

PLAN COMMISSION MINUTES - 3/11/09

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
March 11, 2009
5:00 P.M.

I. CALL TO ORDER

The meeting of the City Plan Commission was called to order by Acting Chairman Jim Brey at 5:00 P.M.

II. ROLL CALL

Members Present

Jim Brey
Maureen Stokes
Steve Alpert
Valerie Mellon
Jim Muenzenmeyer

Members Excused

Kevin Crawford
Dan Hornung
David Diedrich

Staff Present

David Less
Paul Braun
Michelle Yanda
Elizabeth Werdermann

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular February 11, 2009 Meeting.

Motion by: Ms. Stokes

Moved that: the minutes be approved as presented.

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

- A. PC10-2009: Felician Village, Inc.; Request for Exception to 2,500' Separation Requirement for Establishment of a 32-Bed Community Based Residential Facility (CBRF) at 1600 So. 18th Street

Mr. Less explained that this request was from Felician Village, Inc., as the owner and operator of an independent senior living complex at 2005 Division Street.

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Mr. Less stated that they were requesting that the City grant an exception to the 2,500' separation requirement contained in §62.23(7)(i)1. Wis. Stats. for the creation of a new, 32-unit CBRF at 1600 So. 18th Street.

Mr. Less noted that Felician Village was originally licensed as a 203-bed nursing home, and that today, it was licensed for 165 beds, and 16 CBRF units. Mr. Less added that on the nursing home side, St. Mary's represented just under 20 per cent of the nursing home rooms in the County, and that their modernization program was a reflection of new nursing home industry trends that were leaning towards more managed care, in assisted living facilities vs. skilled nursing home facilities; in other words, a direction towards a least restrictive, more home-like environment.

Mr. Less noted that in February, 2008, Felician Village presented a new master plan to the City Plan Commission which, upon completion, would contain approximately 84 nursing home beds, 48 beds (up from 32) in a Residential Care Apartment Complex, and 32 (up from 16) CBRF units. Mr. Less stated that based on the concept plan presented to the Commission, this 3-year project included the construction of approximately 130,000sf of new buildings. Mr. Less continued that the Commission went on record at their February 13, 2008 meeting endorsing the Felician Village 2008-2010 master plan.

Mr. Less then explained that Felician Village, Inc. had until recently, operated 3, separate 8-person CBRF's: (i) Sacred Heart Villa East, 1820 Grand, approximately 5,400sf in area, and which featured 2, 2-bedroom and 2, 3-bedroom units; (ii) Sacred Heart Villa, 1920 Grand, approximately 5,400sf in area, and which featured 2, 2-bedroom and 2, 3-bedroom units; and (iii) Sacred Heart West, 2010 Grand, approximately 4,700sf in area, and which featured 4, 2-bedroom units.

Mr. Less noted that these 3 CBRF facilities were originally authorized by the City in July, 2003 by issuance of a Conditional Use Permit (CUP), which was subsequently amended in March, 2004. Mr. Less added that prior to that, the City authorized the siting of the 3 CBRF facilities in June, 2003, which included the granting of a required exception to the 2,500' siting requirement under statute. Mr. Less added that Sacred Heart West was later de-licensed, and converted to an independent living situation.

Mr. Less continued that the proposed facility at 1600 So. 18th was located on Tract 2 of a CSM recorded in V. 28, P. 31, and was within 2,500' of the following

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community living arrangements: (i) Laurel Grove Assisted Living Center, 1308 So. 22nd (1,740 feet); (ii) Sacred Heart Villa East, 1820 Grand (1,160 feet); and (iii) Sacred Heart Villa, 1920 Grand (1,180 feet).

Mr. Less then explained that CBRF's were regulated under §62.23(7)(i) Wis Stats, which included the following provisions: (i) (7)(i)1. in regard to the 2,500' separation requirements; and (ii) (7)(i)5. in regard to the City granting special zoning permission for community living arrangements with a capacity for serving 16 or more persons. Mr. Less noted that CBRF's were further regulated by the State's Department of Health Services (DHS), to which Felician Village would have to apply if the exception was granted by the City. Mr. Less continued that all Wisconsin CBRF's were required to meet the requirements under Wisconsin Administrative Code DHS 83, and that the Division of Supportive Living was responsible for the licensing of all CBRF's in Wisconsin.

Mr. Less noted that Felician Village was proposing to ultimately close the Sacred Heart Villa and Sacred Heart Villa East CBRF's, and to relocate these units into a new 32-bed CBRF at 1600 So. 18th Street.

Mr. Less then referenced a pair of November, 2008 Quit Claim Deeds transferring parts of property in this area between Felician Village, Inc. and St. Mary's Home for the Aged, Inc., but noted that it was not clear from the deeds what was being transferred in this area. Mr. Less did add that as the proposed 32-bed CBRF appeared to be located on property owned by St. Mary's (note the request to the City was made by Felician Village), his intention was to bind both parties to the proposed action.

Mr. Less then explained the surrounding land uses and zoning in the area, and added that the entire Felician Village complex was zoned "R-6".

Mr. Less added that the purpose of the 2,500' spacing requirement was to disperse group homes throughout the community, and to avoid locating such homes exclusively within a limited geographic area. Mr. Less continued that the proposed client groups at the new CBRF would be frail elderly and elderly with dementia, with the clients coming primarily from existing Felician Village resident populations.

Mr. Less further noted that notices were mailed from the Planning office on March 4, 2009 to property owners within 200' of the subject property, and that no calls were received in response to the mailing.

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Mr. Brey asked if there were any questions from the Commission? There were none.

Mr. Brey asked if there was any public comment on the proposal? There was none.

Mr. Brey asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that it grant the exception as requested to Felician Village, Inc. and St. Mary's Home for the Aged, Inc. for: (i) the licensing of a maximum 32-person CBRF at 1600 So. 18th Street pursuant to §62.23(7)(i)1. Wis. Stats. and §62.23(7)(i)5. Wis. Stats. with the understanding that if Felician Village did not secure its CBRF licensing from the State of Wisconsin by December 31, 2009, this exception would become void and terminates effective January 1, 2010; and (ii) that the previous approvals by the City for Sacred Heart Villa East CBRF, 1820 Grand, and Sacred Heart Villa CBRF, 1920 Grand, remain in place, and not be terminated until these facilities were de-licensed by the DHS.

Motion by: Mr. Muenzenmeyer Seconded by: Ms. Mellon
Moved that: the Commission follow the Upon Vote: the motion was approved
Planner's recommendation as stated above. unanimously.

B. PC11-2009:Felician Village, Inc.; Request for a Conditional Use Permit (CUP) Under 15.19(3)9. for the Establishment of a 32-Bed Community Based Residential Facility (CBRF) at 1600 So. 18th Street

Mr. Less explained that as a follow up to the previous request from Felician Village, they were also requesting that the City issue a CUP under Section 15.19(3)9. of the City's Municipal Code for the establishment of a 32-Bed Community Based Residential Facility (CBRF) at 1600 So. 18th Street.

Mr. Less stated that under a CUP, 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 effect 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 explained that this was a request from Kristine and Scott Zahn d/b/a Ancient Rites Tattoo & Body Piercing, LLC, a Wisconsin Limited Liability Company, as the lessee of property located at 1802 Washington Street, who was requesting that the City issue a CUP pursuant to Section 15.27(3)7. of the Manitowoc Municipal Code for the operation of a tattoo and body piercing business. Mr. Less noted that the CUP would allow for the operation of a tattoo and body piercing business under the "B-3" General Business District zoning regulations. Mr. Less commented that under a CUP, 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 effect 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 noted that Ancient Rites had been operating for the past 5 years, since 2004, at 1910 Franklin Street; a location zoned "I-2" heavy industrial and a district in which, in 2004, these types of businesses were originally not permitted. Mr. Less continued that they opened at their current location at the northwest corner of Washington and So. 18th in early 2009.

Mr. Less commented that in 2004, the City amended Chapter 15 regarding the operation of tattoo and body piercing operations, the result of which was to expand the locational opportunities for tattoo and body piercing establishments. Mr. Less continued that prior to 2004, tattoo and body piercing establishments were permitted by CUP in only the "B-1", "B-2" and "B-3" zoning districts, and were not permitted or conditionally permitted in any residential district, and in the "B-4", "C-1", "I-1" or "I-2" districts. Mr. Less explained that under the 2004 ordinance revision, these uses became conditionally permitted in the "B-1" through "B-4" zoning districts pursuant to the issuance of a CUP, and were expressly permitted in the "C-1", "I-1" and "I-2" zoning districts.

Mr. Less continued that regarding the current location of Ancient Rites at 1802 Washington, this parcel, which was identified as Tract 2 of a CSM recorded in Vol. 15, Page 1, measured 60.29' along Washington Street, and 61.0' along So. 18th Street, or 3,678 sf in area. Mr. Less noted that the property owner was Donna Hannah, pursuant to a Warranty Deed dated January 14, 2005. Mr. Less stated that the property was purchased for \$47,000, and currently generated approximately \$2,100 in annual property taxes.

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Mr. Less commented that tattooists and body piercing establishments were licensed pursuant to requirements specified in §252.23 and 252.24 Wis. Stats. respectively, and added that the Department of Health Services (DHS) was the responsible party for licensing and regulating these facilities. Mr. Less identified Chapter DHS 173.04 of the Wisconsin Administrative Code as the regulation which detailed the operating and licensing requirements for tattooists and body piercing establishments pursuant to §252.23 and 252.24 Wis. Stats. Mr. Less did note that the law required anyone operating as a tattooist or body piercer to be certified and licensed for their facility and personage under this section, and that the County was the designated agent of the State in these matters, and as such, the State licensed practitioners and the County licensed establishments had to secure licenses from the County's Health Department.

Mr. Less explained the surrounding land uses and zoning in the area, and then noted that Ancient Rites was first licensed at its current location by the County Health Department in 2009, and that their license was set to expire on June 30, 2009, along with all other similar licenses issued by the County that would require renewal by the operator.

Mr. Less explained that regarding tonight's informational hearing, notices were mailed from Planning on March 4th to property owners within 200' of the proposed CUP area. Mr. Less continued that in response to the mailing, his department did receive a telephone call from Jeffrey Thielen, owner of property at 1413 So. 11th, who stated that he was in support of the tattoo and body piercing business. Mr. Less noted that other than this reply, there were no other comments received in response to this mailing.

In closing, Mr. Less note that the City's 1999 Comprehensive Plan identified the subject property as commercial, and as such, the proposed use was consistent with the City's current comprehensive plan.

Mr. Brey asked if there were any questions from the Commission? There were none.

Mr. Brey asked if there was any public comment on the proposal? There was none.

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Mr. Less then framed the issue and explained the problems related to the Burgarino property: (i) the suggested zoning of all Burgarino property in the area to "B-3"; (ii) the issue of the parking lot to the north of the Tony's Pizza building in an "R-4" zoning district; and (iii) the undeveloped parking lot to the west of the Tony's Pizza building. Mr. Less noted that successful rezoning would make the issue related to the parking lot to the north go away. Mr. Less again stated that the most important issue that needed remedy was the existing deck that was invasive to the existing So. 22nd Street R/W, and existed pursuant to incorrectly prepared "Sidewalk Privilege Agreements" (SPA). Mr. Less continued that the options ranged from a new SPA to selling a portion of the R/W. Mr. Less noted that if there was a finding that the R/W was not needed, the City could vacate a portion of the R/W and subsequently sell a portion of vacated R/W to Mr. Burgarino. Mr. Less stated that he preferred creating a new SPA as a revocable license. Mr. Less noted that there were drawbacks to Mr. Burgarino under the SPA approach as well.

Mr. Less added that he spoke with City Attorney Ruenzel yesterday on this matter, and explained that she did not have a clear preference on how to proceed, but did articulate a difference to him between a deck, a deck with a roof, and an enclosed deck with a roof and walls. Mr. Less added that Attorney Ruenzel felt that the City would have a much harder time requiring removal of the improvements from the R/W under an SPA if the structure was actually a building with walls and a roof versus just a deck, or a deck with a roof structure.

Mr. Less advised again that the City could not just sell R/W, and that the City Engineer would have to provide guidance regarding whether or not the So. 22nd Street R/W could be reduced without negatively impacting the City in the future. Mr. Less continued that if this affirmative finding occurred, the Council could direct a City-initiated vacation of a portion of the R/W to accommodate the Burgarino project. Mr. Less stated that he did not like the idea, but did note that his summary should help to frame the issue. Mr. Less asked Mr. Burgarino to clarify his intentions for the deck area.

Tony Burgarino, 2204 Washington, noted that the 80' wide R/W on So. 22nd Street was installed in 1945 for the So. 21st Street bridge to empty into So. 22nd Street. Mr. Burgarino added that as the bridge now emptied on to So. 21st Street, he questioned if it would now be easier to change the R/W width to a 60' R/W, and he would not need an SPA. Mr. Burgarino continued that Mr. Rayford would establish the lot line boundary as soon as the snow melted. Mr. Burgarino stated that his goal was to enclose the deck, and that he had talked with Mr. Hamann about putting a roof above the deck and making it a 3-season room, and that the cost was prohibitive to just install a roof.

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Mr. Burgarino added that Mr. Hamann advised him that for the same cost, they could install 3 walls on the deck, plus insulate and install heat in the area. Mr. Burgarino stated that he agreed with Mr. Hamann's assessment as well, and added that his original plan was to install glass garage doors with the roof.

Mr. Brey asked Mr. Burgarino if his plan to essentially extend his building?

Mr. Burgarino noted that he was not going to extend anything, as it was already there.

Mr. Brey clarified that he meant adding more square footage to his building. Mr. Burgarino noted that in the summer, he did not want to lose his deck appeal, and that was why he had thought about using garage doors which could be opened to enhance air flow. Mr. Burgarino continued that he was planning on a 10' wide garage door facing south, and 2, 18' wide garage doors facing east. Mr. Burgarino noted that the existing deck was 40' long, and added that the cost of doing this project should include a minimal increase for adding heat into the structure.

Jim Hamann, Hamann Construction, 3441 Barkwood Lane, stated that they would plan on placing the deck over the insulated area.

Mr. Muenzenmeyer asked Mr. Burgarino if that would be his same plan if the City property was sold to him?

Mr. Burgarino stated that he would follow Mr. Hamann's recommendation, but would attempt to have an enhanced deck under that scenario. Mr. Burgarino noted that he felt the County Health Department would prefer a structure without anything open.

Mr. Less asked Mr. Burgarino his thoughts on the parking to the north, and the rezoning question?

Mr. Burgarino stated that he was under the impression from former Deputy Planner Levendusky in 1998 that the area to the north had been rezoned when the barn had been removed. Mr. Burgarino added that he was shocked to learn that the property to the north was still zoned "R-4". Mr. Burgarino continued that he did not want to have to talk with the neighbors, as relations on the block had been strained as a result of the street becoming one-way.

Mr. Less stated that talking with the neighbors was simply a courtesy, and that ultimately he would have to petition the City for rezoning.

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Mr. Burgarino stated that he had no problem with rezoning, and then asked if the City would want the home at 934 So. 22nd (north of the parking lot) included in a rezoning? Mr. Burgarino noted that it was a rental property.

Mr. Less stated "yes", and that an occupied single or two family home was permitted and was not problematic in a "B-3" district. Mr. Less continued that as long as the property remained occupied as residential, it would remain a permitted use in the "B-3" district, but added that if it became vacant, it could not be re-used for residential in the future. Mr. Burgarino stated that he would clean it all up if he received approval for the deck. Mr. Burgarino added that what he was looking for this evening was guidance on how to get the deck project completed.

Mr. Less explained that part of the problem was that under the previously issued SPA's, they did not include any written approval for the location of improvements in the public R/W, and added that the boundary survey was needed to clarify just how invasive the existing improvements were into the R/W. Mr. Less noted that he had also previously recommended that a legal description be prepared so that it was clear what area was in the R/W.

Mr. Burgarino felt that the entire deck was in the R/W, and then explained that when he purchased Tony's Pizza bar and converted the building in 1997 from residential (former Burgarino residence) into a restaurant, it was located in the R/W.

Mr. Brey noted he was leaning towards selling lands to Mr. Burgarino to clean up this situation, and added that So. 22nd was not an arterial street. Mr. Brey added that he had no problem with the City selling the land.

Mr. Muenzenmeyer presented a diagram showing existing R/W's in the area, and explained that So. 21st currently had a 66' R/W, and that the only other street in the area with an 80' wide R/W was Washington Street. Mr. Muenzenmeyer added that he did not believe there were any utilities along the west side of the So. 22nd Street R/W.

Mr. Less again advised that the City could not just sell R/W, and that in order to proceed in that direction, a vacation proceeding would have to take place.

Mr. Muenzenmeyer then referenced §62.23(6)(e) Wis. Stats. which he stated did not permit the constructing or enlarging of any building in an Official Map street, and again noted that City Attorney Ruenzel felt that she could live with a deck with only a roof.

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Mr. Less noted that he would support whatever the Commission was inclined to recommend to the Council, but again stated his preference for a new SPA, adding that he would rather wrap the improvements into a new SPA, not sell any of the R/W, and to not provide Mr. Burgarino with any possessory interest to the land underlying the improvements.

Mr. Burgarino asked if under the SPA, the deck fell apart in 10 years, would he be allowed to rebuild the deck, or would he have to come back to the City for a future approval to rebuild the deck?

Mr. Less replied that it would depend on how the SPA was written.

Mr. Burgarino stated that the deck would eventually fall apart, and didn't want to have to keep coming back to the City for future approvals.

Mr. Less stated that his preference was to not vacate the R/W, and to use the SPA, as it gave the City the greatest body of rights in this matter that would otherwise be lost by a sale or lease of the land. Mr. Less stated that he felt it was in the City's best interest to pursue a revocable license arrangement in which no possessory rights were transferred, but added that he would support whatever direction the Commission and Council wanted to pursue in order to remedy this matter. Mr. Less stated that if the decision was made to pursue vacation, the area to be vacated would still have to be determined by the property survey and the City Engineer, with the understanding that whatever guidance the City Engineer would give to the Commission and the Council, they would live with, as re-purchasing R/W from Mr. Burgarino in the future would be a very expensive proposition. Mr. Less added that the City fought hard to secure R/W, and was concerned with making a quick decision to give it away.

Ms. Mellon stated at the last meeting, she had commented that she was resistant to selling the R/W because the City did fight hard to purchase R/W, and as this was a corner, if the City ever wanted to do something with the intersection radius, or do anything with snow storage in the terrace area, selling of this R/W would diminish the City's options.

Mr. Burgarino asked how the City would add to snow storage in the area?

Ms. Mellon commented that the City had the right to relocate the sidewalk anywhere in the terrace to enhance storage needs. Ms. Mellon felt that as this was an 80' R/W, there was an argument to be made regarding reducing the width of the R/W to match similar streets in the area.

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Mr. Less noted that an 80' wide R/W, and a targeted width of 66', would mean that an additional 14' of R/W would be lost, which could be 7' on each side of the R/W that would revert back to the abutting property owners. Mr. Less noted that even under this scenario, there would not be enough new land added to Mr. Burgarino's property to cover a deck extension of 10', which would mean that the City would still have a problem with the deck, unless the City was going to also consider selling their portion of vacated R/W back to Mr. Burgarino in order to provide him with the necessary width to encompass the improvements. Mr. Less noted that the purpose of this forum was to lay out the available options, and re-stated that he would support whatever position the Commission took on this matter.

Ms. Stokes asked if the City could vacate only one side of the street?

Mr. Alpert asked if the R/W could be reduced to 60' in width?

Mr. Muenzenmeyer asked the Commission how it could make a recommendation to the Council that was contrary to State Statute (§62.23(6)(e) Wis. Stats.) which stated that no permit could be issued to construct or enlarge any building in any street?

Lisa Burgarino, 2204 Washington Street, asked if this included an addition to a building, and asked if they were currently in violation of State law?

Mr. Muenzenmeyer stated that the current status of their building could be argued, but added that it would no longer be a grey area by adding walls, windows and doors which would become part of the building. Mr. Muenzenmeyer noted that the deck could be a grey area. Mr. Muenzenmeyer added that the City Attorney was further telling the Commission that this arrangement should not be encouraged if the improvements would be more than just a roof.

Mr. Less noted that he was not sure the City Attorney understood that even if the R/W was vacated, the situation would not be remedied. Mr. Less added that the Commission would need guidance from the Engineering Department regarding the potential to reduce the width of the So. 22nd Street R/W.

Mr. Brey asked Mr. Burgarino what his thoughts were regarding purchasing the City-owned property that would be created by vacation?

Mr. Burgarino noted that he was fine with whatever direction was recommended by the Commission, but didn't want to go through a process every time he wanted to lift

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a shovel. Mr. Bugarino stated that he had been an upstanding citizen for 17½ years and did not think he was breaking any laws, and wanted to get to the point where he could tell Mr. Hamann to build the structure.

Mr. Brey asked Mr. Less to explain the vacation procedure. Mr. Less stated that first, Engineering would need to be heard on the issue of reducing the R/W width, so that it was clear that proceeding with a vacation was with the support of the City Engineer.

Mr. Brey stated that while Mr. Less was making it sound like the City Engineer would determine whether vacation was feasible, in reality, the Council could authorize moving forward on a vacation regardless of the City Engineer's position on this matter.

Mr. Less stated that while Mr. Brey was correct, his point was that before moving forward, the City would need to know how much R/W could be vacated and delineate this area, so that the Council would be able to make an informed decision.

Mr. Less then explained the methods to vacate R/W, and stated that in this case, the City Council would need to initiate the proceedings. Mr. Less explained the vacation procedures under statute. Mr. Less again stated that the City Engineer would need to be given until next month's meeting to look at this situation, and to make a determination and recommendation regarding vacation options.

Ms. Stokes asked Mr. Less if the City agreed to vacate at this time, why would it need to be discussed at another meeting?

Mr. Less explained that the area to be vacated would have to be delineated and legally described, and that the process would not technically start until the introduction at a Council meeting of a resolution to vacate, and an ordinance to amend the Official Map.

Mr. Bugarino asked Ms. Mellon what her opinion was on this discussion?

Ms. Mellon stated that she would like to see how much he was currently in the R/W, and to see if the City needed the R/W for storm sewer.

Mr. Less noted that when public R/W was vacated, the City would retain all existing utility easements and rights.

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Mr. Bugarino stated that in 2007, the City was going to install a new road and storm sewer in So. 22nd Street, and that the project subsequently was postponed to 2010. Mr. Bugarino asked if So. 22nd was still planned to be improved in 2010?

Ms. Mellon replied that assuming Council approval on that project, it was still planned for construction in 2010.

Mr. Muenzenmeyer asked Ms. Mellon if she knew what side of the R/W the storm sewer would be located on?

Ms. Mellon stated that the storm sewer would be on the west side of the R/W.

Mr. Less re-stated that he felt the City Engineer needed to be given a month to figure out if there was a solution to the R/W discussion, and then the vacation and Official Map proceeding could begin to move forward. Mr. Less stated that Mr. Bugarino needed to have Mr. Rayford complete the boundary survey and get a copy of it to the City Engineer, so it was clear where the current private improvements were located in relationship to the west R/W line of So. 22nd Street.

Mr. Hamann asked if a new SPA was out of the question?

Mr. Less replied that the SPA was his preference.

Mr. Brey stated that he wanted to get this project going.

Mr. Bugarino asked if a new SPA could be put into place now, and then 2 months later, he could request and proceed on the vacation?

Mr. Brey stated that based upon Mr. Muenzenmeyer's comments, he did not know if that could be done at this time.

Mr. Less stated that this statute was likely not an issue, as the situation of private improvements located in public R/W existed in many locations in the City. Mr. Less explained that a violation of this statute meant that a property owner would not be entitled to compensation under Chapter 32 of the statutes.

Ms. Bugarino stated that this was understood, and asked if they could request consideration that in re-doing So. 22nd Street, it be designed to benefit their property?

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Mr. Less stated that while he was contrary to vacation, he still felt that Ms. Mellon needed to be given time to look at this situation, and further suggested that she meet with Mr. Burgarino in this period to determine if a plan could be prepared that met everyone's needs. Mr. Less stated that hopefully this process would produce a consensus at the April Commission meeting.

Mr. Burgarino stated that he would like to be done with this process by mid-April, so he would support whatever scenario got this situation done.

Mr. Less stated that vacation proceedings could be completed by the end of July.

Mr. Hamann asked Mr. Less if he would still move forward with the SPA?

Mr. Less replied that he would not if the Commission and Council decided to move forward with the vacation.

Mr. Brey stated that he felt the best way to proceed was to sell the R/W, and was in favor of the SPA if that got this matter resolved promptly. Mr. Brey asked if the City Attorney or the Assistant City Attorney would render an opinion on the statute tomorrow?

Mr. Muenzenmeyer stated that he doubted it, as the City Attorney was not in the office.

Mr. Less stated that the situation described in the above referenced statute existed in many locations, and that the City would not tell property owners to remove these improvements from public R/W's. Mr. Less noted that the correct procedure, in his opinion, was to make sure an SPA specified and acknowledged the statute. Mr. Less stated that there was no way for the vacation proceedings to be completed by mid-April.

Ms. Burgarino asked if the City Attorney could, within a week, get back to the City Engineer and to the Burgarino's to make a determination of how to handle the R/W, so that there would be clarity at the April meeting?

Mr. Less stated that when the City Attorney visited him the other day on this matter, she was leaning towards supporting Mr. Muenzenmeyer's position to encourage vacation. Mr. Less added that the City Attorney drew a distinction about a deck, vs. a deck with roof and walls. Mr. Less acknowledged that the cleanest option was to vacate the R/W, if it was feasible.

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Mr. Alpert asked if the vacation of R/W meant the same as selling the R/W?

Mr. Less stated "no", and explained that there was a reversion of title under the vacation statute, whereas the sale of land was different. Mr. Less added that Mr. Burgarino would have to purchase the City-owned portion of the vacated R/W.

Mr. Alpert stated that he would like to see the City do something to expedite Mr. Burgarino's plans.

Mr. Less stated that he did not want to proceed contrary to Mr. Muenzenmeyer on this matter, and if the City Engineer determined that they could vacate a portion of the R/W, that was the way to proceed.

Mr. Muenzenmeyer noted that he had asked for a legal opinion on this matter this past Friday, but as the Attorney was off on Tuesday and Wednesday of this week, she was not able to provide him with a written opinion. Mr. Muenzenmeyer added that in the end, he had to follow her legal opinion.

Mr. Less commented that if the City decided to vacate a portion of the R/W, it would still require the City to sell or lease to Mr. Burgarino the portion of the vacated R/W that would revert back to the City. Mr. Less again stated that in order to proceed, clarity from the Engineering Department was needed to determine if vacation was even practical. Mr. Less stated that this was not his decision regarding the R/W, as the Engineers were the designers of the public R/W's.

Mr. Brey stated that he wanted the City Attorney to produce a determination regarding the relevancy of §62.23(6)(e) Wis. Stats., and wanted to have that in hand by the end of business on Friday. Mr. Brey noted that he would e-mail this request to the City Attorney.

Mr. Less stated that once there was clarity, a solution could be worked out.

Mr. Muenzenmeyer stated that selling the land to Mr. Burgarino was the cleanest way to transmit the property.

Mr. Muenzenmeyer commented that regarding comments made earlier on the parking lot to the north of the building, his preference was to not include this area in a rezoning, as he felt remaining "R-4" and following the procedures for establishing a

parking lot in a residential zoning district, would result in a better buffer between the business to the south, and residential land uses to the north. Mr. Muenzemeyer noted that if it was included in the rezoning, the parking lot area could be developed in the future as a building.

Additional discussion was held.

Motion by: Mr. Muenzenmeyer Seconded by: Mr. Alpert
Moved that: the Commission instruct the City Engineer to work on this matter over the next month with Mr. Burgarino, and to determine the feasibility of a vacation of the So. 22nd Street R/W, and to provide a report at the April Commission meeting. Upon Vote: the motion was approved unanimously.

B. PC55-2008: Review Map of Foreclosure-Distressed Properties in the City of Manitowoc

Mr. Less explained that Liz Werdermann had made a presentation to the Commission back in October, 2008, with the promise of returning to the Commission in the future with updated information.

Ms. Werdermann explained that she had continued to monitor and update real estate foreclosure information for the City, and reviewed her findings. Ms. Werdermann noted the following for the 2000-2008 period:

1. There were 37 commercial properties associated with a recorded Lis Pendens or Sheriff's Deeds, and 10 of these 37 properties were foreclosed;
2. There were 749 single family residences impacted by a recorded Lis Pendens or Sheriff's Deed, and 246 recorded Sheriff's Deeds related to these properties;
3. There were several of these properties that were serial filers;
4. There were 180 two family residences with a recorded Lis Pendens, of which 70 of these properties were foreclosed upon; and

5. Exclusive of bank offices, there were 14 properties owned by banks in the City, of which 6 properties that were sold at Sheriff Sale.

Ms. Werdermann commented that it appeared that most of these impacted properties were located south of the Manitowoc River.

Mr. Less added that it appeared that roughly one out of every three properties in foreclosure were eventually sold at Sheriff Sale.

Ms. Werdermann added that it appeared that the number of residential foreclosures spiked within 24 months after the time that Mirro left Manitowoc.

Mr. Muenzenmeyer noted that City regulations might need to be modified in the future in response to problems related to properties that had been abandoned.

Additional discussion was held. No action was taken.

- C. PC52-2006: FY2007 Comprehensive Planning Grant - Multi-Jurisdictional Project with Manitowoc County:
 1. Update - Manitowoc County Planning Advisory Committee (MCPAC)

Mr. Muenzenmeyer commented that he attended a MCPAC meeting last week, and noted that there was a MCPAC-Lakeshore Cluster meeting set for April 15th at 7:00 P.M. to which the Commission was invited to attend.

Mr. Less noted that April 15th was the date for the April Commission meeting. Commission members decided to move the regular April Commission meeting to April 14th.

Mr. Muenzenmeyer commented that the County's planning effort was in catch-up mode, as they were trying to get their townships and villages caught up in the process.

Mr. Braun explained that the County had a huge job coordinating all the various jurisdictions that were included in the process. Mr. Braun noted that a meeting with the

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Commission and the Expo Grounds study group would be held on Wednesday, March 25th. The Commission decided to convene this meeting at 5:00 P.M.

No action was taken.

2. Vandewalle Update - Review of Comprehensive Plan Draft

Jessica Schmiedicke and Jolena Presti from Vandewalle & Associates provided Commission members with a draft “Executive Summary” of the key recommendations in the following categories:

- a. Agricultural, Natural, and Cultural Resources;
- b. Land Use;
- c. Transportation;
- d. Utilities and Community Facilities;
- e. Housing and Neighborhood Development;
- f. Economic Development;
- g. Intergovernmental Cooperation; and
- h. Key Implementation Recommendations.

In addition to the above, the following key points were made during this discussion:

1. Ms. Schmiedicke explained that Draft #2 (Draft) dated March 5, 2009 had been provided to the City.
2. Mr. Less stated that in his next review of the Draft, he would (among other things) be looking for consistency of terminology ie. “Comprehensive Plan” vs. “Plan”.
3. Mr. Less stated that he wanted to make sure that the Draft drilled down enough in terms of the type and kind of detail he was looking for, and that more insight and strategies from Vandewalle were integrated in the various sections of the document.
4. Ms. Presti noted that the next step in the process was the open house.

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5. Ms. Schmiedicke noted that sustainability information was added to the various sections of the Draft.
6. Ms. Schmiedicke noted that the future land use map had been updated, and a copy included in the Draft.

Jim Muenzenmeyer asked if the corrected future land use map would be forwarded to the Bay-Lake Regional Planning Commission for use in the County's plan?

Ms. Schmiedicke stated that the future land use map had not been forwarded at this time, as she wanted the Commission to be comfortable with it first, and after which Bay-Lake would receive a copy along with the Draft. Ms. Schmiedicke stated that she was not clear what the County was doing at this time.

Mr. Less stated that he was relying on Mr. Muenzenmeyer and Ms. Mellon as the City's MCPAC representatives, to make sure that the City's future land use map was in concert with the County's future land use map, as he wanted to make sure there was good transparency between the two.

Mr. Muenzenmeyer noted that he would be bringing the County land use map to the Commission sometime in the future.

Ms. Schmiedicke stated that the townships surrounding the City could develop plans different than the City's, but added that it would be ideal to have the township future land use areas adjoining the City to not be in conflict with the City's plan.

Mr. Braun noted that the Town of Manitowoc future land use map appeared to not be in conflict with the City's Draft at this time.

7. Ms. Schmiedicke noted that the delineation of environmental corridors was also revised as per staff's recommendations.
8. Ms. Schmiedicke noted that the City should protect its future growth areas by limiting future rural development in its extraterritorial jurisdiction.

Mr. Braun stated that the I-43/Waldo Boulevard interchange was probably the most important of these areas, and suggested that it be specifically referenced in the Draft.

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9. Mr. Braun noted that his practice was to forward sections of the document to various departments for periodic review (ie. transit).
10. Ms. Schmiedicke noted that continued enhancement of technology into City Hall operations was a suggestion incorporated into the Draft.

Mr. Braun noted that the current GIS needs assessment was driving this matter.

11. Ms. Schmiedicke noted that commentary had been added to the Draft regarding foreclosure and foreclosure rates in Manitowoc County, with data coming from a UWEX website.
12. Ms. Schmiedicke noted that suggested design standards for multi-family development would be integrated into the Draft.

Mr. Braun commented that he was not sure the City should be expanding design review functions to a City-wide basis.

Mr. Less concurred, and added that a City-wide design review would further burden the Planning Department, and suggested that code modifications requiring greater levels of landscaping might be a more appropriate driver in this matter. Mr. Less noted that he did not want to get into the business of making decisions regarding building materials for multi-family developments, and felt design review was a more appropriate function for areas like downtown that had an existing blocking of buildings, and was less applicable to green site developments.

Mr. Muenzenmeyer commented that the Planned Unit Development at Harbor Town had done the City well.

Mr. Braun commented that he did not think the City wanted to begin requiring development plans for subdivisions.

Ms. Schmiedicke commented that Mr. Braun was correct, and their intent was that multi-phased, green field subdivisions would be required to potentially plan and layout the entire development.

Mr. Braun stated that the City currently followed that practice.

Ms. Presti stated that the Draft did not specify design standards.

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13. Ms. Schmiedicke commented that the economic development chapter saw the most changes in the Draft, and now included information on the current economic climate.

Ms. Presti commented that having the plan in place with cost estimates, placed the City in a more advantageous position to secure grants.

Mr. Less commented that the economic development section of the plan was difficult because of the ever changing nature of the economy, and that what he wanted integrated into the plan was flexibility as to how to anticipate and respond to changes in market conditions. Mr. Less added that he wanted to make sure that he wasn't hamstrung by the literal interpretation of the plan.

Ms. Presti commented that this chapter was closest to the economic opportunities section of the plan.

Mr. Less stated that he also wanted to make sure the plan framed the economic realities and limitations of the City, being located in a State with severe economic and funding limitations, regardless of how clever the plan was written. Mr. Less continued that the plan should further note that there were not a lot of economic development tools available, so the City should not be bashful in utilizing them to continue to grow its economic base, and should not rely on others to determine local outcomes.

14. Ms. Schmiedicke commented that the Draft included commentary on the impact of baby boomers on the community.

Mr. Less commented that he wanted to make sure that the comments he had forwarded to Vandewalle regarding the issue of equity vs. wealth were integrated into the Draft.

Ms. Presti was not familiar with the suggested text.

Mr. Less explained that he felt that Manitowoc was better positioned to withstand this recession because of the generally older age of the community, the tendency of the local population to view the home as a shelter vs. an investment, and as long term owner occupied housing wealth was more stable and permanent than stock market wealth. Mr. Less stated that this impacted the baby boomer analysis that was yet to be completed. Mr. Less added that the study needed to recognize that the baby boomers were a population group that the City should nurture into the future.

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15. Ms. Schmeidicke commented that the Draft included new text to the effect that the City was well positioned to succeed in the future, but that there needed to be a concerted effort going forward to keep the momentum positive.
16. Ms. Schmeidicke commented that additional staff comments were included in the Draft regarding the “consistency” requirement of the law. Ms. Schmeidicke commented that she felt the expanded language would help protect the City in the future.

Mr. Less noted that he did not want the City hung up on the literal interpretation of the plan, and that the City wanted to retain flexibility into the future without being restricted by the adopted plan.

Mr. Braun noted that Vandewalle and Associates would be giving presentations at an upcoming American Planning Association conference on the topic of consistency.

Mr. Less stated that he wanted to make sure the plan adequately addressed the “consistency” issue, and that any cutting edge ideas that would emerge from the upcoming conference, be integrated into the plan.

Ms. Schmeidicke commented that there would be one more set of edits to the draft before advancing to public hearing.

Mr. Less commented that he wanted the opportunity to review the entire plan from cover-to-cover, and to retain the ability to provide further edits to the version of the plan to be used at the open house and public hearing. Mr. Less continued that he wanted the plan that was to be presented to the public to include his required changes. Mr. Less added that he had read prior versions of the document in a piece meal basis, and wanted to read the plan in its entirety. Mr. Less stated that he was not ready to proceed to an open house until he had the opportunity to read the entire Draft. Mr. Less cited the Expo Grounds study, the results of which should be reflected in the Draft.

Ms. Presti commented that as the Expo Grounds study was just beginning, having an open house in April would be tight.

Mr. Brey asked what was envisioned for the open house?

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Mr. Less stated that he felt the open house would be a format similar to that used for street projects. Mr. Less added that he did not see April as the time to hold the open house.

Mr. Braun commented that on March 25th, the ad hoc Expo Grounds committee created for this process, along with the Commission, would meet to review Expo development concepts, and would review the market analysis prepared by Vandewalle.

Ms. Presti commented that the Expo Grounds study would be more of a market analysis, and less a community vision process, and that they would have concepts and analysis to present on March 25th. Ms. Presti suggested that the Expo plan be presented at the open house.

Mr. Less commented that he wanted the draft plan, and all of the special studies to be presented at a single open house, under the same roof and at the same time. Mr. Less suggested that he wanted to have the plan in final draft form, so as to advise the Council to call for a public hearing in September, with adoption of the plan in October or November. Mr. Less stated that holding the open house in August made sense to him.

Ms. Presti commented that regarding the Draft, Vandewalle would continue to evolve that document, and would attach the other pieces including the Expo study.

Mr. Less stated that the key findings of the Expo Grounds study needed to be integrated into the plan, and added that he felt the current Draft should continue to be worked on, and added to the Draft, as special study sections were completed, prior to going to the open house and public hearing phases of this project.

All parties agreed to proceeding in this matter.

Mr. Less emphasized that he wanted to use this time to make sure the plan included the most current demographics.

The group then reviewed the future land use map, and in particular discussed: (i) the Elks Club property; (ii) the Waldo Boulevard/I-43 area; (iii) the County's administrative office building on Expo Drive; (iv) the old Rahr farm; and (v) the Broadway Street/Rapids Road corridor. Intergovernmental forums for presentation of the City's plan were also discussed.

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Mr. Brey stated that the monthly Wisconsin Towns Association and the local villages association might be preferred forums, as well as MCPAC.

Mr. Less stated that he wanted to document the outreach in the plan. Mr. Less continued that intergovernmental targets would have to be set for June and July, with the intent being to have a final draft before the Commission in August.

Mr. Braun felt that MCPAC might be the best forum, as the County's planning process had a more defined lakeshore cluster.

Mr. Less noted that he wanted to hit on 2-3 intergovernmental opportunities prior to the August Commission meeting.

Mr. Muenzenmeyer commented that providing notice to the various townships and villages of upcoming City meetings of the plan might be another avenue that the City could pursue.

Additional discussion was held. No action was taken.

D. PC6-2009: Reinertson; House Moving Application Under Section 15.37(3)

Mr. Less explained that this matter had been previously referred to the Plan Commission from the Common Council, but that no detail had been provided by the applicant to date, other than the original letter request. Mr. Less added that he would keep this item on the agenda for a few months to provide the applicant time to file the information required under this section of the code.

No action was taken.

VII. NEW BUSINESS

A. PC8-2009: City of Manitowoc; Harbor Assistance Program - Three (3) Year Statement of Intentions (2009-2011)

Mr. Braun explained the 2009-2011 "Statement of Intentions", and reviewed priorities with the Commission. Mr. Braun noted that the draft had been reviewed by Mike Huck, Harbor Master.

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IX. ADJOURNMENT

The meeting was adjourned at 8:05 P.M.

Respectfully Submitted,

David Less
Secretary