

PLAN COMMISSION MINUTES - 6/22/2011

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
June 22, 2011
6:30 P.M.

I. CALL TO ORDER

The meeting of the City Plan Commission was called to order by Chairman Justin Nickels at 6:30 P.M.

II. ROLL CALL

Members Present

Steve Alpert
Justin Nickels
David Diedrich
Jim Brey
Val Mellon
Jim Muenzenmeyer
Maureen Stokes

Members Excused

Dan Hornung

Staff Present

David Less
Paul Braun
Michelle Yanda
Elizabeth Werdermann

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular May 11, 2011 Meeting.

<u>Motion by:</u> Mr. Diedrich _____	<u>Seconded by:</u> Ms. Stokes
<u>Moved that:</u> the minutes be approved as presented.	<u>Upon Vote:</u> the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

A. PC27-2011: Shady Lane, Inc. - Request for:

1. Exception to 2,500' Separation Requirement for Establishment of a 68 -Bed Community Based Residential Facility (CBRF) at 1235 So. 24th; and
2. Conditional Use Permit (CUP) Pursuant to Section 15.370(27) of the Manitowoc Municipal Code for the Operation of a Community Based Residential Facility at 1235 So. 24th for more than 16 Individuals Pursuant to Section 15.190(3)(i) to a Maximum Capacity of 68 Residents

Mr. Less explained that this was a request from Shady Lane, Inc. as the owner and operator of an independent senior living complex at 1235 So. 24th Street, and that they were requesting that the City grant an exception to the 2,500' separation requirement contained in Wis. Stat. § 62.23(7)(i)1. for the establishment of an 88-bed Community Based Residential Facility (CBRF) at their property. Mr. Less explained that while the agenda referenced only a 68-bed CBRF, the longer term projection was for an 88 bed facility. Mr. Less continued that concurrently, he would discuss the second Shady Lane request for a Conditional Use Permit (CUP) pursuant to Section 15.190(3) of the Manitowoc Municipal Code (Code) for a nursing home, and for a community living arrangement for more than 16 individuals. Mr. Less noted that this matter was before the City and the Commission as there was no record of Shady Lane being issued a CUP for a nursing home or CBRF in the current "R-6" Multiple Family District.

Mr. Less then noted that Shady Lane Inc. was a non-stock, non-profit Wisconsin corporation that operates a nursing home complex in Block One (1) of Shady Lane Subdivision that began in the early 1950's when Manitowoc County constructed a health care center on what is today "Harbor Town". Mr. Less continued that Shady Lane, Inc. took title to this property in 1993 from Manitowoc County, and 5 years later satisfied its debt obligation with Manitowoc County. Mr. Less clarified that the improvements on the south 515' of Block One (1) (located on southernmost parcel) were part of a condominium declaration that was created by Manitowoc County in 1988 in the name of the "Park Lawn - Shady Lane Condominium", and that Park Lawn Nursing Home was a 99-bed nursing home predecessor to Shady Lane. Mr. Less continued that the southernmost tract which included the nursing home complex was tax exempt and had a total building area of approximately 142,000sf. Mr. Less noted that the unimproved northern parcel had an assessed valuation of \$28,500; and that the entire Block One (1)

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measured 527' x 893' or 10.8-acres in area, and was bordered by Hamilton, Shady Lane, So. 22nd and So. 24th Street.

Mr. Less explained that as of today, Shady Lane included the Laurel Grove Assisted Living Center, and in total, was licensed as follows: (i) Laurel Grove - Community Based Residential Facilities (CBRF) for 16 individuals; (ii) Residential Care Apartment Complex (RCAC) for 43 apartments that was part of the Laurel Grove Assisted Living Center; and (iii) 173 nursing home beds in the Shady Lane Nursing Care Center.

Mr. Less then explained the differences between these types of licensed facilities:

- (a) CBRF - a place where 5+ adults resided, who didn't require care above intermediate level nursing care treatment or services that were above the level of room and board, but were limited to not more than 3 hours of nursing care/week.
- (b) RCAC - a place where 5+ adults resided that consisted of independent apartments where residents received not more than 28 hours/week of services that were supportive, personal and nursing services.
- (c) Nursing Home - a place defined more by its skill level, but with direct patient observation and monitoring on a continuous basis.

Mr. Less continued that the current request from Shady Lane reflected new nursing home industry trends towards more managed care, and assisted living facilities vs. skilled nursing home facilities; in other words, a direction towards a least restrictive, more integrated and home-like environment. Mr. Less then noted that in 1993, Laurel Grove opened with 34 apartments; in 1999, Shady Lane converted its skilled care facility to a 34 bed RCAC; in 2002, Shady Lane took part of its nursing home and converted it to a CBRF, increasing its capacity up to 18 residents; in 2003, Shady Lane constructed an addition on to their RCAC; and for 2011, they were planning on converting their 34 bed RCAC to a CBRF. Mr. Less stated that today, Shady Lane employed approximately 220 persons, and operated as a 4-story facility.

Mr. Less explained that the proposed expansion of Shady Lane's CBRF capacity to 88 (anticipated to occur over the next 5 years) was internal to the building, and that there was no physical expansion of the facility planned at this time.

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Mr. Less then stated that in WI, CBRF's were regulated under Wis. Stat. § 62.23(7)(i) which included the following provisions: (i) subsection (7)(i)1. in regard to the 2,500' separation requirements; and (ii) subsection (7)(i)5. in regard to the City granting special zoning permission for community living arrangements with a capacity for serving 16 or more persons. Mr. Less continued that CBRF's were regulated by the State's Department of Health Services, to which Shady Lane would have to apply if the separation exception was granted. Mr. Less added that all WI CBRF's were required to meet the requirements under WI Administrative Code DHS 83, and that the Division of Supportive Living was responsible for the licensing of all CBRF's in WI.

Mr. Less then identified the surrounding land uses and zoning in relationship to Shady Lane, adding that the purpose of the 2,500' spacing requirement was to disperse group homes throughout the community, and to avoid locating such homes exclusively within a limited geographic area. Mr. Less noted that in the case of Shady Lane, the Laurel Grove CBRF was located within 2,500' of Reif's Harmony House II on Marshall Street, The Villa on So. 18th, and Fieldcrest Manor on So 30th (as measured from Laurel Grove as the crow flies).

Mr. Less continued that notices were mailed from the Planning offices on June 16th to property owners within 200' of the nursing home complex. Mr. Less explained that there were several phone calls received, but mostly questioning why they received the City notice, and whether or not the Shady Lane proposal would cause their taxes to increase. Mr. Less added that no real objections to the proposal were voiced.

Mr. Less then transitioned to the second request from Shady Lane and the second of the informational hearings, noting that this was a companion request for the issuance of a CUP under Section 15.190(3)(f) of the Code for a nursing home, and under Section 15.190(3)(i) for a community living arrangement for more than 16 individuals in the "R-6" zoning district.

Mr. Less noted that the CUP procedure was outlined in Section 15.370(27) of the Code, and added that under a CUP, the Commission and Council had to determine if the proposed use was reasonably necessary for the convenience and welfare of the public, was in harmony with the character of the surrounding area, and would have a minimal or no effect on surrounding property values. Mr. Less added that the Commission and Council could affix conditions to the CUP to provide assurances that the proposed use would not have a negative impact on the surrounding area.

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Mr. Less abbreviated his comments in this section, and instead of re-stating all the same facts that were identified for the previous CBRF discussion, he noted that the proposed CUP site had underlying zoning of "R-6" Multiple Family District, which listed as conditional uses a nursing home (Section 15.190(3)(f)) and community living arrangements for 16 or more persons (Section 15.190(3)(i)). Mr. Less stated that the CUP, if approved, would allow for the legal operation of the nursing home, as well as the operation of the maximum 88-person CBRF as proposed under the "R-6" district regulations. Mr. Less again clarified that while the agenda indicated a maximum of 68 residents in the proposed CBRF, he was enhancing the number to 88 to reflect Shady Lane's plans over the next 5 years.

Mr. Less advised again that there were no exterior changes to the site planned, and all of the changes would be internal to existing facilities. Mr. Less noted further that the same notice for the 2,500' exception was used for the CUP, and again advised that while there were some inquiries about what was going on, no one was opposed to the project.

Mr. Brey commented on the ability of the City to impact the 2,500' separation requirement in the statute.

Mr. Less concurred, and explained that while the courts had found the separation requirement to be discriminatory, it was still in the statute.

There was no public input.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that they: (i) grant the 2,500' exception, as requested, to Shady Lane, Inc. for the licensing of a maximum 88-person CBRF at Block One (1) of the Shady Lane Subdivision pursuant to Wis. Stats. § 62.23(7)(i)1. and § 62.23(7)(i)5.; and (ii) grant approval of the CUP to Shady Lane, Inc. for: (a) a nursing home, and (b) an 88-bed CBRF, both in the CUP Area, and subject to the compliance conditions on file in the City Planner's office.

<u>Motion by:</u> Mr. Alpert	_____	<u>Seconded by:</u> Ms. Stokes
<u>Moved that:</u> the Commission approve	_____	<u>Upon Vote:</u> the motion was
the Planner's recommendation above		approved unanimously.
regarding the proposed 2,500' exception.		

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Motion by: Mr. Diedrich _____ Seconded by: Mr. Brey
Moved that: the Commission approve _____ Upon Vote: the motion was
the Planner's recommendation above approved unanimously.
regarding the proposed CUP.

B. PC31-2011: Regional Real Estate, LLC; Structure Moving Application to Relocate a Building From 1573 Lake Cato Drive, Cato WI to 1911 Wild Oak Drive Under Section 15.370(3) of the Manitowoc Municipal Code

Mr. Less explained that this was a request from Kevin Neelis d/b/a Regional Real Estate, LLC, who was requesting approval to move a garage structure from Cato WI to 1911 Wild Oak Drive pursuant to Section 15.370(3) of the Manitowoc Municipal Code (Code).

Mr. Less identified the "Donor" property, or the location of the structure to be moved, as a parcel on the south side of Lake Cato Drive, located south of Hilltop Road and west of CTH "S", with the structure to be moved being a 16' x 24' x approximately 15' tall single story, detached, vinyl sided, single door garage. Mr. Less then identified the "Recipient" property, or the location where the structure would be moved to, as being on the east side of Wild Oak Drive, north of Albert Drive, and which was legally described as Tract 2 of a CSM recorded in V. 28, P. 309. Mr. Less advised that this parcel was purchased by Regional Real Estate, LLC from Wild Oak Estates, LLC in September, 2008, was identified as tax number 808-301-110, was currently zoned "R-6" Multiple Family District, and was currently valued by the City Assessor at an estimated fair market value of \$824,400 with an assessed value for land and improvements at \$822,500. Mr. Less stated that Tract 2 measured 150' along Albert Drive by 383.75' along Wild Oak Drive, for a total area of 57,350sf or 1.3-acres.

Mr. Less continued that Tract 2 contained 2, 8-unit apartment buildings that each measured 50' x 133' in area. Mr. Less noted that the garage structure would be relocated to an area along the east side of Tract 2, at the east end of the east-west running driveway between the 2 southernmost apartment buildings. Mr. Less added that Tract 1 to the north had a separate 8-unit building on it as well, and that this area was identified as "Wild Oak Estates" luxury apartments.

Mr. Less advised that the proposed location of the garage would be abutting the west end of the Newport Village West Mobile Home Park, with the land use on the west side of Wild Oak being the "Albert Drive Estates" apartments.

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Mr. Less then explained the proposed structure move route from the Donor site to CTH “S”; then north to Hilltop Road; then east to N. Union Road; then east on Homestead Road; then north on N. Rapids Road to Goodwin Road; then east on Goodwin to N. 8th/CTH “B”; then south to Albert Drive; then east to Wild Oak Drive; and then north on Wild Oak to the Recipient Property—a route measuring approximately 11.5 miles in travel distance along public R/W’s. Mr. Less stated that Eis Structure Movers was identified as the party to move the garage structure.

Mr. Less continued that pursuant to Section 15.370(3), the Planning Department did send notice to the property owners abutting and adjacent to the Recipient property on June 15th, and that to date, there were no responses to the mailing.

Mr. Less then detailed the requirements before issuance of a permit for moving a structure in the City, and noted that they included the following:

- (a) Building inspection report of building to be moved (*on file and provided*);
- (b) Applicant contacts other City officials (*other than contact with Jim Muenzenmeyer, no documentation was provided that other officials had been contacted. Mr. Less noted that he did send an email to MPU and DPW on June 20th advising and alerting them of this matter*);
- (c) If there were additional improvements required to be made to the structure by the Plan Commission, an irrevocable Letter of Credit in an amount approved by Director of Building Inspection would be required (*no information provided*); and
- (d) Performance bond (at least \$25k) which indemnified the City for any costs or expenses incurred related to moving process (*no information provided*);

Mr. Less advised that there were no specifics provided regarding the date or time to complete this relocation.

Ms. Mellon commented on an existing storm sewer easement in the location of the proposed garage.

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Mr. Muenzenmeyer commented that he had talked about this easement with Mr. Minikel, who advised him that it was a private easement, and that the City had nothing to do with it.

There was no public input.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that it approve the request for structure moving, subject to compliance with Section 15.370(3); with the Director of Building Inspection authorized to issue the necessary permits upon review and approval of the following: (i) identification of any obstruction or traffic issues along the proposed route from the Police Chief, Department of Public Works and MPU-Electric; (ii) delivery of a performance bond; (iii) delivery of an irrevocable Letter of Credit pursuant to Section 15.370(2)(k), if required; and (iv) foundation plan, drainage plan or any other requirements deemed necessary by the Director of Building Inspection for the project to proceed.

Motion by: Mr. Diedrich _____ Seconded by: Mr. Muenzenmeyer
Moved that: the Commission approve _____ Upon Vote: the motion was
the Planner’s recommendation above. approved unanimously.

Mr. Muenzenmeyer commented that in the future, he was anticipating Code changes that would eliminate the need to send structure moving applications for accessory buildings to the Commission.

V. REFERRALS FROM COMMON COUNCIL

A. PC28-2011: Manitowoc County; Tax Deeded Property at 312 N. 6th Street

_____ Mr. Less explained a request from Manitowoc County to consider taking title to a parcel included in their current foreclosure proceedings. Mr. Less noted that this parcel was located at 312 N. 6th, at the southwest corner of N. 6th and Chicago Street. Mr. Less recommended that the Commission recommend to Council that it not take any action on this property or this proposal, and that the matter be placed on file.

Motion by: Mr. Brey _____ Seconded by: Ms. Stokes
Moved that: the Commission approve _____ Upon Vote: the motion was
the Planner’s recommendation above. approved unanimously.

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Mr. Brey commented that the County had recently sold some property on Mirro Drive to keep it on the tax rolls.

VI. OLD BUSINESS

- A. PC15-2011/PC23-2010: Popp Enterprises, LLC/WPR Properties, LLC/Randall Popp Investments, LLC; Proposal for the Discontinuance and Vacation for Portion of So. 21st Street Under Wis. Stat. § 66.1003(2) and Official Map Amendment Under Wis. Stat. § 62.23(6) for Portion of So. 21st Street

Mr. Less explained that this would be the last interaction with the Commission on this matter, and noted that this was related to the Official Map and vacation of a portion of So. 21st Street, between Summit and Flambeau Streets, related to the proposed Popp Subdivision No. 3. Mr. Less noted that the public hearing on the Official Map amendment had been held before the Council, with no public comment. Mr. Less noted that DNR clearance was in place to reduce the width of So. 21st in part, to bisect a wetland.

Mr. Less recommended that the Commission recommend to Council that it approve a resolution for the vacation of a portion of So. 21st Street R/W, and an ordinance for amendment of the Official Map for the same area.

Motion by: Ms. Stokes _____ Seconded by: Mr. Alpert
Moved that: the Commission approve _____ Upon Vote: the motion was
the Planner's recommendation _____ approved unanimously.
above.

- B. PC22-2011: Sign Me Up/Bill's Auto; Proposed Animated Billboard and Animated Sign at 3836 Calumet Pursuant to Sections 15.450(14)(h) and 15.450(18) of Manitowoc Municipal Code

Mr. Less advised that he had been instructed to keep this item on the agenda as a continuation from last month's discussion. Mr. Less noted that since the May Commission meeting, other than a telephone conversation with Barbara Grosshuesch on May 24th, at which time he invited her to come to his office to review the Official Map (she had not done so), there had been no communication from the sign company. Mr. Less advised that he had no new information, and was not sure why the parties were present this evening. Mr. Less noted that the previous action of the Commission was to

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approve the animated billboard, subject to conditions, and that was the extent of the approval to date.

Mayor Nickels asked if the property owner could pursue a "Sidewalk Privilege Agreement" (SPA) so as to not lose the usage of the 5' previously required for dedication?

Mr. Less stated "yes", and noted that the dedication was triggered by the existence of the Official Map on the property.

Mayor Nickels commented on how the SPA would work in this instance.

Mr. Less stated that the SPA would be a separate request and document.

Mayor Nickels asked if a new sign application had been filed?

Mr. Less stated that other than his conversation with Mrs. Grosssheusch, he didn't think an application had been filed.

Mayor Nickels asked what the business would have to do to move ahead with the previously approved animated billboard request?

Mr. Less explained the elements of the animated billboard approval, including dealing with the existing billboard lease with Lamar Outdoor Advertising, and other compliance conditions, including the requirement for dedicating the 5' which was an Official Map reservation.

Mayor Nickels stated that he had decided to let the people present tonight speak on this issue.

Paul Radermacher, "Sign Me Up", 422 Mill Street, Howards Grove, stated that he had information to present. Mr. Radermacher noted that they wanted to keep the existing "Bill's Auto" sign, and then handed out pictures of a proposed 2' x 7½' animated sign that would be affixed to the bottom of the existing business identification sign at the west end of their property. Mr. Radermacher stated the proposed animated sign would comply with the 30% requirement, and that this was the concern at the last meeting.

Mayor Nickels commented that this proposal would appear to conform to the requirements.

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Mr. Muenzenmeyer commented that the existing sign was a nonconforming structure as it was located in the 5' Official Map reservation.

Mr. Less noted that this nonconforming status would exist regardless of whether the R/W dedication occurred or not.

Mr. Muenzenmeyer noted that the nonconforming status of the sign or structure could not be altered except to make it conforming. Mr. Muenzenmeyer added that he felt an SPA would work in this situation, adding that the sign could be allowed to overhang the R/W with an SPA, or with an annual payment to his department for insurance. Mr. Muenzenmeyer added that this would all be made clear when a new sign application was filed, along with a site plan detailing the configuration and size of the proposed sign, and the pole and sign's location in relationship to the existing public R/W and Official Map R/W.

Mr. Radermacher noted that their application was already on file, and that the location of the sign on the west end of the property was the same.

Mr. Muenzenmeyer explained that the current application was not accurate, and that a new sign application was required as the sign proposal was not the same as was presented in the original application filed by "Sign Me. Up". Mr. Muenzenmeyer noted that they could change the existing sign face, but the other facts remained the same.

Mr. Radermacher stated that the current application was accurate in terms of the sign location, and added that they could make the sign a flag sign, so as to not overhang the public R/W.

Mr. Muenzenmeyer commented that the issue of accuracy of the sign application had to do with determining the location of the existing sign pole in relation to the current R/W line and the Official Map R/W. Mr. Muenzenmeyer added if there were changes, it had to be reflected in the application, as the new application was the basis for evaluating compliance of the constructed sign in the future.

Mayor Nickels asked how this sign was any different than other signs on Calumet, many of which appeared to be in the R/W as well?

Mr. Muenzenmeyer stated that other signs could be nonconforming as well.

Mr. Nickels asked if the "Renew" sign was nonconforming?

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Mr. Muenzenmeyer noted that gas price signs were not considered animated under City's Municipal Code (Code). Mr. Muenzenmeyer added that while a new sign face or cabinet could be installed without a permit, the intent was for nonconforming signs to eventually go away, or to become conforming.

Mr. Radermacher stated that he understood this, and added that his understanding was that the existing "Bill's Auto" sign was nonconforming as it was invasive to the R/W.

Mr. Muenzenmeyer stated "yes".

Mr. Radermacher stated that it wasn't in the R/W at this time.

Mr. Muenzenmeyer replied that it was in the Official Map R/W, which would make it a nonconforming sign.

Mayor Nickels asked if there was an SPA for signs in the R/W?

Mr. Muenzenmeyer replied that the matter could always go to the Streets Committee for authorization to place a sign in the R/W, but he did not think that was appropriate in his opinion.

Mr. Radermacher acknowledged that they would have to file a new application and sign detail, and questioned if there were other issues they should be aware of?

Mr. Less replied that the issues were all flushed out in his past emails, conversations with the sign company, and at the last Commission meeting. Mr. Less noted that moving the sign to the north and out of the R/W, and offering the deed for dedication would take care of the main issues. Mr. Less continued that the landscaping issue could be dealt with as well. Mr. Less stated that moving the sign a few feet north, and transitioning it from nonconforming to conforming, should make investment sense for the owners. Mr. Less added that as he stated at the last Commission meeting, the current location of the "Bill's Auto" sign, in his opinion, was a visual problem for northbound Calumet Avenue traffic, and moving the sign to the north would make the arrangement more palatable and would eliminate the nonconforming status.

Mr. Radermacher noted that one option would be to use the same pole and to flag the sign, so that the sign cabinet extended to the north.

Mr. Muenzenmeyer asked if the pole would be out of the R/W?

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Mr. Radermacher stated “yes”, and asked if this location was still an option?

Mr. Muenzenmeyer replied that the pole would have to be relocated out of the Official Map R/W to become a conforming sign.

Mayor Nickels asked if the pole would be located outside of the R/W?

Mr. Muenzenmeyer noted that he did not know exactly the location of the existing pole in relationship to the R/W, as that information had not been provided and would have to be determined.

Mr. Radermacher stated that he was confident the proposed sign was not in the Official Map R/W, as it was 7'-8' off of the current R/W line which he felt was the sidewalk. Mr. Radermacher stated that the existing pole was about 2' outside the Official Map R/W.

Mayor Nickels asked how the pole was in the R/W?

Mr. Radermacher stated the overhanging sign was in the R/W, not the pole.

Mr. Brey commented that he saw this matter as a burden to this business, and suggested that the matter go before the Streets and Sanitation Committee for a waiver so as to allow the sign in the public R/W. Mr. Brey stated that he didn't see this as being a visually impaired area.

Mayor Nickels commented that he did not see the City expanding Calumet Avenue in the future.

Mr. Diedrich commented that this Commission was charged with looking to the future.

Ms. Mellon commented that she was very reluctant to not require the R/W dedication for such an important area.

Mr. Brey stated that he felt an SPA was the correct approach to take in this situation.

Terence P. Fox, Kummer, Lambert & Fox, P.O. Box 1180, commented that he was legal counsel representing the Grosshuesch's and Bill's Auto, and didn't see where the City had the right to require a R/W dedication for a sign permit. Mr. Fox noted that

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he did not feel there was a basis, based upon his knowledge and research, for the City requiring a dedication for a sign permit without paying the property owners, and recommended that the City grant the sign permit without the dedication requirement. Mr. Fox felt that there was no basis in the law for this protocol.

Mayor Nickels commented that he felt the Commission needed to offer some guidance so that the property owner knew how to proceed in this instance.

Mr. Less commented that taking this step would likely compromise the Official Map for what it is used for, and referenced a recent CSM in which a dedication of R/W was required. Mr. Less stated that the City could waive the dedication requirement, but added that the City was also not compelled to have to approve 2 animated signs on this property. Mr. Less stated that he felt this was problematic. Mr. Less added that he appreciated the eagerness of the sign company to sell these signs, and that should both of these animated signs be installed, he felt the City would ultimately regret that decision, but it would be too late at that time.

Mr. Fox asked why both signs was an issue, as there were many animated signs in the City. Mr. Fox stated that he was not understanding if it was against the Code to have 2 animated signs on a property.

Mr. Less replied that in this case, the uniqueness of the circumstance was that there would be an animated billboard along with an animated ground sign on this parcel. Mr. Less re-stated his concern with the line of sight issue he had previously raised, and explained that he stood in the middle of Calumet Avenue, and felt that there was a visual problem that would be created. Mr. Less continued that moving the business identification sign to the north would help the situation. Mr. Less added that he had less problem with the business identification sign, but had more of an issue with the sign's nonconforming status, and that the approval of the animated billboard was felt to be of greater benefit to the property owner as it would be more of a rental revenue generator. Mr. Less felt that putting both these signs onto the same parcel was a problem for him.

Mayor Nickels stated that his understanding was that if a new application was filed, the dedication was received, and the existing business identification sign moved 5' to the north, that the City would have no right to decline the request to both animated signs?

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Mr. Less commented that the presence of a Code did not give anyone a right to automatically be entitled to approval, and noted that the presence of a permitted use in the Code was an authorization for that use to exist, but it was not an absolute right, and it didn't compel the City to receive or grant approval for each and every use request.

Mayor Nickels stated that the Code also authorized the City to allow a nonconforming use.

Mr. Less stated that the City did not have the right to waive a nonconforming status.

Mayor Nickels stated that Streets and Sanitation Committee could do so.

Mr. Less stated that he didn't say that, but did note that while the nonconforming status could not be waived or extinguished, it could be regulated via an SPA. Mr. Less re-stated that he felt there was a visual issue in this matter.

Mr. Fox stated that the issue appeared to be the positioning of the animated ground and billboard sign to eliminate the visual confusion concern.

Mr. Less agreed, and added that moving the business sign to the north would not diminish the visibility of the sign.

Mr. Fox added that his issue was that the property was about 3/4 of an acre in area, and was a small parcel of land with a high land value. Mr. Fox continued that the City had to have consideration paid to the future, and felt that tying the sign and land economics together was not a prudent way for the City to proceed. Mr. Fox felt that the equities didn't make sense.

Mr. Less replied that the land reservation had been on the Official Map as far back as 1960, so there was a clear statement of public intent.

Mr. Fox stated that the presence of the Official Map was only a land reservation, and did not grant the City a right to take the land at this time.

Mr. Less agreed, and added that the reverse was also true, that the City was not compelled to approve all sign requests just because an application was made. Mr. Less added that the enhancement and beautification of Calumet Avenue was a public priority that had to be kept in mind as well.

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Mr. Alpert commented that it was important for the property owner to be able to use the 5' dedication area as part of their sales lot. Mr. Alpert stated that it didn't appear that the City was enforcing the Official Map dedication requirement.

Mayor Nickels asked if anyone was aware of the history of how the current sign was installed?

Mr. Less stated he did not know the history of the current sign.

Bill Grosshuesch, 3836 Calumet, commented that the original "Bill's Auto" sign was installed by Tom Lavey, and it was legal at the time of its installation.

Mr. Rademacher stated that he agreed with Mr. Alpert, and asked if the current business was in violation of the Code?

Mr. Less stated they were currently parking cars in the Official Map reservation area, which was different than an actual improvement into the real estate.

Mr. Fox asked what was needed to move this project forward?

Mr. Muenzenmeyer stated that a new sign application would have to be filed that correctly reflected the request.

Mayor Nickels asked again about the relevance of the location of the existing pole?

Mr. Muenzenmeyer stated again that it was not clear if the existing pole was within the 5' reservation area, and added that the new sign could be placed on the existing pole as a flag, if the pole was strong enough to structurally support the sign structure.

Mr. Less stated that part of the balancing act was to try and improve the overall look of Calumet Avenue, and this was not just a matter of accommodating a property owner.

Mayor Nickels stated that he felt the additional animated sign would improve the look of the area.

Barbara Grosshuesch, 7303 Carstens Lake Road, commented that they had made substantial improvements at their property, including new awnings and landscaping, and took offense to any commentary regarding them not trying to improve Calumet Avenue.

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Mr. Less commented that the issue of Calumet Avenue was the totality of the street area.

Ms. Grosshuesch felt that the City was holding them back from modernizing their property.

Mayor Nickels complimented the property owner on the quality and look of their building.

Mr. Radermacher commented that a new sign permit would be prepared and filed with the Building Inspection Department.

No action was taken.

C. PC27-2009: Annual Review of Special Permits for Fixed Animated Signs Pursuant to Section 15.450(18)(e)7. of the Manitowoc Municipal Code

Mr. Less presented the Commission with a summary of fixed, animated sign special permits that were reviewed as part of the municipal code's (Code) annual compliance review requirement. Mr. Less shared Mr. Muenzenmeyer's letter reviewing the compliance status of the signs, in which there were 3 animated signs identified as being non-compliant.

Mr. Diedrich asked what the nature of the compliance problem was?

Mr. Muenzenmeyer replied that the signs were all flashing for less than 1½ seconds, which was against Code. Mr. Muenzenmeyer noted that the compliance conditions placed upon CUP's etc., did take time to review and monitor.

Ms. Mellon commented that she had Randy Junk review these signs as well, and that Engineering had no concerns either.

Mr. Muenzenmeyer added that in all 3 instances, the timing of the signs had been changed and they were now compliant.

No action was taken.

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D. PC23-2011: Proposed Changes to Chapters 7, 15, 16 and 21 of Municipal Code

Mr. Less explained that the 2 ordinances before the Commission had to do with a plethora of changes to various chapters of the municipal code (Code). Mr. Less noted that perhaps the most significant change was to extinguish all nonconforming structures effective August 15, 2011, and which would go forward as legal, conforming structures.

Mr. Less recommended that the Commission recommend to Council that it instruct the Clerk to call for a public hearing on both of these ordinances, and further, that they recommend Council adoption of the ordinances to effectuate these changes.

Mr. Less advised that the public hearing on these ordinances could be scheduled before the Council on August 1st.

Motion by: Ms. Stokes _____ Seconded by: Mr. Brey
Moved that: the Commission approve _____ Upon Vote: the motion was
the Planner's recommendation _____ approved unanimously.
above.

E. PC24-2011/PC10-2011: WAFCO LLC; Proposal for the Discontinuance and Vacation for Portion of So. 17th Street Under Wis. Stat. § 66.1003(2) and Official Map Amendment Under Wis. Stat. § 62.23(6) for Portion of So. 17th, South of Clark Street

Mr. Less explained that this proceeding had been before the Commission a few months ago, and more recently was the topic of a public hearing before the Common Council. Mr. Less stated that this would be the last time the Commission would see this particular request, and recommended that the Commission recommend to the Council that it approve a resolution for the vacation of a portion of So. 17th Street R/W, and also approve an ordinance for amendment of the Official Map for the same area.

Motion by: Mr. Diedrich _____ Seconded by: Mr. Muenzenmeyer
Moved that: the Commission approve _____ Upon Vote: the motion was
the Planner's recommendation _____ approved unanimously.
above.

VII. NEW BUSINESS

A. PC29-2011: City of Manitowoc; Redistricting/Census Population Data

Mr. Less asked Ms. Yanda for an update on this process, as she had led on this matter to date.

Ms. Yanda provided the overview of the redistricting issue for the Commission, and presented a “Municipal Ward Plan” related to the redistricting of the City’s ten (10) supervisory districts. Ms. Yanda noted the County Board adopted a revised tentative supervisory district plan last night (June 21st), and that the City’s role was now to develop the City ward plan within the City’s 10 supervisory districts. Ms. Yanda then displayed a map with the 20 wards comprising the 10 supervisory districts, and noted that these districts had to be substantially equal in population, compact, contiguous, and bounded by ward lines. Ms. Yanda explained the boundary and population adjustment between the 2nd and 3rd aldermanic districts.

Mr. Less asked about the process going forward, and asked Ms. Yanda to identify the next steps required.

Ms. Yanda explained that the plan going forward was for the Council to approve the “Municipal Ward Plan” on July 5th, based upon a Commission recommendation this evening. Ms. Yanda continued that the adopted ward plan would be returned to the County by July 18th, and then the City would begin work towards adoption of its aldermanic districts, and the County would concurrently work towards finalizing its plan.

Mr. Brey commented that at the County level, they had agreed upon a threshold of staying within a 5% differentiation between districts.

Ms. Yanda commented the City’s ward designations were within 1% of the 5% window, and that she attempted to follow the past guidelines as much as possible.

Additional discussion was held.

Ms. Yanda recommended that the Commission recommend to Council that it take the following actions: (i) introduce and adopt by resolution on July 5th, the “Municipal Ward Plan”; (ii) introduce on July 5th, the companion ordinance to amend Section 1.020 of the Code which contained the legal descriptions of each aldermanic district; and (iii) authorize the City Clerk to publish and meet the Class 2 notice requirements under Wis. Stat. § 62.08(1) regarding establishment of aldermanic districts.

Motion by: Ms. Stokes _____ Seconded by: Mr. Muenzenmeyer
Moved that: the Commission approve _____ Upon Vote: the motion was
the Associate Planner's recommendation approved unanimously.
above.

B. PC30-2011: Eberhardt; No. 8th Street No. 3 - Discussion of Concept Annexation

Mr. Braun provided an overview of a possible annexation, and advised that no formal action was requested this evening. Mr. Braun noted that tonight's presentation was for discussion purposes only, and proceeded to explain the location of the proposed annexation generally north of the Woodridge Subdivision development, and further identified the Official Map in this area. Mr. Braun continued that some of the property owners in Woodridge wanted to acquire parcels from Mr. Eberhardt, whose property was located north of the City limits. Mr. Braun noted that one problem was that the current County zoning requirements would result in substandard lots of record, unless they were brought into the City and combined with the existing parcels to the south.

Mr. Braun explained that the current plan was to annex up to the north line of the future east-west running street that crossed the Eberhardt property, and that the annexation in total would be approximately 13-acres. Mr. Braun added that this would be a direct annexation with no electors, and then explained the overall process.

Mr. Braun noted that Mr. Eberhardt had verbal agreements to acquire land from several of the property owners to the south, and stated that the plan for establishing temporary zoning for the annexed lands would mirror the zoning of the adjoining property in the City located to the south. Mr. Braun anticipated the annexation petition could be before the Commission in either August or September. Mr. Braun added that he anticipated the Commission would be asked to review the annexation petition and potential CSM lot splits in July. Mr. Braun commented that they had several meetings with the property owner to develop this matter to its current level.

Mr. Alpert asked what was planned for the balance of the Eberhardt property?

Mr. Braun replied that the development future of this property was unknown at this time, and noted that Mr. Eberhardt also owned approximately 24-acres to the east of Woodridge.

Mark Eberhardt, 1105 Grand, asked about the availability of an agricultural lease to farm the R/W that would be dedicated to the City?

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Mr. Less explained that the lease would be a separate process once the annexation was complete and the City owned the R/W. Mr. Less added that he did not see any issues with the City issuing a lease to farm the future R/W.

Mr. Brey asked if there was an agreement to farm the area now?

Mr. Less stated that he didn't know if there were any existing agreements.

Mr. Eberhardt commented that if the future R/W was not farmed, his tax rate would increase, so it was in his best interest to keep the land farmed.

Mr. Less advised that issues related to the farmland preservation program were up to the property owner to figure out.

Mr. Braun then suggested that the future east-west R/W be named "Homestead Road" as it lined up with the existing Homestead Road to the west.

The Commission appeared to be supportive of the proposed annexation and street name.

Mr. Muenzenmeyer asked if there were any zoning issues with farming in an "R-4" zoning district?

Mr. Less stated that he didn't think there would be an issue.

No action was taken.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. Ms. Mellon commented on the financial status of the Bay-Lake Regional Planning Commission (BLRPC), and noted that they had been in severe financial difficulty. Ms. Mellon noted that they were in the red to the tune of \$350k at the end of 2009, and was now projecting only a \$12k loss at the end of 2011. Ms. Mellon advised that this was an improvement in BLRPC's financial condition, and that they had re-negotiated their lease, and were stabilizing the financial basis of their operation. No action was taken.

B. Certified Survey Maps (CSM):

1. Nysse; Proposed CSM part in the SE $\frac{1}{4}$ and part in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 26, T.20N., R.23E., Town of Kossuth

Mr. Braun explained a proposed CSM for land located north of Rockwood Road and west of N. Rapids Road. Mr. Braun noted that the owner owned an adjacent 126-acre of land, and was proposing to modify an existing CSM tract so as to include the existing large barn into the existing lot of record, with the new CSM tract measuring approximately 1.67-acres in area. Mr. Braun stated that he had no issues with the proposed CSM, and recommended approval of the CSM, subject to County and township regulations.

Motion by: Mr. Diedrich

Moved that: the Commission approve the CSM as presented, subject to required easements, petitions, and other conditions as specified above.

Seconded by: Mr. Brey

Upon Vote: the motion was approved unanimously.

2. Weston; Proposed CSM part in the NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 25, T.20N., R.23E., Town of Kossuth

Mr. Braun explained a proposed CSM located north of Rockwood Road, and south of Shoto Road. Mr. Braun stated that the owner wanted to cull out a 1.48-acre parcel from a larger 19.87-acre parcel, so as to include a house and existing garage, and to sell this future parcel to a new buyer. Mr. Braun stated that there were various private easements in place, and wanted the CSM to identify mapped wetlands on the property. Mr. Braun recommended approval of the CSM, subject to County and township regulations.

Motion by: Mr. Muenzenmeyer

Moved that: the Commission approve the CSM as presented, subject to required easements, petitions, and other conditions as specified above.

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

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3. Driscoll/Carstens/Driscoll; Proposed CSM in the NW¹/₄ of SW¹/₄, Sec. 16, T.18N., R.23E., Town of Newton

Mr. Braun explained a proposed CSM located south of Carstens Road, and west of Center Road. Mr. Braun advised that Mr. Driscoll would be acquiring the existing farm and structures from the current owner, Carstens. Mr. Braun continued that once acquired by Driscoll, the structures and farmstead would be moved into a different ownership arrangement. Mr. Braun added that the plan was to separate the existing structures from the farmland, creating an 11.45-acre lot of record. Mr. Braun stated that he wanted the CSM to identify the Official Map R/W in this area, and recommended approval, subject to County and township regulations.

Motion by: Mr. Diedrich

Seconded by: Ms. Stokes

Moved that: the Commission approve the CSM as presented, subject to required easements, petitions, and other conditions as specified above.

Upon Vote: the motion was approved unanimously.

4. Schreiber; Proposed CSM in the SW¹/₄ of NW¹/₄, Sec. 32, T.19N., R.23E., Town of Manitowoc Rapids

Mr. Braun explained a proposed CSM located south of the City limits, east of South Union Road and north of USH151. Mr. Braun noted that the owner wanted to split the existing 111-acre farm, and to create a new 8.75-acre parcel including the existing residence and buildings, and to sell the other 100+ acres of farmland. Mr. Braun added that there were no Official Map or wetland issues, and recommended approval of the CSM, subject to County and township regulations.

Motion by: Ms. Stokes

Seconded by: Mr. Diedrich

Moved that: the Commission approve the CSM as presented, subject to required easements, petitions, and other conditions as specified above.

Upon Vote: the motion was approved unanimously.

C. Summary of Site Plans 5/6/2011 - 6/16/2011:

1. SP2-2011: Repeat Performance, 4341 Enterprise Court - Building Addition (approved).

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2. SP3-2011/PC16-2011: City of Manitowoc-Cabin #1 in Lincoln Park, 1215 N. 8th - New Construction (approved).
3. SP4-2011: Kratz, 4455 Springhill Drive - New Construction (approved).

IX. ADJOURNMENT

The meeting was adjourned at 8:00 P.M.

Respectfully Submitted,

David Less
Secretary