

PLAN COMMISSION MINUTES - 7/10/2013

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
July 10, 2013
6:45 P.M.

I. CALL TO ORDER

The meeting of the City Plan Commission was called to order by Acting Chairman Jim Brey at 6:30 P.M.

II. ROLL CALL

Members Present

Dan Hornung
Maureen Stokes
Jim Brey
Jim Muenzenmeyer
Dave Diedrich
Dan Koski

Members Excused

Justin Nickels
Steven Alpert

Staff Present

David Less
Paul Braun
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular June 12, 2013 Meeting.

Motion by: Mr. Diedrich

Moved that: the minutes be approved as presented.

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

- A. PC14-2013: Community Bible Church, Inc.; Request for Conditional Use Permit for Location and Operation of a Church and School at 2711 Wollmer Street Pursuant to Sections 15.150(3)(a) and (b) of Manitowoc Municipal Code

Mr. Less explained that this was a request from Pastor Guy Corrigan representing the Community Bible Church, and Life Academy, a private Christian school, at 2711 Wollmer Street. Mr. Less noted that the request was for the City to issue a Conditional Use Permit (CUP) for operation of a church and a school at this property under the "R-4" zoning district regulations. Mr. Less noted that the CUP was to be considered in accordance with Section 15.370(27) of the Manitowoc Municipal Code which established procedures for the issuance of a CUP by which, the Commission and Council must

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determine if the proposed use: (i) was reasonably necessary for the convenience and welfare of the public; (ii) was in harmony with the character of the surrounding area; and (iii) 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 explained that the subject parcel was also identified as tax parcel No. 260-003-041, and was legally described as Lots 1-4, Block 3 of Factory Heights Addition. Mr. Less then noted that the subject parcel was rectangular in shape with 222.67' of frontage on Wollmer Street, and a lot depth of 100', for a total area of 22,267sf or .51-acres. Mr. Less continued that the parcel abutted both So. 27th and So. 28th Streets, and was currently zoned "R-4" Single and Two Family Residential District, which required a CUP under Sections 15.150(3)(a) and (b) for usage of the site as a church and as a school. Mr. Less noted that the property was currently assessed at \$72,000 by the Assessor which reflected the value of the single family home on the property at 2705 Wollmer, and which generated just over \$1,500 in annual real estate taxes. Mr. Less added that the church at 2711 Wollmer was tax exempt. Mr. Less continued that the Community Bible Church also owned the residence at 709 So. 28th, being Lot 5 of Block 3, which they purchased in 1989, satisfying a Land Contract from 1988. Mr. Less noted that it was assessed at \$57,800. Mr. Less stated that it was his understanding from the Pastor that this property would be used as a residence for a teacher.

Mr. Less continued that the "R-4" zoning district permitted single and 2 family residential, along with community living arrangements and day care facilities for not more than 8 individuals, along with vacant lot residential gardens, and conditionally permitted such uses as churches, schools, hospitals, private clubs and lodges, domestic violence centers, and community living arrangements for 9 or more individuals.

Mr. Less stated that regarding the current ownership of the property, it appeared to be owned by the "Community Bible Church, Inc.", which acquired it from the Bethany Evangelical Lutheran Church in December, 1958. Mr. Less added that it appeared that the ownership of the property prior to that date was also with various churches, adding that in a check of Plan Commission records as far back as 1973, he found no record of a CUP ever being issued for this property. Mr. Less added that a 2006 appraisal of the property identified the owner as "Cornerstone Community Church", but stated that he couldn't find any conveyance documents to validate that reference.

Mr. Less continued that the property under the church ownership included 3 buildings: (i) a 1½ story frame, 2-bedroom residence to the south that was the former parsonage; (ii) a small, brick church on the west side of the parcel; and (iii) another 1-1/2 story residence being located on the east side of the parcel. Mr. Less explained that the church building was the planned site for the school, that would, according to the information provided by the Pastor, be for kindergarten through 6th grade, operate Monday - Friday with the same schedule and hours as the public schools, and with the expectation of 50 students. Mr. Less added that according to the Pastor, the lawn area would be used

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for play and physical education activities. Mr. Less noted that the far east end of the property abutting So. 27th was vacant, and currently has a volleyball net strung across it.

Mr. Less continued that while there was no off-street parking, there were no parking restrictions on Wollmer, nor So. 27 or So. 28th, so there appeared to be ample on-street parking. Mr. Less explained that the City's off-street parking code for a church was 1 space for each 6 seats, and for an elementary school would require 1 parking stall per staff person, plus seating for an auditorium, which was not relevant in this case. Mr. Less noted that there was another section under the parking code that specified that for a church, the off-street parking requirement was to be calculated at 1 seat for each 18" of such seating facilities. Mr. Less stated that while there was limited parking for the 2 residential structures owned by the church, there was ample parking along the RR trackage that was probably part of the former Jagemann Stamping complex.

Mr. Less then explained the zoning and land uses surrounding the subject property, and added that notices were mailed from Planning to property owners within 200' of the subject property on July 3rd. Mr. Less noted that he did receive a telephone call from Melissa Miller, 2710 Wollmer, who expressed concern with introducing a school into their neighborhood, and that other than this contact, he had not received any other response to the mailing.

In closing, Mr. Less noted that the City's 20 year future land use map that was part of the 2009 Comprehensive Plan identified the church area of the subject property as "Institutional and Community Facilities", with the balance of the subject property identified as "Single and Two Family Residential - Urban". Mr. Less added that the land use map matched the existing land uses, which were not being disturbed by this proposed CUP, and therefore, concluded that this proposed CUP was consistent with the City's Comprehensive Plan.

Mr. Diedrich asked for clarification on Mr. Less' comments regarding "Cornerstone".

Mr. Less stated that Cornerstone did not appear to be the name of the property owner from his search of the records, and was just a name affiliated with the property.

Mr. Koski asked about the maximum number of students expected to attend the school.

Pastor Guy Corrigall, 2709 Clark Street, commented that he was estimating a maximum enrollment of 50, and felt that this was likely a high number. Mr. Corrigall continued that the school would not be operational at this site for more than 1 year, and then they would move to a more permanent facility. Mr. Corrigall added that they had 20 students enrolled at present, and noted that they were in discussions with the Methodist Church on 9th Street regarding a future home for the school.

Mr. Muenzenmeyer asked about the status of the residence at 2705 Wollmer?

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Mr. Corrigan replied that there was currently a renter in the home, who had been there for 5 years, and that there were no plans to change this arrangement.

Robin Brandl, 2706 Wollmer, commented that she didn't want a school across from where she lived, and expressed concern with increased traffic in the area, and children safety. Ms. Brandl asked about where the playground for the students would be located, and expressed concern with her ability to sell her home in the future, and whether or not a school would reduce her property value. Ms. Brandl stated that she was against the school.

Mr. Less commented that he didn't believe there would be any negative impacts upon property values, but told Ms. Brandl that she should go and talk with the City Assessor for a more definitive response to that question.

Mr. Corrigan stated that there would not be a formal playground for the kids, and added that there was no fencing planned. Mr. Corrigan again stated that the plan was to stay at this location for not more than 1 year with the school. Mr. Corrigan added that they had 3 teachers to start the school with.

Vicki Karbon, 729 So. 27th, stated that she was only concerned with parking availability, and was more at ease with the proposal knowing that the school would only be there for 1 year.

Jim Heyduk, 719 So. 27th, asked what would happen if the 1 year timetable was not adhered to?

Mr. Corrigan replied that the Church Board had limited the school function to 1 year, and they'd have to relocate to another church building at that time.

Wally Ahrens, 709 So. 27th, stated that he had concerns with kids running around in a heavy traffic area, and asked if there was someone that should be contacted at the City regarding installing school safety zone signs.

Mr. Brey explained that the Pastor should write a letter to the Council making this request, and added that he would talk with Alderman Sitkiewitz as Chairman of the City's Public Safety Committee.

Mr. Brey asked Mr. Less for his recommendation.

Mr. Less explained his proposed CUP compliance conditions, and recommended that the Commission recommend to Council approval of the CUP under Section 15.150(3)(a), subject to the compliance conditions as presented.

Motion by: Ms. Stokes

Seconded by: Mr. Diedrich

Moved that: the Commission approve the

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Planner's recommendation above.

Mr. Hornung suggested that a 1-year limit be placed in the CUP for the school operation, with a termination date of December 31, 2014. Commission members agreed to that amendment.

Upon Vote: the motion was approved unanimously, with the 1-year amendment as noted above.

B. PC 15-2013: Elks Lodge 687; Request for Conditional Use Permit for Location and Operation of a Clubhouse at 1807 N. Rapids Road Pursuant to Section 15.270(3)(c) of Manitowoc Municipal Code

Mr. Less explained that this was a request from Steven Brogan, the Exalted Ruler of the Manitowoc Elks Lodge No. 687, which was the contract purchaser of the current Timber Lodge liquor store, and was requesting that the City issue a Conditional Use Permit (CUP) for operation of a private club and lodge at the property at 1807 N. Rapids Road. Mr. Less stated that the CUP was to be considered in accordance with Section 15.370(27) of the Manitowoc Municipal Code, which established procedures for the issuance of a CUP 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 explained that the subject parcel was also identified as tax parcel No. 814-103-050, was currently owned by James Ziegelbauer, and was occupied by Timber Lodge Liquor, which had hours of operation listed as Monday - Saturday 9:00 A.M. – 9:00 P.M., and Sunday and holidays, 9:00 A.M. – 5:00 P.M. Mr. Less continued that according to the City Clerk's office, the City had issued Timber Lodge a current liquor store license, which he noted was not the same as a tavern license.

Mr. Less continued that the "B-3" zoned subject parcel was quadrilateral in shape with frontage on N. Rapids Road of 178.5', a north line measuring 311', a south line measuring 224', and a rear or east line measuring 160'. Mr. Less added that the proposed use required a CUP under Section 15.270(3)(c) of the code. Mr. Less continued that the "B-3" zoning district permitted all types and kinds of retail and some types of service business, as well as office and professional land uses. Mr. Less added that conditionally permitted uses in this district included a wrecker service, apartment hotels, homes for the elderly, and private clubs and lodges.

Mr. Less stated that the existing building measured approximately 40' in width on the Rapids Road side, 72' along its north wall, 49' along its east wall, and just over 73' on its south wall, or a total of approximately 3,229sf. Mr. Less added that there was an

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adjacent blacktop, off-street parking area striped for 18 vehicles, which did not meet the City's landscaping code.

Mr. Less added that on the point of off-street parking, the municipal code for off-street parking for a private club or lodge was a minimum of 1 parking space for each 100sf of gross floor area, which would actually be the net public square footage for a service type business. Mr. Less continued that in this case, using the current interior layout of the Timber Lodge business, there was approximately 673sf of non-public space, which would leave the remaining net public space at 2,556sf or a requirement of 26 parking spaces. Mr. Less did note that the Plan Commission could reduce off-street parking requirements pursuant to Section 15.430(5) of the code.

Mr. Less continued that the subject parcel measured .95-acres in area, and was currently assessed by the City Assessor for \$159,700, and generated approximately \$3,400 in annual real estate taxes. Mr. Less explained the surrounding land uses and zoning.

Mr. Less then pointed out that the Elks sold their former clubhouse property to I & S Holdings, LLC in June, 2011, and had been searching for a permanent new home since then. Mr. Less added that he believed the Elks had been using the lower level of their former facility for their meetings through the end of September, at which time their current plan was to share space at the Amvets Club until they took occupancy on N. Rapids Road which was expected at the end of February, 2014. Mr. Less added that the "Club" property had since been sold to Red Arrow Products earlier this year.

Mr. Less explained that the Elks entered into a purchase and sale agreement with the current owner on June 7th, 2013 that included a contingency of issuance of a CUP by the City to allow the property to be used as the Manitowoc Elks Lodge. Mr. Less identified other contingencies in the offer including approval of the purchase by the Elks membership, and approval by the Elks Grand Lodge. Mr. Less noted that the closing would be scheduled on or before September 30th. Mr. Less added that there was an existing lease in place which could extend the occupant's current occupancy through the end of June, 2014, so physical occupancy by the Elks was not clear at this time, other than while hopeful occupancy was by the end of February, 2014, it could be the end of June, 2014. Mr. Less noted that according to information provided to him, the Elks membership voted in the affirmative on June 25th, and the Grand Lodge approval was still pending.

Regarding the intention of the Elks, Mr. Less noted the following:

- 1) The Elks were chartered in 1901, and had functioned continuously in Manitowoc since that time.
- 2) Membership was both male and female, and had been declining over time, with current membership at approximately 123.
- 3) The Elks meet twice/month, currently on the 2nd and 4th Tuesday's, with attendance at these meetings between 15 and 20 persons.

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- 4) The hours of operation at the subject were not clear or known at this time, but their preference would be for the clubhouse to be open from early afternoon until 10:00 P.M., Monday - Saturday.
- 5) The Elks were not planning a physical expansion of the facility, but were intending on structural repairs including a new roof and parking lot repairs.
- 6) The Elks envisioned usage of the open area to the east for summer picnics for members and their families, as well as holiday celebrations and fund raising events.
- 7) While they did not intend to have a kitchen facility, they would rely on caterers for providing food service for large group meals, which they estimated at 4-6 times per year.
- 8) Finally, the Elks intend to apply to the City for a liquor license for the premises.

Mr. Less noted that notices were mailed from Planning to property owners within 200' of the subject property on July 3rd. Mr. Less explained that he did receive an email on July 8th from Tim Frey, JHA Properties, as a property owner at 4436 and 4438 Fleetwood Drive, stating he was not opposed to the proposed CUP. Mr. Less noted further that Mr. Braun had received a phone call today from Pat Hartlaub, 1629 Sylvan Drive, who was not opposed to the use, but had questions and concerns. Mr. Less added that Mr. Hartlaub felt that the liquor store was a well maintained business, and a quiet neighbor that closed at 9:00 P.M., but did have questions centered on whether the Elks would be seeking a liquor license, hours for special events lasting into the evening, and general concerns regarding noise and traffic. Mr. Less advised that Mr. Braun sent him a copy of the proposed CUP conditions, along with the "B-3" district regulations, making the point that a lot worse uses would already be permitted in that zoning district. Mr. Less noted that other than that, there were no other responses received to the mailing.

In closing, Mr. Less noted that the City's 20 year future land use map as part of the City's 2009 Comprehensive Plan identified the subject property as "General Business", an area which was described in the text of the plan as being suitable for commercial and retail use at a neighborhood scale, and appropriate for neighborhood-oriented retail and service businesses. Therefore, Mr. Less concluded, the proposed CUP was consistent with the City's Comprehensive Plan.

Mr. Diedrich asked about the Official Map cul-de-sac at the end of Beaupre Court, and whether that was included in tonight's discussion?

Mr. Less stated "no".

Tom Johnson, 1821 N. Rapids, asked if this re-use of the property would impact his taxes?

Mr. Less stated that Mr. Johnson should have a conversation with the City Assessor, but didn't believe there would be any impact.

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Mr. Johnson did mention the removal of a fence in the past by the City.

Mr. Brey commented that this was not an issue for the Plan Commission, and recollected that the fence had been located on City-owned property.

Pat Hartlaub, 1619 Sylvan Drive, expressed additional noise and traffic concerns that could arise from this operation, and explained that there were 13 kids on Sylvan Drive, and he didn't want people cutting through their lots. Mr. Hartlaub added that parking in the area was also a concern, as there was no parking allowed on N. Rapids. Mr. Hartlaub stated that he was also concerned with activities taking place after 9:00 P.M., that might include issues with intoxicated drivers.

Gene Maloney, 634 N. 8th, explained that he was a Trustee for the Elks, and emphasized that they were a fraternal organization, and were not party folks. Mr. Maloney continued that Mr. Ziegelbauer had told him that the area to the east of the building was actually a former parking lot, and was actually grass growing over concrete. Mr. Maloney continued that he didn't see a problem with parking on the grass over stone area, and assured everyone that the Elks were not interested in encouraging public drunkenness. Regarding parties at the property, Mr. Maloney noted that members could have a party there.

Gail Terry, 1720 Kellner, stated that she was not excited about the prospect of private parties and campfires that would extend past 9:00 P.M.

Mr. Less explained that the proposed compliance conditions included a limitation on hours that activities could take place outside, that being no later than 9:00 P.M.

Ms. Terry asked if the Official Map at Beaupre Court was being considered tonight?

Mr. Less stated "no".

Cathy Stangel, 4410 Knuell Court, commented that she supported the Elks proposal, and emphasized the other uses that could potentially locate in the existing "B-3" zoning district.

Mr. Muenzenmeyer commented that the Elks had been a very good player in the City.

Mr. Brey asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council approval of the CUP under Section 15.270(3)(c) of the code, subject to the compliance conditions as presented.

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Motion by: Mr. Muenzenmeyer

Seconded by: Ms. Stokes

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

Upon Vote: the motion was approved unanimously.

- C. PC16-2013: SMI/Popp Enterprises, LLC/Vandermause; Request for Exception to 2,500' Separation Requirement Pursuant to Wis. Stat. § 62.23(7)(i)1. for Establishment of an 26-Person Community Based Residential Facility (CBRF) at Dewey and So. 19th Street, and Associated Conditional Use Permits Pursuant to Sections 15.150(3)(f) and 15.170(3)(f) of Manitowoc Municipal Code

Mr. Less explained that this was a request from SMI on behalf of the contract purchaser of property at Dewey and So. 19th, Jerry Vandermause, which was requesting: (i) that the City grant an exception to the 2,500' spacing requirement under WI's Community Living Arrangement (CLA) statute, Wis. Stat. § 62.23(7)(i)1. to operate a Community Based Residential Facility (CBRF) for a maximum of 26 persons; and (ii) that the City issue a Conditional Use Permit (CUP) under both the "R-4" and "R-5" zoning district regulations to authorize the location and placement of a CLA.

Mr. Less explained that the subject property was a vacant lot located on the south side of Dewey midway between So. 18th and So. 21st Street, and which included a portion of the 60' wide So. 19th Street R/W. Mr. Less continued that the non-R/W parcels were more specifically identified as: (i) part of tax #355-081-001 owned by Popp Enterprises LLC, being part of Hinckley's Subdivision, and being part of Lots 81, 84 and 85; and (ii) part of tax #355-084-001 being part of Lot 1 of a CSM Recorded in V. 30, P. 223. Mr. Less noted that the first parcel had an assessed valuation from the City Assessor of \$62,800, and generated approximately \$1,300 in annual real estate taxes, while the second parcel had an assessed valuation of \$47,100, and generated total real estate taxes of just over \$1,100. Mr. Less noted further that the subject property had split zoning with the north 140' being zoned "R-5" Low Density Multiple Family District, and the south 135' being zoned "R-4" Single and Two Family District.

Mr. Less explained that the contract purchaser, pursuant to a Vacant Land Offer to Purchase dated and accepted on June 4th, would be purchasing a rectangle that, excluding the So. 19th Street R/W, had a lot depth of 275', and Dewey Street frontage of approximately 305'. Mr. Less stated that when the 60' wide R/W of Dewey was added in (which was contemplated to be vacated), the total area being purchased would measure 365' along Dewey by 275' of lot depth, or a total of 100,375sf or 2.3-acres. Mr. Less continued that regarding the Offer to Purchase, it specified that the sale was contingent upon:

- 1) Closing the land sale on or before September 1, 2013.
- 2) Financing contingency.
- 3) Appraisal contingency.
- 4) Proposed use contingency - construction of a CBRF measuring approximately 14,500sf.

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- 5) Obtaining a CUP from the City for the CBRF.
- 6) Buyer's ability to receive a license from WI for a CBRF.
- 7) A lot survey including access to the retention pond to the south.

Mr. Less then explained that a CBRF was a community facility for 5+ adults who were not related, and did not require care above intermediate level nursing care, and which resided and received care, treatment or services that were above the level of room and board, but included no more than 3 hours of nursing care per week per resident.

Mr. Less then commented that the petitioner was requesting that the City grant an exception to the 2,500' provision contained in Wis. Stat. § 62.23(7)(i)1. which stated that the City, at its discretion, may grant an exception to this statute to permit a CLA to locate within 2,500' of an existing CLA, and added that the proposed CBRF was located within 2,500' of The Villa, 1600 So. 18th, and HIL Yorktown Home, 2136 So. 13th. Mr. Less continued that the proposal CBRF would be for a maximum of 26-persons, and would operate as Maritime Gardens. Regarding the proposed facility, Mr. Less noted the following from information provided by the petitioner:

- 1) Care at the facility would be coordinated by a Registered Nurse.
- 2) The facility would be staffed on-site 24 hours/day.
- 3) The facility planned to seek licensing as a CNA, serving residents who were ambulatory, semi-ambulatory and non-ambulatory.
- 4) The facility would serve residents 62+ in age, advanced aged, terminally ill, dementia and Alzheimer clients.

Mr. Less added that the proposed facility would measure approximately 14,816sf in area, including approximately 2,400sf of common area, and with 24 suites of which 2 of the units were being designed for double occupancy. Mr. Less noted that construction was anticipated to be completed by the end of February, 2014, with landscaping and finishing the parking lot in May, 2014.

Mr. Less then commented that as he had mentioned in past sessions regarding this kind of request, the purpose of the 2,500' spacing requirement was to disperse CLA's throughout the community, and to avoid over intensifying the location of such person's into limited geographic areas. Mr. Less continued that CLA's were regulated under Wis. Stat. § 62.23(7)(i) which included the following provisions: (i) subd. (i)1. which was related to the 2,500 separation requirement, and which specified that the City had the discretion to grant the spacing exception; and (ii) subd. (i)5. which stated that for CLA's with a capacity for 16 or more, they could petition the City to locate in any residential zoning district, and could apply for a special exception. Mr. Less noted that according to the City's annual CLA report filed in January, 2013, there were 7 Adult Family Homes and 22 CBRF's in the City, with a combined total capacity of 359 residents.

Mr. Less continued that additionally, CBRF's were regulated by the State's Department of Health Services (DHS), Division of Quality Assurance, and were further required to meet the certification requirements under Wisconsin Administrative Code

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DHS Chapter 83, as well as Caregiver Background Checks under DHS 12, and Allegation Reporting under DHS 13. Mr. Less noted that the Division of Supportive Living was responsible for the licensing of all CBRF's in Wisconsin, and no CLA could operate unless they had been certified to do so by DHS. Mr. Less then detailed other statutory requirements for operation of a CBRF.

Mr. Less then explained the surrounding zoning and land uses at the facility.

In closing, Mr. Less advised that notices were mailed from Planning on July 3rd to property owners within 200' of the subject property, and that there were no responses received.

Mr. Diedrich questioned if there would be any benefit to eliminating the split zoning on the parcel through a rezoning proceeding?

Mr. Less replied that the CUP was a more timely and easier procedure to follow, and that there was no real benefit to rezoning the parcel.

Mr. Diedrich stated that he had a CBRF in his neighborhood, and commented that they were stellar residents.

James Revolinsky Jr., 3114 So. 18th, stated that he lived to the east of the subject parcel, and had no problem with the proposal, and asked if there would be another developable lot created between the proposed CBRF and his residence?

Mr. Less replied that there would not be an intervening lot.

Mr. Brey asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that it grant the exception to the 2,500' spacing requirement as requested to Popp Enterprises LLC, and Jerry Vandermause for the subject property at Dewey and So. 19th pursuant to Wis. Stat. § 62.23(7)(i)1. and (i)5. with the understanding that if the contract purchaser did not purchase the property, and secure all required licenses from the State by September 30, 2014, that this exception would become void and terminates effective October 1, 2014.

Motion by: Mr. Hornung

Seconded by: Ms. Stokes

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

Upon Vote: the motion was approved unanimously.

Mr. Less then transitioned to the second informational hearing on this subject parcel regarding the issuance of a CUP, noted that he would be following the protocol outlined in Section 15.370(27) of the code, which established procedures for the issuance of a CUP by which, the Commission and Council had to determine if the proposed use

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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 stated 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 stated that in this matter, due to the split zoning of the subject parcel, there were actually 2 code sections that had to be applied: (i) Section 15.150(3)(f) in the "R-4" district regulations dealing with the issuance of a CUP for the location of a CLA for 9+ individuals; and (ii) Section 15.170(3)(f) in the "R-5" district regulations dealing with the issuance of a CUP for the location of a CLA for 16+ individuals.

Mr. Less again advised that notices were mailed from Planning on July 3rd to property owners within 200' of the subject property. Mr. Less added that this was a combined notice along with the 2,500' spacing issue, and that there were no responses received.

Mr. Brey asked Mr. Less for his recommendation on this matter.

Mr. Less recommended that the Commission recommend to Council granting the CUP to Popp Enterprises LLC, and Jerry Vandermause for the property at Dewey and So. 19th, pursuant to Sections 15.150(3)(f) and 15.170(3)(f) of the code, and subject to the compliance conditions as presented.

Mr. Hornung suggested that the requirement for filing any leases related to the property be reduced to an inspection of the documents by the City Planner. Commission members agreed and instructed Mr. Less to modify the compliance conditions accordingly.

Motion by: Mr. Diedrich

Seconded by: Ms. Stokes

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

Upon Vote: the motion was approved unanimously.

- D. PC13-2013: SMI/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. 19th Street

Continuing on Dewey and So. 19th, Mr. Less explained that this set of public informational hearings were in regard to a request from SMI on behalf of Popp Enterprises for a proposed amendment to the Official Map impacting a portion of So. 19th Street, south of Dewey, and a related vacation to eliminate a portion of So. 19th Street R/W. Mr. Less stated 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 So. 19th Street occurred pursuant to Wis. Stats § 66.1003(2).

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Mr. Less noted that the purpose of these proceedings was to amend the Official Map to remove a portion of So. 19th, to vacate the north 383' of So. 19th Street, and to establish a cul-de-sac at what would be the new terminus of So. 19th. Mr. Less continued that procedurally, the proposed street vacation process was initiated by the filing of a petition from 100% of the property owners abutting the area to be vacated, plus the owners of at least 1/3 of the frontage of the lots and lands abutting on that portion of the remainder of the public way which was within 2,650 feet of the ends of the portion to be discontinued. Mr. Less added that this "petition by abutting owners" procedure was governed under Wis. Stats. § 66.1003(2).

Mr. Less added that he had reviewed the petition as filed by SMI and signed by Popp Enterprises, LLC, Summit Pond, LLC, and Manitowoc County Habitat for Humanity, and that based on the frontage analysis provided by SMI, he had concluded that the vacation petition, as filed, was adequate under the statute. Mr. Less noted that the petition was signed by 100% of the owners abutting the area to be vacated, and that regarding the remaining frontage (extending south to Viebahn Street), there was total frontage of 4,359.44'. Mr. Less continued that the 1/3 threshold was 1,453.14', and the signatures on the petition totaled 1,866.46', which was greater than 1,453.14'. Mr. Less concluded, therefore, that the petition was valid and met the requirements of the statute.

Mr. Less continued that with this statutory protocol, while there was no public hearing to be held on the vacation, there was a public hearing required for the amendment to the Official Map. Mr. Less explained that procedurally for the vacation, the City would prepare the "Notice of Lis Pendens" and record it at the Register of Deeds; the Plan Commission would, subsequent to tonight's informational hearings, file a recommendation to the City Council to proceed on this matter; and assuming Council approval, Council would then introduce a vacation resolution and an ordinance to amend the Official Map. Mr. Less continued that while no public hearing for the vacation was required, there was a requirement for publishing a Class 3 notice stating when and where the vacation petition would be acted upon. Mr. Less noted that as a public hearing was required for the Official Map amendment, those notices would be combined with the 2nd and 3rd publications of the Class 3 notice. Mr. Less stated that once the public hearing was held, Council could subsequently adopt the resolution and Official Map ordinance.

For the current project, Mr. Less noted the following:

- 1) A "Notice of Lis Pendens" regarding the vacation proceedings would be filed at the Register of Deeds office and recorded on July 11th.
- 2) Plan Commission tonight would be asked to offer a final recommendation on the vacation and Official Map amendment.
- 3) An ordinance for amending the Official Map, and a resolution for vacation would be introduced at the July 15th Council meeting.
- 4) The required Council public hearing regarding the Official Map amendment would be scheduled for August 19th, preceded by publication of the Class 3 notice to be published pursuant to Wis.

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Stats. § 66.1003(8)(b) on July 29th, August 5th and August 12th . The Official Map amendment required a Class 2 notice to be published, and would be combined with the notices published on August 5th and 12th .

- 5) Final Council action on the Official Map amendment and the vacation would occur after September 2nd .

Mr. Less continued that in the case of the proposed amendment to the Official Map, and the associated vacation, each area measured 22,977sf in area. Mr. Less clarified that the changes resulting from these processes were as follows: (i) elimination from the Official Map of the N 383' of Dewey Street R/W, and adding to the Official Map a 60' wide radius cul-de-sac at the north terminus of So. 19th Street (the cul-de-sac to be dedicated to the City via separate QCD's from Summit Pond, LLC and Popp Enterprises LLC); and (ii) the vacation of the 60' wide Dewey Street R/W from the south line of Dewey Street extending south, 383'. Mr. Less continued that the City would retain all easement and utility rights incidental to the vacated So. 19th Street R/W which were in place prior to the vacation of the R/W.

Mr. Less added that post amendment to the Official map and vacation, and related to this transaction, there was a reversion of title issue to be addressed, as referenced in Wis. Stats § 66.1005. Mr. Less wanted to make sure that all parties were advised that the R/W area, once vacated, would divide and become attached to the legal descriptions for the abutting properties, and that once that has happened, the sale of land and subsequent construction could occur.

Finally, Mr. Less noted that prior to tonight's informational hearings, Planning had mailed on July 3rd, notices to the same property owners as in the CBRF and CUP informational hearings, and added that there were no responses to the mailing.

Ms. Stokes asked what happened to So. 20th Street?

Mr. Braun explained that there were longer block widths in this area of the City.

Mr. Brey asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that it: (i) approve proceeding with the vacation and Official Map amendment; (ii) instruct the Clerk to call for publication of the notices and the required public hearing; and (iii) make its final recommendation to approve the Official Map ordinance and vacation resolution completing the amendment process.

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

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

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Mr. Less then recommended that the Commission approve the proposed CSM that had been outlined in his presentation that would be ultimately created at this location.

Motion by: Mr. Koski

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.

V. REFERRALS FROM COMMON COUNCIL

A. None

VI. OLD BUSINESS

A. PC44-2012: JHA Properties, LLC/TLC Homes, Inc.; Request for Exception to 2,500' Separation Requirement Pursuant to Wis. Stat. § 62.23(7)(i)1. for Establishment of an 8-Person Community Based Residential Facility (CBRF) at 703 and 705 East Cedar Avenue - Request for Modification of Terms of Previous Approval

Mr. Less explained the email request from Tim Frey d/b/a JHA Properties, LLC and TLC Homes, Inc. related to a previously approved Council action in December, 2012 for the siting of a Community Based Residential Facility (CBRF) at 703 and 705 E. Cedar. Mr. Less noted that the 2012 approval granted an exception to the 2,500' spacing requirement under Wisconsin's Community Living Arrangement (CLA) statute, Wis. Stat. § 62.23(7)(i)1. to operate a CBRF at this location for a maximum of eight (8) individuals, and further included a compliance condition that all required licenses from the State be obtained by July 1, 2013, or the action granting the special exception would become void. Mr. Less explained that Mr. Frey's email from July 2nd stated that there had been delays in Madison in terms of a timely review of their licensing request, and that he was now requesting an extension to the July 1st deadline. Mr. Less recommended that the Commission recommend to Council a 90 day extension to the licensing requirement, through September 28, 2013.

Motion by: Mr. Diedrich

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

Seconded by: Mr. Hornung

Upon Vote: the motion was approved unanimously.

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

No discussion was held. No action was taken.

VII. NEW BUSINESS

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- A. PC17-2013: Nagle Signs Inc./Fleet Farm; Request for Fixed Animated Sign at 1235 So. Rapids Pursuant to Section 15.450(18) of Manitowoc Municipal Code

Mr. Less reviewed with the Commission an application for, and his analysis of a request for a fixed, animated sign on to the existing pole structure at the southwest corner of the property at Custer Street and So. Rapids Road. Mr. Less reviewed the application, and recommended that the Commission approve a Special Permit for the sign pursuant to Section 15.450(18)(e)1. of the code. Mr. Less recommended further that the Commission waive the 100' separation requirement under Section 15.450(18)(g)9. from the existing Custer and Rapids Road intersection, and further authorize the Building Inspector to issue a sign permit upon request.

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.

VIII. MISCELLANEOUS

- A. Manitowoc County Activities:

1. None

- B. Certified Survey Maps (CSM):

1. Schneider; Proposed CSM Being in the NE¹/₄ of SW¹/₄ Sec. 36, T.19N., R23E, City of Manitowoc

Mr. Braun explained a proposed lot split related to the Dean Schneider property on the south side of Dewey, west of So. 35th. Mr. Braun explained the history of this area, and displayed a previously approved concept plan for the area.

Mr. Braun stated that the proposal was to split existing TR2 located east of the public access easement and abutting Dewey Street for development. Mr. Braun continued that he had met with the owner and the land surveyor, and had no problem with the proposal. Mr. Braun did make reference to the Job Center sign, and wanted to make sure that the remainder of TR2 to the south would still have access from the access easement. Mr. Braun advised the Commission that once more development took place in this area, it might be timely to revisit the concept to see if it needed further altering in such areas as dedicated R/W's and the overall street pattern. Mr. Braun advised further that he had been in conversation with Rob Michaelson at MPU, and water service to TR2 and the future lot to the south was not an issue. Mr. Braun noted that this was a public water main in a permanent perpetual easement. Mr. Braun recommended approval of the proposed CSM.

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Mr. Muenzenmeyer commented that transit buses had a difficult time making the turn from Dewey into the roadway leading to the Job Center.

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. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

2. Kordiyak; Proposed CSM Being in the SW¹/₄ of NW¹/₄ Sec. 10, T.19N., R23E, Town of Manitowoc Rapids

Mr. Braun explained a proposed CSM for property located west of I-43, and on the north side of CTH "P". Mr. Braun noted that the owner wanted to split off a 2.1-acre parcel upon which a homestead was located, from an 11.17-acre parcel. Mr. Braun advised that the CSM required both Town and County approvals, but otherwise had no issue with the proposal. Mr. Braun noted that the Official Map for 100' wide CTH "P" would have to be shown on the CSM, and recommended approval of the proposed CSM.

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. Koski

Upon Vote: the motion was approved unanimously.

3. Resch; Proposed CSM Being in the SE¹/₄ of NE¹/₄ Sec. 33, T.20N., R23E, town of Kossuth

Mr. Braun explained a proposed CSM for property located west of Stone Road and south of Rockwood Road. Mr. Braun noted that the owner wanted to split off a 4.4-acre parcel for the owner to sell to his son. Mr. Braun advised that the CSM required both Town and County approvals, and the CSM would have to show the 80' Official Map for Stone Road. Mr. Braun noted that he had no issue with the proposal, and recommended approval of the proposed CSM.

C. Summary of Site Plans 6/7/2013 – 7/3/2013

1. SP10-2013: Manitowoc Cinema, LLC, 2555 So. 44th – New Construction (approved).
2. SP11-2013: Ozone Night Club LLC/Scherwinski, 1819 So. 9th – New Construction (approved).
3. SP12-2013: Dewey Properties, LLC/Buffalo Wild Wings, 4140 Harbor Town Lane – Parking Lot Expansion (approved).

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IX. ADJOURNMENT

The meeting was adjourned at 8:00 P.M.

Respectfully Submitted,

David Less
City Planner