

PLAN COMMISSION MINUTES - 10/16/2013

Plan Commission Offices  
Manitowoc City Hall

Regular Meeting  
Manitowoc City Plan Commission  
Wednesday  
October 16, 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  
Justin Nickels  
David Diedrich  
Maureen Stokes  
Steven Alpert  
Jim Brey  
Jim Muenzenmeyer  
Dan Koski

Members Excused

None

Staff Present

David Less  
Paul Braun  
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular September 11, 2013 Meeting.

Motion by: Mr. Diedrich

Seconded by: Ms. Stokes

Moved that: the minutes be approved as presented.

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

A. PC26-2013: The Salvation Army; Request for Conditional Use Permit for Operation of a Church in Block 115 of the Original Plat Pursuant to Section 15.150(3)(a) of Manitowoc Municipal Code

Mr. Less explained that tonight's request was from Jeffrey and Terri Olson, Corp Officers/Pastors for The Salvation Army (TSA) who were requesting a Conditional Use Permit (CUP) in accordance with Section 15.150(3)(a) under the "R-4" zoning district regulations to confirm their long term operation at 411-415 N. 6<sup>th</sup>, and 514 Chicago. Mr. Less continued that consideration of the CUP was being done pursuant to Section 15.370(27), and that under a CUP, the Commission and Council had to determine if the

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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.

First off, Mr. Less stated that this was a maintenance proceeding, in that TSA had existed at this location as a church with support services since approximately 1966, and technically had been at this location without a CUP, making it a legal, nonconforming use. Mr. Less noted that the proposed CUP would bring this important use into conformity with the code.

Mr. Less continued that the subject property was described as Lots 9, 10, 13, 14, the W 5' of Lot 17, all of Lots 18 and 19, and Lot 20 (excepting the N 35'), all in Block 115 of the Original Plat. Mr. Less noted that this area was bordered by Chicago Street on the south and N. 6<sup>th</sup> Street on the west, and added that adjacent land uses were all residential structures with the exception of a shoe repair shop at the northwest corner of Chicago and N. 6<sup>th</sup>. Mr. Less explained that TSA acquired its current parcels beginning in 1966 being Lots 10, 13 and 14, through 2007 when it acquired a portion of Lot 20 at the northeast corner of N. 6<sup>th</sup> and Chicago, and which was the only parcel with an assessed valuation of \$16,700. Mr. Less added that all other parcels owned by TSA were tax exempt. Mr. Less continued that the subject property was zoned "R-4", Single and Two Family Residential District, with the surrounding zoning being "R-4" on the north, east and west sides of the property, and "R-7" Central Residence to the south.

Mr. Less explained that under the "R-4" zoning, a CUP was required for a church, which, in accordance with the definition of this term in Section 15.030(1) included "...all accessory buildings and uses customarily associated with such primary purpose." Mr. Less noted that the CUP area was generally rectangular in shape, and had a total frontage on N. 6<sup>th</sup> of 325', and 185' along Chicago Street, and in total, measured 55,500sf or 1.27-acres.

Mr. Less continued that there were multiple buildings located on the subject property. Mr. Less referenced the following: (i) the "Citadel" or community center building measured approximately 8,000sf in area, which was utilized in its entirety for the operation of a day care center; (ii) a new 2 bay garage (circa 1993) was to the north of the Citadel, measuring approximately 1,680sf; (iii) an office building was located to the south of the Citadel at 411 N. 6th; (iv) an outdoor play area separated the Citadel and the office building; (v) there was an intervening private residence at 403 N. 6<sup>th</sup> that separated this northern cluster from TSA property to the south; (vi) the frontage along Chicago Street featured what appeared to be a vacant residential structure at 514 Chicago; and (vii) to the east of this was a semi-circular driveway, with the adjoining area used in the past for TSA vehicle storage, and which may be used in the future for temporary classrooms that could be located in double wide trailers.

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Mr. Less continued that as a historical note, TSA was first incorporated in Illinois in 1913 as a not-for-profit church to engage in charitable, educational, missionary, philanthropic and religious work. Mr. Less noted that various factions of TSA from Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri and Wisconsin were merged in 1988 with the surviving corporation being “The Salvation Army” under Illinois law. Mr. Less continued that TSA was a 501(c)(3) entity that qualified as a “church” under the Internal Revenue Code Section IRC 170(b)(1)(A)(i).

Mr. Less went on to explain that the City Plan Commission had originally issued a CUP for a child day care center in the Citadel back in 1969, and then acted in 1985 to permit increasing their day care capacity by authorizing the care of 12 children under the age of 2 years. Mr. Less continued that TSA’s day care center was originally licensed in 1972 by the State’s Department of Health and Family Services, at which time they were licensed for a maximum capacity of 72 children, ages 6 weeks to 12 years of age, and operated year-round on Monday-Friday’s, 5:00 A.M. until 5:30 P.M. Mr. Less added that in 2005, the City further modified the CUP to increase the day care capacity by an additional 30 children, with the new maximum capacity established at 94 children. Mr. Less noted that the day care operation was housed entirely within the Citadel which included multiple infant and toddler rooms, a kitchen, 3 bathrooms including separate boy’s and girl’s restrooms, and various offices, and which also contained a chapel that had been converted to day care center usage.

Mr. Less then noted that in terms of its social contribution, in 2012, TSA reported it had served 14,393 meals to kids, served 631 meals to adults, was supported by over 900 volunteer hours, and in their food pantry, through August, 2013, served over 793 families and distributed almost 38,000 items of food. Mr. Less continued that on average, TSA estimated that it assisted over 105 cases with food, medical, electric, heat and rental payments per month, as well as provided gas cards, bus tokens, haircuts, eye glasses, and Goodwill vouchers to those in need.

Mr. Less, in closing, noted that the proposed CUP was a reconfirmation of an existing land use, and was consistent with the City’s current 20-year land use map that was part of Manitowoc’s Comprehensive Plan which identified the Citadel and office areas as “Institutional & Community Facilities”, with the surrounding properties in this block as “Urban Neighborhood”. Mr. Less noted that these were districts established around the downtown, where larger scale special use facilities were encouraged in areas which were also not homogeneous in terms of land use.

In closing, Mr. Less noted that notices were mailed from Planning to property owners within 200' of the subject property on October 9<sup>th</sup> regarding tonight’s meeting, and that he had received no comments in response to the mailing.

Malcolm Shaw, 506 Chicago, stated that he was strongly opposed to the CUP, as he wanted to see what TSA wanted to do with their property. Mr. Shaw stated that he would be opposed until he was able to meet with other people in the neighborhood and with TSA, to establish clarity as to what TSA was going to do in this area.

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Tom Van Horn, 2204 Menasha, explained that he was on the Advisory Board of TSA, and stated that he was not clear on the concerns of Mr. Shaw, but stated that the issue of the vehicles was related to 50 children practicing their musical instruments at the property on Wednesday nights. Mr. Van Horn explained that TSA picked up kids at school, and dropped off these children at their home.

George Grinde, 6145 Silver Hills, and the owner of a property at 416 N. 6<sup>th</sup>, explained that parking was a problem in this area, adding that it was difficult to park on N. 6<sup>th</sup>. Mr. Grinde made reference to a letter he had received from TSA regarding a future parking lot on the west side of N. 6<sup>th</sup>.

Mr. Less noted that the discussion of a future parking lot was approximately a year ago, and was no longer part of TSA's plans. Mr. Less noted that TSA could not do the parking lot proposal without first rezoning of their property on the east side of N. 6<sup>th</sup>. Mr. Less stated that the City had just learned that the parking lot plans had fallen through.

Mr. Grinde asked if additional off-street parking was part of the current proposal?

Mr. Less responded that the CUP would not be impacting on-street parking in this area, and added that if a future on-site parking area for 5+ vehicles would be established, TSA would have to follow the City's site plan requirements.

Julie Grinde, 6145 Silver Hills, and the owner of property at 416 N. 6<sup>th</sup>, asked if there would be a parking lot with the church?

Mr. Less again stated that there was no new off-street parking associated with this proposal.

Ms. Grinde added that anyone attending the church would be parking on the street, and expressed concerns about on-street parking availability.

Josh Garrington, TSA Corps Sergeant Major, 1422 So. 13<sup>th</sup>, explained that there was a TSA parking lot north of the Citadel, and that their plan was not to get rid of existing off-street parking. Mr. Garrington added that TSA hoped to use Chicago Street for various programming activities with its constituents, thus freeing up parking north of the Citadel. Mr. Garrington commented that TSA wanted to be in concert with the City requirements, as they were here to serve the entire community.

Rita Metzger, 513 Chicago, commented that she was opposed to the permit, and lived across from the vacant home on Chicago Street. Ms. Metzger expressed concerns regarding its condition and requested that it be cleaned up. Ms. Metzger then expressed concerns about traffic flow in this area, and referenced a rumor she had heard regarding TSA wanting to build a new day care center, and stated that she was concerned about what TSA's intent was regarding their property.

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Mr. Less explained that the CUP was not altering the existing home on Chicago Street, and that the existing day care capacity already in place was not being expanded by the CUP. Mr. Less noted that any plans for a future day care center would require consideration and issuance by the City of a modification to the CUP.

Ms. Metzger also expressed concern that actions by TSA would cause her property taxes to increase, and re-stated that she was mainly concerned with the condition of the vacant home on Chicago Street and its impact upon the saleability of her home.

Mr. Shaw commented that he was not opposed to auto parking on TSA's Chicago Street property, but did not want trucks and dumpsters in the area near his home.

Mr. Garrington commented that TSA was currently talking with contractors regarding demolition of the house on Chicago Street, and that TSA's plan would be to improve this lot in terms of keeping it properly graveled and graded, thus improving the view from the street.

Mr. Less explained that his recommendation regarding the CUP had been previously sent to the Commission and to TSA for review. Mr. Less explained the main elements of his recommendation, and then recommended that the Commission recommend approval of the CUP to Council, subject to the compliance conditions provided, including the annual compliance review in November, 2014.

Ms. Stokes commented that she had lived at her residence for the past 45 years, and did not see on-street parking as an issue in this area. Ms. Stokes acknowledged that the street was heavily used when children were picked up, and dropped off. Ms. Stokes added that removal of the home on Chicago Street would be a very good thing for the neighborhood.

Mr. Diedrich noted that the CUP was just to confirm the existing TSA business at this location, and whether or not the CUP would be issued by the Council, the TSA operation would be as it currently was, and nothing would be changing.

Mr. Less concurred with Mr. Diedrich's observation, but did note that without the approved CUP, TSA would be a legal, nonconforming use, which could hinder future financing or sales of their property. Mr. Less commented that the role of TSA was hugely important for Manitowoc. Mr. Less added that in addition to his written recommendation, he also was recommending that the Council refund the \$250 application fee back to TSA.

Mr. Hornung asked if demolition of the house on Chicago Street occurred and TSA just graveled the lot, post-demolition, would that be a problem in terms of compliance with City codes?

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Mr. Muenzenmeyer commented that TSA would have to be careful in that regard, and noted that there was nothing prohibiting parking on a gravel lot as long as the number of vehicles was less than 5.

Mr. Hornung suggested that an annual review provision be added into the terms of the proposed CUP.

Mr. Less explained how the annual compliance review would work.

Commission members agreed to add this provision into the CUP.

Motion by: Ms. Stokes

Moved that: the Commission approve the Planner's recommendation, with the refund as identified above, and the addition of the annual compliance review provision.

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

Mr. Brey noted that this matter would be before his committee Monday night, and he would plan to bring the report back, but not until after the public input portion of the meeting.

Mr. Less noted that he would schedule the 2014 compliance review for November, and noted that while the neighborhood would not be notified of that meeting as they were for tonight's informational hearing, the Building Inspector and Police Chief would be contacted to determine if there were any complaints filed relative to TSA's operation.

V. REFERRALS FROM COMMON COUNCIL

A. PC25-2013: Schultz; Petition for Direct Annexation - Custer #4

Mr. Braun explained a proposed Petition for Direct Annexation pursuant to Wis. Stat. § 66.0217(2) for 1.85-acres from the Town of Manitowoc Rapids. Mr. Braun noted that the property was located on the south side of West Custer, west of Vista Road, and added that the owners had their home on the market and had discovered septic issues, and as a result, decided to petition the City for annexation.

Mr. Braun recommended that the Commission recommend to Council approval of the Petition, and that the annexation area be temporarily zoned "R-4" Single-and Two-Family District. Mr. Braun noted that he anticipated the property to be in the City as of October 29<sup>th</sup>, and explained that the annual property tax payment to the Town was approximately \$2,892. Mr. Braun commented on the statutory requirement that the City pay to the Town 5 years of lost property tax payments. Mr. Braun noted further that the proposed annexation had been favorably reviewed by the Wisconsin Department of Administration, and found to be in the public interest.

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Motion by: Mr. Hornung

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

Seconded by: Mr. Diedrich

Upon Vote: the motion was approved unanimously.

VI. OLD BUSINESS

- A. PC37-2012: Trident Real Estate LLC; Special Permit Request for a Parking Lot Located in an "R" District at 934 So. 25<sup>th</sup> Street Pursuant to Section 15.430(11) of Manitowoc Municipal Code

Mr. Less reviewed the status of a Special Permit issued in October, 2012 for construction of a parking lot in a residentially-zoned area pursuant to Section 15.430(11) of the Municipal Code. Mr. Less noted that a Special Permit was issued to Trident Real Estate LLC for Lot 18, located north of their business, on the west side of So. 25<sup>th</sup> Street, and north of Washington. Mr. Less added that under the Special Permit, construction of the parking lot was to be completed on or before September 30, 2013. Mr. Less shared a letter from Trident dated September 23, 2013 stating that the owner had no plans to implement the parking lot improvement. Mr. Less recommended that the Commission approve termination of the Special Permit, and that a report be forwarded to Council to advise them of the Commission's action.

Motion by: Mr. Brey

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

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

VII. NEW BUSINESS

- A. PC27-2013: Reinbold Sign Service Inc./JRS Holdings of Manitowoc, LLC; Proposed On-Premise, Fixed Animated Sign at 1415 Memorial Drive Pursuant to Section 15.450(18) of Manitowoc Municipal Code

Mr. Less reviewed a request for issuance of a Special Permit to authorize the construction of a fixed, animated sign on to an existing pole structure at the Memorial Drive Veterinary Clinic, 1415 Memorial Drive. Mr. Less stated that he had no issues with the request, and reviewed the application for the proposed sign, along with his analysis. Mr. Less then reviewed his recommendation to have the Commission approve the Special Permit at the location as identified in the application, and to authorize the Building Inspector to issue the sign permit.

Motion by: Mr. Diedrich

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

Seconded by: Ms. Stokes

Upon Vote: the motion was approved unanimously.

B. PC28-2013: Silver Lake College; Proposed On-Premise, Fixed Animated Sign at 2406 So.Alverno Road Pursuant to Section 15.450(18) of Manitowoc Municipal Code

Mr. Less reviewed information regarding a proposed Special Permit to authorize the construction of a fixed, animated sign for Silver Lake College along its frontage on Calumet Avenue/USH151. Mr. Less then reviewed his analysis of the proposed sign, and noted that the required prerequisite approval by the Zoning Board of Appeals (ZBA) for a ground sign greater than 24sf in area was previously granted. Mr. Less then reviewed his recommendation to have the Commission approve the Special Permit, subject to placement of the sign structure in the “R-6” zoned portion of Silver Lake College’s property, and to authorize the Building Inspector to issue the sign permit.

Mr. Diedrich commented that he was on the Board of Directors for Silver Lake College, and wanted that information placed in the minutes.

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. PC29-2013: Town of Manitowoc Rapids; Discussion Regarding Potential Detachment of Property Located North of Haupt Subdivision No. 1, and South of Plank Road

Mr. Less explained that this item was for discussion purposes only, and dealt with a verbal request for the City to consider detachment of a parcel of land from within the City limits, north of Elmer Lane, south of Plank Road and west of the Benley Court residential development. Mr. Less referenced his memo written to the Mayor regarding detachment that had been sent to the Commission, and added that this parcel was part of an annexation of 26.35 acres, effective August 29, 2000 (Northwest #16). Mr. Less explained that the property was conveyed under a “Land Contract” (LC) dated May 2, 2013 along with other parcels to “Twin Cities Vue Dairy, LLC” as the vendee.

Mr. Less noted that the concept plan for development of the parcel south of Plank Road was for future single and 2 family residential, and then referenced the various issues that were a concern to him regarding detachment including: (i) property tax payments under Wis. Stat. § 66.0217(14); (ii) required R/W Dedications along Plank Road; (iii) vendee authorization to sign a Petition for Detachment under a Land Contract; (iv) the question of what happens to Plank Road – does the City retain ownership of the R/W, have a jurisdictional transfer of Plank Road to the Town, or what?; (v) future land usage and the impact of detachment on the City’s ability to grow to the northwest; and (vi) the ability to deed restrict the parcel so as to protect residential property owners along Elmer Lane, Tara Court and Benley Manor, and to limit options for future land usage.

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Mr. Less added that he had discussed this matter with the Mayor as he felt that helping someone out was one thing, but the City should get something out of a detachment, and questioned what that would be in this situation. Mr. Less added that in his discussion with the Mayor, he felt that this matter should be discussed with the Commission, even though he didn't know where this matter would ultimately go.

Mr. Brey commented that Mr. Lepich would have to first make a formal request to the City for detachment, and noted that David Korte, Chairman of the Town of Manitowoc Rapids was also present this evening. Mr. Brey commented that the re-opening of Plank Road was discussed at a recent Public Infrastructure Committee meeting, and it appeared that the road would be re-opened in the future. Mr. Brey continued that on first thought, he was not in favor of detachment, but probably would support it as Mr. Lepich only wanted to use the property for farmland. Mr. Brey suggested that the property could be deed restricted, and automatically returned back into the City limits if it was sold or developed to something other than farmland. Mr. Brey stated that he would support the detachment under that circumstance.

Mr. Less questioned the legality of being able to clawback a property in this manner.

Mr. Diedrich commented that according to the City's Comprehensive Plan, the northwest was a future growth area for the City, but emphasized that if the property owner was not willing to develop their property to facilitate growth in this area, then the end result would be no growth.

Mr. Less identified the properties included in the 10-year LC, and stated that the LC complicated this matter in addition to the detachment question.

Mr. Hornung asked if the reason for this discussion was access to farmland preservation tax credits?

Mr. Brey stated "yes".

Mr. Muenzenmeyer commented that he was not in favor of detachment, as removing this parcel from the City would substantially limit the City's ability to grow to the northwest. Mr. Muenzenmeyer added that there was nothing in the City's zoning that would prohibit Mr. Lepich from farming the property.

Mr. Less commented that many people purchased residential properties in this area expecting the subject parcel to ultimately be developed for residential.

Mr. Diedrich commented that this point wasn't relevant as Mr. Lepich resided on Stone Road, invested a considerable amount of money for his dairy operation, and until he would sell the subject property, no one would be able to develop it.

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Mr. Koski asked if Mr. Lepich could, in the future, locate cattle in this location?

Mr. Less replied “yes”, noting that WI’s livestock siting rules included dairy farms, and felt the property could be evolved to a higher agricultural use.

Mr. Diedrich didn’t think the arguments against this project held much water.

Mr. Hornung commented that it was difficult to believe that tax credits were the motivating factor for requesting detachment. Mr. Hornung stated that he was not in favor of detachment.

Mr. Alpert commented that he was not in favor of detachment.

Mr. Hornung commented that he felt once detached, the property would never come back into the City. Mr. Hornung added that it was not for the Commission to decide.

David Korte, 2344 STH 42 and Town Chair for Manitowoc Rapids, explained that the detachment discussion was about Mr. Lepich being able to access farmland preservation tax credits for the parcel south of Plank Road. Mr. Korte commented that the Town would not re-surface Plank Road if there was no detachment.

Mr. Brey commented that he felt Mr. Lepich should make an application to the City, and that the Common Council would make the final decision regarding detachment.

Mr. Korte commented that Mr. Lepich would be willing to deed restrict the parcel, and even sign an agreement that would return the property into the City limits if it was sold or developed otherwise in the future.

Mayor Nickels stated that he would be in favor of this arrangement, if the City could figure out the legalese regarding claw back provisions to return the property into the City limits.

Mr. Less asked Mr. Korte why the Town’s decision to re-surface Plank Road was tied to the detachment discussion?

Mr. Korte commented that the Town came to the City 2 years ago to have Plank Road re-surfaced, as it was in rough shape, and it was decided that the City had no money in its budget to do this. Mr. Korte added that the road was in tough shape, and the Town was willing to work to open Plank Road.

Josh Stradal, 3329 Branch River Road and a Town Supervisor, commented that the Town wouldn’t fix only half of Plank Road.

Mr. Korte stated that he would be open to discuss a jurisdictional transfer. Mr. Korte added that Mr. Lepich’s children would be operating this farm for a very long time,

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and anyone who would acquire the property would be foolish not to annex back into the City.

Jim Lepich, 3416 Stone Road, commented the land had been purchased solely for agricultural production, and wanted to put the land under the protection of the Farmland Preservation program. Mr. Lepich added that this was not a big deal, but wanted to re-open Plank Road for traffic flow. Mr. Lepich continued that they were trying to put a plan into place to improve Plank Road, and explained that vehicles would drive down Plank Road and have to turn around in short order. Mr. Lepich noted that Plank Road needed to be fixed, and explained that the ditches had not been cut for years, and he recently took the initiative to cut them down himself. Mr. Lepich explained that he discovered a fire hydrant buried in the ditches, on the north side across from the apartments that was now exposed. Mr. Lepich felt that this proposal was a win-win for the City and Town, and added that he was willing to sign onto an agreement to return the parcel south of Plank Road into the City if it was sold to any parties, other than internal sales within his family, and as long as that land would stay in agriculture.

No action was taken.

### VIII. MISCELLANEOUS

#### A. Manitowoc County Activities:

1. None

#### B. Certified Survey Maps (CSM):

1. None

#### C. Summary of Site Plans 9/5/2013 – 10/10/2013:

1. SP20-2013: Intra-City Parishes of Manitowoc Inc./Parkview Haven, 1325 N. 8<sup>th</sup> – Parking Lot Addition (approved).
2. SP21-2013: Kinzel/Kinzel Wood Products, LLC, 1825 So. 30<sup>th</sup> – Building Addition (approved).
3. SP22-2013: Waukegan 1.0, LLC/FMC Dialysis Center, 3711 Dewey – New Construction (approved).

IX. ADJOURNMENT

The meeting was adjourned at 7:25 P.M. Mayor Nickels commented that he would not be present at the November meeting.

Respectfully Submitted,

David Less  
City Planner