come far in attracting the right kind of businesses that are long lasting, and he doesn't see this as lasting very long.

The Chair expressed concern about the length of time it took to schedule an inspection by the health inspector. He asked about establishing a required response time should problems arise. Ms. Welch said that the committee can always review a Conditional Use and revoke it, which revokes that portion of the occupancy.

Moved by Ald. Herzog, seconded by Ald. Didier to recommend to Council denial of the Conditional Use based on the fact that this type of business is not consistent with other businesses in the area and may affect property values. Ayes: 6; Noes: 1 (Donegan)

Proposed Ordinance – Floodplain Areas

The committee reviewed a proposed ordinance repealing and recreating Chapter 24.24 of the Code relating to zoning in floodplain areas. A public hearing was held June 19, 2007. Ms. Welch requested a hold on this item for further staff review. It is a very lengthy ordinance and it may be possible to streamline it to something a little less cumbersome.

Moved by Ald. Donegan, seconded by Ald. Krill to hold this matter to the next meeting. Ayes: 7

The meeting adjourned at 10:07 p.m.

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Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin