

PLAN COMMISSION MINUTES - 5/22/2013

Plan Commission Offices  
Manitowoc City Hall

Regular Meeting  
Manitowoc City Plan Commission  
Wednesday  
May 22, 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  
Greg Minikel  
Steve Alpert  
Justin Nickels arrived at 7:30 P.M.  
Jim Brey  
Jim Muenzenmeyer

Members Excused

Maureen Stokes

Staff Present

David Less  
Paul Braun  
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular April 10, 2013 Meeting.

Motion by: Mr. Diedrich

Seconded by: Mr. Hornung

Moved that: the minutes be approved as presented.

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

- A. PC10-2013/PC39-90/PC28-85: Leschke/R & J Transport, Inc.; Request for Conditional Use Permit (CUP) and Modification of Previously Issued Permits to Allow Trucking, Distribution and Load Assembly on Lands to Match Area of 2013 Rezoning Pursuant to Section 15.310(3)(a) of the Manitowoc Municipal Code

Mr. Less explained that this request was from Ron Leschke d/b/a R & J Transport, Inc., and was not the issue of a new, but to further amend previously issued conditional use and special permits issued to Mr. Leschke, and to modify these permits to match the geography of the underlying zoning in the area which was modified in 2013. Mr. Less continued that the CUP was to be considered in accordance with Section 15.370(27) of

## PLAN COMMISSION MINUTES - 5/22/2013

the Manitowoc Municipal Code, which established procedures for the issuance of a CUP by which, the Commission and Council had to determine if a proposed use was reasonably necessary for the convenience and welfare of the public, was in harmony with the character of the surrounding area, and would have a minimal or no effect on surrounding property values. Mr. Less added that the Commission and Council could affix conditions to the CUP to provide assurances that the proposed use would not have a negative impact on the surrounding area.

Mr. Less first noted that the City, in 2013, had approved an amendment to the zoning map, modifying what would be parts of Lots 9-12 of Block 39 of the Plat of Manitowoc Rapids from "P-1" and "R-4" to "C-1" Commercial, bringing all of the Leschke property to a "C-1" zoning status. Mr. Less continued that the City, in 2013, further approved selling to Mr. Leschke 2 City-owned tracts identified as 450-038-020 and 450-039-122, which had yet to be accomplished, but the conveyance of which had been authorized by Council. Mr. Less emphasized that these parcels were included in the proposed 2013 CUP area. Mr. Less then explained that the current zoning of the Leschke property therefore was all "C-1" Commercial, except for the north 150' of parcel 450-038-020 (zoned "P-1") pursuant to Section 15.310(3)(a) which listed trucking, distribution and load assembly as a conditional use.

Mr. Less continued that the history of the City's involvement with the Leschke property had been detailed during the rezoning process, so he would not revisit that information again. However, Mr. Less did detail the key requirements of the original conditional use-special permit approved in 1987, and the 1990 permit modifications related thereto, and explained changes in the following areas: (i) premises covered; (ii) load transferring; (iii) temporary outside storage; (iv) hours of operation in Blocks 39 and 40; (v) lighting; (vi) MPU easement restrictions; (vii) improvements; (viii) landscaping; (ix) duration; and (x) penalties. Mr. Less added that there was also a requirement in the 1987 and 1990 permits requiring Mr. Leschke to maintain with the City an escrow account for dust palliative maintenance; a requirement that was extinguished by the City in 2002.

Mr. Less then explained that the proposed 2013 CUP would make the following changes to the existing permits:

1. Modifies the geographic boundary of the CUP to include the areas of the original and 1990 permit, plus the areas beyond this that were included in the 2013 rezoning.
2. Adds into the 2013 CUP, the parcels scheduled to be sold to Mr. Leschke, but are still owned by the City.
3. Prohibits development in the "P-1" zoned portion of the property that is included in the new geography of the 2013 CUP.
4. Requires that a 25' wide landscape area be constructed by September 1, 2014 along the far east line of the 2013 CUP area.
5. Clarifies that assignability of the 2013 CUP first requires Council approval.



- 2) Charles and Julie Vesely (355-106-003). W 592.48' of the East 827.48' of the S½ of Lot 106 of Hinckley's Subdivision. This was a parcel measuring approximately 2.13-acres, with 157' of frontage on So. 26<sup>th</sup> Street, and a lot depth of 592'. This vacant parcel was assessed at \$45,000. The Vesely's took title to this parcel from Manitowoc County in 1998.

Mr. Less continued that regarding the Official Map pattern that was historically in this area and at least as far back as 1970, there was an Official Map pattern at the southeast corner of the Dewey and So. 26<sup>th</sup> Street intersection that included 2, north-south running 66' wide future streets that would have been an extension of So. 24<sup>th</sup> and So. 25<sup>th</sup> Street, and which bisected with the 60' wide east-west running street being considered for removal tonight. Mr. Less added that in August, 2000, the City removed the north-south Official Map streets, and placed a bulb on the end of the cul-de-sac at the terminus of the bisecting east-west running street.

Mr. Less added that regarding the 2013 process, the proposal was to remove the 60' wide east-west running street and cul-de-sac; a total length of approximately 550' as measured from the east R/W line of So. 26<sup>th</sup> Street to the eastern edge of the cul-de-sac. Mr. Less noted that other than eliminating an encumbrance on these 2 parcels, he had no information regarding what the owners plan for development might be at this time. Mr. Less then noted that these parcels were both zoned "I-1" Light Industrial, and then explained the surrounding zoning in the area. Mr. Less then noted that there was also a sliver of "I-1" zoning that extended from these 2 parcels, and abutted the east line of So. 26<sup>th</sup> Street at Dewey, and which was approximately 100' in width that appeared to be the location of a residence and a computer store. Mr. Less added that the Maltby parcel had split zoning, with the east approximately 230' being zoned "R-4". Mr. Less continued that immediately north of the subject parcels was the Clover Meadow Apartment Homes, along with a small internet business; University Village Heights manufactured home park was to the south; single family residential land uses were the east; and Manitowoc Ice, Inc. was located to the west. Mr. Less noted that the north line of the manufactured home park was site screened with tall cedars.

Mr. Less then explained that the City's 20 year future land use map that was part of the City's comprehensive plan identified the subject parcels as "multifamily residential".

Mr. Less then noted that procedurally, the Official Map process required a formal public hearing preceded by publication of a Class 2 notice. Mr. Less stated that the public hearing could be scheduled for the June 17<sup>th</sup> Council meeting.

In closing, Mr. Less noted that notices were mailed on May 14th to property owners within 200' of the proposed Official Map amendment area, inviting them to this evening's meeting, and added that there were no responses received to the mailing.



PLAN COMMISSION MINUTES - 5/22/2013

Planner's recommendation above. approved 5-1. Mr. Hornung voted against the motion.

C. PC7-2013: City of Manitowoc/Ramminger; Proposed City-Initiated Vacation Under Wis. Stat. § 66.1003(4) and Official Map Amendment Under Wis. Stat. § 62.23(6) at 4720 Broadway Street

Mr. Less explained that tonight's public informational hearing was in regard to a City-initiated amendment to the City's Official Map to eliminate a portion of Broadway Street R/W generally parallel to, and north of River Bluff Drive, and a related vacation of the same area. Mr. Less noted that the amendment of the Official Map occurred pursuant to Wis. Stats. § 62.23(6), and the concurrent discontinuance or vacation of a portion of Broadway Street occurred pursuant to Wis. Stats § 66.1003(4). Mr. Less noted that the purpose of these proceedings was to re-establish the R/W along the west side of Broadway abutting only the Kevin and Wendy Ramminger property at 4720 Broadway, a/k/a TR1 of a CSM Rec. V. 13, P. 391 and as tax parcel # 823-402-030. Mr. Less continued that re-establishing the R/W would allow the Rammingers' to construct an addition on to their residence, the plans for which would currently violate the City's 25' setback requirement.

Mr. Less stated that regarding the Ramminger parcel, this 2.3-acre tract was acquired by the current owners in 1996 and was annexed into the City in 1990. Mr. Less noted that TR1 had 397.38' of frontage along Broadway and abutted the Manitowoc River on its west side. Mr. Less continued that the property had an estimated fair market value, according to City Assessor records, of \$238,200, generated approximately \$4,600 in annual real estate taxes, measured 2.3-acres in area, and was zoned "R-2" Single Family District. Mr. Less explained that this parcel was directly west of Block 3, Doneff Addition No. 1.

Mr. Less noted that tonight's actions had been originally recommended by the Plan Commission to Council at their April 10th meeting, and which was confirmed by the Council on April 15<sup>th</sup>.

Mr. Less continued that procedurally, the City-initiated street vacation process was governed under Wis. Stats. § 66.1003(4), adding that as the vacation proceedings had been initiated by the City, this portion of the statute stated that there was no petition requirement. Mr. Less explained that procedurally, the City had to prepare a Notice of Lis Pendens and record it at the Register of Deeds; the City Council had to introduce a vacation resolution; notices would have to be formally served by the City on to the abutting property owners only at least 30 days prior to a Council public hearing; a public hearing was required to be preceded by the publication of notices published three (3) times prior to the hearing date (held at least 40 days after the date the resolution was introduced at a Council meeting); and a public hearing held, after which the Council could subsequently adopt the vacation resolution. Mr. Less added that the proposed vacation could become problematic if a written objection was filed with the City by an abutting property owner to the area proposed for vacation, which would then cause

PLAN COMMISSION MINUTES - 5/22/2013

Council to order the vacation only by the favorable vote of 2/3 of the Council voting on the action.

Mr. Less then explained that the Official Map process also required a public hearing with a Class 2 notice, and advised that the vacation and Official Map hearing notices could be combined. Mr. Less added that the Official Map hearing could not be held at the same Council meeting where the street vacation resolution was actually voted upon.

Mr. Less then identified the following for this project:

- 1) "Notice of Lis Pendens" regarding the vacation proceedings was filed at the Register of Deeds and recorded on April 29th.
- 2) A Resolution for vacation and an Ordinance for amending the Official Map were introduced at the May 6th Council meeting.
- 3) The property owners of all the frontage of the lots and lands abutting upon the area to be vacated (in this case Harold W. Just and Nancy D. Just Revocable Intervivos Trust Dated August 30, 1990, and Ronald and Sheri Gauger) were served notice of the upcoming Council public hearing on May 7th.
- 4) The required Council public hearings regarding the Official Map amendment and vacation would be scheduled for June 17th.
- 5) The vacation proceedings required a Class III notice to be published pursuant to Wis. Stats. § 66.1003(8)(b), and the Official Map amendment a Class II notice to be published—with notices to be published on May 27<sup>th</sup>, June 3<sup>rd</sup> and 10th.
- 6) The Plan Commission could provide its final recommendations on the vacation and Official Map amendment either tonight, or at its July 10th meeting.
- 7) Final Council action on the Official Map amendment and the vacation could occur after June 17th.

Mr. Less then stated that in the case of this proposed vacation and the matching area of the Official Map amendment, each measured 3,289sf in area. Mr. Less then identified the portions of the public R/W to be vacated as a 3-sided scalene triangle shaped area that measured at its base 23.59', 355.21' on the side of the triangle closest to the c/l of Broadway, and 370.28' along the side of the triangle furthest from the c/l of Broadway, and back to the point of beginning--an area measuring 3,289sf.

Mr. Less continued that a second and smaller scalene triangle was only an amendment to the Official Map, and did not include any R/W vacation, and which was described as a 3-sided scalene triangle shaped area that measured at its base 14.7', 228' on the side of the triangle closest to the c/l of Broadway, and 220' along the side of the triangle furthest from the c/l of Broadway, and back to the point of beginning--an area measuring 1,249.72sf in area.

## PLAN COMMISSION MINUTES - 5/22/2013

Mr. Less noted that in total, the entire impacted area, in which the 2 triangles overlapped each other, was a larger scalene triangle that measured 23.59' at its base, 355.21' on the side of the triangle closest to the c/l of Broadway, and 397.38' along the side of the triangle furthest from the c/l of Broadway--a total area measuring 4,538.72sf.

Mr. Less clarified that in the case of the proposed amendment to the Official Map, the area to be removed from the Official Map matched the area of the proposed R/W vacation. Mr. Less added that the City would retain all easement and utility rights incidental to the vacated R/W which were in place prior to the vacation of the R/W.

Mr. Less continued that post vacation and Official Map amendment, the R/W width of Broadway Street at the Ramminger property would be 70', noting that the R/W width along Broadway was highly irregular ranging from 80' at the south leg of Harvest Circle, to 73' in areas, to 70' and 66' in other areas. Mr. Less noted that the alignment of Broadway Street as it appeared today was not in alignment with the original township road, and was actually constructed north of the original township road, and that excess land was retained by the City on the west side of Broadway, which increased the depth of the setback off of City R/W.

Mr. Less then stated that related to this transaction, there were 2 additional points to make. First, post vacation, there would be a very small R/W dedication from the Ramminger's to the City for an area located south of the narrowest tip of the triangle area measuring 3sf in area. Mr. Less explained that this dedication would be for R/W purposes to address an inflection point along the R/W abutting the Ramminger property; the effect of which was to straighten out a curve and to make the R/W line parallel to the east side of Broadway Street. Second, he explained, was a reversion of title issue as referenced in Wis. Stats § 66.1005. Mr. Less continued that this section discussed discontinuing a highway, and terminating the underlying easement of passage, with the ownership returning to the fee owner of the underlying highway property. Mr. Less stated that if all the vacated land came out of a single parcel, the vacated area would be annexed back to that parcel, but if it was between lands of different owners and couldn't be traced back to an original parcel, then the vacated lands would be divided equally.

Mr. Less noted that upon vacation, there would be an even narrower scalene triangle remaining that would be that portion of the vacated R/W that would revert back to the City as non-R/W property. Mr. Less recommended that the City should sell this remnant land to the Ramminger's so that the entire vacated area was annexed to their existing TR1.

Finally, Mr. Less noted that Planning did mail out notices to property owners abutting and adjacent to the proposed vacation and Official Map amendment area on May 14th. Mr. Less advised that he did talk with Bob Matczynski, 4737 Broadway, and that they talked about what was actually occurring in this area, and he had no problem with the project. Mr. Less continued that he had also received a voice mail message from Ron Gauger, the property owner abutting and to the north of the Ramminger property. Mr. Less advised that he never did talk with Mr. Gauger, but did leave a voice mail message

PLAN COMMISSION MINUTES - 5/22/2013

on his phone describing the proposal, and noted that he did not hear back from Mr. Gauger again.

Kevin Ramminger, 4720 Broadway, explained that he was in favor of the vacation, and provided to the Commission an aerial photo he had just received from his land surveyor showing his property, and a planned new third access into the parcel. Mr. Ramminger then provided documentation of support for his project, and advised the Commission that he had also talked with John Brennan as well as Mr. Gauger, who was supportive of the vacation. Mr. Ramminger explained that he was looking for a setback situation no different than a normal setback similar to other neighbors in the area.

Bob Matczynski, 4737 Broadway, commented that he owned property on the east side of Broadway where parking was allowed, and that parking was prohibited on the west side of Broadway. Mr. Matczynski explained that there was a lot of traffic in this area, and asked Mr. Ramminger if he was placing a business on to his property?

Mr. Ramminger stated “no”, and that he was adding a garage, not a business.

Mr. Matczynski then asked about the width of Broadway Street after the vacation process was completed?

Mr. Less stated 70’.

Mr. Matczynski asked why there were no sidewalks on the west side of Broadway Street? Mr. Matczynski complained about having to maintain their sidewalk area, and wanted to know why there was no sidewalk on the west side of Broadway Street.

Mr. Brey replied that was a matter for the Public Infrastructure Committee, and was not the domain of the Plan Commission.

Mr. Minikel added that he recalled that the decision for sidewalks on the east side of Broadway was to accommodate the Doneff Subdivision.

David Schibline, 4731 Broadway Street, noted that Broadway Street was a busy roadway, with parking prohibited on the west side. Mr. Schibline expressed concern with increased parking pressures in this area, and that giving up the R/W would be a problem.

Mr. Less explained that the width of the R/W was not the same as the actual travel way width, and restated that post vacation, that portion of Broadway Street would have a 70’ width. Mr. Less added that vacating the proposed sliver of an area would not impact the ability to establish parking on the west side of Broadway Street in the future, if the City was so inclined.

Mr. Brey asked Mr. Less for his recommendation.

PLAN COMMISSION MINUTES - 5/22/2013

Mr. Less recommended that the Commission recommend to Council that it approve the vacation and Official Map amendment, with the City Attorney's office instructed to negotiate the sale of the City portion of discontinued R/W to the Ramminger's on terms and conditions acceptable to the City upon completion of the vacation proceedings, including authorization for the Mayor and Clerk to execute required conveyance documents.

Motion by: Mr. Muenzenmeyer                      Seconded by: Mr. Hornung  
Moved that: the Commission approve the Upon Vote: the motion was  
Planner's recommendation above.                      approved unanimously.

Mr. Minikel noted that the maximum driveway width permitted in a residential area would be 25'.

- D. PC8-2013: Allie/Manitowoc Cinema, LLC; Planned Unit Development (PUD) in Section 35 Pursuant to Section 15.750 of Manitowoc Municipal Code – Review Request for Conditional Use Permit (CUP) Pursuant to Section 15.750(4) and Review of General Development Plan Pursuant to Section 15.750(12) of the Manitowoc Municipal Code, and Review of Proposed PUD Covenants

Mr. Less explained that this was a request from SMI, Inc. on behalf of Manitowoc Cinema, LLC as the owner of just over 22-acres of land located east of I-43 and So. 44<sup>th</sup> Street, and north of Viebahn Street. Mr. Less stated that the owners were requesting a CUP in accordance with Section 15.370(27) as a pre-requisite step to creating a Planned Unit Development (PUD) on this property under Section 15.750 of the municipal code. Mr. Less noted that the establishment of a PUD first required the issuance of a CUP pursuant to 15.370(27) by which the Commission and Council had to determine if the proposed use was reasonably necessary for the convenience and welfare of the public, was in harmony with the character of the surrounding area; and would have a minimal or no effect on surrounding property values. Mr. Less noted that the Commission and Council could affix conditions to the CUP to provide assurances that the proposed use would not have a negative impact on the surrounding area.

Mr. Less noted that the subject property was titled in the name of Manitowoc Cinema, LLC, and was acquired in April, 2013 from Robert W. Eberhardt, individually, and Arnold H. Carstens and June F. Carstens as Trustees of the Arnold H. Carstens and June F. Carstens Revocable Trust Dated May 10, 2000. Mr. Less explained that the CUP area measured 22.25-acres and included 16.15-acres of Manitowoc Cinema, LLC property located south and east of So. 44<sup>th</sup> Street, and 6.10-acres of City of Manitowoc property that would be sold in a few weeks to Manitowoc Cinema, LLC, and was included in the PUD.

Mr. Less explained that the CUP and PUD area would be absent any public R/W, and identified 4 developable lots, the outline of which were previously approved by the

## PLAN COMMISSION MINUTES - 5/22/2013

Commission for a CSM. Mr. Less stated that the area had approximately 842.13' of length along its westernmost boundary; 1,445.70' along an irregular eastern boundary, the southernmost 1,159.76' being approximately 30' west of the boundary of a wetland; 483.84' along its south boundary abutting Viebahn; and 890.72' along its north boundary, being the north line of the City-owned parcel. Mr. Less then noted that the wetland boundary was delineated in a report dated January 17, 2013, and continued that the 22.25-acre CUP and PUD area contained approximately 16.36-acres of "I-1" Light Industrial, 4.31-acres of "B-3" General Business, and 1.58-acres of "P-1" Conservancy zoning districts.

Regarding surrounding zoning and land uses, Mr. Less noted that the CUP and PUD area had surrounding zoning of "B-3" (N); Township lands zoned for residential purposes (S), and which were identified on the City's 20-year future land use map as "Planned Neighborhood" – an area suitable for PUD and Traditional Neighborhood development; P-"1 (wetland) and "B-2" Neighborhood Business including the Forest Creek Apartments (E) - note that the lands south of Forest Creek were rezoned by "B-2" in January, 2013; and "I-1" (Manitowoc Company corporate offices) and I-43 (W).

Mr. Less continued that ingress and egress into the CUP and PUD would be by private road that began at the south terminus of So. 44<sup>th</sup> Street R/W, adding that all utility extensions into the interior of the CUP and PUD would be private upon approval and recording of the PUD. Mr. Less noted that the City was still in the process of completing an amendment to the Official Map to remove the R/W reservation that crossed the property, and noted that the process would be completed concurrent with a planned land sale of the 6.10-acre City-owned parcel.

Mr. Less then explained that the proposed CUP was consistent with the City's Comprehensive Plan, and future land use map which identified the CUP and PUD area as "Office/Industrial"--an area described in the Plan as being intended for a business park-type land usage, and which would feature among other items generous landscaping. Mr. Less continued that development in this area would be guided by improved, pre-zoned sites to facilitate development, and adherence to adopted covenants, building design guidelines and zoning standards.

Mr. Less then commented that regarding tonight's hearing, property owners within 200' of the subject property were sent a notice on May 14<sup>th</sup> inviting them to attend, but no comments had been received to date. Mr. Less then commented that Commission members had been provided a copy of the following:

- 1) "Implementation Plan for the "Cinema Square PUD" which detailed the overlay covenants that would define land usage, building design standards, signage, off-street parking and loading, landscaping, storm water, lighting, maintenance, and general development regulations. In its final, approved form, this document would be recorded against the property, and would be an overlay to the underlying zoning district regulations.

PLAN COMMISSION MINUTES - 5/22/2013

- 2) “Cinema Square PUD General Development Plan, May 16, 2013”, which had been sent out for site plan review, and the comments generated would be incorporated into a “Final Development Plan” (FDP) which would likely be before the Commission in either June or July.
- 3) “Reciprocal Easement and Operating Agreement” (REA) was a set of private restrictions that the City was not party to, but would be recorded by Manitowoc Cinema LLC against the property. This REA:
  - a. Binds current and future owners or tenants developing within the PUD.
  - b. Details the obligations of Manitowoc Cinema, LLC and future owners/tenants developing within the CUP or PUD area.
  - c. Requires utilities to be placed underground.
  - d. Allows cross lot drainage of storm water through and across common areas pursuant to a grading and drainage plan that will be part of the REA.
  - e. Identifies center signage.
  - f. Identifies the management company responsible for common area maintenance.
  - g. Allows for temporary tent sales and sidewalk sales, as long as the events don’t disrupt traffic flow or parking areas.
  - h. Allows for the placement of telecom devices on to the roof or external walls of buildings in the CUP and PUD, subject to municipal regulations.
  - i. Requires overall parking in the CUP and PUD to not be less than 4 parking spaces per 1,000sf of floor area in a development, and for outlots used as restaurants, authorizes 12 parking spaces for every 1,000sf of building floor area. For non-restaurant users on outlots, the parking requirement would be at least 5 stalls per 1,000sf of building floor.
  - j. Details uses prohibited in the PUD.
  - k. Prohibits the outside storage or display of merchandise, equipment or services, including vending machines.
  - l. Specifies that any mortgage or deed of trust affecting any portion of the CUP or PUD will be subordinate to the REA.
  - m. Requires all owners in the CUP or PUD area to approve amendments to the REA.

Mr. Less stated that the REA would not be enforceable by the City, but only by Manitowoc Cinema, LLC.

Mr. Hornung asked if the proposed PUD signage was being located in an easement area?

PLAN COMMISSION MINUTES - 5/22/2013

Mr. Less explained that the sign locations were determined by the Allie's, and that the signage issue was handled in the PUD implementation plan to avoid an off-premise sign issue.

Mr. Hornung stated he was concerned there was the potential for a conflict with utilities.

Paul Steinbrecher, SMI, Inc., 102 Revere Drive, commented that the sign base would be on its own easement outside of areas where other utilities would be located, and would not conflict with any utility or drainage easements.

Mr. Hornung stated that it was not shown that way on the drawing, and added that he was okay with the sign location as long as it wasn't in an area designated for utilities.

Nancy Musial, 2400 So. 44<sup>th</sup>, representing the Manitowoc Company, asked about the volume of traffic that would be expected into the PUD area via So.44<sup>th</sup> Street, and the hours of operation for the theater?

Peter Allie, 100 Maritime Drive, stated that he anticipated the main traffic flow would be in the evenings and weekends for a theater and restaurants.

Ms. Musial asked if So. 44<sup>th</sup> Street was the main entrance into the development?

Mr. Less replied that So. 44<sup>th</sup> Street as a public R/W was extended as far as it would go, and that beyond it would be a private drive.

Mr. Hornung asked whether there was a watermain at Viebahn Street on the south side of the property?

Mr. Steinbrecher replied that he was working with Rob Michelson at MPU, and noted that the closest watermain was on So. Frontage Road at "CR", and would be approximately 3,000' in order to loop that service. Mr. Steinbrecher noted that he was working with Mr. Michelson on requirements to place public water into the development, and to make provisions to eventually loop the watermain.

Mr. Brey asked Mr. Less for his recommendation.

Mr. Less recommended the following actions to Council:

Approval of the CUP, subject to the following:

- (a) The CUP be granted exclusively to Manitowoc Cinema, LLC, and not be transferrable or assignable without the written approval of the City.





PLAN COMMISSION MINUTES - 5/22/2013

Mr. Brey asked Mr. Less to explain what conflicts were now created.

Mr. Less replied that the definitional change to sandwich signs was fine, and then explained problems in the areas of regulating murals, sandwich signs and projecting signs. Mr. Less advised that most of these problems had to do with new text being added to the sign ordinance, while pre-existing text was not deleted in the ordinance, thereby creating multiple sets of conflicting guidelines regarding how these items were to be treated. Mr. Less identified and explained several problematic areas, and added that he could go in and clean up this new ordinance so as to reconcile the new with the old. Mr. Less noted that regarding sandwich board signs, a sidewalk privilege agreement authorization should be built into the ordinance to minimize contradictions. Mr. Less added that language regarding projecting signs also needed to be standardized. Mr. Less requested the Commission's direction in this matter.

Mr. Hornung commented that he personally didn't want Mr. Less spending more time on this ordinance.

Mr. Muenzenmeyer commented that as a former enforcer of the code, conflicting sections of the code were very problematic in terms of enforcement efforts. Mr. Muenzenmeyer stated that it would be better to simply do away with the old sign code in these areas, so as to eliminate these conflicts, as he felt it was not enforceable under the way it is now written.

Mr. Alpert asked if these conflicts were brought to the attention of the Council?

Mr. Less stated "yes", and added that during the public hearing, he provided commentary and reference to areas that were problematic.

Mr. Hornung stated that he felt the clarification should come from the City Attorney.

Mr. Minikel asked how these conflicting sections of the code would be handled and reconciled at the Commission and Council?

Mr. Hornung replied that was not the Commission's problem.

Mr. Less commented that he didn't know how this would be handled, and added that he just wanted direction at this time from the Commission. Mr. Less continued that his understanding of downtown signage was that the intent was to ultimately delegate the design review and signage decisions to Mainly Manitowoc; at least that was what he thought was the mindset. Mr. Less continued that he could certainly take the newly adopted ordinance, and create a new ordinance to reconcile it with the balance of the code. Mr. Less noted that the matter of delegation was in his draft ordinance, and was not included in the recently adopted document.

## PLAN COMMISSION MINUTES - 5/22/2013

Mr. Muenzenmeyer stated that he felt that the code needed to be modified to correct for these problems.

Mr. Hornung agreed, but added that he didn't think the City Planner had to spend 2 months of his time to fix the code.

Mr. Diedrich agreed with Mr. Hornung on this matter, and didn't want to have the Planner spending time on fixing the code. Mr. Diedrich added that it would be the Mayor and Council that would take the flack on this.

Mr. Brey suggested that Mr. Less prepare a memo to the City Attorney to detail the problems that have been created with adoption of the new ordinance.

Mr. Less stated he was fine with this, and suggested that the Commission take a formal action on this directive.

Mr. Braun noted that he would like to see the Building Inspector and himself involved in the preparation of the memo to the City Attorney.

Motion by: Mr. Diedrich  
Moved that: the Commission instruct the Planner to prepare and file a memo Regarding the Ordinance problems with the City Attorney.

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

### VIII. NEW BUSINESS

#### A. PC11-2013: Proposed Changes to Chapter 15 – Home Occupation

Mr. Less explained that at the request of the Mayor, he had prepared proposed changes to the City's home occupation definition in the form of a free standing ordinance. Mr. Less explained how the ordinance would function for principal buildings as well as accessory buildings, and reviewed the text of the draft ordinance. Mr. Less noted that he had sent a new version to the Commission a few days ago.

Mayor Nickels commented that Alderman Martell had seen the proposed ordinance, and was supportive of the change.

Mr. Diedrich asked for clarification of how the current home occupation code operated.

Mr. Less explained the current definition, and noted that it operated essentially on the honor system, was limited to just the principal residence, and that the City did not require any kind of permit. Mr. Less added that these uses in accessory buildings were already operating in the City, and that gaining better control going forward was his objective.

PLAN COMMISSION MINUTES - 5/22/2013

Mr. Brey commented that he liked the handling of home occupations in accessory buildings as a conditional use permit, with final approval to be considered by Council.

Mr. Less asked if the processing of CUP's for this use should continue to use a 200' mailing area for these hearings, or limit the mailing to only adjacent and abutting property owners?

Commission members stated that they wanted to stay with the 200' mailing area.

Mr. Braun commented on a home occupation in his neighborhood that was a remodeling business run out of a garage. Mr. Braun noted that he had witnessed trucks dropping off building materials, and added that he felt the proposed changes would add some level of control to these uses.

Mr. Hornung commented as to how the City would distinguish between a hobby and a business operating in an accessory building?

Mr. Muenzenmeyer replied that it was customers and a matter of scale, and added that he felt the conditional use process would be a perfect for this issue, but added that it would place more of a burden on to the Commission and Planning Department.

Mr. Hornung asked how existing businesses in accessory buildings would be handled?

Mr. Less stated that it would be a policy going forward, with pre-existing uses being informed that they would have to come in for a conditional use permit to be legally operating in an accessory building. Mr. Less added that if nothing was done with the proposed ordinance, it would still be illegal to operate such a use in an accessory building.

Mr. Diedrich noted that he had driven by Mr. Miller's property on So. 29<sup>th</sup> Street, and didn't even notice the business operation in his garage.

Mr. Muenzenmeyer noted that the biggest problem was with scrappers, people scrapping out vehicles with parts being laid down all over the place.

Mr. Less stated that the hearing on this ordinance could be held on July 1<sup>st</sup>, and then recommended that the Commission recommend to Council that it instruct the Clerk to call for a public hearing on this matter, and that the Commission provide its final recommendation to adopt the ordinance after completion of the hearing.

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

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

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Sprang; Proposed CSM Being in the NE<sup>1</sup>/<sub>4</sub> of NE<sup>1</sup>/<sub>4</sub> Sec. 11, T.19N., R23E, Town of Manitowoc

Mr. Braun explained the proposed CSM lot split on the south side of Goodwin Road and east of "R", and noted that his recommendation for approval included the requirement for R/W dedication of Goodwin Road. Mr. Braun recommended approval of the CSM.

Motion by: Mr. Hornung

Seconded by: Mayor Nickels

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. Vogel; Proposed CSM Being in the NW<sup>1</sup>/<sub>4</sub> of NW<sup>1</sup>/<sub>4</sub> Sec. 17, T.19N., R23E, Town of Manitowoc

Mr. Braun explained the proposed CSM on the south side of Hilltop Road, and east of N. Union Road. Mr. Braun noted the CSM was to create a 1.062-acre parcel and to split the house off from the farm buildings. Mr. Braun recommended approval of the CSM.

3. Vogel; Proposed CSM Being in the NW<sup>1</sup>/<sub>4</sub> of NW<sup>1</sup>/<sub>4</sub> Sec. 21, T.19N., R23E, Town of Manitowoc Rapids

Mr. Braun explained the proposed CSM on the south side of "J" and east of Friday Street. Mr. Braun noted that the plan was to create a 1.496-acre parcel and to split the house off from the farm buildings. Mr. Braun recommended approval of the CSM.

4. Vogel; Proposed CSM Being in the NE<sup>1</sup>/<sub>4</sub> of NW<sup>1</sup>/<sub>4</sub> Sec. 35, T.20N., R23E, Town of Kossuth

Mr. Braun explained the proposed CSM located on the south side of Rockwood Road and west of "R". Mr. Braun noted that the plan was to create a 1.406-acre parcel and to split the house off from the farm buildings. Mr. Braun recommended approval of the CSM.

PLAN COMMISSION MINUTES - 5/22/2013

Motion by: Mr. Hornung

Seconded by: Mayor Nickels

Moved that: the Commission approve the CSM's for 2-4 above as outlined, subject to any required easements, petitions and other conditions as specified above.

Upon Vote: the motion was approved unanimously.

C. Summary of Site Plans 4/5/2013 – 5/13/2013

1. None.

IX. ADJOURNMENT

The meeting was adjourned at 7:55 P.M., with the June meeting scheduled for Wednesday, June 12<sup>th</sup> at 6:45 P.M.

Respectfully Submitted,

David Less  
City Planner