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**COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, July 10, 2007**

PRESENT: Alds. Birschel, Didier, Donegan, Herzog, Krill, Meaux, Minear, Treis -8

ALSO

PRESENT N. Welch, Community Dev. Dir.; A. Kesner, City Atty.; J. Archambo, City Admin.

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

Land Division – 1120 N. 124th Street

The committee reviewed a request by Mark Riggio and Teresa Jennings and Mary and Jeffrey Kartz for a Land Division in the AAA Single Family Residence District at 1120 N. 124th Street. Ms. Kartz was present. The Plan Commission unanimously recommended approval.

Ms. Welch reported that Mr. and Mrs. Kartz would like to obtain a small sliver of land from the neighboring property. The proposed land division would not create any non-conformance. Upon approval, the applicants would need to file the appropriate documents with Milwaukee County. As a private easement, it is not enforceable by the city. Ms. Welch noted that the property at 12323 Watertown Plank Road has both sanitary and water laterals along this side of the property that could create some restrictions on any future construction on this portion of the lot.

Moved by Ald. Birschel, seconded by Ald. Krill to recommend to Council approval of the land division. Ayes: 8

Conditional Use at 3116 N. 106th Street for a Fiber Conversion Cabinet

The committee reviewed a request by Mitchell Braverman, agent for AT & T, and James and Beverly Thomas for a Conditional Use for a pad mounted fiber conversion cabinet in the AAA Single Family Residence District at 3116 N. 106th Street. The Plan Commission recommended approval. Mr. Braverman was present.

Ms. Welch reported that this fiber conversion cabinet would be in the rear of the property near the southeast corner. Appropriate landscaping and screening would be required. AT & T has been informed of the concerns of an adjacent neighbor about AT & T having moved onto her property in connection with a previous installation. She reiterated to them that this does not give AT & T the right to enter that property.

City Attorney Kesner explained that a number of similar cabinets are being installed throughout the city. Some are already in place, and there are plans for others over the next two years. AT & T has provided information in confidence as a trade secret to the engineering staff regarding some of the potential future locations. That information could be provided to each alderperson individually, if requested, but not in public session. Mr. Kesner provided a map prepared by engineering staff showing existing cabinets as well as those on which applications are pending. Any cabinets in private easements would come before this committee and the Council as Conditional Uses. The Council has delegated to the engineering department the responsibility for review of those AT & T is placing in public right-of-way through their rights as a utility regulated by the Public Service

Commission. Early in the process, they were encouraged to place as many as possible in private easements where they are not as visible to the public. This would be done through negotiations with individual property owners. The city can impose the same conditions regarding screening for both public and private sites.

In answer to questions regarding chosen sites, Mr. Kesner explained that once AT & T has determined the need for an installation in a particular area, they are looking within a radius of perhaps 400 feet, so there are some limitations. When using public right-of-way, they have made efforts to place them as unobtrusively as possible. Last fall an installation on 64th Street north of North Avenue was placed in public right-of-way in the middle of a carriage walk, but they were ultimately convinced to move it to a private easement. When there is a concern with a particular location, they have been responsive to making that extra effort.

Ald. Donegan indicated that he would like information on sites in his district and said he will be very parochial in evaluating requests. He will defer to the alderperson of the district for those in other districts.

Moved by Ald. Donegan, seconded by Ald. Didier to recommend to Council approval of the Conditional Use subject to the conditions outlined in previous approvals –

The Chair noted his concerns about preserving the appearance of the city, the value of property, and the safety of residents and asked Mr. Braverman to convey those concerns to AT & T. Although the city is required to work with the company, he felt that the boxes will not be a plus for the city. He noted that there is a pending lawsuit that questions their status as a utility in this regard.

Vote on the motion, Ayes: 8

Conditional Use at 2369 N. 61st Street for a Fiber Conversion Cabinet

The committee reviewed a request by Mitchell Braverman, agent for AT & T, and Richard and Susan Stasinski for a Conditional Use for a pad mounted fiber conversion cabinet in the AA Single Family Residence District at 2369 N. 61st Street. The Plan Commission recommended approval. Mr. Braverman was present.

Ms. Welch reported that a neighbor has expressed concern about the cabinet's height. She has confirmed that it will not be higher than the existing fence that will screen it.

In response to questions, Mr. Kesner explained that the easement obtained from a private property owner is a real property right that stays in place when a property is sold. He also confirmed that AT & T is in the process of changing to white the lettering on cabinets throughout the city, as requested by this committee.

Moved by Ald. Herzog, seconded by Ald. Minear to recommend to Council approval of the Conditional Use subject to the conditions outlined in previous approvals –

Ald. Meaux suggested drafting a letter to the necessary parties to inform them of this committee's concerns, perhaps via copies of minutes.

Moved by Ald. Meaux, seconded by Ald. Krill to direct the City Attorney to draft a letter to AT & T summarizing the committee's concerns that they proceed as judiciously as possible to be sure that the city's needs are met.
Ayes: 8

Vote on the original motion, Ayes: 8

Conditional Use at 7001 W. North Avenue for Expansion of Floral Shop

The committee reviewed a request by Daniel Grogan for a Conditional Use including waiver of parking requirements in the Trade District at 7001 W. North Avenue for expansion of a floral shop. The Plan Commission recommended approval by a 5-1 vote.

Ms. Welch reported that Alpha Flowers has an existing parking lot to the west of their building on which they would like to construct an approximately 1,500 sq. ft. addition. Staff has concerns about setting a precedent by allowing someone to build over parking spaces. At the Plan Commission meeting, Mr. Grogan proposed leasing five spaces in a nearby parking lot across 68th Street, but there was a question about availability of those spaces. Ms. Welch explained that parking requirements were cut in half when the Trade District was created fairly recently. The potential leased spaces that Mr. Grogan referred to had previously been used to satisfy Subway's parking requirements, but there are now excess spaces there under the new zoning.

Ald. Becker appeared to speak in support of the request. He reported receiving e-mails in support and believes people realize this is mostly a daytime business with little effect on nighttime parking issues. There has been no expansion on North Avenue the past 10 years, so he welcomes this proposal by a good, viable business. He sees more positive than negative and believes it would be an asset to the area.

Dan Grogan, 20510 Davidson Road, Waukesha, owner of Alpha Flowers, said that since all of his trucks are out doing deliveries during the day, he had all of his employees park in the loading dock area behind the building today so they don't use other parking. He left a space open for one truck to come and go. By double-stacking, he can accommodate six cars, which was illustrated in photos he provided. That area has had very little usage by customers. He is still in the process of inquiring about leasing parking spaces at the corner of 68th and North.

Asked about the potential for significant parking problems in the abutting residential area, Ms. Welch spoke of possible problems in connection with successful businesses. Since most of the buildings do not have parking lots, the only way to provide lots would be to remove buildings. Customers do often park in the residential neighborhood. Although there have been some calls, especially in connection with major events at the Rosebud or the opening of Cranky Al's and Il Mito, residents seem to understand that is a tradeoff with being near the business area. This is the first case in which a business with existing parking proposes eliminating those spots by building an addition. She acknowledged that there is a space for piggy-backed employee parking, a concept not generally workable for public parking. Also, with the new parking requirements under Trade District zoning, a few parking lots technically have available spaces that are no longer designated to a particular business to meet ordinance requirements. In addition to the five spaces that would be eliminated here, adding square footage would require three more spaces; so, strictly speaking, they would have to come up with eight spaces. The doubled-up employee parking and leased spaces in the lot across the street might help meet that need. Also, the elimination of a drive approach with construction of the addition would create at least one new on-street space. Under Trade District zoning, a plan that shows sufficient street parking and piggy-backed employee parking would be allowed if acceptable to the Common Council.

Ald. Donegan asked if there is a parking problem on North Avenue during the hours of operation of this business. Is it difficult to find parking and is there a lot of spillover onto the side streets? Ms. Welch said there is some daytime parking on side streets, but it is much heavier at night due to restaurant and theater patrons. Ald. Donegan commented that he has received many complaints about spillover parking at night but none about any difficulty during the day. In his 18 years in the area he has never experienced a parking problem on North Avenue during the day. He asked Mr. Grogan about use of the five spaces being eliminated. Mr. Grogan said that some have been used by employees and some is general parking. He might have 15 customers during a day that each spends about 10 minutes in the shop; they have not complained about walking from a parking space. At the Plan Commission meeting, he provided photos of empty daytime spaces on 70th Street and on North Avenue.

Ald. Donegan was concerned about setting a precedent and asked what latitude the ordinance gives. When drafted, Ms. Welch said, the goal was to ensure that all existing buildings are viable and available to businesses. Parking requirements were halved, with the Conditional Use process allowing for consideration of shared or adjacent parking. Under the code, any new building has been required to meet current parking standards. This is the first situation where allowing an expansion would eliminate existing parking. It could lead other building owners to believe they could create retail space without meeting parking requirements or that they could put a building on existing parking spaces. Ms. Welch cautioned that it is not wise to base a zoning decision on an individual applicant because the zoning and the building remain even if the business doesn't.

Ald. Donegan felt that precautions have to be balanced by having a vibrant business that wishes to grow and is good for the community. Parking is a complex issue strongly related to development prospects on North Avenue. He would like to consult with staff on the matter of precedent and how it might tie our hands in the future.

Moved by Ald. Donegan, seconded by Ald. Krill to hold this matter subject to additional processes and discussion with the City Attorney –

Mr. Grogan said he has consulted with an architect but has gone no farther while awaiting approval. Ald. Herzog suggested holding only to the next meeting, on July 31, or passing this on without recommendation for discussion at the next Council meeting. There was further discussion about how to proceed. Ald. Birschel reported on previous Plan Commission discussions. He noted that a dangerous driveway where people were backing into traffic will be removed and an additional on-street space created.

Mr. Kesner advised that the Council has the power to make an exception to parking requirements as part of the conditional Use, but he advised making specific statements on why the exception is appropriate. The committee should narrowly define the specific reasons for making the exception. Those statements could be used to analyze future requests for similar exceptions, but each should be considered on a case-by-case basis.

Upon further discussion, Ald. Donegan reiterated his concerns about precedent and declined to change his motion so that the item could proceed to Council while further consultations took place. The Chair pointed out that the matter could still be returned to committee by the Common Council if necessary.

Ald. Krill advocated moving forward, listing the following as reasons for approval: 1) the business has primarily daytime hours and there have been comments that there aren't any complaints about daytime parking; 2) the applicant has stated that the nature of the business is such that people don't park for long periods of time; and 3) the committee has heard sufficient information concerning alternative parking that is available to make up for the lost spots; i.e., the ability to lease space at a neighboring lot, piggy-backed employee parking in the loading dock area; and elimination of a drive approach that would create at least one additional on-street space. Ald. Herzog said it should be added that removing the drive approach eliminates a dangerous situation with people backing into traffic.

With consent of the second, Ald. Donegan moved to amend the motion by forward the matter to the Common Council with a recommendation for approval with the understanding that it could be returned to the committee if necessary –

Ald. Donegan indicated that he would like to be very careful about how approval is worded. Ald. Meaux felt it would not be fair to Council members to forward this with the intent of referring it back to committee.

Ald. Donegan withdrew the amended motion.

Moved by Ald. Donegan, seconded by Ald. Meaux to hold this matter until the next committee meeting on July 31 –

Kathy Revilinski, N51 W14465 Jacklin Court, Menomonee Falls, requested clarification on whether the parking behind the building is being counted. Ms. Welch said that there is not a defined number of spots there since it currently operates as a loading dock. It would need to be striped out for parking. There is a question of eight spaces—the five needed for the current building that are being eliminated and three additional spaces for the added space.

Roll call vote on the motion, Ayes: 6; Noes: 2

Conditional Use at 9125 W. North Avenue for an Alterra Coffee Roasters Café

The committee reviewed a request by Lincoln Fowler for a Conditional Use for an Alterra Coffee Roasters café in the AA Business District at 9125 W. North Avenue. The business would occupy approximately 1,700 sq. ft. in the new Locker's Pointe development. Hours of operation would be 6 a.m. to midnight daily with outdoor dining proposed on the north and west sides. Ms. Welch said that there seems to be sufficient space for outdoor tables on the west side, but there is some question about the north side where the edge of the building is only five feet from the property line in an area currently designated for landscaping. Encroachment into public right-of-way would require Board of Public Works approval.

Lincoln Fowler, 1961 N. Marietta Avenue, Milwaukee, said that, on the advice of staff, hours of operation were expressed in the broadest possible terms so that they would not be constrained by any need to adjust hours. Typically, they would open at 6:30 or 7 a.m. and close by 10 p.m. on weeknights and 11 p.m. on weekends. Regarding outside seating on the north side, he said that they are holding off on the landscaping that would leave only 2-1/2 feet of open space to see if they can use the entire 5 feet for tables. If outdoor seating is done properly, it can be a real benefit to the community. Whatever seating they place would comply with Wauwatosa regulations. If seating is not feasible on the north side, different landscaping would probably be called for.

The Chair raised concerns about now changing previously approved landscape plans. Mr. Kesner said that the committee has the ability to recommend approval of outdoor dining including any change in landscape plans. Mr. Fowler added that, in the planned development process, the developer was creating a generic setup for retail tenants. Now, in the Conditional Use process, when the use is clear, they are trying to create a nice retail facility in harmony with the planned development that integrates the landscaping and the use. He would like to explore the feasibility of outdoor tables on the north side.

The Chair suggested dividing the issue by separating the Conditional Use from the landscaping plan. Ms. Welch clarified the committee's options: 1) approve the coffee shop; 2) approve outdoor dining on the west side without amending the landscape plan; 3) approve outdoor dining on the north side where there currently is no space for it, holding it for submittal of a plan that shows how it would fit; or 4) have the applicant go through a separate process for outdoor dining.

Ald. Didier favored separating outdoor dining since no plan has been presented, as the committee has otherwise required. Hours of operation should be established.

Vickie Spearing, 9117 Jackson Park Boulevard, reported that neighboring residents feel that hours of operation for outdoor dining should be consistent with other businesses on this portion of North Avenue.

Mr. Fowler reiterated concerns about having to go through the entire process again just to make a slight shift in hours. He then stated typical hours of 6:30 a.m. to 10 p.m. Monday through Thursday, 6:30 a.m. to 11 p.m. on Friday, 7 a.m. to 11 p.m. Saturday, and 7 a.m. to 10 p.m. Sunday.

Moved by Ald. Didier, seconded by Ald. Krill to recommend approval for hours of operation of 6:30 a.m. to 11 p.m. and hold any discussion on outdoor

dining until the applicant returns with the proper documentation of what it will look like –

Moved by Ald. Birschel to hold this matter until the next meeting to review hours of operation in writing and plans for the outdoor dining –

Asked about the effect of any delay, Mr. Fowler said they have been trying to balance construction and the opening schedule with the project itself and the city's permitting process. The project is more at risk the farther it proceeds without official approval.

Motion to hold dies for lack of a second.

Ms. Welch noted that if the coffee show is approved without outdoor dining, the applicant would have to go back through the entire process for approval of outdoor dining including another \$200 application fee and Plan Commission hearing.

Ald. Didier withdrew the motion.

Moved by Ald. Didier, seconded by Ald. Krill to recommend approval of the inside portion of the business with hours of operation of 6:30 a.m. to 11 p.m. with the condition that outdoor dining plans be presented to staff with proper diagrams and layouts with outdoor dining not to exceed the hour of 9 p.m., which is the same as other area businesses –

Ms. Spearing was asked about any further input from residents about outdoor dining hours. She indicated that the concern is that it stay the same as others nearby. Neighbors certainly will support a coffee shop, but elderly neighbors would not appreciate teenagers who might gather later at night. Asked about morning hours, Ms. Spearing noted that John's Sandwich Shop opens at 7 a.m. She felt that it would be mostly adults at that time of day.

Ald. Birschel called the question.

Upon roll call vote, Ayes: 7; Noes: 1 (Birschel)

(The committee recessed at 9:34 p.m. and reconvened at 9:40 p.m.)

Conditional Use at 2717 N. Mayfair Road Street for Restaurant with Outdoor Dining

The committee reviewed a request Ned Brickman and David Birdsall for a Conditional Use for a restaurant with outdoor dining in the Business Planned Development District at 2717 N. Mayfair Road. Ms. Welch reported that the applicants would like to open a Chipotle Mexican Grill as part of the new One Mayfair Place development now under construction at the northwest corner of N. Mayfair Road and W. Center Street. The facility would occupy approximately 2,200 sq. ft. in building "C," the building closest to the intersection. There would be seating for 46 people inside and 12 outside. The Plan Commission recommended approval. Daniel Rose was present representing the applicants.

Ms. Welch confirmed that the applicants have presented plans for the outdoor seating. Hours of operation would be 11 a.m. to 10 p.m.

Moved by Ald. Herzog, seconded by Ald. Krill to recommend to Council approval of the Conditional Use. Ayes: 8

Conditional Use at 2930 N. 117th Street for Outdoor Dining

The committee reviewed a request by Gary L. Vogel for a Conditional Use for outdoor dining in the Business Planned Development District at the Open Hearth restaurant at 2930 N. 117th Street. Ms. Welch reported that the applicant has submitted plans for a deck at the front of the building. The area would be raised and clearly defined. No parking spaces would be lost. The Plan Commission recommended approval.

Doug Gallus of Gallus Architects, 214 N. 76th Street, displayed a photo of the front of the building, a site plan, and renderings of the building. He explained that the area would be approximately 270 sq. ft. and could accommodate a maximum of about 25 people. Landscaping along the north side will continue along the deck. There would be no additional landscaping on the west side, which abuts two parking stalls. New glass windows and a door would be installed, and there would be a black railing around the entire area. Some inside seating would be lost, so they will not be adding to their overall capacity. The deck material would be white urethane structural board to blend with the building. Normal hours of operation would be 3 p.m. to midnight, although lunchtime hours may be restored at some point. Use of the patio would be limited to the normal hours. The area is fairly isolated from residential uses, and no music is planned.

Moved by Ald. Herzog, seconded by Ald. Donegan to recommend to Council approval of the Conditional Use with hours of operation of 11 a.m. to midnight and subject to obtaining any required licenses and permits.
Ayes: 8

Conditional Use at 1728 and 1750 N. Mayfair Road for Display, Sales and Service of Recreational Vehicles

The committee reviewed a request by Craig A. Ewald for a Conditional Use for the display, sales, and service of Airstream recreational vehicles in the AA Business District at 1728 and 1750 N. Mayfair Road. Ms. Welch reported that Ewald Automotive owns the site and currently operates a car rental and leasing facility there. They have an existing Airstream location in Franklin that they would move here. Brochures showing the Airstream vehicles were available. The Plan Commission recommended approval.

Tom Ewald, 120 Legend Way, Wales, said that the Plan Commission approved hours of 9 a.m. to 9 p.m. Monday through Friday and 9 a.m. to 5 p.m. on Saturday. He reported that the number of vehicles in inventory would vary from 15-20 units, but from time to time they may have trade-ins or some additional units they are servicing. There are almost 300 parking spaces on this lot, so there is plenty of room.

Moved by Ald. Birschel, seconded by Ald. Krill to recommend to Council approval of the Conditional Use. Ayes: 8

Comprehensive Plan Public Participation Plan

State law requires holding a public hearing on the public participation plan for formulation of a Comprehensive Plan.

Moved by Ald. Krill, seconded by Ald. Donegan to recommend to Council setting a public hearing date of September 18, 2007. Ayes: 8

Conditional Use at 6909 W. North Avenue for a Video Game Club

The Common Council re-referred to committee the 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 was notified of tonight's meeting but was not present. It was the committee's consensus to hold the matter to the next meeting, reiterating to Ms. Blanchard that the committee would be re-examining the issue and encouraging her to

attend. Ald. Donegan noted that he stopped in at the business and spoke with Ms. Blanchard's fiancé who manages the operation. Since that has raised some questions in his mind, he agreed with the recommendation to hold.

Moved by Ald. Krill, seconded by Ald. Donegan to hold this matter to the next meeting, July 31, 2007. Ayes: 8

The meeting adjourned at 9:53 p.m.

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Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin