

**CITY OF OCONOMOWOC
COMMON COUNCIL MEETING**

December 16, 2003

Public Hearing re: "Housekeeping ordinance to revise/update the list of "districts" in Section 17.102 of the City of Oconomowoc Zoning Ordinance; clarify the meaning of "attached" in Section 17.206(8) of the City of Oconomowoc zoning Ordinance; modify side yard and rear yard intrusions for decks in Section 17.406(4)(b)4 and (c)1 of the City of Oconomowoc Zoning Ordinance; and clarify the authority of the architectural commission in Section 17.937(2) of the City of Oconomowoc Zoning Ordinance.

Mayor Kohlenberg declared the public hearing open at approximately 7:33 p.m. and invited input from the public and/or aldermen. There being none, the public hearing was closed at 7:34 p.m.

Mayor Kohlenberg called the regular Common Council meeting to order at approximately 7:34 p.m. and the Clerk confirmed that appropriate meeting notice had been given.

The Pledge of Allegiance was recited.

Roll Call: Aldermen present - Hollatz, Jones, Snyder, Nold, Gross, Larsen, Antonneau and Cochrane (all present)

Staff in Attendance: Tonn, Lamp, Sugden, Langohr, Sherman, Kitsembel, Duffy, Martin, Leidel, Schmidt, Molitor, Frye, Senfleben, and Attorney Chapman

Minutes of previous meeting (December 2, 2003) - Moved by Ald. Cochrane, seconded by Ald. Antonneau to approve the minutes of the December 2, 2003 Common Council meeting, as written. Voice vote carried with no dissenting votes.

Comments and suggestions from citizens

A. Annual update on status of the Lake Country Municipal Court, by Judge Stern - The Judge thanked the Council for the opportunity to speak. He was happy to report that the Court is flourishing, giving Attorney Chapman the credit for the idea of this municipal Court coming together 15 years ago. It began with 9 communities and we now have 14 participating in our Court. He pointed out that we are the largest multi-municipal Court in the State, and 4th or 5th in volume, which is an increase in caseload this year. He stated that he has been active in lobbying for Assembly Bill 365 which would allow the Court to hire a collection agency to collect delinquent fines. The bill has passed the Assembly, where he testified, and will be in the Senate soon. In 2004 they will return monies to our original municipalities, and 2004 will be the final year, and he is proud that this will be accomplished this coming year. It will be the largest payment and will be welcomed by the City. The Judge stated their operation is on the cutting edge, having moved from hand-written citations to electronic. He referred to the spreadsheet he had distributed reflecting statistics of the Court and each individual municipality involved from January thru November 2003. The City of Oconomowoc is the major participant, with 36%. He was hopeful that they would be able to hire a collection agency as it would give

them the ability to suspend driver's licenses and issue warrants to collect fines in a more effective way. He again thanked the Council for the opportunity to speak, and said that he always has an open door.

The Mayor opened it up to comments on any matter and asked people to keep their comments to 3 minutes.

The following people spoke in opposition to the St. Jerome's development at 210 S. Main St., by General Capital: Connie and Pat Higgins, 119 - 3rd St.; Cy and Lori Benisch, 141 Third St.; Steve Frami, 125 - 3rd St.. Among their common concerns were: the Sr. housing building is too high and blocks view; inadequate parking; the condo building is too high; adequacy of sewer system; out of character for residential area; change design and provide underground parking; do we need additional senior housing. Some of their suggestions that would be more acceptable is to increase footprint/lower height to 3 stories; lower height of condos to 2 stories; refer back to Plan Commission for changes; would welcome the senior housing if the design were acceptable.

The Mayor announced that the St. Jerome's development item has been removed from tonight's agenda, however, encouraged their comments. There will be a public hearing in this regard at the January 6th Council meeting, and it will also be an agenda item that evening.

The following people spoke in support of the St. Jerome's development at 210 S. Main St.: Dick Whalen, 406 W. 3rd St., President of Sr. Center; Harold Mlsna, 115 E. Forest St.; Carl Duch, 1001 Keats Circle; Dick Garvey, N73 W36121 Ashippun Shore Dr., Building Manager of Knights of Columbus building directly west of subject property; Bob Lex, 920 Old Tower Rd.; Jerry Knoll, 238 Sunnyhill Dr.; Yvonne Yahnke, 728 Royal Troon; Father John Yockey, Pastor, 211 S. Main St.; Elizabeth Rozman, 39967 Mary Lane. Among their common reasons for support were: it would be a wonderful home for the Senior Center; would be good for downtown; great location, walking distance to shopping; a good plan, as presented; is in the TIF district; a property on the tax roll, replacing a tax-exempt property; developer is willing to work with neighbors; a great benefit for our senior citizens; provides affordable housing; brings people to our downtown; possibility of shared parking with Dr. Martin Luther Church; would be pleased for the long-time used school in this location to be used in the proposed manner; think of the "common good" of our City; senior citizens are good neighbors.

Mr. Sig Strautmanis and Mr. Steve Schnall, both of General Capital, the developers in this project, responded to the comments. They stated they wish to continue dialogue with the neighbors, and pointed out that they have made modifications to the plan based on input from the neighbors. As you heard the church is working on the parking situation, but Mr. Strautmanis pointed out that they exceed City requirements in all other categories, except in landscaping, where they will not have street trees in the condo area; regarding impervious, they have reduced it from 96% to 78%; drainage will be reversed; they have reduced the height of the building from 51' to 46', less a 6' difference from existing building; the design has changed to 3 stories on the west and 4 stories toward the church. He went on to say that everyone won't

be happy, but they have made a commitment to do the best they can. Mr. Schnall pointed out that he was happy to welcome seniors to their development and they will have a kitchen. He pointed out that time is of the essence for financing purposes and making this affordable. They have met with the Plan Commission, the CDA and various other groups and have answered all questions. He pointed out the tax benefit to the City will be between \$81,000 and \$83,000 per year, if the project is allowed to proceed, as proposed. The gentlemen stated they would be around following the meeting if anyone had further questions.

The following people spoke in opposition to the Conditional Use Permit for Roundy's: Tom Schubring, 1316 N. Dousman Rd.; Dr. W. Gill, 1503 N. Summit Ave.; Ed Weber, 36439 Silver Maple Lane; Cele and Roger Pillsbury, 1411 N. Summit Ave.; Tom Gengler, 1427 N. Summit Ave.; Michael Dunham, 1330 N. Dousman Rd.; Curt Duchow, 36747 Hollyhock Woods Dr.; and Herb Rosenberger, 1243 N. Genesee Woods Dr.. Among their common concerns were: does not fit in with the area; creates too much traffic; noise pollution; air pollution; groundwater pollution; affecting the lake level of all Genesee lakes; could they set a lake level and have Roundy's responsible for reclamation of their lakes; lack of input from neighbors; this is being pushed through too fast; damage to property values and quality of life of surrounding area; should be afforded equal treatment and respect as any City resident; 500 trucks 24 hours a day is too much; objections to access on to Hwy. 67, as opposed to DR; it is understood that it would be good for the City and State, being the largest project in Wisconsin, but slow down; the public has not had a chance to see the traffic study; this project will have an impact on lives; postpone action on this project; the area is not an industrial area; this would be an injustice; the use is not consistent with the land plan; look at the long-term commitment; not a good area, particularly on a lake of record lows; what about a dewatering system; there would be refrigerated trucks running all the time-very noisy; the building will be about the size of Miller Park with a 16,500 s.f. truck maintenance building, plus a 200 s.f. security building; there are 300 residents within one-half mile of the proposed project; appeal to listen and postpone this project as this is their last chance to speak, unless there are law suits; the area is environmentally sensitive, within 1000' of a lake; please weigh the public safety issue; this will be an eyesore to our community; the 800 jobs it will create will not be filled by people from our community; originally there were 9 separate properties proposed on this area, let's keep it that way; Oconomowoc has been one of the parties identified in a recent SEWRPC report to protect the watershed, this project will not support that effort; and, oppose until further information is available in order to make a prudent decision.

Consent Agenda:

- A. Licenses
- B. Treasurer's Report

Moved by Ald. Hollatz, seconded by Ald. Cochrane to approve the Consent Agenda. Voice vote carried with no dissenting votes.

Committee Reports

- A. Finance

1) Resolution authorizing advancing of funds internally to pay off Wisconsin Retirement system prior to service liability (to be reimbursed by State Trust Fund Loan in March 2004) - Moved by Ald. Jones, seconded by Ald. Gross to adopt the resolution.

Ms. Gard, City Administrator, reported that we are presently paying 8% through the State, and by going with a State Trust Fund loan with a 5.25% interest rate, the city will be saving approximately \$5 million over the life of the liability, which will be 20 rather than 40 yrs.

Motion to adopt the resolution carried unanimously.

B. Personnel

1) Resolution Revising Policies and Procedures Employee Handbook - Moved by Ald. Antonneau, seconded by Ald. Nold to adopt the Resolution.

Ald. Nold commented that this was discussed at the committee, and basically it is updating current language, and including new labor laws and other policies. Another change is that short-term disability for full time employees will only be paid when all other benefits have been exhausted. Payroll advances will be eliminated. Non-represented employees may stay home with a sick child. This would allow accrual of holiday and sick time, on a pro-rated basis, for regular part-time employees. (this excludes seasonal part-time employees).

Motion to adopt the resolution carried, with Ald. Snyder voting "no".

C. Protection and Welfare

1) Resolution re: Purchase of CAD system for Police Department - Moved by Ald. Hollatz, seconded by Ald. Nold to adopt the resolution.

Ms. Gard pointed out that it is necessary to replace our current CAD system, as there will be no support as of January 1, 2004, and it is something our Police Department must have to keep track of our non-emergency calls, even if we were to join consolidated dispatch in the future.

Motion to adopt the resolution carried unanimously.

D. Public Services - no report

E. Utility - no report

Plan Commission recommendations

A. Ordinance to Zone 3850, 3854, 3902, 3910, 3916, 3922 and 3930 N. Summit Ave., SC Suburban Commercial District; and to zone the recently attached property at 3836 N. Summit Ave. SO Suburban Office District - Moved by Ald. Gross, seconded by Ald. Jones to give the ordinance its first reading.

Attorney Chapman pointed out these are the 7 homes Frontier Development purchased, and they have purchased the excess land owned by the DOT along Summit Ave., as well.

Motion to give the ordinance its first reading carried unanimously.

B. Consider/act on Conditional Use Permit for Opus North Corporation, on behalf of Pabst Farms Development, LLC, for 950,000 sq. ft. distribution center - Moved by Ald. Cochrane to act on the Conditional Use Permit for Opus North Corporation (Roundy's). Motion died for lack of a second.

Attorney Chapman referred to pages 1, 2 & 3 of the Conditional Use Permit (Findings 1 - 6) which the Plan Commission recommended. These conditions are in the Planning Staff Report #03-133 dated December 10, 2003 and are set forth in §17.905(4)(b) of our Zoning Code and support a conclusion that the benefits of the Conditional Use Permit outweigh the impacts of the Conditional Use Permit. Attorney Chapman suggested that there be a separate motion on Findings 1 - 6 of the Conditional Use Permit. He said if they have not read those, or if they have any questions about them, he would respond at this time.

Moved by Ald. Nold, seconded by Ald. Antonneau to adopt the 6 Findings of fact.

Ald. Antonneau questioned #4, on page 2 regarding off-street parking; adequate measures to suppress smoke, noise, vibration odor, etc. and questioned what would happen if they do not fulfill those requirements, to which Attorney Chapman responded that the Conditional Use Permit fails. They must meet those conditions and they cannot build until they get an air permit, which is a long process. Ald. Larsen asked if approval of Findings 1 - 6 included approval for access on Hwy. 67. Attorney Chapman advised there will be a presentation on the Hwy. 67 access after the findings.

Motion to adopt Findings 1 thru 6 of the Conditional Use Permit carried, with Ald. Antonneau voting "no".

Attorney Chapman said there is one more finding for action. He referred to page 4, second paragraph from the bottom, beginning with "The construction and operation . . ."

Moved by Ald. Cochrane, seconded by Ald. Jones to adopt Finding #7, of the Conditional Use Permit as follows: The construction and operation of a warehouse and distribution center on the property described below is, subject to the conditions hereafter stated, in accordance with the purpose and intent of §17.905 of the City of Oconomowoc zoning ordinance; and if constructed and operated as proposed, will not be hazardous, harmful, offensive or otherwise adverse to the environment or the value of property in the neighborhood or the community. Motion carried with Alderman Larsen voting "no".

Before voting on the entire Conditional Use Permit, Ald. Gross requested that all of the conditions be read. Attorney Chapman proceeded to read it, pausing for questions/comments after each paragraph. Ald. Gross then asked for the Hwy. 67 presentation.

Mr. Dan Warren, Engineer with Pabst Farms, referred to the Technical Memorandum dated

October 16, 2003, Table 3, reflecting traffic numbers, as follows: The previous plan for these parcels would generate 4923 vehicles daily, as opposed to traffic with this proposal of 1972, a 60% reduction in traffic. Breaking that down to peak AM traffic, there would be a 92% reduction, and the peak PM traffic, a 64% reduction with this development, as opposed to the former proposal of 9 separate businesses. This includes all trucks and cars. He went in to great detail as to numbers of vehicles, and the proposed access lane to accommodate truck traffic coming off of I94 and in to the distribution center, via Hwy. 67. The access lane would be approximately 700' long and accommodate up to 14 trucks, although they would not be staged on 67, but would free flow in to the distribution center. There will be 468 trucks per day, one-half in and one-half out which includes Roundy's trucks and delivery trucks, 97% of them are entering or leaving to the north, only 3% coming or going to the south. Mr. Warren explained that they have met with the Department of Transportation (DOT) pointing out that they require the extension to the south of the double lanes that were installed last summer for safe traffic flow, from a 2-lane undivided road to a 4-lane divided road. It would drop back to a 2-lane after a safe distance. All costs for road improvements will be part of the project costs. According to the study, peak hours in the morning are between 5:00 and 6:00, as opposed to peak work hours of 7:00 to 8:00; peak hours in the afternoon for the distribution center are 11:00 a.m. until noon, as opposed to peak hours for regular work traffic is 4:30 to 5:30. Access to the distribution center for employees and traffic other than truck would be on DR.

There was discussion, Ald. Larsen, felt all access should be off of DR, and that the development is too close to residential. Mr. Warren explained this is the best orientation for truck loading, pointing out that it would be difficult for icing to have the docks on the north side, and it is crucial for the trucks to get out of the facility in an efficient manner and on to the interstate.

Ald. Gross was concerned about stormwater, which is addressed in the permit, as well as special requirements for any spill of contaminants, debris, etc. This is all identified in the Plan of Operation, part of the permit. Significant steps have been taken to protect the stormwater ponds.

Mr. Schmitt, Roundy's official, stated that they currently employ approximately 800 people, and lose employees regularly through retirement, etc. Many employees will continue to work at this facility, but he expects there will be between 50 and 100 additional jobs available in this facility.

Mr. Duffy, Director of Economic Development for the City, felt that it would not be the tax base alone that would benefit the City, but a great economic boost for the City by creating the jobs which brings people in to the City.

Questions about lighting requirements, landscape requirements, etc. are all addressed in the Permit and they will be strictly held to all conditions. Regarding landscaping, they propose exceeding the minimum requirements. There will be berming with trees on top, particularly heavy on the east, west and south sides. The air quality question was raised, being an essential component, and Mr. Warren assured everyone that the air quality permit will be obtained before any construction is begun. That may not be obtained until February.

Moved by Ald. Nold, seconded by Ald. Cochrane to approve and grant the Conditional Use

Permit to Opus North Corporation (for Roundy's) for a 1,065,500 s.f. Distribution Center.

Ald. Antonneau stated that because this is a Conditional Use Permit requiring all conditions to be met before it is done, he is comfortable with it. He further stated he is impressed by the limitations put on Roundy's, or those they put on themselves. He anticipates very few problems. He felt the main concern will be traffic. Ald. Gross agreed that traffic is his concern, but with the improvements proposed, he feels it is workable. He also felt confident about the water protection, as proposed. He concluded by saying, we will be tough with them, and nobody is taking this lightly. Ald. Larsen felt there were many good attributes and it will be good for the community, and other than his concern about the Hwy. 67 access, he feels it is an outstanding project.

Motion to approve and grant the Conditional Use Permit carried, with Ald. Larsen voting "no".

C. Ordinance to rezone property at 210 S. Main St. (former St. Jerome's School site), from SR-4 Suburban Residential to PD Planned Development Overlay District - Mayor Kohlenberg announced this will not be considered this evening, as it will be necessary to schedule a public hearing. The City Attorney recommends that the Council not discuss it until after the public hearing which will be scheduled for the January 6th Council meeting. However, since Ald. Larsen will not be present at the January 6th meeting, he made the following comments. He felt the plan did not allow for any green space due to the fact that the change in zoning would increase the size of the development by about 200%. He was also concerned about the parking and landscaping that is proposed. He stated that the project could be a good one, but wanted to voice his concerns in those areas.

D. Consider/act on Conditional Use Permit for a "major home occupation" at 561 Greenland Ave. (Erwin Pockelwald) - Moved by Ald. Gross, seconded by Ald. Nold to grant the Conditional Use Permit to Mr. Pockelwald for his home occupation, at 561 Greenland Ave. Carried unanimously.

E. Ordinance re: "Housekeeping" ordinance to revise and update the list of "districts" in Section 17.102 of the City of Oconomowoc zoning Ordinance; clarify the meaning of "attached" in Section 17.206(8) of the City of Oconomowoc Zoning Ordinance; modify side yard and rear yard intrusions for decks in Section 17.406(4)(b)4 and (c)1 of the City of Oconomowoc Zoning Ordinance; and clarify the authority of the Architectural Commission in Section 17.937(2) of the City of Oconomowoc Zoning Ordinance, per public hearing - Moved by Ald. Gross, seconded by Ald. Cochrane to give the Ordinance its first reading. Carried unanimously.

F. Consider/act on policy for all reoccupied businesses being in full compliance with City codes/ordinances prior to the issuance of an occupancy permit - There was no action on this item. Will come back to Council at a later date.

G. Ordinance Annexing Thurow property and adjacent lands located in the SE 1/4 of

Section 33, T8N, R7E, Town of Oconomowoc, to the City of Oconomowoc (65.18 acres) - This item was postponed until information from the Department of Administration is received.

H. Ordinance Attaching Certain Lands of the Town of Summit to the City of Oconomowoc, Wisconsin (Pabst Farms Development, formerly Leisten property) - Moved by Ald. Gross, seconded by Ald. Cochrane to give the ordinance its first reading. Carried unanimously.

I. Consider/act on application of Jon R. Curro to divide a 5.43-acre parcel in to two lots by Certified Survey Map (CSM), in part of the Se 1/4 of the SE 1/4, Section 23, T7N, R17E, Town of Summit (an extraterritorial land division - Moved by Ald. Gross, seconded by Ald. Cochrane to approve the CSM. Carried unanimously.

Unfinished Business

A. An Ordinance to Amend §5/12(3) and (4) of the Municipal Code of the City of Oconomowoc Relating to Ambulance Service Transport Fees - 2nd reading. Moved by Ald. Gross, seconded by Ald. Cochrane to give the ordinance its second reading by title only. Carried unanimously

Moved by Ald. Gross, seconded by Ald. Cochrane that the ordinance become law. Roll call vote carried unanimously.

B. An Ordinance to Repeal and Re-Crete §9.19 of the Municipal Code Relating to Use of Animal Traps - 2nd reading. Moved by Ald. Gross, seconded by Ald. Cochrane that the ordinance be given its second reading by title only. Carried unanimously.

Moved by Ald. Gross, seconded by Ald. Cochrane that the ordinance become law. Roll call vote carried unanimously.

New Business

A. Resolution Opposing Senate Bill 272/Assembly Bill 588 - Moved by Ald. Gross, seconded by Ald. Cochrane to adopt the resolution. Mayor Kohlenberg reported that he and Mr. Mark Frye, City Utilities, testified before the Assembly in opposition of this anti-telecommunications bill; and Mr. Duffy, testified before both the Assembly and Senate, on our behalf. A copy of this resolution will be sent to our Senators and Representatives in Madison.

Motion to adopt the resolution carried unanimously.

B. Consider/act on Petition for Attachment of Howie property (Jerry Erdmann/Frontier Development), and refer to Plan Commission - Moved by Ald. Gross, seconded by Ald. Cochrane to forward the attachment petition to the Plan Commission.

Attorney Chapman pointed out this property is being purchased by Jerry Erdmann and Pat McNamee and the use is unknown at this time. This is the Howie property.

Motion to refer to Plan Commission carried unanimously.

Staff Reports

A. Administrator - Ms. Gard stated that the property tax bills were mailed out yesterday, and wished everyone Happy Holidays!

B. Other - Mr. Mark Frye explained the framed photo of our water tower that he distributed this evening to the Mayor, Aldermen and staff was taken by Tom Steinbach for the Utilities Budget cover and he felt it was such a great photo, he had it copied and framed.

Reports and Comments from the Mayor - none

Reports and Comments from the Aldermen - Ald. Antonneau commented that he had a call from a constituent whose child got bit by a dog, and he wondered if that dog had been found. Public Safety Director, Hugh Martin, stated that the dog has not been found, but that there was some coverage on it Channel 6 tonight and he hoped that would help us find out who owns the dog.

There being no further business to properly come before this body, a motion to go into closed session re: Union Negotiations and per Wis. Stats. 19.85(1)(e) "Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session." (discuss involvement in Old School redevelopment project) and per Wis. Stats. 19.85(1)(c) "Consider . . . compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility" (individual non-union personnel), was made by Ald. Gross, seconded by Ald. Antonneau. Roll call vote carried unanimously.

Here occurred a closed session.

Moved by Ald. Cochrane, seconded by Ald. Antonneau to go back into open session, per public notice. Roll call vote carried unanimously.

Resolution re: 2004 Salaries for non-union employees - Moved by Ald. Gross, seconded by Ald. Antonneau to adopt the resolution. Carried unanimously.

Adjourn - Moved by Ald. Snyder, seconded by Ald. Nold to adjourn. Carried unanimously. (12:12 a.m.)

Ardyce Senfleben, City Clerk