

PLAN COMMISSION MINUTES - 6/12/2013

Plan Commission Offices  
Manitowoc City Hall

Regular Meeting  
Manitowoc City Plan Commission  
Wednesday  
June 12, 2013  
6:45 P.M.

I. CALL TO ORDER

The meeting of the City Plan Commission was called to order by Chairman Justin Nickels at 6:45 P.M.

II. ROLL CALL

Members Present

Dan Hornung  
Jim Muenzenmeyer  
Dan Koski  
Steve Alpert  
Justin Nickels  
Jim Brey

Members Excused

Maureen Stokes  
Dave Diedrich

Staff Present

David Less  
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular May 22, 2013 Meeting.

Motion by: Mr. Brey

Seconded by: Mr. Muenzenmeyer

Moved that: the minutes be approved as presented.

Upon Vote: the motion was approved unanimously.

Mayor Nickels introduced Dan Koski as the new Director of Public Infrastructure.

Mr. Koski made some introductory comments regarding his background.

IV. PUBLIC INFORMATIONAL HEARINGS

A. None

V. REFERRALS FROM COMMON COUNCIL

A. PC12-2013: Neuser; Request for Access Across City-Owned Land East of So. 10<sup>th</sup> Street

Mr. Less explained that this was a request from a property owner of land located on the east side of So. 10<sup>th</sup>, and south of the south entrance to Silver Creek Park. Mr.

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Less noted that the City-MPU owned a strip 33' wide that was part of an Official Map pattern, and which appeared to be City-owned and not dedicated for R/W purposes). Mr. Less explained that the Deed was to "The City of Manitowoc (Manitowoc Public Utilities)" as grantee, and was dated August, 1953. Mr. Less noted that it was for 16.34-acres, and included riparian rights along Lake Michigan, and a 16.5' wide driveway easement, neither of which were located in the 33' strip to the south of the Neuser property.

Mr. Less continued that the existing/current Official Map pattern was adopted in January, 2004 (PC59-03), and replaced a mapping pattern established around 1964. Mr. Less noted that the purpose of the 2004 action was to eliminate excessive R/W in this area, and to re-set the future street pattern to better match anticipated development patterns.

Mr. Less noted that regarding the Neuser property: (i) it was not in the City; (ii) he acquired the property in February, 2013; and (iii) according to his letter, he wanted to split his parcel, and either purchase, or use via easement, the 33' City-owned strip to the south. Mr. Less added that he had talked with Steve Bacalzo, MPU on this matter, and was advised that MPU had power poles running N-S along the E side of So. 10<sup>th</sup>, and poles running E-W from So. 10<sup>th</sup> towards the lake. Mr. Less explained that according to Mr. Bacalzo, the E-W line of poles were placed on City-owned property sometime in the 1980's, and there was no easement of record identified. Mr. Less added that according to Mr. Bacalzo, the E-W line was essential as it ultimately served one of MPU's wells. Mr. Less continued that Mr. Bacalzo had no issue with placement of a driveway in the easement area, but the grantee (Mr. Neuser) would have to clear out the area, and not interfere with the existing power poles. Mr. Less reported that Mr. Bacalzo felt this would also require the approval of the MPU Commission on this matter.

Mr. Less then explained that he felt the options for the Commission's consideration were to: (i) sell the 33' strip, which he did not support; (ii) grant an easement to Mr. Neuser as requested, but he did not support this option as he felt that an easement was too permanent a property interest; (iii) grant Mr. Neuser a "Sidewalk Privilege Agreement" (SPA) for placement of a driveway on to City-owned property (Wis. Stat. § 66.0425(2)), subject to (a) dedication of R/W on So. 10<sup>th</sup>, (b) execution of a Public Works and Water Petition for So. 10 and the future E-W running Street, and (c) consent from MPU; and (iv) take no action on the request and place it on file. Mr. Less noted that based on the aerial mapping, it appeared that Mr. Neuser could establish an easement across his lot for access to his future sale lot, and that it appeared that there was approximately 45' available along the N lot line to do so.

Regarding the SPA option, Mr. Less added that the document should probably include MPU as a party to the agreement, as MPU was referenced in the original deed, and added that the document should also include indemnification language due to the placement of a driveway near the MPU poles. Mr. Less noted that the SPA was, in effect, a license, and not a property right.

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Mr. Hornung commented on power poles in the area.

Mr. Muenzenmeyer asked if an SPA would satisfy the City's access/frontage requirement when the Neuser lot was split?

Mr. Less replied that he felt it would, as long as the ingress and egress authorization was included in the SPA.

David Neuser, 1404 Michigan and the owner of property at 3329 So. 10<sup>th</sup>, commented that there were 2 septic tanks at the north end of his property, one of which was shared with the property owner to the north. Mr. Neuser added that this was why he didn't see the north side of the property as being a viable option for ingress/egress. Mr. Neuser added that his intent would be to remove the trees on his property to take advantage of lake views, as well as the City's 33' strip so he could install a driveway.

Mr. Brey asked Mr. Neuser if he had considered annexation into the City?

Mr. Neuser replied that he didn't know about annexation, and asked if he had to do that. Mr. Neuser added that all he was looking for was an easement.

Mr. Less noted that annexation was a great idea, and that in terms of value added to his property, would probably enhance its value. Mr. Less added that it was Mr. Neuser's call, and added that his preference was for an SPA instead of an easement. Mr. Less explained the SPA statute, and emphasized that it was a revocable license and not a property right. Mr. Less added that there were no condemnation rights with an SPA, and that at such time that the City would choose to install a public street, his improvements would be removed with no remuneration to Mr. Neuser.

Mr. Neuser stated that he understood this, and added that his plan was to sell off the existing home.

Mr. Less added that the SPA would have to include language regarding the permanency of access to the lot to be created to the east.

Mr. Neuser stated that he understood.

Mr. Hornung commented that if the parcel was split, the east parcel would not be abutting a true street, which would make him landlocked.

Mr. Less replied that the SPA would have to specify that at the time the City installed the street, the 33' would have to be declared and dedicated as R/W, or that would create a landlocked parcel. Mr. Less added that regarding the 25' access requirement, it would be satisfied by including the ingress/egress provision into the SPA. Mr. Less noted that he wasn't aware of the septic system issue to the north.

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Mr. Less stated that he felt the SPA was the most prudent way to proceed, and recommended that the Commission recommend to Council, subject to approval of the plan by Manitowoc County and MPU, that the Council authorize: (i) preparation of the SPA pursuant to Wis. Stat. § 66.0425(2); (ii) the Attorney's office to prepare the document, coordinate with MPU terms and conditions that would be required to be included in the SPA document; and (iii) prior to execution of the SPA, the delivery of a Quit Claim Deed and Public Works and Water Petitions from Mr. Neuser to the City and MPU for the So. 10<sup>th</sup> Street frontage, and future E-W running street frontage.

Mr. Brey asked Mr. Neuser if he had talked with the Manitowoc County Highway Department regarding adding a new driveway at this location so close to the existing driveway?

Mr. Neuser replied that he hadn't yet talked with the County, and wanted to address matters first with the City. Mr. Neuser stated that he understood new driveways would be allowed on the east side of So. 10<sup>th</sup>.

Motion by: Mr. Brey

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

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

VI. OLD BUSINESS

- A. PC41-2012: Allie/Carstens/Carstens Trust; Proposed Official Map Amendment Under Wis. Stat. § 62.23(6) for Property in Section 35, at Viebahn and So. 42<sup>nd</sup> Street (CTH "CR")

Mr. Less explained the status on this request, and noted that there was an Offer to Purchase now in place for City-owned Tract 8. Mr. Less then recommended that the Commission recommend to Council approval of the ordinance effectuating the amendment to the Official Map.

Mr. Brey wanted to clarify that the Allie's d/b/a Manitowoc Cinema, LLC, would be paying for the entire construction of the cul-de-sac.

Mr. Less replied that this was the purpose behind the required sale of Tract 8.

Motion by: Mr. Hornung

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

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

- B. PC27-2009: Annual Review of Special Permits for Fixed Animated Signs Pursuant to Section 15.450(18)(e)7. of the Manitowoc Municipal Code

Mr. Less reviewed the status of previously issued Special Permits for fixed, animated signs, and noted that the only response he received was from the Fire Chief

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stating that there were no concerns. Mr. Less recommended to the Commission that they recommend to Council the continuation of these previously issued Special Permits, and with no changes to be made.

Motion by: Mr. Hornung

Seconded by: Mr. Brey

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

Upon Vote: the motion was approved unanimously.

C. PC4-2013: City of Manitowoc; Sale of Land to PBJC Fest I, LLC at Dewey and So. 42<sup>nd</sup> Street/CTH "CR" – Update

Mr. Less explained that the Commission had discussed this matter in the past, and had recommended to Council moving forward with the sale of this land pursuant to Wis. Stat. § 62.23(5). Mr. Less added that a draft "Real Estate Purchase Agreement" was in hand for the sale of the "development parcel" adjacent to the City's Visitor Information Center property.

Mr. Less continued that tonight's discussion had to do with formalizing the previous Council action in closed session on January 21, 2013, and then reviewed with the Commission the recommendations that were approved by Council at that time. Mr. Less recommended to the Commission that it recommend to Council re-adopting these recommendations in open session, with would serve as official authorization to negotiate and complete the planned land sale.

Mr. Less commented on the limited developability of the 1.04-acre property due to existing easements, and noted that the site would be occupied with a new KFC business.

Motion by: Mr. Brey

Seconded by: Mr. Alpert

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

Upon Vote: the motion was approved unanimously.

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

Mr. Less provided Commission members with a draft memo to the City Attorney regarding corrective changes related to a recently adopted ordinance which amended certain sections of the City's sign code. Mr. Less stated that the Commission's previous directive was for the Planner to not spend time on the document, but rather to prepare a memo to the Attorney. Mr. Less added that he wanted the Commission to review the draft, and provide him with any comments or suggestions he might have prior to the July meeting. Mr. Less noted that he planned on completing the recommendation section of the memo for the July meeting for further Commission review. Mr. Less emphasized that he didn't feel comfortable sending this type of memo to the City Attorney without the express blessing and support of the Commission.

No action was taken.

VII. NEW BUSINESS

A. PC13-2013: Popp Enterprises LLC/Vandermause; Proposed Vacation Under Wis. Stat. § 66.1003(2) and Official Map Amendment Under Wis. Stat. § 62.23(6) at Dewey and So. 19<sup>th</sup> Street

Mr. Less explained that tonight's discussion on this new topic was informational only, and stated that the property owner wanted to sell his land to Mr. Vandermause for construction of a building to house a 24-person Community Based Residential Facility (CBRF). Mr. Less advised the Commission that he had met with them on June 6<sup>th</sup> to review the various procedures needed to be completed in order to make the project feasible from a land use perspective, in addition to compliance with City site plan requirements. Mr. Less outlined the following procedures and timetables that would need to be completed and approved before construction could take place:

1. Assisted Living Facility – Exception to 2,500' Provision. City would have to grant an exception as the site was located within 2,500' of another Community Living Arrangement (CLA).

2. Conditional Use Permit (CUP) for CLA. City would have to consider issuance of a CUP for a CBRF in both the "R4" (Section 15.150(3)(f) for 9+ residents) and "R5" (Section 15.170(3)(f) for 16+ residents) zoning districts.

Vacation/Official Map Amendment. City would process a proposed R/W vacation pursuant to Wis. Stat § 66.1003(2) for a portion of So. 19<sup>th</sup> Street, south of Dewey Street, and the associated amendment to the Official Map pursuant to Wis. Stat § 62.23(6) .

Mr. Less then reviewed mapping which identified the location of the proposed facility, as well as the area of So. 19<sup>th</sup> proposed to be vacated, as well as the Official Map treatment for that portion of So. 19<sup>th</sup> to the south. Mr. Less explained that regarding the vacation, there was no required public hearing (as the vacation was not being City-initiated), and explained the petition requirements that would have to be complied with. Mr. Less added that Paul Steinbrecher, SMI, Inc., would have to run the calculation to demonstrate compliance with the statute.

Mr. Less explained that there was no action to be taken by the Commission this evening, and added that he was just looking for a tacit consent from the Commission to proceed.

Mr. Muenzenmeyer stated that he didn't know if the licensing request would be for 24 or 26 beds in the proposed CBRF.

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Jerry Vandermause, 22200 Rockville Road, Kiel, explained that this would be a CBRF with a capacity up to 26 residents. Mr Vandermause added that he had an RN administrator for the planned facility.

No action was taken, but the Commission indicated its support to proceed on these identified matters.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

Mr. Brey commented that Manitowoc County had received a request for a wind tower farm in the Town of Mishicot. Mr. Brey added that the County had hired a 3<sup>rd</sup> party consultant to assist with this matter.

No action was taken.

B. Certified Survey Maps (CSM):

1. Risch Revocable Trust; Proposed CSM in the SW<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub>, Section 11, T19N, R23E, City of Manitowoc

Mr. Less explained a proposed lot split for property on the south side of Menasha Avenue, east of N. Rapids Road. Mr. Less recommended approval of the proposed 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. Alpert  
Upon Vote: the motion was approved unanimously.

2. Joseph Jr. and Susan M. Resch, Proposed CSM in the NE<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub> of Section 33, T20N, R23E, Town of Kossuth, Manitowoc County

Mr. Less explained a proposed CSM located north of USH10, and west of Stone Road, and added that the owner wanted to split the homestead from the balance of the property. Mr. Less recommended approval of the proposed CSM.

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

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

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C. Summary of Site Plans 5/14/2013 – 6/6/2013

1. SP8-2013: Phipps Construction Warehouse, 823 So. 21<sup>st</sup> Street – New Construction (approved)
2. SP9-2013: 2013: Cellcom, 4140 Harbor Town Lane – Build Out (approved)

IX. ADJOURNMENT

The meeting was adjourned at 7:25 P.M.

Respectfully Submitted,

David Less  
City Planner