

PLAN COMMISSION MINUTES - 4/10/2013

Plan Commission Offices  
Manitowoc City Hall

Regular Meeting  
Manitowoc City Plan Commission  
Wednesday  
April 10, 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  
Dave Diedrich  
Justin Nickels  
Greg Minikel  
Steve Alpert  
Maureen Stokes

Members Excused

Jim Muenzenmeyer  
Jim Brey

Staff Present

David Less  
Paul Braun

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular March 13, 2013 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. 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 explained that he had not had time to work on this ordinance, but commented that Alderman Tyler Martell was present to discuss a concern with the operation of a business at a property at 954 So. 29<sup>th</sup> Street.

PLAN COMMISSION MINUTES - 4/10/2013

Mayor Nickels asked the Commission if they had received his email from earlier today?

Mr. Less explained that the Mayor's email was a statement of his priorities to get the sandwich board, projecting signs and mural components of the code completed by this summer. Mr. Less stated that he was hopeful to have the re-design of this ordinance when the Commission would next met on May 22<sup>nd</sup>. Mr. Less added that he had also sent the Commission an ordinance from the Village of Brokaw regarding performance guarantees related to building demolition, so that a community could protect itself from an owner salvaging materials out of a building, and leaving a building shell for a community to address.

Mayor Nickels stated that he didn't want his main priorities to be lost as more additions were contemplated for the ordinance. Mayor Nickels was concerned with waiting on addressing his concerns.

Mr. Less stated that a public hearing for the Mayor's ordinance could be called, be it right or wrong. Mr. Less added that Alderman Martell had been advised that he could discuss with the Commission his concerns regarding the So. 29<sup>th</sup> Street property owner and the business operation being operated out of his garage.

Alderman Tyler Martell, 516 So. 25<sup>th</sup>, explained that he had a constituent at 954 So. 29<sup>th</sup> Street that had been operating for the past 8 years (without incidence) repairing snow blowers, lawn mowers, and small tractors ("Manitowoc Small Engine") in his garage. Mr. Martell continued that the owner had been contacted last December by the Planning Department that he was operating his business illegally. Mr. Martell stated that this was problematic as this business didn't fit into the current "home occupation" definition in the code which prohibited operation of a business in a garage or other detached building in a residential zoning district. Mr. Martell stated that rezoning had been considered, but didn't seem to be applicable, and continued that he was aware that at a recent meeting, the Commission had decided to drop the proposed amendment to the "home occupation" definition that had been previously discussed. Mr. Martell asked the Commission to reconsider this situation, and noted that the property owner had been working with the Economic Development Corporation of Manitowoc County to find a suitable business location, but had not been successful. Mr. Martell stated that in his conversations with the owner, he was advised that the business could not afford a traditional rental arrangement, and added that the owner felt that they might be in a position to expand the business within 4 years. Mr. Martell noted that a portion of the property was zoned "B-2", and had light industrial to the east. Mr. Martell added that he had support letters from several adjacent neighbors, and requested that the Commission find a way to provide help to this party. Mr. Martell hoped the Commission could help the owner out in this situation, and find a way that would not have adverse City-wide impacts.

PLAN COMMISSION MINUTES - 4/10/2013

Mr. Diedrich asked how this situation came about?

Mr. Less stated that the letter in December probably came from Building Inspection and not Planning, and was likely initiated by a neighborhood complaint.

Mr. Martell noted that he did not know where the complaint originated, but confirmed that there was a complaint.

Mr. Less stated that he would review the situation again, to see if there was another potential solution.

Mr. Diedrich noted that if the business wasn't making enough money to enter into a bonafide rent arrangement, it couldn't be much of a business.

Mr. Martell noted that the owner had a business license, adding that he drove past the business frequently, and that it was a very clean operation, and that there was no outside storage or business activity.

Mr. Braun offered comment from a different perspective on home occupations, noting a recent effort of his to get an engine repaired. Mr. Braun cited an area around the Dairy Queen in Two Rivers, where the business was operating from a residential property and was a much more visible operation.

Mr. Martell commented that the So. 29<sup>th</sup> Street owner had his operation contained entirely within his garage. Mr. Martell added that Ald. Sladky had visited the site, and didn't have any issues with the operation.

The Commission then returned to a discussion of the sign elements of the draft ordinance.

Mr. Hornung said that he liked the Mayor's email.

Mr. Diedrich asked about the ability to modify an ordinance if it was adopted and not correct.

Mr. Less stated that a replacement ordinance would have to be adopted via the same procedure, and noted that changes to Chapter 15 required a public hearing.

Mayor Nickels reminded the Commission that the attorney's office had drafted and reviewed the ordinance previously introduced at Council, so they were familiar with its contents.

Mr. Alpert asked whose ordinance it was?

Mayor Nickels stated that this ordinance was worked on with Tony Fodden and Mainly Manitowoc.

PLAN COMMISSION MINUTES - 4/10/2013

Additional discussion was held.

Motion by: Mr. Hornung

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

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

- B. PC43-2009: Spencer's Total Auto Repair & Towing LLC/Kerscher & Bucha /Ruzek, Inc.; Request for a Conditional Use Permit (CUP) Under Section 15.270(3)1. for a Wrecker Service Business as Part of Ruzek's, Inc. Vehicle Repair Business at 734 N. 8<sup>th</sup>

Mr. Less provided Commission members with a chronology of events related to the CUP previously issued for the property at 734 N. 8<sup>th</sup>. Mr. Less explained the history of this property, and explained that it appeared to be vacant at present, but that there were some interior improvements being done to the building on the site. Mr. Less explained the history as detailed in the chronology. Mr. Less then commented on Section "E" of the CUP detailing the conditions for termination of the permit, and added that as there didn't seem to be a towing business operating as part of a vehicle repair business at the site (which was the reason for the CUP in the first place), that the CUP should be terminated.

Mr. Hornung asked what the property was zoned?

Mr. Less clarified that the issue was the issuance of a CUP for a specific use that was no longer operating at the site. Mr. Less commented that Mr. Radaj, the party to whom the CUP was eventually assigned, was clearly not operating his business at this site, and therefore the CUP was no longer needed.

Mayor Nickels asked if anyone had been contacted in this matter regarding the status of the current foreclosure proceeding?

Mr. Less suggested that he send a letter to Mr. Ruzek inviting him to the May meeting. Commission members concurred with this action.

No action was taken.

- C. PC29-2012/PC33-2012: Heresite Protective Coatings, Inc. – Donation of Property South of Orchard Lane to City of Manitowoc

Mr. Less explained that this was a 20-acre parcel recently annexed into the City, that was planned for donation to the City. Mr. Less provided Commission members with a draft Resolution that would declare the property as blighted. Mr. Less noted that Phase I and II environmental assessment reports had been completed at the site, and added that the Phase I study was done in accordance with the EPA's "All Appropriate Inquiry" (AAI) standard, which provided innocent purchaser protection at the federal level. Mr.

PLAN COMMISSION MINUTES - 4/10/2013

Less continued that at the State level, he wanted to make sure that the City was protected from liability as the purchaser of a property with minor contamination issues. Mr. Less continued that the Resolution he had drafted was being reviewed by the City Attorney, and hoped to have it introduced and adopted at Council, which would provide the City with the necessary innocent landowner protections.

Mr. Less recommended that the Commission recommend to Council that it approve the land donation and accept the deed conveying title to the City, but only after the introduction and adoption of a Resolution by Council which constituted a friendly condemnation of the property pursuant to Wis. Stat. § 32.06 for the purpose of blight elimination.

Mr. Diedrich stated that the summary in the Phase I report referenced the status of a well on the property, and asked if Heresite was responsible for actions on the property? Mr. Diedrich noted that if the water supply well was contaminated, it should be closed and abandoned before accepting the donation.

Mr. Less stated that he was under the impression that City personnel had reviewed the condition of the well previously, and that there were no issues identified.

Mr. Diedrich stated that he didn't see anything in the reports that should discourage the City from taking title.

Mr. Less re-stated his recommendation above.

Motion by: Ms. Stokes  
Moved that: the Commission approve the Planner's recommendation above.

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

VII. NEW BUSINESS

- A. PC6-2013: City of Manitowoc; Review of Land Sale in I-43 Industrial Park Pursuant to Wis. Stat. § 62.23(5), and Termination of Utility and Drainage Easement Centered on TR1.1 and 1.2 of CSM (V. 18, P. 129)

Mr. Less explained the proposed land sale of 8.19-acres to Jagemann Stamping Company as part of their \$18.5mm expansion project. Mr. Less noted that the minutes of the most recent Industrial Development Corporation meeting had been sent to the Plan Commission, which should have provided a background and summary of the project. Mr. Less added that the City would be utilizing its EPA grant to perform a Phase I assessment on the 8.19-acre parcel as a condition of sale. Mr. Less then displayed the approved site plan for the expansion project.

Mr. Less then described the 20' wide utility easement centered on the common lot line separating Tracts 1.1 and 1.2 that was proposed to be vacated, adding that staff checked off with MPU and there were no improvements in the easement area. Mr. Less

PLAN COMMISSION MINUTES - 4/10/2013

stated that regarding the easement, he was recommending that the Commission recommend to Council that they approve and authorize: (i) the release and termination of the easement as described; (ii) the City Planner to prepare the necessary release and termination document; (iii) the Mayor and Clerk to sign the release document on behalf of the City; and (iv) the Planner to record said document with costs to be paid by Jagemann Stamping Company. Mr. Less then commented on the company's need to combine the parcels at some time, post closing, so as to be able to take advantage of the City's current industrial park land rebate policy.

Regarding the proposed land sale, Mr. Less recommended that the Commission recommend to Council that it approve the land sale, and that the Commission advise Council that its review of this matter was made pursuant to Wis. Stat. § 62.23(5).

Motion by: Mr. Minikel  
Moved that: the Commission approve the Planner's recommendation above regarding the easement.

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

Motion by: Mr. Diedrich  
Moved that: the Commission approve the Planner's recommendation above regarding the land sale and review of the sale pursuant to Wis. Stat. § 62.23(5).

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

B. PC7-2013: City of Manitowoc/Ramminger; Discussion of Proposed Vacation and Official Map Amendment at 4720 Broadway Street

Mr. Less explained the written request from Kevin and Wendy Ramminger, the owners of property at 4720 Broadway Street. Mr. Less noted that the issue at hand was that the Ramminger's, which were the owners of TR1 (823-402-030) on the west side of Broadway, wanted to construct an addition on to their home, but the improvement would violate the setback from the Broadway Street R/W. Mr. Less noted that the R/W width on Broadway Street was irregular, and was not anticipated to be modified or widened in the future, and that its inconsistent R/W width was largely due to the conditions that existed when the area was annexed into the City in 1990. Mr. Less continued that in his discussions with Mr. Ramminger, he felt that it was better for the City to initiate the vacation and Official Map proceedings, due to the petition requirements under statute, with the understanding that Mr. Ramminger would be responsible to pay all applicable publication and recording fees. Mr. Less noted that he felt that the City initiating vacating a portion of Broadway Street, and amending the Official Map was the appropriate manner to proceed in this situation. Mr. Less noted that the area was annexed into the City in 1990, and added that tweaking the R/W for only the Ramminger property seemed an appropriate action to take. Mr. Less explained the process going forward, adding that if the Commission was inclined to support this effort, then it would be asked to send a recommendation to Council to have the City initiate the proceedings.

PLAN COMMISSION MINUTES - 4/10/2013

Mr. Hornung asked if anyone could object to the vacation?

Mr. Less replied that when the statute was amended a few years ago, it no longer gave property owners veto power.

Mr. Less recommended that the Commission recommend to Council that it: (i) authorize the City Planner and the Plan Commission to move forward on a City-initiated vacation and associated Official Map proceedings for the areas identified; (ii) authorize the Clerk to call for the public hearing and instruct the Clerk to serve notices and to publish the required notices upon instruction from the City Planner; and (iii) authorize the Clerk to invoice the Ramminger's for all costs of publication and recording related to the proceedings.

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

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

C. PC8-2013: Allie/Eberhardt & Carstens Trust; Proposed Planned Unit Development (PUD) in Section 35 Pursuant to Section 15.750 of Manitowoc Municipal Code

Mr. Less explained the proposed development of a large area of vacant land located east of I-43, east of So. 44<sup>th</sup> Street and north of Viebahn Street. Mr. Less stated in meetings with the owner, the overall strategy for development of this area was to establish a Planned Unit Development (PUD) pursuant to Section 15.750 of the Municipal Code. Mr. Less commented that the PUD, by definition, was an area to be planned and developed as a single unit under single ownership or unified control, and which was processed under the PUD provisions of the municipal code. Mr. Less outlined the anticipated timetable for the creation of the PUD and the required conditional use permit that preceded the creation of the PUD. Mr. Less noted that this would follow the Harbor Town model, and added that the establishment of a PUD would not prohibit the property owner from transacting its current business in advance.

Mr. Less recommended that the Commission recommend to Council that it authorize the Planning Department to work with the property owner to establish the PUD in accordance with Section 15.750, and that adopting this report would evidence authorizing the Department to proceed on this project, and with the property owner responsible for the payment of all applicable fees as outlined in the City's current fee schedule.

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

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

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Jagemann Stamping Company/City of Manitowoc; Proposed CSM Being Resurvey of TR1.1 and 1.2 in S½ of SW¼ and Pt. S½ of SW¼ and Pt. S½ SE¼ Sec. 27, T.19N., R23E, and also Pt. NW¼ of Sec. 34, T.19N., R.23E, City of Manitowoc

Mr. Braun explained the proposed CSM related to the Jagemann Stamping project, pursuant to the discussion under item VII. A. of these minutes. Mr. Braun noted that he would continue to show the existing easements around the perimeter of the new CSM tract, and recommended approval.

Additional discussion was held.

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. Alpert  
Upon Vote: the motion was approved unanimously.

2. Popp Enterprises LLC; Proposed CSM Being a Resurvey of Lots 12 & 13 of Popp Subdivision No. 3, NE¼ SW¼ of Section 31, T.19N., R24E, City of Manitowoc

Mr. Braun explained the proposed re-alignment of 2 existing lots at the southwest corner of Summit and So. 21<sup>st</sup> Street in the Popp Subdivision No. 3, largely in response to a wetland delineation in the area. Mr. Braun noted that this was just a re-alignment of lot lines, and no new lot was being created.

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. Alpert  
Upon Vote: the motion was approved unanimously.

3. Jones; Proposed CSM Being a Resurvey of Tracts 1 & 2 of a CSM in Vol. 13, Page 247, Government Lot 3 ,SW¼ of Section 5, T.18N., R24E, Town of Manitowoc

PLAN COMMISSION MINUTES - 4/10/2013

Mr. Braun explained a proposed CSM located east of S. 10<sup>th</sup> Street for an east-west running area measuring 6.14-acres. Mr. Braun noted that no new lot was being created, but the lot lines were being re-aligned so that a recently constructed garage was actually on the daughter's property as the owner of the garage. Mr. Braun stated that he'd ask for a 45' dedication on So. 10<sup>th</sup> only, and would not require dedication of the other intervening Official Map streets impacting the property as he felt this area would eventually develop as estate sized lots in the future. Mr. Braun noted that if the City required dedication now, the City would likely have to vacate the same areas in the future. Mr. Braun recommended approval of the CSM, subject to receipt of the So. 10<sup>th</sup> Street dedication and a Public Works Petition.

Commission members concurred.

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. Minikel  
Upon Vote: the motion was approved unanimously.

4. Allie/Ebethardt & Carstens Trust; Proposed CSM in SW<sup>1</sup>/<sub>4</sub> of SE<sup>1</sup>/<sub>4</sub> and in. SE<sup>1</sup>/<sub>4</sub> of SE<sup>1</sup>/<sub>4</sub> Sec. 35, T.19N., R.23E, City of Manitowoc

Mr. Braun explained the proposed CSM located east of So. 44<sup>th</sup> Street, noting that the owner wanted to split the parcel into 4 lots. Mr. Braun identified the City-owned parcel being sold to the owner, and explained that future Lot #3 would include the wetland and the storm pond.

Paul Steinbrecher, SMI, Inc., 102 Revere Drive, commented that they wanted to be careful to not violate the subdivision ordinance.

Mr. Hornung stated that he was in favor of whatever worked in this situation.

Mr. Less stated that the recommendation was to approve the proposed 4-tract CSM design.

Mr. Braun noted that regarding the City-owned property, the majority of it was a wetland.

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.

PLAN COMMISSION MINUTES - 4/10/2013

C. Summary of Site Plans 3/8/2013 – 4/4/2013

1. SP1-2013: Larscheid/Silver Lake Country Store, 5814 Calumet Avenue – Building Expansion (Approved).
2. SP2-2013: Lakeshore Mini Storage, LLC, 2424 Johnston Drive – New Construction (Approved).
3. SP3-2013: Meyer/Ecology Technology Inc., 2851 So. 10<sup>th</sup> Street – New Construction (Approved).
4. SP4-2013: PH Manitowoc LLC, 4550 Calumet Avenue – New Construction (Approved).
5. SP5-2013: City Centre, LLC, 1502 Wollmer Street – New Construction (Approved).
6. SP6-2013: Jagemann Stamping Company, 5757 W. Custer – Facility Expansion (Approved).
7. SP7-2013: Manitowoc County Airport, 1869 Freedom Way – New Construction (Pending).

IX. ADJOURNMENT

The meeting was adjourned at 7:15pm, with the May meeting scheduled for Wednesday, May 22<sup>nd</sup>. Mr. Less stated that he would be mailing out materials to the Commission on or around May 13<sup>th</sup>.

Respectfully Submitted,

David Less  
City Planner