

PLAN COMMISSION MINUTES - 8/15/2012

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
August 15, 2012
6:30 P.M.

I. CALL TO ORDER

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

II. ROLL CALL

Members Present

David Diedrich
Jim Muenzenmeyer
Steve Alpert
Jim Brey
Val Mellon

Members Excused

Justin Nickels
Dan Hornung
Maureen Stokes

Staff Present

David Less
Paul Braun

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular July 11, 2012 Meeting.

Motion by: Mr. Diedrich

Moved that: the minutes be approved as presented.

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

A. None.

V. REFERRALS FROM COMMON COUNCIL

A. PC28-2012: Gags; Request to Acquire City-Owned Property at Cleveland Avenue and Hawthorne Terrace - Review Pursuant to Wis. Stat. § 62.23(5)

Mr. Less explained that this was a request from Gustavo and Tammi Gags, 815

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Hawthorne Terrace, regarding a request to purchase a City-owned parcel of property (Tax No. 681-001-010) to the south of their residence, and which was located at the corner of Cleveland Avenue and Hawthorne Terrace. Mr. Less added that the review of this property was being conducted pursuant to Wis. Stat. § 62.23(5). Mr. Less stated that he supported the sale of this parcel, but noted that the City Assessor would have to determine the value of this parcel, and that the terms of sale were not part of tonight's consideration.

Mr. Less described the City-owned parcel as being vacant, and measuring 134' of frontage on Cleveland Avenue, and 118' along Hawthorne Terrace, or approximately 6,356sf in area. Mr. Less added that it was a corner lot, and was zoned "R-3" Single-Family District. Mr. Less noted that the City acquired title to this parcel back in 1981, and added that it didn't appear to have any impact upon the City's Official Map. Mr. Less noted again that the City Assessor would have to establish a value for the parcel, which would then be part of the negotiation for the land that was being handled by the City Attorney's office.

Ms. Mellon did note that in her 5½ years, she was not aware of any traffic problems or issues at this 5-legged intersection, but added that it might be wise to reserve the City's right to own a portion of the parcel for future R/W should a turn lane ever be needed.

Mr. Less asked Ms. Mellon to identify what she felt was needed, and this item could be included in the Commission's recommendation to Council.

Mr. Brey asked if this would change the setback requirements for the parcel? Mr. Brey added that in his initial conversation with the Gags, it was his understanding that they wanted to construct a garage.

Mr. Less noted that he did not have any idea where the Gags proposed garage structure would be built, but felt the garage would be closer to the home at the north end of the property.

Mr. Muenzenmeyer stated that he felt a R/W reservation would take up a good chunk of the City-owned property.

Mr. Less suggested that Ms. Mellon coordinate with the Assistant City Attorney on this matter.

Mr. Diedrich commented that he thought this was a great point, but asked what mechanism was in place if setbacks became an issue in the future?

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Mr. Less again stated that he didn't know where the proposed improvement would be located.

Mr. Brey commented that he wanted to sell the property, and while he appreciating Ms. Mellon's comments, did not want Ms. Mellon's item to be a deal breaker. Mr. Brey added that he was in favor of selling this property, but would not support the R/W discussion if it was going to be problematic and could jeopardize the sale. Mr. Brey continued that his position was that if the Gags didn't like the R/W consideration, then that R/W item would be dropped from the negotiation.

Mr. Less recommended that the Commission recommend to Council that as the attorney's office had been previously directed by Council to negotiate the sale of the property to the Gags, the City Engineer be consulted as part of the negotiation to determine the need for, and a mechanism to allow for the City to retain or re-purchase a portion of the property, in the event additional R/W was needed in the future.

Motion by: Mr. Diedrich

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

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

B. PC12-2012: City of Manitowoc; Declaration of Dedication - Clay Pit Road

Mr. Less explained that the Declaration of Dedication was a public notification that the City would be dedicating its land for public R/W. Mr. Less noted that this was related to the recently completed vacation proceeding and associated Official Map amendment related to Clay Pit Road.

Motion by: Mr. Diedrich

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

Seconded by: Ms. Mellon

Upon Vote: the motion was approved unanimously.

VI. OLD BUSINESS

A. PC25-2012: Kummer, Lambert, Fox/Tower Tavern Real Estate, LLC.; Request for Fixed Animated Sign at 602 N. Water Pursuant to Section 15.450(18) of Manitowoc Municipal Code

Mr. Less explained that this item was a continuation of a discussion from last month's meeting regarding a proposed animated sign on the north wall of the Tower Tavern, 602 N. Water Street. Mr. Less explained that the revised proposal called for the

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construction of a fixed, wall mounted, single faced, animated sign, and the concurrent removal of an existing “Tower Tavern” vertical sign on the north wall of the property. Mr. Less detailed the logic of his recommendation to approve the request, with the express understanding that the petitioner would have filed with staff, a bonafide sign design that met the Municipal Code (Code), and which was provided from an actual sign company and included the sign and animation specifications. Mr. Less continued that if approved by staff, there would be no further need to have this item before the Commission in the future. Mr. Less explained that he had sent this recommendation to Attorney Terence Fox in advance of tonight’s meeting, and he understood what was going on.

Mr. Less then recommended that the Commission approve and authorize the issuance of a Special Permit for a fixed, animated wall sign at the location specified, subject to the conditions as presented, including approval of a final design for the sign that met Code, plus overall compliance with Section 15.450 of the Code.

Motion by: Mr. Muenzenmeyer
Moved that: the Commission approve the Planner’s recommendation above.

Seconded by: Mr. Diedrich
Upon Vote: the motion was approved unanimously.

- B. PC49-2006: LVR Properties, LLC/Larry’s Hauling, Inc; Request for Extension of 2006 Conditional Use Permit (CUP) Under Section 15.35(3)26. for Operation of a Recycling Facility at 901 So. 17th Street - Annual Compliance Review

Mr. Less then provided an overview of the status of the previously issued 2006 CUP issued to Larry Van Akkeren d/b/a Larry’s Hauling for a recycling operation at 901 So. 17th Street. Mr. Less advised the Commission that he had previously received summary notes from a meeting back on October 26, 2011 that the recycling operation had terminated prior to the end of 2011. Mr. Less added that as such, the CUP was no longer valid.

Mr. Less recommended that the Commission recommend to Council that the 2006 CUP, and any extensions or modifications related thereto, for the property at 901 So. 17th be officially terminated in accordance with Section “G.1.” of the CUP, effective August 20, 2012 and with no further action required.

Motion by: Mr. Diedrich
Moved that: the Commission approve the Planner’s recommendation above.

Seconded by: Mr. Alpert
Upon Vote: the motion was approved unanimously.

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Mr. Less advised that Mr. Wetenkemp, as the property owner, had been invited to tonight's meeting, and was aware of the pending action.

- C. PC43-2009: Spencer's Total Auto Repair & Towing LLC/Kerscher & Bucha /Ruzek, Inc.; Request for a Conditional Use Permit (CUP) Under Section 15.27(3)1. for a Wrecker Service Business as Part of Ruzek's, Inc. Vehicle Repair Business at 734 N. 8th - Annual Compliance Review

Mr. Less explained that this was the annual compliance review for this CUP, which was being conducted in accordance with the September, 2009 CUP originally issued to Ruzek, Inc., and which was subsequently assigned in November, 2009 to Dwayne Radaj d/b/a Spencer's Total Auto Repair & Towing LLC, for the operation of a motor vehicle wrecker service as part of a vehicle repair business at 734 N. 8th Street. Mr. Less explained the compliance review process.

Mr. Less stated that he had outreached to the Police Chief and Building Inspector to check their files for any complaints over the past year related to the operation, and that none were identified. Mr. Less did share with the Commission a letter from Terry Hayes, formerly of 731 N. 8th, who expressed his frustration with the CUP process, and the conduct of the business owner/operator. Mr. Less ended his comments by noting that as nothing was provided to him by the Police or Building Inspection departments, there seemed little basis to attempt to revoke this CUP, and as such, recommended that the Commission recommend to Council that as the compliance review produced no negative findings or material disclosures related to the Spencer operation, the CUP should not be modified, amended or revoked.

Ms. Mellon commented that she did some outreach on this project, and did not have any problems with such items as snow removal and weed control.

Mr. Diedrich asked if Mr. Hayes' letter was sour grapes?

Mr. Less felt it was a matter of incompatible land uses and personalities.

Mr. Brey commented that regarding Mr. Hayes' complaint, he recalled the subject property being a gasoline or service station well before he purchased his property. Mr. Brey stated that this was a matter of knowing your surroundings before purchasing property.

Mr. Muenzenmeyer commented that he felt this was a case of incompatible neighbors.

Motion by: Mr. Muenzenmeyer
Moved that: the Commission approve

Seconded by: Ms. Mellon
Upon Vote: the motion was

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the Planner's recommendation above. approved unanimously.

D PC17-2012/PC44-2011: City of Manitowoc; Proposed Ordinance Changes to Chapters 3, 14, 15 and 21, Manitowoc Municipal Code

Mr. Less explained the contents of the proposed ordinance that would make a variety of changes to various chapters of the Municipal Code (Code). Mr. Less noted that this was the same ordinance draft reviewed by the Commission in April, except that the re-draft incorporated the Commission's comments made at that time into the document. Mr. Less continued that he further simplified this version of the ordinance, first, by removing the detail related to commercial and community gardens in the City, and secondly, by simplifying the regulations for vacant lot residential gardens. Mr. Less then provided Commission members with a summary of the proposed changes in the ordinance, and the zoning districts in which certain land uses would be permitted and/or conditionally permitted.

Ms. Mellon commented that for the vacant lot gardens, she was concerned with conflicting text regarding the ability to sell on-site.

Mr. Less commented that the sale of product on-site was limited under the definition of a vacant lot residential garden, and noted that the intent was for these uses to not become centers of commercial enterprises.

Mr. Diedrich identified in the ordinance where the ability to sell was limited to what was grown on-site, and that no processing was allowed on-site. Mr. Diedrich then motioned to move the ordinance to Council for public hearing, and final approval.

Ms. Mellon continued that an additional concern was how the new vacant lot residential garden provisions would be reconciled with the City's weed ordinance.

Mr. Less replied that regarding the weed ordinance, he would draft language to clarify when the weed ordinance would become relevant. Mr. Less then recommended that the Commission recommend that Council instruct the City Clerk to call for a public hearing on the proposed ordinance, and that the Commission recommend adoption of the ordinance to Council upon completion of the public hearing.

Motion by: Mr. Diedrich
Moved that: the Commission approve
the Planner's recommendation above.

Seconded by: Mr. Alpert
Upon Vote: the motion was
approved unanimously.

VII. NEW BUSINESS

A. PC29-2012: Heresite Protective Coatings, Inc. - Discussion of Possible Annexation and Donation of Property South of Orchard Lane to City of Manitowoc

Mr. Less introduced Geoffrey Liban and Tom Fritzke, as the owners of Heresite Protective Coatings, Inc., and Tina Reese, Symbiont as the City's environmental consultant, and then led a discussion regarding the potential annexation and donation of a 20.2-acre parcel of land abutting the south City limits and located south of Orchard Lane. Mr. Less noted that he had previously sent materials to the Commission regarding this property. Mr. Less explained the original meeting on this topic was held back in April, 2012, and that it wasn't until recently that the property owners decided they wanted to enter into a discussion with the City to address the future of this property.

Mr. Less noted that the information provided to him detailed that Heresite acquired the property around 1962, and the existing buildings on the site were used to sandblast and to coat the interior of rail cars, which were then spray coated and baked. Mr. Less explained that a Phase I Environmental Assessment had been completed on this property in 2011, and that dust from the sandblasting process was accumulated into a dust collector system and subsequently removed. Mr. Less noted that sand from the sandblasting process was spread on the land adjacent to the northern building, but was dust later determined to be environmentally safe, and didn't contain hazardous materials above actionable levels. Mr. Less referenced an email from Ms. Reese regarding the contents of the dust, which was based on a report that had been prepared a year or so ago at the request of the property owner. Mr. Less continued that all work was done inside the buildings which were constructed in the early 1960's, and that prior to ownership by Heresite, the property was used for agricultural purposes. Mr. Less noted that Heresite discontinued usage of the facility because it was no longer competitive, and that the sale of Heresite's Franklin Street operation in 2011 to HNSD, LLC did not include the Orchard Lane parcel.

Mr. Less then provided some additional information, and noted that: (i) the City would utilize its current EPA grant to have a new Phase I and Phase II analysis performed on the property; (ii) there was a rail spur abutting and serving the buildings on this site; (iii) no portion of the property was identified as being impacted by wetlands or was in a flood plain; (iv) a 2010 appraisal of the parcel established its value at \$150,000; (v) the property would be donated to the City at no cost and without restriction; and (vi) the City and State fees applicable to annexation would be paid for by the property owner.

Mr. Less then explained that the first step in this process was to get Council approval to proceed, and after that would be to get a signed access agreement from the property owner, and to secure an affirmative eligibility determination from EPA. Mr.

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Less continued that an Offer to Donate would then be executed, and the Phase I and II work done at the site, and that upon completion of that work, the property would be annexed into the City, and then deeded to the City “as is, with all faults”. Mr. Less stated that he felt this was a great property for the City, and while there were no current plans for this area, it would be useful in the future for the City, with the rail spur serving as a premium.

Mr. Brey asked if there was an island being created as a result of this annexation?

Mr. Less stated “no” as the parcel was contiguous to the current City limits.

Mr. Diedrich asked if the property was currently serviced by any City services?

Mr. Less stated “no” and that the closest utilities were located in So. 26th Street.

Mr. Brey asked if there were any covenants planned that would limit the City’s usage of the property in the future?

Geoffrey Liban, 1378 Birch Cove Court, Cato, explained that there were no covenants being contemplated for the transfer to the City, and added that the property had been for sale for the 1.5 year, and hadn’t been used for approximately the last 22 years.

Mr. Diedrich and Mr. Brey commented that they appreciated what the owners were proposing to do.

Mr. Less noted that the ultimate transfer had to be free and clear of encumbrances.

Mr. Less then introduced Tina Reese from Symbiont, as the City’s environmental consultant for its current EPA grant, and asked for her assessment of risk as the City would take the property “as is with all faults”.

Tina Reese, Symbiont, 6737 West Washington, Suite 3440, Milwaukee, explained that the property looked clean based on the analysis provided to her, and that while historically a concern, the dust was not an issue. Ms. Reese noted that she did not see any issues related to the environmental condition of this property, and added that as part of their Phase II work, they would look at the actual buildings on-site for such items as asbestos and lead-based paint.

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Mr. Muenzenmeyer asked if there were any agricultural leases on the property?

Mr. Less stated he didn't think there were any agricultural leases impacting the property.

Tom Fritzke, 3424 Pineview Court, Reedsville, added that they did not want any complications related to the disposition of this property, and the land was not currently under any agricultural lease.

Mr. Less recommended that the Commission recommend to Council that they support the annexation and donation of this parcel to the City, and that they further authorize the City Planner to: (i) serve as the City's agent in this project; (ii) negotiate and sign an Offer to Donate related to the property; and (iii) implement all facets of the above described protocol. Mr. Less added that the recommendation should also include authorization for the Mayor and Clerk to sign documents as required.

Motion by: Mr. Diedrich

Seconded by: Ms. Mellon

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

Upon Vote: the motion was approved unanimously.

B. PC30-2012: City of Manitowoc; Review of Lease with Rollaire Skate Center, LLC Pursuant to Wis. Stat. § 62.23(5)

Mr. Less reviewed a draft lease of the City-owned Rollaire facility, 930 N. 18th Street, in Citizen Park. Mr. Less added that the review of this property transfer was being conducted pursuant to Wis. Stat. § 62.23(5).

Mr. Less noted that the purpose of the Commission's review was not to validate the lease or any of its contents, but rather to review the overarching idea of leasing of the building for continuing the roller skating rink function. Mr. Less reviewed several areas of the lease.

Mr. Brey commented that whomever was the lessee at the facility would be aware of the lease and its requirements.

Mr. Less recommended that the Commission recommend to Council approval to lease pursuant to Wis. Stat. § 62.23(5).

Mr. Muenzenmeyer commented that the lease was drafted by former City Attorney Juliana Ruenzel, and explained the rationale behind the extra hours of operation for extra events provision. Mr. Muenzenmeyer noted that the City would be responsible to clean up after a City event, and the lessee would clean up after their

events. Mr. Muenzenmyer added that utilities were included in the rent.

Mr. Diedrich questioned the ability to modify the hours of operation from those detailed in the lease, and asked if changing the hours would require a lease amendment?

Mr. Less stated that he felt it would require an amendment.

Mr. Muenzenmeyer commented that the reason the hours were listed as they were, was that the City made long term commitments with organizations to use the gymnasium on occasion, and this would allow the City to schedule these activities in advance around the hours of operation for the lessee.

Mr. Less noted that if there were multiple users of the property, perhaps a license instead of a lease would have been the preferred route.

Additional discussion was held.

Motion by: Mr. Muenzenmeyer
Moved that: the Commission approve the Planner's recommendation above.

Seconded by: Ms. Mellon
Upon Vote: the motion was approved unanimously.

C. PC31-2012: Symbiont/Review Proposal for Preparation and Submittal of Application to US EPA for Brownfield Cleanup - Revolving Loan Fund Grant

Mr. Less explained that tonight's discussion was related to moving forward with the filing of an application(s) to the EPA for a Brownfields Cleanup - Revolving Loan Fund grant (RLF). Mr. Less continued that as the current 2011 EPA assessment grant was limited to environmental assessment activities at real, or perceived brownfield sites, the RLF grant, if funded, would provide capital for the actual remediation or cleanup of brownfield sites. Mr. Less noted that top of mind candidates for the program would be the properties at 1512 Washington, and the former Lakeview Centre.

Mr. Less explained that if funded, the RLF was a grant to the City, but would have to be a loan to a property owner or developer. Mr. Less identified the Symbiont letter agreement to prepare the application for the 2013 and 2014 funding rounds, if the 2013 application was not funded. Mr. Less added that the plan would be for the City to continue its consultant relationship with Symbiont, if funded, extending its current contract for services that emerged out of the City's "Request for Qualifications" process related to the 2011 assessment grant. Mr. Less added that funding for the Symbiont relationship would be provided in the RLF grant. Mr. Less noted that securing the grant was likely an uphill battle.

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Tina Reese, Symbiont, 6737 West Washington, Suite 3440, Milwaukee, explained that EPA guidance for the program would be available soon, but noted that the level of funding and the process were not clear at this time. Ms. Reese commented that the building at 1512 Washington made for a compelling story to tell.

Mr. Less commented that EPA and DNR were aware of the former Mirro building, and its blighting and negative impacts upon the community. Mr. Less then recommended to the Commission that it recommend to Council that it: (i) adopt a Resolution on Monday night so that Planning can move forward with Symbiont on the preparation of the RLF grant application(s) in the 2012-2013 funding round, and if not funded, again in the 2013-2014 funding round; (ii) authorize the Planner to sign the Symbiont proposal; and (iii) authorize the Planner and the Deputy City Planner take any and all steps necessary to prepare and file the application(s), to negotiate and execute any required agreements with Symbiont regarding the preparation and filing of the RLF application(s), and to continue its relationship with Symbiont so as to implement this process and the RLF grant, if awarded.

Mr. Muenzenmeyer commented on the importance of the current EPA grant, and the positive role Symbiont has played to date.

Motion by: Mr. Muenzenmeyer
Moved that: the Commission approve the Planner's recommendation above.

Seconded by: Ms. Mellon
Upon Vote: the motion was approved unanimously.

D. Review Planning Department Proposed 2013 Budget

Mr. Less reviewed the Planning and the Community Development Authority (CDA) proposed 2013 budgets with the Commission, noting that the material had been previously sent out to Commission members. Mr. Less added that historically, the purpose of the annual review by the Commission was to recommend to the Mayor that the budgets be included in his Executive Budget for presentation to the Council.

Mr. Less explained that the 2013 Planning budget, when compared to the 2012 budget, was lower by approximately 22 per cent. Mr. Less added that the largest cost center was the technology that launched the department to the world. Mr. Less reviewed the footnotes contained in his submittal to the Mayor, including reference to the Code Publishing contract for maintaining the municipal code. Mr. Less stated that someone needed to remember this item for the 2015 budget, but wasn't sure which department would be responsible. Mr. Less noted further the need for aeriels and planimetrics to be programmed into the 2015 budget.

Mr. Less recommended that the Commission recommend to the Mayor inclusion

of the 2013 department budgets for Planning and the CDA into his Executive Budget.

Mr. Diedrich asked if there was some way to safeguard that those footnotes were not forgotten?

Mr. Less stated that he has circulated these footnotes, and was hopeful that these items would be remembered at the right time. Mr. Less noted that he had no other means of assuring that these items would be remembered.

Mr. Muenzenmeyer noted that the aerials should be placed in the City's capital improvement plan, which would help the City to remember.

Mr. Less noted that he did not have answers for how the City would remember items such as the contents of leases, agreements etc. going forward and in the future.

Motion by: Mr. Diedrich
Moved that: the Commission approve the Planner's recommendation above.

Seconded by: Mr. Alpert
Upon Vote: the motion was approved unanimously.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. Mr. Brey commented that the County Board Executive Committee would be looking at reviewing its wind tower ordinance, as they had a request for a wind tower for the area north of Mishicot. Mr. Brey explained that the Public Service Commission (PSC) siting rules prevailed, and would be the guideline for the revisions to the County ordinance.

Mr. Less commented that like the County, the City would need to revise its wind tower ordinance to comply with State PSC siting regulations, but was not sure when he would get to that item.

No action was taken.

B. Certified Survey Maps (CSM):

1. Gags/City of Manitowoc: Proposed CSM in Shorewood Manor Subdivision

Mr. Braun explained the CSM discussion was related to the proposed sale of land under agenda item V.A., and recommended that if the sale of the City-owned land to the Gags went through, the parcels be combined by action of the City Assessor. Mr. Braun recommended approval of a proposed CSM for this project, should it be required or requested in the future.

Motion by: Mr. Diedrich

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

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

C. Summary of Site Plans 7/5/2012 - 8/9/2012:

1. SP9-2012: T Powers Properties, LLC/Good Year; 4505 Dewey - New Construction (approved).

IX. ADJOURNMENT

Mr. Less reminded Commission members that due to staff scheduling conflicts, there would not be a September Commission meeting, and that the next meeting would be on October 10th.

The meeting was adjourned at 7:20 P.M.

Respectfully Submitted,

David Less
City Planner

DRAFT