

PLAN COMMISSION MINUTES - 9/14/2011

Plan Commission Offices  
Manitowoc City Hall

Regular Meeting  
Manitowoc City Plan Commission  
Wednesday  
September 14, 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  
Jim Brey  
Val Mellon  
Maureen Stokes  
David Diedrich

Members Excused

Dan Hornung  
Jim Muenzenmeyer

Staff Present

David Less  
Paul Braun  
Michelle Yanda  
Elizabeth Werdermann

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular August 10, 2011 Meeting.

Motion by: Ms. Stokes

Seconded by: Mr. Brey

Moved that: the minutes be approved as presented.

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

- A. PC37-2011: City of Manitowoc; Vacation for Portion of an Alley Under Wis. Stat. § 66.1003(4) and Official Map Amendment Under Wis. Stat. § 62.23(6) in Block 6 of Reed Lawn Subdivision

Mr. Less explained that tonight's public informational hearing was in regard to a

## PLAN COMMISSION MINUTES - 9/14/2011

City-initiated vacation and amendment to the City's Official Map to eliminate a portion of an unpaved alley for utilities as identified on the plat of the Reed Lawn Subdivision, for an area located north of Reed Avenue, between N. 2<sup>nd</sup> Street and City-owned property to the east of the subdivision. Mr. Less advised that the amendment of the Official Map would occur pursuant to Wis. Stats. § 62.23(6), and the concurrent discontinuance or vacation of a portion of the public alley for utilities occurs pursuant to Wis. Stats. § 66.1003(4). Mr. Less noted that this action was recommended by the Plan Commission at its August 10, 2011 meeting, and was confirmed by the Council on August 15, 2011.

Mr. Less noted that at the center of this issue was a 10' unpaved public alley (identified on the 1947 recorded plat of the Reed Lawn Subdivision as an "Alley for Utilities") that ran from the east line of the Reed Lawn Subdivision to N. 8<sup>th</sup> Street. Mr. Less continued that this entire area had been dedicated to the City by virtue of the recording of the 1947 plat, and as land dedicated to the City, this 10' wide strip was not available for private use, unless so authorized by the City.

Mr. Less continued that the vacation proceedings were prompted by the property to the north of the alley for utilities. Mr. Less explained that the location of this alley was verified in a boundary survey prepared in July, 2011, and added that at present, the southwest corner of the driveway belonging to the property owner to the north encroached into the 10' wide public area, with the amount of encroachment being 8.2' at N. 2<sup>nd</sup> Street to 3.8' at the angle point towards the garage. Mr. Less added that the roof of the principal structure on this lot also encroached approximately 2.4' into the public alley, but noted that how and when a building permit was issued for the driveway and the siting of the home was not clear. Mr. Less stated that it was likely that the City either issued permits without precision regarding the location of the improvements in relationship to the public alley, or the improvements were not constructed correctly.

Mr. Less then noted that as an additional point, in the City's current subdivision code, this 10' wide area should not be confused with a planned pedestrian way, which under code would require a minimum 20' width.

Mr. Less then explained that procedurally, the City-initiated street vacation process was governed under Wis. Stats. § 66.1003(4), and added that as the vacation proceedings had been initiated by the City, this portion of the statute stated that there was no vacation petition requirement. Mr. Less advised that procedurally, the City had to: (i) prepare a "Notice of Lis Pendens" and record it at the Register of Deeds; (ii) introduce a vacation resolution and Official Map ordinance; (iii) serve notices on to the abutting property owners only; (iv) conduct a required public hearing; and (v) published hearing

PLAN COMMISSION MINUTES - 9/14/2011

notices 3 times prior to a required public hearing (held at least 40 days after the date the resolution is introduced). Mr. Less added that once the public hearing was held, the Council could subsequently adopt the resolution. Mr. Less did note that the proposed vacation of an unpaved alley under Wis. Stats. § 66.1003(4)(d) could become problematic if a written objection was filed with the City by an abutting property owner, and if the alley provided the only access to off-street parking for the parcel of land owned by the objector, but added that this was not relevant in this instance.

Mr. Less then explained that the Official Map process also required a public hearing with a Class 2 notice, adding that the vacation and Official Map hearing notices could be combined. Mr. Less added that the Official Map hearing couldn't be held at the same Council meeting where the street vacation was actually voted upon.

For this project, Mr. Less noted the following schedule going forward:

1. "Notice of Lis Pendens" regarding the vacation proceedings was filed at the Register of Deeds office and recorded on August 19th.
2. A Resolution for vacation and an Ordinance for amending the Official Map had been prepared, and would be introduced at the September 19<sup>th</sup> Council meeting.
3. The property owners of all the frontage of the lots and lands abutting upon the area to be vacated would be served with notice on or before October 7<sup>th</sup>.
4. The required Council public hearings regarding the Official Map amendment and vacation would be held on November 7th.
5. Public hearing notices regarding the vacation and Official Map amendment would be published on October 17<sup>th</sup>, 24<sup>th</sup> and 31st.
6. The Plan Commission would review the public record and provide its final recommendations on the vacation and Official Map amendment at its November 16<sup>th</sup> meeting.

PLAN COMMISSION MINUTES - 9/14/2011

7. Final Council action on the Official Map amendment and the vacation would occur on or after November 21<sup>st</sup>.

Mr. Less stated that in the case of this proposed Official Map amendment and vacation, the portion of the public alley for utilities to be vacated was rectangular in shape, and measured 10' in width by 127.35' (recorded as 128') in length on its north side, and 129.27' (recorded as 130') in length along its south side, or a total of 1,290sf in area. Mr. Less continued that regarding the area proposed for removal from the Official Map and vacation, the 100% landowners abutting the proposed vacation area are as follows:

1. North - Lot 9, Block 6, owned by Michael J. Arendt by virtue of a Personal Representatives Deed dated June 30, 1995 (V. 1135, P. 708). This parcel was acquired for a purchase price of \$80,300, and had a total assessed valuation of \$94,600.
2. South - Lot 4, Block 6, owned by Allen and Beverly Erdmann by virtue of a Warranty Deed dated June 6, 2011 (V. 2648, P. 567). This parcel was acquired for a purchase price of \$3,600 and had a total assessed valuation of \$18,600. This parcel contained only a garage structure which was a nonconforming situation as there was no principal structure on the lot as required in the City's definition of a "Lot" under Section 15.030 of the Municipal Code.

Mr. Less noted that both of these parcels were zoned "R-4" Single and Two Family Residential District. Mr. Less added that for purposes of this vacation, these were the only 2 properties that abutted the area proposed to be vacated. Mr. Less continued that the properties had residential land uses on all sides, except the City-owned lands to the east that were part of the Lincoln Park Zoo and Conservancy. Mr. Less added that in the case of the proposed amendment to the Official Map, the area to be removed from the Official Map matched the area of the proposed R/W vacation.

Mr. Less then discussed the future ownership of the area proposed for vacation, and noted that regardless of the future ownership, the City would retain all easement and utility rights incidental to the vacated R/W which were in place prior to the vacation of the alley. Mr. Less stated that in this case, there was a 15" storm sewer located in the easement area, and there did not appear to be any electric or water utilities located in the 10' wide strip. Mr. Less noted that the property owners both north and south of the proposed vacation area had executed on August 8<sup>th</sup> an "Assignment of Prospective Property Rights", which was in effect, an agreement to enter into a future agreement,

PLAN COMMISSION MINUTES - 9/14/2011

whereby upon vacation of this area, the owner to the south (Erdmann) would convey their interests in the southern 5' of the vacated area to the owner to the north (Arendt). As such, Mr. Less explained, the entire 10' wide alley, upon vacation, would ultimately become part of Lot 9, with all utility rights remaining in place.

Mr. Less then noted that as part of these proceedings, the City would require an agreement be prepared and signed and recorded against the title of Lot 9, detailing that the owner of Lot 9 agreed to pay for the removal and replacement of his driveway and sidewalk should the City need to repair the existing storm sewer in the future. Mr. Less cited Wis. Stat. § 66.1005(2) which detailed the reversion of title issue.

Mr. Less then stated that regarding tonight's informational hearing, notices were mailed on September 7th to property owners within 200' of the ends of the proposed Official Map amendment and vacation, and noted that there were no responses received.

In closing, Mr. Less stated that the proposed Official Map amendment and vacation of a portion of an alley for utilities would provide a real estate remedy to the problems related to improvements constructed into this public area, noting that this remedy was consistent with the principal usage of this area as residential as per the City's 2010 Comprehensive Plan.

Mayor Nickels asked for public comment. There was no public comment.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less then restated the key dates going forward as he had done earlier in his presentation, and then explained that the only actions to be taken by the Commission this evening was to: (i) recommend that the Council instruct the Clerk to call for the required public hearings; (ii) publish the required legal notices; and (iii) instruct the City Attorney to contact the property owner to the north, and prepare and enter into an agreement prior to the date of Council adoption of the Resolution approving the vacation, whereby the property owner to the north of the area proposed for vacation would agree to pay the City for the removal and replacement of his driveway and sidewalk on acceptable terms and conditions to both parties, should the City need to repair the existing storm sewer in the future.

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|---|----------------------------------|
| Motion by: Mr. Diedrich _____                   | Seconded by: Mr. Brey            |
| <u>Moved that:</u> the Commission approve _____ | <u>Upon Vote:</u> the motion was |
| the Planner's recommendation above.             | approved unanimously.            |

PLAN COMMISSION MINUTES - 9/14/2011

- B. PC41-2011: Lakeshore Mini Storage, LLC; Request to Rezone Property at 2424 Johnston Drive from "R-5" Low Density Multiple-Family District and "R-6" Multiple-Family District, to "I-1" Light Industrial District Pursuant to Section 15.330(2)(hhh) of the Manitowoc Municipal Code

Mr. Less explained that tonight's public informational hearing was in regard to a request from Lakeshore Mini Storage, LLC, which was the record owner of property located on the west side of Johnston Drive, north of the Trail's End Mobile Home Park. Mr. Less noted that the petitioner was requesting that the existing "R-5" Low Density Multiple-Family District zoning and "R-6" Multiple-Family District, be amended and rezoned to "I-1" Light Industrial District pursuant to Section 15.330(2)(hhh) of the City's Municipal Code, adding that the rezoning will allow for the legal land usage of the property as a mini warehouse complex, which was currently a nonconforming land use under the City's municipal code, and for the construction of additional mini-storage buildings to the north.

Mr. Less stated that the area proposed for rezoning was owned by Lakeshore Mini Storage, LLC, pursuant to a Warranty Deed dated December 23, 2010 (V. 2615, P. 199), and was further identified as being parcel 808-401-012, and was described via a lengthy metes and bounds description for lands in Section 8 of the City. Mr. Less added that the parcel had a total valuation of \$343,300 according to the City Assessor records.

Mr. Less continued that the proposed rezoning area measured approximately 11.6-acres, and was located south of the north City limits, and north of the Trail's End Mobile Home Park and a residence to the north of that, and measured:

- A. 650' along Johnston Drive to the north City limits line.
- B. 701' along the north line of the property being the north City limits line.
- C. 750' along the west line.
- D. Along the south line as measured from west to east, a distance of 371', then south 55', then east 110', then north 99', then east 80', then north approximately 110', then east 74', then southeast approximately 85' to Johnston Drive.

Mr. Less stated that this parcel came out of a larger 63.5-acre parcel in 2011. Mr. Less continued that the residence immediately south of the current mini-warehouses was a .794-acre, irregular shaped parcel which was owned by Volta Holdings, LLC, which acquired the property from the owner of Trail's End, Mark and Nicole Nischke in 2003, and subsequently sold the subject rezoning parcel to Lakeshore Mini Storage, LLC in

PLAN COMMISSION MINUTES - 9/14/2011

2010. Mr. Less continued that Volta Holdings dedicated to the City 40' of Johnston Drive R/W for this .794-acre parcel in 2010.

Mr. Less identified the southern strip that was currently zoned "R-6" and which was annexed into the City in 1990, at which time the temporary zoning was established as "R-6". Mr. Less added that the remainder of the subject parcel was annexed into the City in 2002, with the temporary and current zoning established as "R-5". Mr. Less then noted that Johnston Drive in this area was dedicated as a 66' R/W, but was identified as a 90' wide R/W on the City's Official Map. Mr. Less stated that the City should secure an additional 12' of R/W as part of this rezoning proceeding matching the R/W dedication that occurred in 2010.

Mr. Less then explained that the subject property was operated as "Lakeshore Mini Storage" which today consisted of 8, 1-story metal frame, detached buildings separated by blacktop. Mr. Less clarified that this land use was not permitted in either the "R-5" or "R-6" zoning districts, and was required under code to have either a conditional use permit under a "C-1" Commercial District, or would be a permitted use in the "I-1" and "I-2" districts. Mr. Less continued that the owner's current plan was for the construction of a new 48' x 166' building at the north end of the existing mini-warehouse complex. Mr. Less stated that these buildings appeared to have been constructed prior to annexation into the City, and became legal, nonconforming upon annexation under their current zoning status.

Mr. Less continued that mini-storage buildings were defined under Section 15.030 of the municipal code, and was further regulated under Comm 62.995 of the Wisconsin Administrative Code, and which regulated such things as height, class of construction, compartmentalization, and the number and location of exits. Mr. Less added that off-street parking requirements for mini-warehouses were detailed under Section 15.430(4)(c)4. of the Municipal Code.

Mr. Less then noted that under the existing "R-5" and "R-6" zoning districts, permitted uses were very similar except for density requirements. Mr. Less explained that these districts listed as permitted uses; single, two family, and multi-family residential uses, and community living arrangements and day care centers for not more than 15 persons, and that conditionally permitted uses included churches, schools, hospitals, private clubs and lodges, and community living arrangements for 16 or more persons. Mr. Less continued that the proposed "I-1" zoning district allowed office, professional, retail and commercial uses, as well as a variety of industrial uses including mini-warehouses, and that conditionally permitted uses included recycling facilities, material bulk storage, and small wind energy systems.

Mr. Less then explained the zoning surrounding the subject property, and noted

PLAN COMMISSION MINUTES - 9/14/2011

that the unplatted lands to the north and outside of the City were zoned "A-3" Agriculture District in the Town of Manitowoc under the Manitowoc County zoning ordinance. Mr. Less explained that the County's comprehensive plan identified this area north of the City limits as an "Urban Transition" area that was defined as a mix of residential and economic development opportunities. Mr. Less then explained surrounding land uses in the area, and noted that there were wet soils and wetlands identified on the DNR wetland inventory maps, and that it was the owner's responsibility to determine their boundaries and whether or not they have any issues.

In closing, Mr. Less stated that the proposed rezoning was consistent with the City's 2009 20-year land use map as part of the Comprehensive Plan, in that it identified the subject parcel as being "planned mixed use"; a district that encouraged a carefully controlled mix of commercial and residential uses on public sewer and utilities, and which would include office, light industrial and institutional and community services land uses. Mr. Less continued that based on the City's Plan and the surrounding land uses, this proposed rezoning was consistent with the current Comprehensive Plan.

Mr. Less then explained that notices of tonight's informational hearing were mailed to property owners within 200' of the subject parcel on September 7<sup>th</sup>, and that there were no comments received in response to the mailing.

Mayor Nickels asked for public comment. There was no public comment.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that it instruct the Clerk to call for a public hearing (October 17<sup>th</sup>), and that upon completion of the public hearing, the Council adopt a rezoning ordinance to effectuate this change in zoning.

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

- C. PC43-2011: RTM Real Estate LLC; Request to Rezone Property at 940 N. 11<sup>th</sup> Street from "B-2" Neighborhood Business District to "B-3" General Business District Pursuant to Section 15.270(2)(uu) of the Manitowoc Municipal Code

Mr. Less explained that tonight's public informational hearing was in regard to a

PLAN COMMISSION MINUTES - 9/14/2011

request from RTM Real Estate LLC, which was the record owner of property located on the west side of N. 11<sup>th</sup> Street and south side of Wisconsin Avenue. Mr. Less continued that the petitioner was requesting that the existing "B-2" Neighborhood Business District zoning be amended and rezoned to "B-3" General Business District pursuant to Section 15.270(2)(uu) of the City's Municipal Code, to allow for the legal land usage of the property as a retail business for music instrument sales and repair.

Mr. Less explained that the area proposed for rezoning was identified as Lot 1 of the A.B. Richardson's Subdivision, and was further identified as tax parcel #605-000-010, which was acquired by RTM Real Estate LLC via Warranty Deed in October, 2006 for \$80,000 from Evelyn Hein. Mr. Less noted that the parcel had a total valuation of \$81,800 according to the City Assessor records, and generated approximately \$1,650 in annual real estate taxes. Mr. Less continued that the subject parcel, which was formerly known as "Bill Hein Insurance", measured 49.16' along N. 11<sup>th</sup> Street x 128.6' along Wisconsin Avenue, for a total area of 6,322sf in area or .145-acres in total area.

Mr. Less continued that the property contained a 1-story frame building measuring approximately 1,542sf in area, plus an attached 2-car garage measuring approximately 484sf in area. Mr. Less noted that the building, which also had a partial second floor, was occupied by "Mad About Music"; a retail business that rented band and orchestra instruments, and sold musical instruments and music books. Mr. Less added that a portion of their business was attributable to music lessons, which averaged around 70 lessons/week this summer. Mr. Less continued that lessons generally occurred between the hours of 3pm and 6pm, and were focused mainly upon guitar and piano. Mr. Less added that the main floor was for retail sales, with the upper floor area (which used to be used for residential purposes) used as a waiting area and 3 lesson studios. Mr. Less advised that Mad About Music opened in February, 2007, and by April, 2007, was generating sufficient cash flow to meet all of its debt and operating obligations. Mr. Less identified their hours of operation as: (i) Monday, Thursday and Friday (10am - 5pm); (ii) Tuesday and Wednesday (10am - 6pm); and (iii) Saturday (10am - 1:30pm).

Mr. Less then explained that under the existing "B-2" zoning district, permitted uses were essentially limited to uses permitted in the "B-1" Office-Residential District (which was primarily for various clinics, and office and professional and business offices), and single and two family residential uses but only if this use was in place and had remained in place since August 1, 1987, as well as various smaller retail-type businesses including book stores, candy stores, drug stores, hardware stores, and liquor and beverage stores, and sit down or carry out restaurants not exceeding 2,000sf in area. Mr. Less noted that conditionally permitted uses included shopping centers, and bed and breakfast facilities, barbershops and beauty salons, and community living arrangements for 16 or more persons.

Mr. Less then explained that the proposed "B-3" zoning district allowed office

## PLAN COMMISSION MINUTES - 9/14/2011

and professional uses, along with a variety of retail uses identified in the "B-2" district, plus uses including bicycle sales and rental shops, bakeries, book stores and music instrument sales and repair establishments. Mr. Less added that conditionally permitted uses included conditional uses authorized in the "B-2" district such as barber shops and beauty salons, private clubs and lodges, homes for the elderly, amusement establishments, and tattoo and body piercing establishments.

Mr. Less then explained the zoning surrounding the subject property is "R-4" to the south and east, and "B-2" to the north and west, and subsequently identified the surrounding land uses as residential to the south, east and west, and on the north side of Wisconsin Avenue, Manitowoc Woodworking Company and Valley Mobile Shredding (records destruction) to the north. Mr. Less noted that the woodworking and shredding businesses were nonconforming uses.

In closing, Mr. Less stated that the proposed rezoning was consistent with the City's 2009 20-year land use map as part of the Comprehensive Plan, in that it identified the subject parcel as being "general business"; a district that encouraged smaller scale business occupancies of less than 10,000sf, and which was defined in the Comprehensive Plan as being a land use category intended for commercial and retail uses at a neighborhood level. Mr. Less stated that based on the City's Plan, this proposed rezoning was found to be consistent with the current Comprehensive Plan.

Mr. Less then stated that notices of tonight's informational hearing were mailed to property owners within 200' of the subject parcel on September 7<sup>th</sup>, and that he had received the following communications in response to the mailing:

1. A telephone voice mail message on September 9<sup>th</sup> from Mark Bushman. Mr. Less stated that he had telephoned him back and left a voice mail message, but never directly spoke with Mr. Bushman. Mr. Bushman's voice mail message indicated he wanted to know what was going on with the rezoning as he was the property owner to the west of the music store.
2. A telephone call on September 9<sup>th</sup> from Robert Schroeder, Manitowoc Woodworking. He wanted to know if he was included in this rezoning. Mr. Less told him that he wasn't. His inquiry had to do with whether or not the rezoning impacted his property.
3. September 14<sup>th</sup>, Mr. Braun received a phone call from Greg Copsiskey, the owner at 932 N. 11<sup>th</sup>, located 2 lots to the south of the subject property. He expressed concerns with parking on N. 11<sup>th</sup> due to the existing bicycle lane when he has visitors. He was

PLAN COMMISSION MINUTES - 9/14/2011

also concerned that if the business expanded, it would increase on-street parking pressures. He was also concerned with vehicles not coming to complete stops at the stop sign on Menasha Avenue, which created a problem for him when backing out of his driveway.

Mr. Less noted that other than the above, there were no other comments received in response to this mailing.

Mayor Nickels asked for public comment.

Mark Bushman, 1109 Wisconsin, explained that parking was his main concern. Mr. Bushman noted that he has seen children dropped off at the business, and that the street was parked with cars for 90 minutes. Mr. Bushman stated that there was a 2-hour parking limit on Wisconsin Avenue, and that the business' employees were parking all over the place. Mr. Bushman noted that he was concerned that in winter, as he would snow blow later in the day, that there would be problems as the street would be parked full, with vehicles parked tight to his driveway. Mr. Bushman continued that he had a problem with the snow blowing, as well as concerns with what other types of businesses could locate in a "B-3" zoning district. Mr. Bushman felt that the business was too large for this area, and felt that the previous businesses at this location when the property was zoned "B-2" was a smaller volume business, and a better fit for this neighborhood. Mr. Bushman stated he was against the rezoning, noting that he had lived at his current residence for 26 years.

Mr. Less explained that the "B-3" zoning would allow for more retail uses at this location, but noted that the type of business would be limited by the size of the lot and parking.

Mr. Bushman noted that there was no parking on the west side of N. 11<sup>th</sup> Street, and again discussed the congested nature of the street when it was parked full of vehicles on both sides. Mr. Bushman noted concerns with the potential expansion of the business, the potential to construct storage buildings on the site, and expansion of off-street parking on the property.

Charmaine Bushman, 1109 Wisconsin, stated that she agreed with her husband on this matter.

Richard Schwoerer, 1119 Wisconsin, stated that he agreed with the Bushmans', and noted that during the winter, both sides of the street were parked full. Mr. Schwoerer noted that he had to wait at Menasha Avenue until traffic eased up, and felt this was an

## PLAN COMMISSION MINUTES - 9/14/2011

unsafe intersection. Mr. Schwoerer noted that he moved to this property in 2005, and felt that the area was much busier today than when he moved to the area.

Mary Madison, 1634 Atlanta Circle, explained that she was the owner of “Mad About Music”, and noted that they had no intent of building a parking lot on their property as their property was too small. Ms. Madison also noted that they had no intention of constructing any storage buildings on their property.

Louise Trickel, 4944 Broadway, commented that as part owner of the business, they located this store in Manitowoc as they felt the community needed a music store. Ms. Trickel continued their business attracted only good kids, and added that she was aware of the parking in the area. Ms. Trickel stated that they were trying to get their teachers to park further from the business, but added that the teachers were also carrying large, heavy instruments. Ms. Trickel confirmed that vehicles not stopping at this intersection was a problem.

Ms. Madison referenced an auto accident she observed earlier today, and added that cars don’t stop. Ms. Madison added that at most, there were 4 teachers in their store on any particular afternoon.

Mr. Bushman noted that the issue wasn’t their clients, but whether or not the area could support the additional traffic. Mr. Bushman noted that he felt there was a more appropriate location for a business of this nature.

Mr. Schwoerer questioned if only the “Mad About Music” property was being rezoned, or if it was a larger area?

Mayor Nickels stated it was only the “Mad About Music” property.

Mr. Schwoerer continued that the problem was with Wisconsin Avenue, at N. 11<sup>th</sup> Street. Mr. Schwoerer explained that he had recently installed a new driveway approach, that is now full of black marks from vehicles turning around in his driveway.

Mr. Less stated that part of the area’s problem might be due to the 2 nonconforming businesses to the north.

Mr. Brey asked if a conditional use permit was an option for the business?

Mr. Less stated that it was not under the current “B-2” zoning regulations.

PLAN COMMISSION MINUTES - 9/14/2011

Mayor Nickels asked how many employees were at the business?

Ms. Madison replied that they had 7 employees plus 5 teachers, but not all present and working at the same time.

Mayor Nickels closed the public input portion of the meeting asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that they instruct the Clerk to call for a public hearing (October 17th), and if so inclined, to further recommend that Council adopt a rezoning ordinance upon completion of the public hearing.

Mr. Brey stated that his preference was to simply call for the public hearing, with the Commission to be afforded an opportunity for a final review of the record and to provide its recommendation to Council upon completion of the hearing.

Motion by: Mr. Brey \_\_\_\_\_ Seconded by: Ms. Stokes  
Moved that: the Commission approve \_\_\_\_\_ Upon Vote: the motion was  
the Planner's recommendation above, with \_\_\_\_\_ approved unanimously.  
the matter to be returned to the Commission  
for final review and recommendation upon  
completion of the Council public hearing.

V. REFERRALS FROM COMMON COUNCIL

- A. PC38-2009/PC13-2003/SP11-2009: Custer Ridge Holdings LLC/Custer Village LLC; Proposed Modification of Easements at Expo Drive and I-43 - Review of Correction Instrument

\_\_\_\_\_ Mr. Less explained that this matter would conclude a 2009 project at property located west of Expo Drive that involved the consolidation of multiple lots, and the modification of various easements in this area. Mr. Less noted that the "Correction Instrument" referred to the Commission was the final item to be addressed, and the CSM had been previously reviewed in August and approved by the Commission. Mr. Less recommended that the Commission: (i) recommend to Council approval of the "Correction Instrument"; (ii) that the Clerk contact the property owner or their agent to have them record the "Correction Instrument" document pursuant to Wis. Stat. § 236.295 with the cost of recording borne by the subdivider; and (iii) after recording, that the recording information be incorporated onto the CSM before it was recorded.

PLAN COMMISSION MINUTES - 9/14/2011

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

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B. PC30-2011: Eberhardt; Petition for Direct Annexation - North 8<sup>th</sup> Street No. 3

Mr. Braun explained the proposed annexation that is located north of the Woodridge Subdivision and identified the area to be annexed as a 13.2 acre parcel. Mr. Braun explained the steps that have occurred prior to tonight's meeting. On June 22, 2011 the Plan Commission and the owner's discussed the concept of the annexation; on August 3, 2011 the owner delivered the petition for direct annexation to the City Clerk's Department; the City Clerk sent copies of the petition to the Wisconsin Department of Administration, Town of Manitowoc, and the School District; on August 29, 2011 the City Clerk received a letter from the Wisconsin Department of Administration stating that the annexation was in the public interest and that the State doesn't have any concerns with the annexation.

Mr. Braun stated that the anticipated effective date for the annexation would be September 27, 2011 if the Common Council adopts the annexation ordinance and resolution.

Mr. Braun noted that the City is in possession of three quit claim deeds and public works petitions for Keegan Drive, N. 8<sup>th</sup> Street and an un-named east/west street. Mr. Braun recommended that the un-named street be called Homestead Road.

Mr. Braun explained the temporary zoning that will be affixed to the annexation area. The proposed zoning will be an extension of the existing zoning that is to the south in the Woodridge Subdivisions. The zoning classifications, from west to east will be "R-4" Single and Two Family Residential, "R-5" Low Density Multiple Family District, "P-1" Conservancy District, "R-2" Single Family District, "R-4" Single and Two Family Residential and "R-6" Multiple Family District.

Mr. Braun recommended that the Commission recommend that the Council accept the "Petition for Direct Annexation", and affix the temporary zoning onto the area as detailed above.

Motion by: Mr. Diedrich \_\_\_\_\_ Seconded by: Ms. Mellon

PLAN COMMISSION MINUTES - 9/14/2011

Moved that: the Commission approve \_\_\_\_\_ Upon Vote: the motion was  
the Deputy Planner's recommendation approved unanimously.  
above.

- C. PC1-2011: Eberhardt et al.; Quit Claim Deed to the City of Manitowoc for .25-Acres for N. 8<sup>th</sup> Street Purposes

Mr. Braun explained the above described Quit Claim Deed. Mr. Braun recommended that the Commission recommend Council approval of the Deed.

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

- D. PC1-2011: Eberhardt et al.; Quit Claim Deed to the City of Manitowoc for 3.90-Acres for an Unnamed East-West Street Purposes

Mr. Braun explained the above described Quit Claim Deed. Mr. Braun recommended that the Commission recommend Council approval of the Deed, and establish the official name of the R/W as "Homestead Road".

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

- E. PC1-2011: Eberhardt et al.; Quit Claim Deed to the City of Manitowoc for .23-Acres for Keegan Drive Purposes

Mr. Braun explained the above described Quit Claim Deed. Mr. Braun recommended that the Commission recommend Council approval of the Deed.

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

- F. PC7-2002/PC18-97/PC18-86: Lamar Outdoor Advertising/DeLite

PLAN COMMISSION MINUTES - 9/14/2011

Outdoor Advertising, Inc.; Request for Third Extension of 1997 Lease

Mr. Less explained that this discussion is in regards to the billboards on Waldo Boulevard, west of N. Rapids Road by virtue of a 1999 Assignment Agreement between Lamar and the City recorded in Volume 1342, Page 221. Lamar is the lessee under an "Outdoor Advertising Site Lease" (Lease) with the City, originally executed on August 4, 1997 recorded in Volume 1238, Page 105. Under the lease, the initial term is 5 years with an option to renew up to 3 additional 5 year terms. Lamar must provide written notice to the City at least 45 days prior to any expiring 5 year term. In 2006, Lamar extended the lease through 2011. On August 24<sup>th</sup> of this year the City received a letter from Lamar to extend the lease in regard to the third and final lease term.

Mr. Less made the following recommendation to the Plan Commission:

1) Recommend Council approve renewal #3 of the original Lease for 5 years commencing November 1, 2011 and expiring October 31, 2016;

2) All terms and conditions of the original Lease, Amendment No. 1 with an effective date of September 15, 2003 recorded in Volume 1907, Page 671 and any subsequent amendments related thereto, shall remain the same through October 31, 2016 unless further amended by the parties;

3) To make the Lease renewal effective, and upon approval of this report by Council, this report shall constitute a lease renewal agreement between the City as lessor and Lamar as lessee, with the lessee required to countersign, acknowledge and accept the Plan Commission report upon acceptance of the report by Council. Once countersigned, the lease renewal agreement shall be effective, and in full force and effect.

In addition to the recommendation Mr. Less noted he would place one additional note in the Plan Commission report making the Council aware that the easement granted by the City in 2006 to Lamar for extending utilities to the billboards recorded in Volume 2168, Page 451 and Amendment No. 1, recorded in Volume 2250, Page 269, includes a clause in its termination section in which the easement terminates automatically when the lease terminates.

Motion by: Mr. Diedrich

Moved that: the Commission approve the lease extension as presented.

Seconded by: Ms. Mellon

Upon Vote: the motion was approved unanimously.

PLAN COMMISSION MINUTES - 9/14/2011

G. PC42-2011/PC48-2003/PC57-2001/PC61-98: College Glen Developers LLP; Proposed Improvements at Silveridge Park in Silveridge Subdivision

Mr. Less stated that he forwarded an informational summary sheet to the commissioners and included Dan Wergin and Attorney Terry Fox, who are partners in the College Glen Developers, LLP; the developers of the Silveridge Subdivisions. Mr. Less stated that Mr. Wergin and Mr. Fox basically want Silveridge Park developed; the park is an important piece to the growth of the Silveridge area. Mr. Less stated that the owners are looking for a way to get the park development to move forward. The owners would be willing to provide \$10,000 to the City which would go toward playground equipment, they also wanted the ability to extend Twin Ponds Drive to the west in addition to some other conditions as stated in their letter.

Mr. Less said that he compared the current letter with the agreement that was entered into between the City and College Glen Developers in June of 2006 and tried to highlight the main issues in his summary which was emailed out to the commissioners earlier that day. The Commission asked Mr. Less to give his recommendation to stimulate the discussion and to determine the next step in the process. Mayor Nickels asked if the owners have seen the recommendations. Mr. Wergin stated yes, but mentioned there was some confusion regarding the maintenance of the median area in Crossing Meadows Drive.

Mr. Wergin stated that the June 2006 agreement stated that the City would maintain the median that is located in Crossing Meadows Drive but the rest of the entry way/common area he is referring to in their letter is the area on both sides of the median including the area around the ponds, the berm and the other landscaped areas in the subdivision. Mr. Less stated he misread the letter and thought the letter was referring to only the median in Crossing Meadows Drive not all the other areas. Mr. Wergin questioned who will maintain these areas when the subdivision is fully developed in the future and felt the City is the only entity able to do so.

Discussion was held regarding the exact location of the property lines in relation to the common areas. Mr. Wergin said that the original agreement with the City stated that the City would provide the owners with a plan as to how the park area would be developed within 2 years of the park area being dedicated; the agreement was signed in 2006 and a plan was never provided within that 2 year time period.

Mr. Wergin said their offer is to grade and seed the park area and then they would expect the City would maintain the park area; he also mentioned that they would like the City to maintain the other common areas in the Silveridge Subdivision area.

PLAN COMMISSION MINUTES - 9/14/2011

Mr. Less reiterated that he misunderstood the owners request regarding the maintenance of the median and common area. He thought the request for maintenance was only for the median area within the Crossing Meadows Drive right-of-way. Mr. Less stated he will be gone for the next 3 weeks and that this issue will need to be discussed further at the October Plan Commission meeting. In the interim some additional mapping will be compiled by the Planning Department and City staff will meet with Mr. Wergin in the field prior to October's Commission meeting.

Steve Lauson, 4541 Harvest Circle, stated that it is difficult to sell the subdivision lots when potential buyers see the "Future Park" sign and ask when the park will be developed and the owners don't have an answer.

Mayor Nickels stated that he currently has the development of the park budgeted for 2014 in the 5 year budget plan.

Additional discussion was held and it was decided that Mr. Wergin would meet in the field with staff from the Planning and Parks Departments prior to the October Plan Commission meeting. No formal action was needed by the Plan Commission.

H. PC1-2011: Holiday House of Manitowoc County, Inc.; Permanent Easement for .002-Acres on Meadow Lane

\_\_\_\_\_ Mr. Less explained the proposed easement described above. Mr. Less recommended that the Commission recommend that the Council approve and record the easement.

Motion by: Mr. Diedrich

Seconded by: Mr. Brey

Moved that: the Commission recommend Council acceptance of the Planner's recommendation above.

Upon Vote: the motion was approved unanimously.

I. PC1-2011: Matthias and Charlotte Wagner; Permanent Easement for .03-Acres for Storm Sewer Purposes on So. 36<sup>th</sup> Street

Mr. Less explained the proposed easement described above. Mr. Less recommended that the Commission recommend that the Council approve and record the easement.

PLAN COMMISSION MINUTES - 9/14/2011

Motion by: Mr. Diedrich

Moved that: the Commission recommend Council acceptance of the Planner's recommendation above.

Seconded by: Mr. Brey

Upon Vote: the motion was approved unanimously.

VI. OLD BUSINESS

- A. PC49-2010: Saunders; Request for Special Permit Under Section 15.43(11) for Creation of a Parking Lot in a Residential Zoning District - 1205 So. 13<sup>th</sup> / Lot 3, Block 314, Original Plat - Request for Modification of Special Permit

Mr. Less explained that the discussion is just an update on the status of a special permit that was issued to the Saunders' regarding the creation of a parking lot in a residential zoning district; the special permit stated that the parking lot must be completed by November 15, 2011. The owners were in the Planning Department two weeks ago and informed the staff that they will not be able to complete the project by the November deadline date. Subsequent to that discussion the Saunders formally submitted to Council a request to modify the special permit. After referral from the Council the issue will be placed on the October Plan Commission agenda to discuss extending the special permit into 2012.

Mr. Braun stated that the neighbors in the area are concerned because the house was razed and there hasn't been any progress in constructing the parking lot. Mr. Braun also stated that he talked with Kevin Madsen, from Madsen Excavating; Mr. Madsen mentioned that he will backfill, grade and gravel the lot this year and that another contractor will asphalt and landscape the lot next year. Mr. Braun said he drove past the site in the morning and saw that the backfilling, grading and graveling was roughed in.

No action was taken and the item will be discussed at the October Commission meeting.

VII. NEW BUSINESS

- A. None

PLAN COMMISSION MINUTES - 9/14/2011

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Eberhardt; 3 Proposed CSMs in the SW¼ of NW¼, and the SE 1/4 of NW 1/4 Sec. 8, T.19N., R.24E., City of Manitowoc

Mr. Braun explained that there are 3 separate CSMs that will need to be approved all of which are part of the N. 8<sup>th</sup> Street Annexation project that was discussed earlier in the meeting. The CSMs are located east of N. 8<sup>th</sup> Street and north of the Woodridge Subdivisions. The CSMs technically cannot be signed by the City until the proposed annexation area is officially in the city limits.

Mr. Braun explained that the first CSM will create 3 lots of record; lot 1 will be 5.35 acres, lot 2 will be 1.70 acres and lot 3 will be 1.58 acres. After the 3 lots are created the owner will then transfer the 5.35 acre lot to a new ownership entity. The second CSM will then split the 5.35 acre lot into 4 additional CSM lots; lot 1.1 will be 1.72 acres, lot 1.2 will be 2.18 acres, lot 1.3 will be 0.48 acres and lot 1.4 will be 0.97 acres. The third CSM will split the 1.70 acre lot into 3 additional lots; lot 2.1 will be 0.33 acres, lot 2.2 will be 0.65 acres and lot 2.3 will be 0.72 acres.

Mr. Braun stated that the CSMs will show all the necessary easements; he also noted that there will be a 30' sanitary sewer easement shown on the CSMs. The sanitary easement would be located on proposed lot 1.2 which is west of Indian Creek and is an extension of an existing 30' sanitary sewer easement to the south. Mr. Braun concluded his comments and recommended that the Plan Commission approve the 3 CSMs as presented.

Motion by: Ms. Stokes

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

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

2. Dewey Properties, LLC; Proposed CSM Being Redivision of Lot

PLAN COMMISSION MINUTES - 9/14/2011

24-1BA of CSM Rec. V. 26, P. 33, Located in NE¼ of Sec. 35,  
T.19N., R23E., City of Manitowoc

Mr. Braun explained a proposed CSM located east of S. Rapids Road and north of Calumet Avenue being located in the Harbor Town Center development. The CSM would subdivide existing Lot 24-1BAD that is recorded in Volume 27, Page 143 and a parcel of land Dewey Properties, LLC acquired from the State Department of Transportation which was former right-of-way. The CSM would create two lots, the eastern lot being 1.014 acres and the western lot being 3.057 acres.

Mr. Braun noted that the 1.014 acre lot would be sold and the buyer would construct a restaurant on the site. All required easements would be shown on the CSM as needed. Mr. Braun recommended that the Plan Commission approve the CSM as presented.

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 stated above.

Upon Vote: the motion was approved unanimously.

C. Summary of Site Plans 8/4/2011 - 9/7/2011:

1. 1. SP8-2011: Coldwell Banker, 935 So. 25<sup>th</sup> - Parking Lot Addition (approved).
2. 2. SP9-2011: Keith Laurent, 812 State - New Garage (approved).
3. 3. SP10-2011: Wafco, LLC, 828 So. 16<sup>th</sup> - Building Addition and Storage Yard (approved).

IX. ADJOURNMENT

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

Respectfully Submitted,

PLAN COMMISSION MINUTES - 9/14/2011

Paul Braun  
Deputy City Planner