

PLAN COMMISSION MINUTES - 1/11/2012

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
January 11, 2012
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

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

Members Excused

None

Staff Present

David Less
Paul Braun
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular December 14, 2011 Meeting.

Motion by: Mr. Diedrich _____

Seconded by: Ms. Stokes

Moved that: the minutes be approved as presented.

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

- A. PC4-2012: Popp/Wenzel; Request to Rezone Property at 1919 E. Spruce Drive from "I-1" Light Industrial District to "R-4" Single and Two Family District Pursuant to Section 15.150(2)(a) of the Manitowoc Municipal Code

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Mr. Less explained that this was a joint request from Donald Popp as the contract purchaser, and Richard Wenzel as the “agent” under a Durable Power of Attorney for the property owner, Ann Wenzel, regarding property located north of “Assessor’s Plat No. 2 of the Town of Manitowoc”, and east of Spruce Drive extended. Mr. Less noted that the request was to rezone the property from its existing “I-1” Light Industrial District to an “R-4” Single and Two Family Residential District pursuant to Section 15.150(2)(a) of the City’s Municipal Code, which would allow for the legal land usage of the property as a principal residence for the buyer, and would eliminate a nonconforming land use. Mr. Less noted that the reference in the request to “E. Spruce Drive” was not correct, and should have been “Spruce Drive”.

Mr. Less stated that the area proposed for rezoning was identified as Tract 2 of a CSM Recorded in V. 11 in Certified Survey Maps at P. 25, and was further identified as tax parcel #809-404-030. Mr. Less continued that this parcel was acquired by Helmuth Wenzel and Ann Wenzel between 1946 and 1953, with the current ownership of the property in the name of Ann A. Wenzel by virtue of the death of her husband back in 1984. Mr. Less added that Richard Wenzel, as co-petitioner was also identified as the “agent” under a “General Durable Power of Attorney” document executed in June, 1997. Mr. Less then noted that Donald and Kerri Popp were the contract purchasers of the property, adding that the parties had executed an Offer to Purchase which included a closing date on or before February 24, 2012, and also included financing, appraisal and other contingencies including securing an easement from the City for the extension of utilities to the property. Mr. Less noted that the parcel had a total valuation of \$125,100 according to the City Assessor records, and generated approximately \$2,500 in annual real estate taxes.

Mr. Less continued that the property and current owner of record, Ann Wenzel, were the recipient of a “Temporary Access Easement Agreement over Unopened Street” in 1986 from the City, which provided a grant limited to vehicular travel only over a 20’ strip of City-owned property. Mr. Less noted that at the time of issuance, the City agreed to not require the dwelling that was occupied by Ann Wenzel to be connected to the City’s sewer system upon annexation, because the City sewer system was not reasonably accessible to her property; utilities being located in both Spruce Drive (sanitary, storm and water) and Woodland Drive (sanitary, storm and water), the latter of which were owned by the City of Two Rivers. Mr. Less continued that the City also agreed in 1986 that as her current septic system did not pose a health hazard, she would not be required to connect to the City’s sewer system unless it was made more reasonably available to her home. Mr. Less noted that the subject property was included in an annexation into the City back in 1988, and that the authorization for extending utilities was now part of the Offer to Purchase.

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Mr. Less then explained that back in November, 2011, the City agreed to amend the 1986 Agreement to expand the rights under the easement for the extension of utilities to service the property. Mr. Less added that at present, vehicular access to the subject parcel was from Spruce Drive, water and sewer would come from Spruce Drive, and while the official frontage (upon a public R/W) appeared to be Woodland Drive, there was no driveway or visible access to Woodland Drive. Mr. Less continued that at present, it appeared that: (i) regarding sanitary sewer, it extended beyond the extent of Spruce Drive north to the Canadian National Railroad trackage; (ii) regarding storm sewer and water, it was in Spruce Drive and ended at the south line of the 20' wide City-owned strip to the south of the subject parcel; and (iii) regarding electric service, it was located in the 20' wide City-owned strip to the south of the subject parcel, and served essentially the residential development to the south.

Mr. Less continued that by virtue of recent action of the Streets Committee, the current owner was also being required to dedicate a portion of the lot for Spruce Drive purposes, and that by action of the Board of Public Works on October 26, 2011, the owner would be charged a connection fee equal to \$24 per foot along the 310' west frontage to connect to City sanitary sewer.

Mr. Less noted that the Wenzel property was a flag lot located to the north of the section line, and in total measured 175,430sf or 4.03-acres. Mr. Less explained that the area included in the rezoning measured slightly less, or 3.93-acres, as it excluded a tail extending and connecting to Woodland Drive measuring 20' x 220' in length. Mr. Less then advised that the Wenzel parcel in its entirety measured 1,313' along its south line to the current west R/W line of Woodland Drive (or 1273' if measured to the Official Map R/W); 520' along its north side; 310' along its west side; and 290' along its east side. Mr. Less stated that the 20' wide strip of land to the south of the Wenzel parcel was owned by the City, and detailed that the rezoning area was comprised of:

1. An area not quite a rectangle that measured approximately 520' along its north line, 507' along its south line, 310' along its west side, and approximately 290' along its east line (an area measuring approximately 3.54-acres); plus
2. A tail measuring approximately 561' x 30' or .39-acres that extended to the west line of an existing parcel identified as tax parcel #809-404-040.

Mr. Less continued that the property contained a 1.5 story, 1,916sf frame home built in approximately 1887, plus various run down out buildings including a 1-car

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garage, a 2-story barn and a small wood shed. Mr. Less noted that access into the property was via Spruce Drive, which dead ended just to the north of E. Ivy Lane and just to the south of the section line. Mr. Less continued that at that point, access into the parcel was from a dirt road along with a hand made directional sign that directed traffic to the homestead.

Mr. Less then explained permitted land uses under the existing "I-1" zoning district, noting that the current usage as residential was nonconforming. Mr. Less noted that within the current "I-1" zoning, permitted uses included light manufacturing, retail and commercial uses, and conditionally permitted uses included recycling facilities, bulk storage of various materials, and small wind energy systems. Mr. Less continued that under the proposed "R-4" zoning district, single and two family residential, along with community living arrangements and day care centers for not more than 8 individuals were permitted uses, and conditionally permitted uses included churches, schools, private clubs and lodges, homes for the elderly, and community living arrangements for 9 or more individuals.

Mr. Less then explained the zoning and land uses surrounding the subject parcel, and then in closing, stated that the proposed rezoning was not consistent with the City's 2009 20-year land use map as part of the Comprehensive Plan, only in that it identified the subject parcel as being "office/industrial" which was listed as a non-residential land use category. Mr. Less added that, however, considering the surrounding land uses and the subject property itself, a better use for the site was as residential, and as a buffer between residential to the south and the vacant Metal Ware Corporation property to the north. Mr. Less continued that Chapter 9 of the Comprehensive Plan addressed "Implementation", which, while stating that zoning map amendments should be consistent with the recommendations in the plan, gave deference to the City, as the precise location of zoning district boundaries may vary, as judged appropriate by the Plan Commission and Common Council. Continuing, Mr. Less noted that while the City's comprehensive plan was adopted by the Council in December, 2009, it was not until later in 2010 that the State approved changes to the "smart growth" law, attempting to define the term "consistent", which they did in a tautological way and which was to serve as a milk toast offering to determine if a land use was consistent or not. Mr. Less noted that the change to the law defined "consistent" to mean "furthers or does not contradict the objectives, goals and policies contained in the comprehensive plan".

Mr. Less then added that the plan section detailing land use goals included the general policies to: (i) actively promote infill development, adaptive reuse and redevelopment of blighted and/or brownfield sites, where opportunities existed as a means to improve neighborhood conditions; and (ii) ensure logical transitions between

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potential incompatible land uses. Mr. Less concluded that his recommendation was that the Commission find the proposed rezoning to residential to be in the best interest of the City, and therefore consistent with the current Comprehensive Plan, and that this finding be advanced to the Council for their consideration and affirmation.

Mr. Less then noted that regarding tonight's informational hearing, notices were mailed to property owners within 200' of the subject parcel inviting them to attend. Mr. Less advised that they did receive a phone call from WCUB and they were not opposed to the rezoning, and that there were no other contacts made in response to the mailing.

Donald Popp, 819 N. 13th, explained that he was the contract purchaser of the property, and was looking to take this vacant property, and turn it into something of more value. Mr. Popp added that they would make this homestead into their home.

There was no other public comment.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission instruct the Clerk to call for public hearing (February 6th), and provide a final recommendation of approval, upon completion of the hearing.

Motion by: Mr. Brey

Seconded by: Ms. Stokes

Moved that: the Commission approve the Planner's recommendation above.

Upon Vote: the motion was approved unanimously.

V. REFERRALS FROM COMMON COUNCIL

A. None

VI. OLD BUSINESS

A. None

VII. NEW BUSINESS

A. PC2-2012: Annual Review of Community Living Arrangements (CLA's)

Mr. Less noted that he had sent to Commission members the information and demographic profile of CLA's in the City as of the end of 2011. Mr. Less noted that

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there were no issues identified. Mr. Less noted that while the number of facilities has remained constant over the years, the overall capacity has increased over time. Mr. Less recommended that the Commission recommend to Council approval of the licenses for the CLA's.

Motion by: Mr. Hornung

Seconded by: Ms. Stokes

Moved that: the Commission approve the Planner's recommendation above.

Upon Vote: the motion was approved unanimously.

B. PC51-2011: Kapitz; Request to Purchase City-Owned Land at 35th and Division Street

Mr. Less explained that this was a request of Alderman Al Schema on behalf of George Kapitz asking for the City to consider the rezoning and sale of City-owned property to Mr. Kapitz on Division Street, east of So. 35th Street. Mr. Less detailed the land use and ownership in this area, noting that Mr. Kapitz owned the property at the southeast corner of Division and So. 35th which was currently zoned "R-4", Single and Two Family Residential District. Mr. Less added that no rezoning was needed based on the surrounding zoning in this area.

Mr. Less then went on to explain that the City-owned parcel in question was located immediately east of the Kapitz property, and measured 60' x 126', and was in fact, dedicated to the City as public right-of-way (R/W) for So. 34th Street purposes back in 1981. Mr. Less continued that as such, it could not be sold, and would only be available for sale if successfully vacated. Mr. Less added that it was also zoned "R-4", and that immediately to the east of the City property was a duplex (also zoned "R-4") at 3445 Division. Mr. Less explained that an attached garage at the south end of the duplex was accessed via a driveway that was constructed pursuant to a "Temporary Street Turnaround Easement" granted by the City to the former owner, Glenn Cornelius in 1991 for usage of the east 30' of the So. 34th Street R/W. Mr. Less then explained the existing Official Map pattern in this area with So. 34th Street extending south to just south of the north property line for Northwinds Apartments, and that this extension provided access should property owners on So. 35th ever choose to divide their east-west running lots. Mr. Less explained that back in 1990, the City's Official Map was amended by modifying So. 34th Street to its current cul-de-sac pattern, and at the same time, the area of future R/W that would have connected So. 34th to Southbrook Court (Fieldcrest Manor) was eliminated from the Official Map. Mr. Less added that this was all done as part of a conscious process involving the various property owners in this area, and noted that the ability to just sell the property was not present.

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Mr. Diedrich commented that he would be concerned that some economic harm might be done to the property owners to the south of Mr. Kapitz if the Official Map pattern was eliminated in this area.

Mr. Less outlined the options as he saw it, and recommended to the Commission that it recommend to Council that the Official Map pattern in this area should be preserved and not modified, and that the request from Alderman Schema on behalf of Mr. Kapitz be placed on file with no further action to be taken.

Mr. Brey asked if the access rights granted to the duplex to the east would still have access to their property if So. 34th Street was extended south and cul-de-saced.

Mr. Less stated that the owner to the east would always have access to the southern portion of their property.

Mr. Alpert asked if Mr. Kapitz would be provided an explanation of the Commission's position on this matter?

Mr. Brey commented that he agreed with Mr. Less' assessment, and would explain this situation at the Council meeting. Mr. Brey credited Mr. Kapitz with thinking outside the box.

Motion by: Mr. Hornung

Seconded by: Mr. Muenzenmeyer

Moved that: the Commission approve the Planner's recommendation above.

Upon Vote: the motion was approved unanimously.

- C. PC3-2012: Sign Me Up/Gutman; Proposed On-Premise, Fixed Animated Sign at 3624 Calumet Pursuant to Section 15.450(18) of Manitowoc Municipal Code

Mr. Less explained that while he had prepared a recommendation that was forwarded to the Commission to deny the request, the sign company had requested that the matter be deferred until the February Commission meeting.

Commission members agreed, and no action was taken.

- D. PC6-2012: Sign Me Up/Balance on Buffalo, LLC; Proposed Fixed Animated Billboard at 924 Buffalo Street Pursuant to Section 15.450(18) of Manitowoc Municipal Code

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Mr. Less explained that he had prepared a recommendation that was forwarded to the Commission on this matter to approve the request, and noted that this was a proposal to convert an existing, non-animated, wall mounted billboard, to an animated, wall-mounted billboard on the north wall of the property at 924 Buffalo (at N. 10th Street). Mr. Less reviewed his written write up and recommendation with the Commission, and recommended that the Commission approve the request, subject to compliance with the following:

1. Authorize issuance of the special permit, with the precise location of the billboard on the north side of the building at 924 Buffalo, with the existing billboard to be removed. The location of the animated billboard to be substantially the same as the current billboard location, with the location to be confirmed to satisfaction of the Building Inspection Department.
2. Provide the City Planner with a copy of: (i) an un-redacted "Lease Agreement" for installation of a new animated billboard with all terms and conditions disclosed; and (ii) a copy of the 2001 lease agreement with DeLite Outdoor for the existing non-animated billboard.
3. The property owner and sign company to execute an indemnification agreement with the City to defend and hold harmless the City from any third party claims related to the existing and proposed billboard structures.
4. The Building Inspection Department is authorized to issue a sign permit, subject to conditions specified herein, as well as compliance with all relevant sections of 15.450.
5. This authorization for a special permit expires and terminates at the end of the 180th consecutive calendar day from the date of approval by the Commission. If all of the above stated conditions are not completed to City satisfaction by July 7, 2012, this Special Permit would terminate on July 8, 2012, and all rights hereunder extinguished.

Mr. Muenzenmeyer asked Mr. Less if he was going to accept the offer from the sign company for funding for landscaping?

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Mr. Less replied that the sign ordinance, as written, would not require a landscaping plan for a wall mounted sign of this nature, but would make the sign company aware that the Commission would be receptive to a donation of funds outside the scope of the Special Permit for landscaping if the company was so inclined.

Motion by: Mr. Diedrich

Seconded by: Mr. Alpert

Moved that: the Commission approve the Planner's recommendation above.

Upon Vote: the motion was approved unanimously.

E. PC5-2012: City of Manitowoc; Vacation and Official Map Amendment at Clay Pit Road

Mr. Braun explained the lay of the land in the area of Clay Pit Road north of Riverview Drive, and noted that this discussion also covered a proposed Certified Survey Map identified under VIII.B.1. of this agenda.

Mr. Braun then provided a more detailed explanation of what was existing and proposed for this area, noting that it was more specifically related to Clay Pit Road R/W and the area of a new storm water pond recently constructed by the City. Regarding this area, Mr. Braun noted the following: (i) the subject area was located at the end of Clay Pit Road, just west of the Chiefs clubhouse; (ii) the City's storm water pond overlapped into multiple parcels of property and encroached into the existing public R/W; (iii) there was a portion of Clay Pit Road R/W that was not used, and should be vacated and removed from the City's Official Map; and (iv) the City should dedicate additional R/W to itself for Clay Pit Road purposes so as to attain a full width R/W for Clay Pit Road.

Mr. Braun continued that if all these changes occurred, the CSM would not be signed and recorded until the processes outlined above had been completed. Mr. Braun added that the principal objective of this effort was to place the existing storm water pond, which was invasive into 3 parcels of land, onto a single tract of land as was detailed on the proposed CSM. Mr. Braun noted that he had reviewed the City's lease with the Chiefs organization, and did not see any complications and noted that the lease was silent on this type of matter.

Mr. Braun then recommended that the Commission approve the CSM as presented (see VIII.B. below), and further recommend to Council that they: (i) authorize the City Attorney's office to prepare a "Declaration of Dedication for the portion of City-owned lands that would become Clay Pit Road R/W, and to prepare the associated conveyance deed; and (ii) authorize the Planning Department to move forward with a City-initiated vacation and Official Map amendment.

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Motion by: Mr. Diedrich

Moved that: the Commission approve the Planner's recommendation above regarding a Declaration of Dedication.

Seconded by: Ms. Mellon

Upon Vote: the motion was approved unanimously.

Motion by: Ms. Stokes

Moved that: the Commission approve the Planner's recommendation above regarding a City-initiated vacation and amendment to the Official Map.

Seconded by: Mr. Diedrich

Upon Vote: the motion was approved unanimously.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. City of Manitowoc; Proposed CSM Being a Re-Survey of Tracts "B" and "C" of CSM Rec. V. 1, P. 149, Plus Additional Land, all Located in NE¼ of the SE¼ Sec. 24, T.19N., R.23E., and W½ of SW¼, Sec. 19, T.19N., R.24E., City of Manitowoc

See discussion of proposed CSM under Section VII. E. of these minutes.

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. Diedrich

Upon Vote: the motion was approved unanimously.

2. Matthias: Proposed CSM Being a Re-Survey of Tract 3 of CSM recorded in Volume 29, Page 5 in Government Lot 1, Section 18, T.19N., R.23E., Town of Manitowoc Rapids, Manitowoc County

Mr. Braun explained a proposed lot split for a site located approximately 2 miles west of the City, and located on the west side of North Union Road and north of CTH "JJ". Mr. Braun noted that the owner wanted to split their lot to create 2 additional lots

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for sale, and that Manitowoc County had previously issued a variance to the owner to accomplish this task back in 2002. Mr. Braun added that he would require identification of the Official Map on to the CSM for North Union Road.

Motion by: Mr. Diedrich

Seconded by: Mr. Hornung

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.

Mr. Diedrich commented that he liked the manner in which Mr. Braun prepared his CSM discussions and recommendations, and suggested that the Commission have a discussion regarding how to more streamline the CSM approval process. Mr. Diedrich asked if there was a better way to have staff approve CSM's without having them come to the Commission for approval. Mr. Diedrich suggested that it might be time to consider a change to this process.

Mr. Less explained that his preference was to keep the CSM's on the agenda so that there was a history of these discussions and approvals.

Mr. Hornung commented that staff could make the determination as to whether or not a CSM needed to be presented to the Commission for review and approval. Mr. Hornung noted that some of these were no-brainers.

Mr. Diedrich stated that he was very comfortable with staff competencies in this area.

Mr. Less stated that the contributions from the Commission was often times invaluable in these discussions, and was concerned with losing opportunities for that dialogue to occur. Mr. Less added that while he appreciated the commentary, he felt there were good eyes around the table.

Additional discussion was held. Commission members asked that this matter be placed on to the February agenda..

Mr. Diedrich then referenced the animated sign requests, and felt that approval of these signs could follow a similar protocol to the CSM discussion above.

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Mr. Less noted that with the new re-organizational structure in City Hall, he was concerned with the diminution of staff in the building, and losing the Commission's review of these matters and insight.

Mayor Nickels asked that these items be placed on the February agenda for discussion.

No action was taken.

C. Summary of Site Plans 12/9/2011 - 1/4/2012:

1. None

IX. ADJOURNMENT

The meeting was adjourned at 7:10 P.M.

Respectfully Submitted,

David Less
City Planner