

Plan Commission Minutes – 1/16/2013

Plan Commission Offices
Manitowoc City Council Chambers

Regular Meeting
Manitowoc City Plan Commission
Wednesday
January 16, 2013
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
Greg Minikel
Dave 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 12, 2012 Meeting.

Motion by: Mr. Diedrich

Moved that: the minutes be approved as presented.

Seconded by: Mr. Hornung

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

A. None

V. REFERRALS FROM COMMON COUNCIL

A. PC1-2013: Burbey Ponderona LLC; Quit Claim Deed to the City of Manitowoc for .173-Acres of Land for Goodwin Road Purposes

Mr. Less explained the proposed R/W dedication for the northern 45' of Goodwin Road, located west of the Fox Valley & Western Railroad/Canadian National trackage at Herman Road. Mr. Less recommended that the Commission recommend to

Council approval and acceptance of the above referenced deed, and that it be recorded by the Clerk's office.

Motion by: Mr. Diedrich

Seconded by: Mr. Brey

Moved that: the Commission recommend Council approval of the Planner's recommendation as detailed above.

Upon Vote: the motion was approved unanimously.

VI. OLD BUSINESS

A. PC43-2012: Michels/Raddatz; Request to Rezone Property at 118-120 Cleveland Avenue from "R-5" Low Density Multiple-Family District to "B-1" Office-Residential District Pursuant to Section 15.230(2)(c) of the Manitowoc Municipal Code

Mr. Less provided an update of events related to this proposed rezoning, since the Council's public hearing. Mr. Less stated that there were 12 individuals that spoke at the Council public hearing, with only the petitioner speaking in favor of the rezoning. Mr. Less noted the concerns that were expressed and stated in front of Council. Mr. Less then identified individuals that had contacted him with an opinion regarding the rezoning, and their respective comments. Mr. Less then referenced a written opinion from the City Assessor dated January 10, 2013 regarding the impact of the proposed development on property valuations in the area, and noted that the opinion stated that there would be no negative impacts on property valuations from the proposed Raddatz development, and further identified the area as residential transitioning to business/professional.

Mr. Diedrich asked if the Engineering Department had looked at the issue of potential multiple driveways accessing Cleveland Avenue?

Mr. Minikel stated that he had not looked at this, but added that he would be inclined to agree with comments made at a recent Council meeting by Alderman Soeldner regarding minimal traffic volumes, and that on this issue, the proposed development would not be a significant contributor.

Ms. Stokes commented that she would be voting against the rezoning, and expressed concerns with traffic flow. Ms. Stokes added she did not feel that Cleveland Avenue was an area suited to a 'B-1' zoning, as it was a residential area and a solid neighborhood. Ms. Stokes added that she had looked at the information Planning had sent out to an Alderman identifying other areas of the City where "B-1" and residential zoning abutted, and felt that none of these other areas were similar to the Cleveland Avenue situation.

Mr. Diedrich asked Ms. Stokes how she felt about the potential for driveways onto Cleveland Avenue should condominiums be located on the 3 lots comprising the proposed rezoning area?

Ms. Stokes replied that she would be concerned about that situation as well.

Mr. Hornung commented that the business property he currently owned at N. 9th and Park Street was built by Dr. Sell back in 1969, and was the same situation as Cleveland Avenue, and did not have any impact upon area property values. Mr. Hornung added that he was surrounded by residential, and would be supporting the zone change.

Mr. Muenzenmeyer commented that he would not be supporting the rezoning, and added that he felt it was an erosion of the residential area. Mr. Muenzenmeyer added that if the subject parcel was suitable for business the house directly to the south, across the street on Cleveland Avenue would be more suitable yet, and would hate to see the continued commercialization of this corridor.

Alderman Scott McMeans, 602 Wild Oak Drive, referenced the City Assessor's letter, and asked if the impact comments therein were related to the current rezoning proposal, or from a development permitted under the current "R-5" zoning?

Mr. Less replied that the opinion was limited to the impacts from the current development, and didn't go as far as to consider valuation impacts from uses permitted under the current "R-5" zoning. Mr. Less added that it would be difficult to evaluate the "R-5" in the absence of specific details regarding a development proposal.

Mr. McMeans stated that under "R-5", there could be up to 14 apartment units on the site that could be constructed to a 45' maximum building height. Mr. McMeans stated that he was trying to determine if the "B-1" proposal would be less potentially offensive to the neighborhood vs. what would otherwise be permitted in the current "R-5" district regulations.

Mr. Less stated that Mr. McMeans was correct, and as long as a development met the requirements of the "R-5" district, it would just require an approved site plan, and no other public processes or neighborhood notifications were required. Mr. Less added that Council would have to approve conditional uses in either district.

Mayor Nickels questioned what the zoning of the subject parcels were prior to current "R-5" zoning?

Mr. Less stated that his recollection was that it was a combination of "R-2", "R-3" and "P-1" zoning. Mr. Less explained the history of zoning in this area of the subject parcels as well as the Westmark Development parcels where the condominiums were currently located.

Mayor Nickels asked Mr. Less how frequently he observed the City rezoning property after which there was no follow through by a petitioner?

Mr. Less replied that it was very infrequent that this situation occurred, and added that when it did, it was usually the result of some extraordinary circumstances that would trigger non-development or a delay.

Mayor Nickels asked why the zoning on the subject parcels didn't revert back to its original zoning after the death of Mr. Mrozinski?

Mr. Less replied that reversionary clauses in a zoning ordinance were not permitted. Mr. Less emphasized that the Commission tonight was purely a recommending body, and that the final decision on the zone change rested with the City Council.

Mayor Nickels stated that the "B-1" would allow for more uses than were currently permitted in the "R-5" district, and noted that under "B-1", this property would continue to accumulate greater development options.

Mr. Less agreed, and stated that the "B-1" zoning did not open the door to retail or commercial operations, and added that there were private protections that could be put into place by others to limit the development options under any zoning district. Mr. Less added that in this case, the rezoning was being motivated by the Raddatz development proposal, but once rezoned, following through with the development would be up to the petitioner upon their purchase of the property.

Mr. Hornung again stated that Cleveland Avenue was the same situation as Dr. Sell and his property.

Mayor Nickels advised the public present that he would allow for 20 minutes of public input into this matter tonight.

Tony Fodden, 619 Pine Street, commented that he had several concerns with the rezoning, and added that he felt it was a departure from the City's comprehensive plan. Mr. Fodden continued that he felt that based on the text of the plan, this would constitute a spot zoning.

Nathan Raddatz, 9213 N. Lake Drive, stated that he had sent a letter to property owners offering a deed restriction, and that a meeting was scheduled for Thursday at 4pm with the President of the Maritime Pointe Condominium Association.

Theresa Fessler, 622 N. 10th, commented that she did not live in this area, but resided approximately 10 blocks away in the area of Water Street and the Manitowoc River. Ms. Fessler commented that there were land use problems in that area., and stated that she was against the proposed Cleveland Avenue rezoning.

Debbie Roemer, 859 Shorewood Blvd., commented that there was a lot of opposition when the subject parcels were rezoned to their current "R-5" status, and felt that the proposed rezoning area should be restricted to only permit 1 and 2 family

developments, similar to the adjacent Westmark parcels. Mr. Roemer expressed concern with traffic safety in the area.

Bill Charles, 827 Hawthorne Terrace, commented that their neighborhood was a special area, and noted that his home had been built in 1926. Mr. Charles continued that there were many historic properties in this area that required special consideration. Mr. Charles noted that the proposed rezoning seemed like an infiltration of the neighborhood, and expressed concerns over what future businesses might come into the area. Mr. Charles felt that the integrity of the area should be maintained.

Greg Gottsacker, 915 Hawthorne Court, commented that he was the owner of Westmark Development, and noted that when he was seeking rezoning of the condominium lands, he went to all the neighbors in the area and assured them that it would be developed for 2 family housing. Mr. Gottsacker continued that the City's requirement for a multifamily zoning to establish the condominium was the impetus for his rezoning, and referenced a requirement that he follow a planned unit development in the "R-5" district. Mr. Gottsacker continued that the "B-1" zoning was for a high service area, and that there was no commercial in the neighborhood. Mr. Gottsacker stated that while the meeting with Mr. Raddatz was scheduled, they agreed to meet to listen as a courtesy, but with no intention to accept any deed restriction that might be offered.

Thomas Sindelar, 212 Cleveland Avenue, commented that he wanted to make clear that the City was being asked to approve a rezoning, and not a particular project. Mr. Sindelar added that he resided in this neighborhood for 5 years, and that to understand the impacts of this proposed development upon the residences in the area, would require observation over time. Mr. Sindelar emphasized that there was no guaranty that this project would occur as depicted.

Doug Schwalbe, 1367 Hubbard Circle, commented that regarding the issue of a deed restriction, this was not a new issue, and hoped that it would open up a dialogue with the neighborhood to respond to their objections to the project. Mr. Schwalbe continued that they did not want the development to be looked at as a blight on the neighborhood, and proceeded to explain the proposed deed restrictions that they had prepared including, but not limited to land uses, site coverage, building height and lighting. Mr. Schwalbe continued that regarding concerns of storm water runoff, there were rules to follow, and that regarding the number of employees, the building could support 17 in the future. Mr. Schwalbe concluded that he felt the zone change was appropriate, and that this land use would be much better than an apartment complex.

Howard Zimmerman, 913 Hawthorne Court, commented that he was opposed to the zone change, and wanted to see the same restrictions imposed on the subject properties as were imposed on the Westmark properties to the south.

Judy Casey, 917 Hawthorne Court, stated that she met Mr. Raddatz during the summer and again this past fall, and was against the zone change. Ms. Casey questioned how the Commission could vote against the wishes of the community and neighborhood,

adding that there were many vacant buildings in Manitowoc that could be used by the petitioner.

Norman “Buzz” Schroeder, 919 Hawthorne Court, commended the Mayor for commenting on the worst scenario, and noted that this should be the focus on the discussion. Mr. Schroeder added that deed restrictions were not enforceable by the City. Mr. Schroeder stated that there were promises, but no guarantees on the table, and was not comfortable with rezoning the property. Mr. Schroeder felt that spot rezoning of this area would make things worse than they already were.

Mr. Diedrich stated that there were many compelling arguments made during this process related to the rezoning, and added that while this was a good project, he felt that in the end, the vote on this matter would be difficult and that someone would be unhappy.

Mr. Brey apologized for not getting back to several property owners that had contacted him on this issue over the past 3 days. Mr. Brey noted that people would be unhappy with whatever was ultimately done, and commented about his neighborhood as being oriented towards heavy industry, and that they’d welcome a project of this quality with open arms. Mr. Brey continued that while he felt this was a good project, he had to take the neighborhood’s feelings into account, and noted that while he felt this was a worthwhile project, he heard differently from the neighborhood, and as such, would not support the zone change. Mr. Brey added that he felt the site would ultimately be developed with larger structures under the current “R-5” zoning.

Mr. Alpert commented that he was opposed to the rezoning request, and added that he had to take the neighborhood’s feelings into consideration. Mr. Alpert added that he felt this site was most appropriate for “R-5” zoning.

Motion by: Mr. Brey

Moved that: the Commission recommend that Council not approve the proposed rezoning as detailed above.

Seconded by: Mr. Alpert

Upon Vote: the motion was approved. Mr. Hornung voted against the motion.

Mr. Less commented that if he had been asked, his recommendation on this matter would have been to approve the rezoning. Mr. Less noted that the foundation for his recommendation was that this was not a tax base, traffic or safety issue, and that he felt the location of the proposed rezoning was appropriate, in conformance with the City’s comprehensive plan, and that this planned development was, in his opinion, the best use for this property, and that it would provide a permanent buffer to the condominium area vs. other uses that could be developed at the property under the current “R-5” zoning.

Mayor Nickels commented that staff was not involved in the political decision making, and was solely focused on the facts of the specific matter.

B. PC38-2012: Proposed Changes to the Sign Code Pursuant to Section 15.450 of the Municipal Code

Mayor Nickels advised that he had talked about this matter with Mr. Less earlier in the day, and was advised that he had not made any progress on this matter. Mayor Nickels added that this item would be continued on the Plan Commission agenda for next month.

No action was taken.

VII. NEW BUSINESS

A. PC2-2103: Annual Review of Community Living Arrangements (CLA's)

Mr. Less reviewed the demographic profile provided to the Commission which detailed the CLA's, which included Community Based Residential Facilities (CBRF) and Adult Family Homes (AFH) in the City as of January 1, 2013. Mr. Less noted the increase in the total capacity of the 29 facilities across the City over the past 5 years, and added that he did not receive any negative commentary or concerns from Building Inspection or the Police Department regarding the performance of these facilities in 2012.

Mr. Diedrich asked if there was an explanation for the increase in capacity over the past 5 years?

Mr. Less stated that smaller facilities had been replaced with newer and larger facilities with greater capacities, and added that the current trend was one suggesting greater need in the community.

Mr. Less recommended that the Commission recommend to Council that the 2013 licenses for the CLA's be continued, without interruption.

Motion by: Ms. Stokes

Seconded by: Mr. Diedrich

Moved that: the Commission recommend Council approval of the Planner's recommendation as detailed above.

Upon Vote: the motion was approved unanimously.

B. PC47-2012: R & J Property Management LLC; Discussion of Potential Change to Official Map at Springhill Drive and Ravine Drive

Mr. Braun led the Commission through a discussion regarding the area located between the western terminus of Springhill Drive, N. Rapids Road, Custer Lane and Ravine Drive, and noted that this was only for discussion purposes, with no action required. Mr. Braun noted that this property was located outside of the City, and R & J had taken title to the land in 2011. Mr. Braun continued that he had recently met with the new landowner, who had purchased the property from Joan Budnik, the daughter who inherited the property from her mother, Mildred Fischer.

Mr. Braun explained the land use history of this area, and noted the narrowness of Springhill Drive. Mr. Braun then commented on the existing Official Map pattern in the area, noting areas where the Official Map had been dedicated for future R/W. Mr. Braun then talked about the potential to annex these lands into the City, and added that he had recently met with the new owners to discuss how their property could be redeveloped in the context of the City's Official Map street pattern in the area. Mr. Braun noted that the owners had indicated a preference to divide the property ultimately into 4, 1 to 1-1/2 acre lots, and added that the issue was more about the future of the Official Map in this area. Mr. Braun explained the topography in the area.

Mr. Diedrich asked Mr. Braun if the owner would have to install the street in accordance with the Official Map?

Mr. Hornung replied that the City would ordinarily request dedication of the R/W's.

Mr. Braun explained that the current location of the Official Map streets didn't take the topography into consideration. Mr. Braun added he had discussed sanitary sewer service to this area with Mr. Minikel, and that this would have to be an area analyzed in the future.

Mr. Minikel commented on the shallow depth (approximately 8') of the sewer at the end of Springhill Drive, and would have to look at the options available for servicing the area, which would be predicated on where a home(s) would be constructed. Mr. Minikel asked if there were any wetlands identified on the DNR wetland inventory maps in this area?

Mr. Braun replied that he didn't think there were any wetlands on the DNR maps, and added that field verification would be the only way to confirm this status.

Mr. Minikel commented on the long length of Springhill Drive, as its length exceeded that of normal cul-de-sacs in the City.

Jason Hubbartt, 612 N. 7th Street as the property owner, commented on his thoughts regarding how the area could be serviced.

Mr. Less commented that he would prefer to see the entire property annexed into the City at one time, and that as consideration for doing so, he would be supportive of eliminating the Official Map in this area, except for retaining the north-south extension from Custer Lane, as well as cul-de-sacing the west end of Springhill Drive.

Mr. Braun reviewed an old concept lot layout plan for this property that had been prepared in 2004 when it was owned by Ms. Budnik.

Mr. Diedrich asked Mr. Hubbartt why the owners didn't like the 2004 lot layout?

Mr. Hubbartt commented that he couldn't find anyone in the area that wanted the public R/W's installed, and that the feeling was that 1 to 1-1/2 acre lots would be most marketable.

Mr. Less commented that not annexing the entire parcel into the City would give him great concern, as the City would be landlocked in addressing the lands northwest of this area, and that orderly development would compel the annexation of the entire area.

Mr. Hubbartt asked if there would be any issues with adjacent property owners if they annexed into the City?

Mr. Less commented that the adjacent properties were not being annexed, so he would not expect there to be much discussion on that topic.

Mr. Braun commented that a determination would have to be made regarding whether the Canadian National would have to sign onto an annexation petition for their trackage outside of the City and located parallel to Custer Lane.

Commission members confirmed their support for the idea of annexing all of these lands into the City, but only in its entirety, and that they would be supportive of this annexation strategy as well as modifying the Official Map to eliminate the Official Map street reservations in all places interior to the property except for the north-south connection at Custer Lane and at the west end of Springhill Drive, due to the topography of the area.

Mr. Brey commented that his preference was to have the entirety of the lands annexed into the City.

Additional discussion was held. No action was taken.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. Mr. Brey commented that last night, a petition from the Town of Mishicot was filed with the County requesting a moratorium on wind towers. Mr. Brey referenced a study recently done in the Town of Shelby regarding noise and wind towers.

No action was taken.

B. Certified Survey Maps (CSM):

1. Kaufman; CSM in the NE¼, SW¼, Section 12, T.18N., R.23E., Town of Newton

Mr. Braun explained a proposed CSM measuring 4.45-acres and located south of Silver Creek Road, east of “CR” and east of Davidson Road. Mr. Braun detailed the request, and noted that the estate wanted to split the existing home and outbuildings from the undeveloped lands, the latter being sold for farming or recreational uses. Mr. Braun explained a driveway access issue that would have to be remedied, and added that the County has already approved the CSM and access arrangement so as to not create a landlocked parcel.

Mr. Braun recommended approval of the CSM, subject to Town and County approvals as may be required.

Motion by: Mr. Hornung

Seconded by: Mr. Brey

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

Upon Vote: the motion was approved unanimously.

2. Waack; CSM in the SW¼, SW¼, Section 16, T.18N., R.23E., Town of Newton

Mr. Braun explained a proposed CSM located north of Carstens Lake Road, east of Karbon Lane. Mr. Braun noted that the owner wanted to split a 4-acre parcel from a larger 33-acre parcel to create a buildable lot for construction of a new residence. Mr. Braun added that the Town had already approved the CSM in January, and noted that he would require that Carstens Lake Road be shown on the CSM as a 100’ wide Official Map R/W, and that the CSM further show a 150’ wide Official Map waterway designation centered on Pine Creek. Mr. Braun recommended approval of the proposed CSM.

Motion by: Mr. Diedrich

Seconded by: Mr. Hornung

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

Upon Vote: the motion was approved unanimously.

3. Udulutch; CSM in the NE¼, SE¼, Section 30, T.19N., R.23E., Town of Manitowoc Rapids

Mr. Braun explained a proposed CSM located west of South Union Road, and north of USH151. Mr. Braun noted that the owner wanted to create a 2.79-acre lot including the existing home and outbuildings. Mr. Braun continued that this parcel would be split off from a larger 10-acre lot, with the remaining 7-acres to be sold to an adjacent property owner to the north (Wagner). Mr. Braun added that the County would

require that this 7-acre parcel be combined with the Wagner’s existing parcel so that it was not landlocked, and would become part of the Wagner parcel to the north. Mr. Braun explained that South Union Road would be shown on the CSM as a 100’ Official Map R/W. Mr. Braun recommended approval.

Motion by: Mr. Brey

Seconded by: Mr. Muenzenmeyer

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

Upon Vote: the motion was approved unanimously.

4. Abbey Ridge, LLC/PC8-08/PC14-07/PC38-04/PC32-02/PC38-01/PC31-98/PC46-97: Update Regarding Potential Modification of CSM and Subdivision Plats Related to Abbey Ridge

Mr. Less first provided a handout featuring key dates regarding the development of Abbey Ridge through January 11, 2013, and reviewed maps prepared that identified the history of CSM’s in the area north of Magnolia Avenue, and west of CTH “Q”/N. 18th Street and east of Nagle Avenue. Mr. Less then explained that he had been contacted by Whyte Hirschboeck Dudek law offices regarding legal and title problems at Abbey Ridge being initiated by BMO Harris f/k/a M&I Bank, and identified issues that would have to be remedied related to Wis. Stat. §703.28. Mr. Less noted the following key events and general recording dates in the platting of this area:

A.	Abbey Ridge Condominium Plat	2000
B.	Amended Abbey Ridge Condominium	2001
C.	Abbey Ridge Condominium Amendment 1	2001
D.	Ravenswood Condominium Plat/Declaration	2002
E.	Abbey Ridge Subdivision No. 1 Plat	2004
F.	Abbey Ridge Condominium Amendment 2	2008
G.	Ravenswood Condominium Removed	2011

Mr. Less explained the key elements of the problems related to this area, and that a forbearance agreement was being put into place between the lead lender, BMO Harris and Abbey Ridge, LLC. Mr. Less then outlined what he was expecting as next steps in the process, which would include preparation of the following:

1. New title commitment and letter reports for unit owners at Abbey Ridge Condominiums;
2. New ALTA survey of the property;
3. New CSM of Abbey Ridge Condominium property including the future expansion area;
4. Amendment to the Abbey Ridge Condominium plat reflect the new CSM and boundary lines of the new condominium;
5. Correction instrument to clarify the legal description for Ravenswood Condominium;

6. Amendment to the Abbey Ridge Condominium Declaration that would: (i) remove the expansion area from Wis. Stat. Ch. 703; (ii) corrects the legal description of the perimeter boundary of Abbey Ridge Condominium; (iii) correction deeds to the unit owners and owners of the expansion area; and (iv) and establishment of separate tax numbers for Abbey Ridge Condominium unit owners, and the expansion area;
7. Amending a December, 2012 real estate mortgage encumbering the property with a revised legal description based on the new CSM, condominium declaration and plat; and
8. Upon recording of a new real estate mortgage, issue new title insurance policies to the appropriate parties.

Mr. Diedrich commented that he felt the forbearance arrangement would likely be extended in order to accomplish all required tasks.

Mr. Less recommended that the Commission authorize the Planning staff to approve the new CSM upon delivery, and upon successful review of the CSM by staff, to further authorize the Planner and Deputy City Planner to approve and sign the CSM as part of this correction transaction as detailed above.

Motion by: Mr. Hornung

Seconded by: Mr. Diedrich

Moved that: the Commission approve the CSM when remitted to City Planning, as outlined above, and subject to any required easements, petitions, and other conditions as may be required by staff.

Upon Vote: the motion was approved unanimously.

C. Summary of Site Plans 12/7/2012 – 1/10/2013

1. None

IX. ADJOURNMENT

The meeting was adjourned at 8:05pm.

Respectfully Submitted,

David Less
City Planner