

PLAN COMMISSION MINUTES - 2/13/2013

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
February 13, 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 January 16, 2013 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. None

VI. OLD BUSINESS

A. PC38-2012: Proposed Changes to the Sign Code Section of Chapter 15.450

Mr. Less first noted that he received an email from Tony Fodden prior to tonight's meeting stating that he was happy to see progress on the ordinance. Mr. Less then explained that the draft ordinance covered a variety of major topics ranging from:

- a. Addressing the change in name of the "City Engineer" to the "Director of Public Infrastructure".
- b. New definitions, and modifying the current definition of a home occupation.
- c. Limitations on permitted uses in the "B-1", "B-3" and "B-4" zoning districts.
- d. Delegation of design review responsibilities to Mainly Manitowoc.
- e. Billboard/animated sign changes for the County Expo grounds to allow for the placement of animated billboards on the Rapids Road and I-43 sides of the property.
- f. Updating the City's wireless telecommunications ordinance to reflect a new Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, and FCC shot clock requirements.

Commission members focused on the ordinance text centered on the delegation of design review authority to Mainly Manitowoc. Mr. Less continued that if the ordinance was ultimately approved, he envisioned a separate agreement with Mainly Manitowoc delegating specific powers. Mr. Less noted that he felt this was a cleaner way of addressing this issue vs. burdening the ordinance with all the text of an agreement.

Mayor Nickels asked if this ordinance draft and approach would allow for projecting signs?

Mr. Less replied yes, and noted that they would be permitted based upon Mainly Manitowoc's design guidelines and criteria for approval.

Mr. Brey commented that the Council would be looking at the downtown signage issue.

Mayor Nickels asked when sandwich board signs would be addressed?

Mr. Less stated that the text of a separate agreement would be too cumbersome to add it into the current discussion, and he felt it would be handled once the ordinance in hand was introduced and adopted, and responsibilities delegated by separate agreement to Mainly Manitowoc. Mr. Less continued that his plan was to circulate the draft ordinance for comments between now and next month's meeting from Commission members and from Mainly Manitowoc, and to assess the revisions in March.

Mr. Diedrich stated that as the plan was to ultimately send this ordinance to Council, it might make sense to review it on a piece-meal basis over the next few months so that everyone had a better understanding of its content. Mr. Diedrich added that he

hadn't had a chance to review it, and felt that certain areas would need more attention than others.

Mr. Less replied that the ordinance could be digested and reviewed in whatever manner and timeframe was to the pleasure of the Commission.

Mayor Nickels added that Council had set up a meeting for the following Monday to discuss just the downtown signage issues, and would have a crack at only that portion of the ordinance as well.

Mr. Brey stated that he felt the Council was getting into changing the way things had been done in the past.

Mr. Hornung commented that he wasn't clear what role the Council was playing at this time?

Mr. Brey replied that he felt Council might be jumping the gun in this area.

Mayor Nickels commented that Council had an ordinance already introduced on downtown signage.

Mr. Less asked Mayor Nickels if the intent of the upcoming Council meeting was to review the ordinance that the Mayor had previously introduced, and to figure out what to do with it?

Mayor Nickels commented that he was suppose to make a presentation to the Committee of the Whole on projecting signs, sandwich boards and murals.

Mr. Hornung asked for clarification on the ordinance that was already introduced.

Mayor Nickels stated that it was a draft, and designed to get this process moving.

Mr. Less stated that he hoped, Monday night, the Council would act to place it on file, with no further action to be taken. Mr. Less noted that sandwich board signs were not addressed in his draft, at this time.

Mr. Brey asked about how sandwich board signs would be addressed?

Mr. Less replied that he didn't want to include that topic in this ordinance due to its current length, and felt it could be handled separately after this ordinance was adopted and in place. Mr. Less continued that sandwich board signs were improvements directly upon the public right-of-way, and felt they needed to be addressed separately. Mr. Less added that he didn't know whether or not the Commission was the group to address sandwich board signs, as matters of the public right-of-way were regulated by a different committee.

Mr. Hornung requested that a WORD document of the ordinance be sent to Commissioners so they could edit the document.

Mr. Less reminded Commission members that the key to this discussion was that the ordinance would be the foundation for a separate delegation agreement to be prepared, and hoped that Mainly Manitowoc actually had approved guidelines in place, but added that he did not know the answer to that question at this time. Mr. Less added that he wanted to make sure that by virtue of the delegation agreement, design/signage decisions made by Mainly Manitowoc were their responsibility, and the City would not be responsible for explaining their decisions. Mr. Less noted that the City would still be responsible for issuance of permits.

Mr. Hornung asked if the City Attorney has reviewed the draft?

Mr. Less stated that he wanted to send the ordinance up to the Attorney at the time the Commission and Mainly Manitowoc were comfortable with the language of the document.

Mr. Muenzenmeyer commented that there were fatal flaws in the sign ordinance that had been previously introduced at Council, and that it should be placed on file with no further action taken.

Additional discussion was held. No action was taken.

VII. NEW BUSINESS

A. PC3-2013: City of Manitowoc; Three Year Harbor Assistance Program Statement of Intentions (2013-2015)

Mr. Braun explained the City's proposed 3-year "Harbor Development, Statement of Intentions" for the term of 2013-2015. Mr. Braun continued that he had worked with Peter Allie to refine the "Statement" which was due to WisDOT by April 1st. Mr. Braun reviewed the projects contained in the "Statement", explaining that they had been slightly re-ordered and re-organized when compared to last years filed "Statement". Mr. Braun added that he received updated information from Mr. Allie this afternoon that he would incorporate into the document after tonight's meeting.

Mr. Diedrich asked how likely it would be that any of the projects identified in the "Statement" would occur, and could be funded?

Mr. Braun said that everything in the "Statement" could be funded, but felt that items #4 and #7 were the most likely. Mr. Braun explained the other items included in the "Statement", and then recommended that the Commission recommend to Council approval of the "Statement", and added that there was a companion Resolution that the Council would be asked to introduce and adopt next Monday night.

Mr. Diedrich asked where the “private” and “other” funds would come from that were identified in the “Statement”?

Mr. Less explained that a quality project with private investment and jobs would trigger access to the public monies. Mr. Less added that the “Statement” was not an application, and that project sources and uses would be identified as part of a specific project application for funding.

Mr. Braun added that the State used the numbers in the “Statement” to demonstrate program need to the Legislature.

Additional discussion was held.

Motion by: Mr. Diedrich

Moved that: the Commission approve the Deputy Planner’s recommendation above.

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

B. PC4-2013: City of Manitowoc; Sale of Land to PBJC Fest I, LLC at Dewey and So. 42nd Street/CTH “CR” Pursuant to Wis. Stat. § 62.23(5)

Mr. Less reviewed a planned sale to PBJC Fest I, LLC for a 1.040-acre parcel of land located west of So. 42nd Street, south of Dewey and east of the City-owned parcel upon which the Visitor Information Center was located. Mr. Less explained that this parcel was created in part by a street vacation, and in part by a land donation from the owners of Kwik Trip.

Mr. Less explained that this anticipated land sale, while authorized by Council, had not yet been formally negotiated with PBJC Fest I, LLC. Mr. Less noted that he wanted to address the requirements under Wis. Stat. § 62.23(5) at this time to review and recommend the land sale to Council. Mr. Less then recommended that the Commission recommend to Council approval of the land sale pursuant to Wis. Stat. § 62.23(5), and subject further to successful negotiation and the ultimate approval of the land sale terms and conditions by the Common Council.

Motion by: Mr. Brey

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

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

C. PC39-90/PC28-85: Leschke/R&J Transport, Inc. – Discussion of Usage of City-Owned Lands in Blocks 39 and 40 of Manitowoc Rapids Subdivision, Plus Vacated N. 41st Street

Mr. Braun provided an overview of the history and current status of the Ron Leschke/R&J Transport operation located east of N. Rapids Road and south of the Indian

Bluff Estates Subdivision. Mr. Braun provided Commission members with a handout detailing a chronology of events that had taken place related to the business since 1985, and noted further that tonight's discussion centered on the recently discovered encroachment of the business operation on to City-owned property, and on to lands not zoned for commercial business operations. Mr. Braun explained that the encroachment issue was discovered by a recent CSM transaction with Barbarosa who purchased lands from Mr. Leschke, and noticed that a part of the trucking company was on City-owned property.

Mr. Braun then detailed the history of the R&J property, and noted the following events that occurred: (i) a zoning text change in 1986 to allow trucking operations and load assembly activities in a "C-1" zoning district as a conditional use; (ii) a Conditional Use/Special Permit (CUP) issued by the City in 1987 which was subsequently amended in 1990; (iii) a zoning map amendment approved in 1990; (iv) a 1990 street vacation; and (v) Mr. Leschke issuing a Quit Claim Deed to the City for 2.24-acres currently zoned "P-1" Conservancy in 1991, to serve as a buffer between his business operation and the residences to the north. Mr. Braun noted that a major (69Kv) power line bisected the Leschke/R&J property.

Mayor Nickels asked why the 2.24-acre parcel was transferred to the City?

Mr. Less replied that it was given at no cost to serve as a buffer between the business and residences to the north.

Mayor Nickels asked what the zoning of this land was prior to being transferred to the City?

Mr. Braun replied that it was already zoned "P-1" at the time of transfer in 1991, and added that there wasn't any clarity in the file as to why the land was given to the City.

Mr. Less confirmed that there was no consideration given for the 2.24-acres.

Mr. Braun continued, noting that the issues today centered on the encroachment of the R&J operation on to City-owned property, and on to lands zoned for residential purposes. Mr. Braun did note that the business has continued its operation since 1985 without incident or complaint, and was compliant with its CUP. Mr. Braun explained that the encroachment was not intentional, and that several steps would have to take place in order to modify the underlying lands in this area to match the extent of the R&J operation.

Mr. Muenzenmeyer asked about the MPU easement.

Mr. Braun commented that while the deed for the 2.24-acres was to the City, the map referenced the land transfer to MPU. Mr. Braun did not know why this discrepancy existed. Mr. Braun then noted that he had talked with the Police Department and Building

Inspection, and did not find any R&J-related complaints over the last 5 years. Mr. Braun then outlined 2 options for how to proceed on this matter: (i) City orders R&J to remove trailers and improvements from the City-owned lands, and orders R&J to stop trucking activities on the R&J property not included in the CUP; and (ii) City re-sells all or a portion of the 2.24-acres back to Mr. Leschke, who then request a zone change to bring the transferred parcel into a "C-1" zoning status to match the balance of his property, and then Mr. Leschke requests a modification to his existing CUP to include the newly zoned lands.

Mr. Less added that the existing CUP would have to be amended in certain sections.

Mr. Hornung identified the location of the MPU 69Kv line crossing the property. Mr. Hornung added that there was an outside chance that this line could be reconfigured in the future.

Mr. Less noted that the pertinent issue was that the City was adjusting the underlying zoning and CUP to meet what was already in place, and was not giving any authorization for the business to expand beyond its current footprint.

Mr. Hornung asked what zoning designations, other than "C-1", would permit Mr. Leschke's business operation without any conditions?

Mr. Braun replied either "I-1" or "I-2" districts would work.

Mr. Less noted that the argument of maintaining the status quo and readjusting boundaries to match the extent of the current business operation carried the most validity. Mr. Less added that the processes outlined above would not translate into any changes to the existing landscape, and that the R&J operation as it appeared today would not be changed or expanded. Mr. Less again stated that the intent of these processes was to correct the underlying zoning of certain properties, and modify the previously issued CUP, so as to match the extent of the current R&J operation.

Mr. Brey credited Mr. Leschke for the quality performance of his operation, and added that he hadn't seen any problems. Mr. Brey asked how the business operation was allowed to encroach on to City lands?

Ron Leschke, 3921 Indian Bluff, commented that he gave the City the 2.24-acres as a buffer, and didn't know that the north-south portion of that land was deeded to the City as well. Mr. Leschke added that he thought he still owned the north-south portion of the "P-1" area.

Mr. Brey stated that he liked option #2 above.

Mr. Minikel asked about access on to N. Rapids Road, and didn't know if the County would grant access for the 2.24-acre parcel, or if it was considered landlocked?

Mr. Braun commented that the parcel did abut N. Rapids Road.

Mr. Less added that Mr. Leschke could combine the 2.24-acre parcel into his other property, post- acquisition, and did not think there was an access issue. Mr. Less added that if there was a need for the City to have access rights in the CUP, that could be written into the CUP amendment. Mr. Less commented that he felt the 2.24-acres should be returned to Mr. Leschke at no cost. Mr. Less continued that Mr. Leschke, in return, would be responsible for payment of all costs for rezoning and a CUP request.

Mr. Braun asked about the City-owned parcel #450-039-122 at the corner of N. 40th and Fulton, which was negatively impacted by a utility easement to MPU?

Mr. Leschke stated that lot was for the utility lines in the area.

Mr. Hornung expressed concern with rilling up the neighborhood with public informational hearings.

Mr. Less replied that the Council needed to be aware that the proposed actions were maintenance in nature, and not facilitating an expansion of the business. Mr. Less added that City notices would have to detail that this was a maintenance action, and not one facilitating further expansion.

Mayor Nickels asked Mr. Leschke if there was opposition in 2000 when the encroachment began?

Mr. Leschke replied that there was very little opposition, adding that this was the time when he gave the 2.24-acres to the City.

Mr. Diedrich asked how the City-owned parcel #450-039-122 at the corner of N. 40th and Fulton would be handled?

Commission members felt that it should be deeded to Mr. Leschke at no cost, again noting it was negatively impacted by a utility easement to MPU.

Mr. Diedrich stated that staff should figure out that matter.

Mr. Braun added, in closing, that Mr. Leschke should instruct Colin Rayford to finish a new Certified Survey Map to combine Leschke-owned parcels #368-004-260 and 450-038-021.

Commission members concurred with staff's position on this matter.

No action was taken.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Notz; CSM in the SW¹/₄, SW¹/₄, Section 9, T.19N., R.24E., City of Manitowoc

Mr. Braun explained a proposed CSM involving a split of an existing .703-acre parcel of land located north of East Raymond Lane and south of East Charles Lane, west of Zimmer Drive. Mr. Braun noted that the owner wanted to create a .249-acre parcel for sale, and recommended approval of the CSM.

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

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

C. Summary of Site Plans 1/11/2013 – 2/7/2013

1. None

IX. ADJOURNMENT

The meeting was adjourned at 7:30pm.

Respectfully Submitted,

David Less
City Planner