



CITY OF WAUWATOSA  
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**COMMUNITY DEVELOPMENT COMMITTEE MEETING**  
**Tuesday, May 30, 2006**

PRESENT: Alds. Birschel, Didier, Donegan, Herzog, Krill (8:15 p.m.), Meaux (8:15 p.m.), Sullivan,  
Treis -8

ALSO PRESENT: N. Welch, Community Dev. Dir.; A. Kesner, Interim City Admin./City Attorney

Ald. Treis as Chair called the meeting to order at 8:03 p.m. -6

**Conditional Use at 12005 W. Hampton Avenue**

The committee reviewed a request by Peter Schau, agent for Verizon Wireless, for a Conditional Use in the AA Industrial District at 12005 W. Hampton Avenue to install a backup generator at an existing wireless facility. The Plan Commission unanimously recommended approval

Nathan Haupt of Verizon Wireless, 3407 N. Mitchell, Chicago, said that upon any interruption in service, the site would run on batteries for approximately eight hours. The generator then could then repower and run again on batteries, allowing the site to remain on the air for a considerable length of time until service is restored.

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

**Conditional Use at 1025 N. 70<sup>th</sup> Street**

The committee reviewed a request by Mike Fossell for a Conditional Use in the AA Single Family Residence District at 1025 N. 70th Street for an elevator addition to an existing church. The Plan Commission unanimously recommended approval.

Dan Byer, 228 S. 1<sup>st</sup> Street, Milwaukee, representing the architects for the addition, said it is about 150-200 sq. ft. in size. It will accommodate an elevator to connect the main floor with the lower level containing classrooms and community space.

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

**Conditional Use at 7433 Blanchard Street**

The committee reviewed a request by Kathleen and John Sheeley for a Conditional Use in Village Trade District at 7433 Blanchard Street to operate an office for bottled gas sales on the first floor. The Plan Commission unanimously recommended approval.

John Sheeley, 1119 Pilgrim Parkway, Elm Grove, said that the subject building is directly behind his small warehouse, from which they have handled carbon dioxide containers for the past 18 years. They plan to do some

repairs and use the building for office space. Kathleen Sheeley, 1119 Pilgrim Parkway, Elm Grove, said that there will never be any bottled gas in the office.

Gail Beyer, 2557 N. 66th Street, said he was previously employed by DOC Gas and sold to the applicants. He endorsed the use, stating that they are for the betterment of Wauwatosa.

Ald. Sullivan said he formerly lived in this area and feels it is great that they are renovating this space.

Moved by Ald. Sullivan, seconded by Ald. Donegan to recommend approval of the Conditional Use –

Ald. Birschel reported that Ald. Grimm, who represents this area along with Ald. Donegan, is concerned about removal of an unlicensed automobile now on the premises. Mr. Sheeley said he has spoken to Ald. Grimm about the car and also about grass cutting. He explained that the vehicle belongs to one of the current owners and will be removed. Since they do not yet own the building, they have not yet assumed any responsibility for the grass.

Vote on the motion, Ayes: 8

### **Street Festival Permit**

The committee reviewed a request by Sts. Constantine and Helen Greek Orthodox Church, 2160 Wauwatosa Avenue, for a street festival permit for Grecian Festival 2006 on the church grounds June 9-11, 2006. George Jifas, 10215 Park Lane Court, Hales Corners, was present representing the church. He said they are requesting a permit with the same conditions as previous years. The festival will again be on the parking lot and will follow standard operational procedures. Only beer and soda will be sold; there will be no wine or liquor.

Moved by Ald. Krill, seconded by Ald. Sullivan to recommend approval under the same conditions as the 2005 permit contingent upon providing a phone number of the person in charge of the site during the festival –

Ald. Donegan noted that the festival date is also Wauwatosa East's graduation day. Mr. Jifas said that date was the only time available due to other festivals at sister parishes. He provided his phone number and said he will be on the grounds all three days from beginning to end.

Ald. Meaux asked about discussions with neighbors, a contingency of approval last year. He also asked about security arrangements. Mr. Jifas said they have sent out a mailer and haven't received any feedback. He confirmed that volunteers provide security and that there will be a dumpster on the site. Noting some problems with cleanup in the past, the Chair urged Ms. Jifas to do everything possible to clean up around the neighborhood.

Vote on the motion, Ayes: 8

### **Conditional Use at 8828 W. North Avenue**

The committee reviewed a request by William Poull for a Conditional Use in the AA Business District at 8828 W. North Avenue for outdoor dining. The Plan Commission recommended approval by a 4-2 vote. The Chair noted that he is a member of the Plan Commission and voted against this based on his belief that this would be the only bar granted such a use. Since that time, he has discovered that is not the case.

Bill Poull, 3810 Sunnycrest Drive, Brookfield, said the Conditional Use is requested for the patio in front of Lalli's Pizza and Club Tap during the hours of 11 a.m. to 9 p.m. Customers would order pizza from Lalli's and beverages from the Club Tap. Because it would be a usage for Club Tap, it would require an extension of the Club Tap's liquor license. Signs will be posted to state that those under 21 would be allowed only with a parent or guardian. Bartenders would be able to monitor the area from the tavern. Wider windows installed as part of recent remodeling allow for greater visibility of the outdoor area. Since Lalli's does not have a public bathroom, the Club Tap would be open whenever Lalli's is serving so that a bathroom is available to patrons. There will be no music outside. The small area would accommodate possibly four tables or up to 16 people. There would not be any noise that would disturb residents around the corner on 88th or 89th Streets. The Plan Commission was assured at their meeting that they would comply with all requirements and that signs would be posted and everything enforced. Plastic serving pieces would be used, and there will be a garbage can outside for immediate cleanup. Lalli's will provide the tables and chairs.

Anthony Lalli, 3805 S. Marcy, Milwaukee, said he would like to be able to use the patio until 9 p.m. A customer arriving at 8 p.m. while it is still quite light will probably not be served until 8:30 p.m. and would finish eating around 9 p.m. Both 8 p.m. and 9 p.m. closing were discussed at the Plan Commission meeting.

The following individuals spoke in favor of the Conditional Use:

- Abby O'Dess, 2010 Ludington Avenue (business 1414 Underwood Avenue), mentioned outdoor dining at Bartolotta's and Eddie Martini's and saw this as another opportunity to dine in a nice outdoor environment
- Peter Subotich, 2557 N. 82nd Street, former representative of this district, said that Mr. Poull and Mr. Lalli laid out some good ground rules at several meetings with him and Ald. Herzog. It would be hard to deny this request given the number of similar uses in the city. Mr. Lalli has made vast improvements and is committed to the building. They will do everything they can to make this work and not offend anyone. Regarding concerns about children, he said he personally wouldn't let any of his four children walk on North Avenue alone. With two outdoor events per year during the five years he represented the district, he has only had one complaint.
- Gail Beyer, 2557 N. 66th Street, said he looks forward to having a beer and pizza outside Club Tap. He noted that Colonel Hart's and Hector's have outside areas as will Cranky Al's when it reopens. This will be limited and very organized with proper signage and everything else needed to be in compliance.
- John O'Shea, 2464 N. 91st Street, said he has been a patron of both businesses for about seven years and has never seen any problems.
- Greg Schuman, 2327 N. 88th Street, also said he has not seen any problems and is in favor of the use.
- Richard Bachman, 2229 N. 1115th Street, said he represented the city for 38 years as an alderman and volunteer on various projects and commissions. Despite a newspaper reference to "motorcycle gangs," he has noticed only one or two motorcycles out front on occasion. Tables and chairs have been appearing on North Avenue and State Street for the past month. At Bartolotta's, it is necessary to walk past in the street on Saturday night. At Colonel Hart's recently, every table was full with people drinking. At Hector's, about 50% of the people had food; the others only had beverages. Shiraz at 61st and North has a patio at the rear right next to residences, and Cranky Al's will also be next to residences. This business will not bring crime and will not bring people into the bar per se. It is the pizza business that will bring business to the patio. .
- Mike Berg, 2323 N. 88th Street, said he is on the alley adjacent to the businesses and has never had any problems with garbage. It is a busy place with traffic coming and going, but everything settles down after 9 p.m. Ms. Poull has been a good neighbor and always asks about any problems with events he holds such as this weekend's event, which he urged people to check out.
- Roger Beattie, 2782 Mayfair Court, said he has patronized both businesses and has never seen anything out of control. He felt that children should not be a concern. They are trying to create an opportunity for neighbors

to get together and enjoy what each business provides to the community. He noted the need for owners who care about their property and want to improve it.

The following speakers expressed opposition to the requested use:

- Neal Spear, 2335 N. 89th Street, said there would be no objections if they were only serving pizza, but Lalli's cannot get a permit on their own due to lack of a public bathroom. He was concerned about overflow outside of the patio area, lack of lighting, the question of policing, and the possibility of just alcohol being served should there be a falling out with Lalli's in the future. He spoke of noise when the bar closes and situations that have happened with large groups. He questioned whether there are other businesses with outdoor liquor service without food.
- Marilyn Spear, 2335 N. 89th Street, objected to granting the use to a tavern and said there is no guarantee that they won't decide they don't want to include pizza at some point. The outdoor patios on State Street serve alcohol with meals and are not in a residential area. This will change the neighborhood into something less desirable— there are enough robberies or risky behavior along North Avenue now.
- Kelly Kritz, 2329 N. 89th Street, said she has grave concerns about children in the area walking past an outside bar during school hours. Many patrons do not live in the area but it is her neighborhood. She felt there is a difference between having a glass of wine outside Bartolotta's and having beer and pizza here. She questioned how they would comply with health codes relating to cleaning tables and fire codes limiting the number of people if rain drives people on the patio inside. She said there has been no contact from the aldermen to find out what neighbors think about this.
- Janet Blair, 2326 N. 89th Street, said the other examples of outdoor patios are all restaurants, not taverns, which causes concern. She is also concerned about oversight, noise level, and detriment to the neighborhood.
- Lanier Korsmeyer, 2326 N. 89th Street, was concerned about policing, extra noise, and extra traffic and felt that 8 or 9 p.m. is too late for cbsing.

Ald. Herzog said he cares about this neighborhood and has spoken to the majority of residents here and also to others on 88th Street. Some are against and some are in favor of the use. He said that his representation can't be for one side or the other unless it is for the good of the community, and he believes that is the case here. Two years ago when the request got stalled at the Plan Commission level without proceeding to the Board of Zoning Appeals, he was not in favor. Since that time, the process has been changed to require Common Council approval of a Conditional Use, which provides the best tool to control how a business operates. The Council has a lot of flexibility in policing and enforcing the use and taking the use away. When he and Ald. Subotich met with them, Mr. Poull and Mr. Lalli went through some of the issues such as signage, hours of operation, and serving minors. He is happy with the result of this ongoing process which allows the business to operate and succeed and protects the neighborhood. He noted that none of the neighbors can actually see the patio from their homes and that other businesses along North Avenue are in favor of the use. He felt that allowing the use until 9 p.m. is appropriate. He noted that Colonel Hart's is actually considered to be a bar because they serve more alcohol than food. When the Board of Zoning Appeals approved Colonel Hart's outdoor seating, there was no requirement that they serve food there. Their hours are 11 a.m. to 10 p.m. Vino 100 in the Village has an outdoor area where they serve beer and wine but no food. They are open until 2 or 2:30 a.m.

Moved by Ald. Herzog, seconded by Ald. Sullivan to recommend approval of the Conditional Use with hours of 11 a.m. to 9 p.m., incorporating the guidelines recommended by the Plan Commission, i.e.: 1) posting of a sign in the patio area indicating that patrons must have food in order to use the patio and must be 21 or older or accompanied by a parent or guardian; 2) maximum of 16 seats; 3) no music; and 4) review of the Conditional Use

at the beginning of November –

Ald. Birschel said he attended the Plan Commission meeting and noted questions about facilities at the restaurant for hand washing. He visited the establishment and observed that there is a sink available as well as a restroom for employees downstairs. He noted that both establishments are mid-block with quite a distance between the outdoor area and any residents—much more so, in fact, than Colonel Hart’s where there is a residence two doors to the west.

Ald. Donegan raised the question of lighting. Mr. Lalli said that right now any lighting comes from the bar and restaurant. In the next month or so as remodeling proceeds, there will be decorative lights outside on each side of the building.

With consent of the mover and second, a requirement for decorative outdoor lights was added –

Ald. Meaux asked about the effect of adding 16 additional seats. Ms. Welch said that the outdoor seating capacity does not change the capacity of the indoor area.

Ald. Krill noted that a liquor license needs to be approved each year. He suggested that there may be grounds for denying the license if there were problems with serving of alcohol on the patio. The Chair noted, however, that it is more difficult to deny an existing license than a new license. Ms. Welch said that it may be easier to revoke a Conditional Use than a license, especially if specific conditions are placed on the use.

Vote on the motion, Ayes: 8

(The meeting recessed at 9:10 p.m. and reconvened at 9:24 p.m.)

### **Development of the 18-Acre Public Works Site South of Walnut Road**

As requested at the previous meeting, Ms. Welch distributed copies of proposals submitted in response to a 2002 RFP for development of the public works site south of Walnut Road. She noted that committee members received summaries of the proposals in their packets as well as copies of a draft RFP that contains some areas with question marks or italics indicating items that need some discussion.

Referring to her memo of May 25, 2006, Ms. Welch said that it is important to recognize that, as a potential development site owned by the city, the city has a significant amount of control over what may be constructed. The city also has an obligation to the citizens of Wauwatosa to make the best decision regarding future use of the property. For example, the city can require use of local contractors, environmentally sustainable design, measures such as green building, and could also discuss affordable housing issues and social welfare contingencies. Ms. Welch noted that with the Hart Park flood management project underway and the county grounds project soon to begin, it is important to consider and promote environmental concepts. There is also a question of how to determine what is the best use, which may not be the highest purchase price or highest tax base. If pursuing some of the less economically feasible options, we may look at whether or not we are willing to provide incentives to get the type of development we want.

Ms. Welch noted various sources of information that are available including a report prepared a few years ago by a UW-Milwaukee public policy class, a wetlands report, and a preliminary traffic report. She reported that she tried to contact some of the developers who had previously submitted proposals. She found that Helmut Toldt of

Toldt Development is out of town until June 4. Rich Conley of Metropolitan Development indicated some interest but has several other irons in the fire. Horizon and Spectrum previously withdrew. Thomson Corporation has some interest, but further confirmation would be sought if we want to move ahead. Bielinski had been eliminated from final consideration and, if approached, would need to know that the city is serious about moving forward again. In the previous bid process, the committee first sought indications of interest and then looked at and refined potential uses. The current RFP would refine those uses before going out to developers. Rather than a traditional bid process, it is more like an RFQ, a request for qualifications, otherwise there are too many variables.

Asked about the UW-M study, Ms. Welch explained that they found a conservative residential development to be most desirable. They definitely looked at high density, which scored high in value, but it had higher impact in terms of traffic. They found that a middle level density residential development would produce about the same amount of traffic as a busy industrial site. Ms. Welch said she would want to revisit all those numbers if moving forward.

Richard Bachman, 2239 N. 116th Street, emphasized the importance of restricting vehicular access to Walnut Road to municipal vehicles only so that the residential area to the west and north is not flooded with more traffic. He also urged notifying area residents, who are very concerned about what might occur.

Tim Casey, 8102 Jackson Park Boulevard, representing Cobalt Partners in their offer to purchase this site, said that Cobalt is a quality firm that does quality development. A confidentiality agreement is in place at this time regarding some of the details of this proposal, but he believes it is something that would be very beneficial to the city.

Ald. Herzog suggested doing some research on the demand for residential in this area, perhaps through checking on the occupancy rate of the new Toldt apartment development south of Watertown Plank Road. He noted the recent change from apartment to condominium for the Metropolitan Development building at 109th and Blue Mound and questioned whether that was driven by occupancy. Ms. Welch was not aware of any buildings with significant vacancies but said there has been a general tendency to convert from apartments to condos because of favorable interest rates and tax write-offs increasing the demand for ownership.

Ald. Herzog said he recognizes that Cobalt has a very viable proposal, is ready to move, and is a reputable firm. Although there previously was no interest in light industrial use, it may well be the best way to go. Although it does not offer the most money up front, it does provide jobs, does not require as much infrastructure, and they are committed to a traffic pattern that does not impact the residential neighborhood to the west. He asked about the time frame for the Cobalt Partners proposal.

Jim Heffernan of Cobalt Partners, 135 W. Wells Street, Milwaukee, said the proposed use speaks clearly to neighbor's considerations. It would involve a high level of landscaping and buffers or berming for noise to the west. A structure there would help reduce some of the public works noises and buffer traffic noise. This is a logical neighbor in the shadow of the former landfill. The proposal offers a price that would be the greater of 5% of the fair market value as determined by two appraisals and would include a commitment in the form of a development agreement to a minimum \$35 million value. (Ms. Welch later confirmed that that value compares favorably to the highest valuation on the spreadsheet summary of developments that were previously proposed.)

Scott Yauck of Cobalt Partners noted that their letter of May 16, 2006, is a slight variation from their prior offer, which had asked for a decision in 180 days. They probably cannot wait for completion of the RFP process, which can take a long time. He suggested proceeding with their proposal, perhaps with an RFP process on a parallel track. They would expect no commitment until the details are brought forward. Mr. Heffernan commented that

the end user is aware that the city has been discussing this for over eight years and is concerned about what that means.

Ald. Herzog asked if there is a requirement to sell to the highest bidder. Mr. Kesner said that the Common Council can do what they feel is in the best interest of the city. Ald. Herzog suggested developing language that provides enough commitment to allow Cobalt to move forward and gives the city enough room to determine if there is interest elsewhere.

Following comments in support of Ald. Herzog's statement, the Chair returned to the question of developing an RFP. Ms. Welch reviewed the various factors under consideration previously and said it is important to narrow what we want to see. It is not difficult to find an interested developer, but it is difficult to find the right developer with the right type of project. Within that, there are a lot of things to be defined.

Ald. Didier commented on the need for a very succinct RFP that makes the responses more valid. In determining the type of use, she said it would be helpful to know the number of complaints from residents of the apartment buildings about noise or smell from the public works yard. Ald. Birschel said that the complaints he receives are generally from single family homeowners and relate more to odors that occur in connection with composting. Ms. Welch indicated that she will check with the Director of Public Works about the log of calls that is reportedly kept. It is important as we go forward to fully inform developers that the public works and police operations are there and will stay there with their related noise from trucks, snowplows, resident drop offs, and police activity. There are plenty of ways to design a development to buffer and reduce the impact of those uses.

Ald. Sullivan agreed with proceeding with an RFP that has some specificity and also taking a closer look at light industrial use. He felt that future tax value is more important for the future of the city than initial purchase value. He would not be willing to forego residential just to grab onto what is being proposed but believes both types of uses should be examined.

Ald. Meaux said that, knowing the area and considering traffic flow, infrastructure and other uses in the immediate area, he would be inclined to support moving forward with a process to narrow the RFP to include commercial as well as residential, or mixed use and to discuss the projects previously proposed. Ald. Krill concurred with those comments and asked Ms. Welch if she has sufficient information to proceed with looking at the RFP at the next meeting. She indicated that the committee should walk through the draft RFP and clarify what should be included or added.

Ald. Herzog advised inviting the former developers back and then looking at the RFP if those developments are not viewed favorably. During the next two weeks, it may be possible to enter into some sort of tacit agreement with Cobalt. If there is no response from the former developers, the committee could proceed with finding out more about the Cobalt proposal or send out the RFP.

Moved by Ald. Herzog, seconded by Ald. Krill to hold for two weeks during which time a memorandum of understanding would be drafted indicating tentative agreement with conditions in the Cobalt Partners letter of May 16, 2006 relating to an offering price of 5% above fair market value as determined by the average of two independent appraisals and a value of \$35 million; with the understanding that in the meantime the developers who submitted responses to the most recent RFP process would be invited to appear at the next meeting; and with the further understanding that members of this committee will be prepared to review and assess the draft RFP at the next meeting so that staff

would be in a position to move forward with the RFP process as quickly as possible –

Asked by Ald. Donegan when they will be able to be more forthcoming, Mr. Yauck mentioned a 60-90 day time frame if a memorandum of understanding is developed.

Ald. Donegan invited comment from those who were on the Council at the time of the previous proposals. He said it seems that the proposals then were controversial and met with a lot of opposition, leading him to believe it would be a long hard fight to get them through this Council. If that is the case, the Cobalt project is less controversial to the neighborhood and has a very similar value. He would be very inclined to get it developed as soon as possible and get the increment into the city's hands as soon as possible.

Although not on the Council at the time, Ald. Birschel recalled concerns from owners of multi-families along 116th Street. He noted that there are still quite a few for-rent signs there and on Diane Drive. He commented that the Cobalt Partners proposal for light industrial use seems to be homogeneous with what is in that area now.

Ald. Sullivan felt that there will be controversy regardless of what is proposed. He noted that the Cobalt Partners proposal speaks of employing in excess of 150 people with family-supporting wages. He is specifically interested in whether or not they will be paying prevailing wage for the type of work being done. Mr. Yauck responded affirmatively and said he will provide specifics.

Mr. Kesner indicated that he would work with Cobalt Partners to come up with a draft memorandum of understanding on terms and structure. He will bring that to the next meeting along with the information on previous proposals.

Vote on the motion, Ayes: 8

The meeting adjourned at 10:28 p.m.

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Carla A. Ledesma, City Clerk  
Wauwatosa, Wisconsin