

PLAN COMMISSION MINUTES - 11/13/2013

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
November 13, 2013
6:30 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
David Diedrich
Maureen Stokes
Steven Alpert
Jim Brey
Jim Muenzenmeyer
Dan Koski

Members Excused

Justin Nickels

Staff Present

David Less
Paul Braun
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular October 16, 2013 Meeting.

Motion by: Ms. Stokes

Seconded by: Mr. Diedrich

Moved that: the minutes be approved as presented.

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

A. None

V. REFERRALS FROM COMMON COUNCIL

A. PC30-2013: Steimle Birschbach Law Offices/Foster Limited Liability Company; Request to Donate Land to City of Manitowoc in I-43 Industrial Park

Mr. Less explained the request from Attorney Andy Steimle on behalf of Thomas and Patricia Foster, regarding a proposed donation of 2.78-acres of land in the I-43 Industrial Park. Mr. Less provided a history of the City's sale of this parcel to the current

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owner in 2000, and noted that this parcel was part of a larger 4.031-acres currently owned by Foster Limited Liability Company, which was home to Color Craft in the I-Park. Mr. Less continued that Foster was in the process of selling a portion of this land via a Land Contract to a new owner, and neither the new owner or Foster had interest in retaining ownership of the 2.78-acre parcel. Mr. Less noted that he would be very excited about receiving this donation.

Mr. Less continued that the 2.78-acre parcel, when viewed along with the parcels of land to the east that were negatively impacted by wetlands (and were considered as a site for future stormwater ponds), would in the end result in a new developable parcel in the I-Park.

Andy Steimle, 21 Maritime Drive, explained that the property was not needed by the current owner or Mr. Foster, and that disposing of this parcel through a donation at no cost to the City would need to be accomplished by the end of 2013 to fit into Mr. Foster's estate planning.

Mr. Less noted that a release from Investors Community Bank would be needed.

Mr. Steimle replied that he was already in possession of that release, but was waiting to record all documents at the same time.

Mr. Diedrich asked about a notch at the SE corner of the 2.78-acre area?

Mr. Less explained the lot configuration in this area, and that the notch was part of a larger N-S running parcel to the south.

Mr. Less recommended that the Commission recommend to Council approval of the donation of land to the City, with the Council authorizing the City Planner to: (i) serve as City's agent in this project; (ii) negotiate, finalize all terms and conditions, and sign on behalf of the City an Offer to Purchase, Offer to Donate or equivalent agreement with the seller; (iii) act as the City's agent to close the real estate transaction, subject to a review of the transactional documents by the City Attorney; and (iv) authorize, at the instruction of the Planner, the Mayor and Clerk to sign any documents necessary to complete the transaction.

Motion by: Ms. Stokes

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

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

Mr. Steimle commented that he had some appraisal issues to work through, and questioned how quickly this process could be completed?

Mr. Brey noted that he would bring this matter back for Council approval on November 18th, and the process could move forward at that time.

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B. PC18-2013: Manitowoc County; Tax Deeded Properties in the City of Manitowoc

Mr. Less reviewed 2 referrals from Manitowoc County regarding the availability of County-owned properties being offered for sale. Mr. Less noted that one of the properties referenced was located at E. Reed and E. Park View Lane (adjacent to Lincoln Park), and had been previously identified by the Commission as an acquisition target, if the City could take title to the property at no cost or minimal cost.

Mr. Less recommended that the Commission send a report to Council in response to the referrals, but to also serve as a reminder that in a related report filed a few months ago, it had identified this same parcel and expressed interest in the City's ability to acquire this specific parcel from the County at no expense or minimal expense.

Mr. Brey commented that as Chair of the County's Finance Committee, he would be abstaining from this vote. Mr. Brey continued that they were aware of the City's interest in the parcel, but would first see if anyone was willing to privately purchase the parcel through the proceedings.

Additional discussion was held.

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

Seconded by: Mr. Diedrich
Upon Vote: the motion was approved by a Vote of 6-0. Mr. Brey abstained.

C. PC1-2013: Sprang; Quit Claim Deed to the City of Manitowoc for .708-Acres for Goodwin Road Purposes

Mr. Less explained the location of the proposed R/W dedication to the City on Goodwin Road, east of Rapids Road and west of Herman Road.

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.

D. PC1-2013: Neuser/Schmidt; Quit Claim Deed to the City of Manitowoc for .227-Acres for So. 10th Street Purposes

Mr. Less explained the location of the proposed R/W dedication to the City on So. 10th Street, south of Viebahn Street.

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.

VI. OLD BUSINESS

A. PC49-2010; Saunders; Request for an Extension of a Special Permit for a Parking Lot in a "R" Zoning District at 1201 So. 13th Street

Mr. Less explained that tonight's discussion was in regard to the status of a Special Permit originally issued by the Commission in January, 2011 to Jonathan and Cheryl Saunders for establishment of a parking lot in a residential zoning district pursuant to Section 15.430(11) of the Municipal Code (Code). Mr. Less noted that there had been several extensions to this Special Permit since it was originally issued in January, 2011 and that the parking lot project was to be completed on or before November 15, 2011. Mr. Less displayed pictures of the parking lot over time, noting that while the project was not complete, substantial progress had been made to the area. Mr. Less explained that it would be an awkward position for the City to terminate the Special Permit at this time and to cause harm to this business, but added that something needed to be done so that the owners understood that they had to comply with the Code, and that there were ramifications for not completing the project.

Ms. Stokes commented that by granting the extension, the Saunders would hopefully complete the project.

Mr. Braun commented that the Saunders had done some landscaping in the area, including some on to an adjacent property owner's land, but it had died since it was first installed.

Mr. Less recommended that to maintain integrity to the Code, and at the same time allow the Saunders more time to complete their project, he felt a compromise position was to further extend the Special Permit project completion date to November 15, 2014 with the express understanding that the parking lot could not be used for the parking of 5+ vehicles at any time until the lot had been hard surfaced and striped in accordance with the Code, and that failure to comply with this requirement would subject the owners to the issuance of citations.

Mr. Muenzenmeyer commented that this had been an ongoing situation, but felt that Mr. Less' recommendation was sound.

Mr. Brey concurred with Mr. Less' suggested approach to this matter.

Mr. Diedrich commented that in an earlier discussion with Mr. Less, he found out that there had not been any complaints filed against the property, and added that this in itself was an improvement.

Mr. Braun commented that the Saunders were making the improvements incrementally.

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Mr. Less explained the recommendation again as stated above, and added that he would also send a communication to Council advising that body of the Commission's action.

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.

VII. NEW BUSINESS

A. PC31-2013: Manitowoc Place, LLC; Request for Approval of a "Non-Disturbance, Subordination and Attornment Agreement" at 204 N. 8th Street

Mr. Less explained a request from Bob Lemke, as the owner and developer of Manitowoc Place, 204 N. 8th Street. Mr. Less continued that this request came to the City by virtue of the City's TIF investment in this redevelopment project back in 2003-2004, and as a mortgagee against the title to the real estate. Mr. Less noted that Mr. Lemke had requested that the City execute a "Non Disturbance, Subordination and Attornment Agreement" related to a proposed lease with a telecommunication provider, Verizon, to locate its equipment on the top of their building. Mr. Less explained that the purpose of this Agreement was that in event of foreclosure of the City's or any other mortgage filed against the property, Verizon's lease would not be disturbed, and would remain subordinate to the real estate mortgages of record. Mr. Less continued that the Verizon lease would survive a future foreclosure action and remain a binding lease, in full force and effect, with the new owner bound by the lease terms. Mr. Less explained some of the elements of the original redevelopment project including the presence of low income housing tax credits, and made reference to the City's TIF investment in the property and its 2nd lien position, subordinate to a first mortgage with Bank Mutual.

Mr. Less recommended that the Commission recommend to Council that: (i) the Planner serve as the City's agent in this project; (ii) the Planner negotiate and finalize all terms and conditions of the Agreement, subject to a review of the final Agreement by the City Attorney; and (iii) at the instruction of the Planner, the Mayor and Clerk be authorized to sign any documents necessary to complete the transaction. Mr. Less noted that Verizon would also have to comply with the City's telecom ordinance.

Motion by: Mr. Hornung

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

Seconded by: Mr. Alpert

Upon Vote: the motion was approved unanimously.

Mr. Diedrich commented that he couldn't tell what the City's lien position was against the property based on the title report that Mr. Less had provided.

Mr. Less responded that the City's mortgage was in 2nd position, subordinate only to a first mortgage by Bank Mutual in the original principal amount of \$3,444,820. Mr. Less concluded by noting that this type of request was a standard procedure in this kind

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of real estate transaction. Mr. Less added that the additional rent from Verizon would help out the cash flow for the real estate.

Additional discussion was held.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Maltby: CSM in NW¹/₄ of SW ¹/₄ also being in Lot 106 of Hinckley's Subdivision Section 31, T.19N., R.24E., City of Manitowoc

Mr. Braun explained a proposed CSM for the Maltby property on the east side of So. 26th Street, south of Dewey Street. Mr. Braun noted that mini-warehouses were being constructed on the southern parcel, and that Maltby would also be selling his northern tract of 2.16-acres to the owner of the southern tract to create additional mini-warehouse units. Mr. Braun noted that he would be requiring dedication of So. 26th Street, and then recommended approval of the CSM. Mr. Braun did make reference to a remnant of dedicated R/W interior to the parcel. The Commission felt the remnant was so small it was not worth the time and expense to vacate at this time.

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. Diedrich

Upon Vote: the motion was approved unanimously.

C. Summary of Site Plans 10/11/2013 – 11/7/2013:

1. SP23-2013: Contemporary Inc./Cawley Company, 1544 N. 8th – Building Addition (approved).
2. SP24-2013: Doumar, LLC/Lakeshore Storage, 1820 So. 26th – New Construction (approved).

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IX. ADJOURNMENT

The meeting was adjourned at 6:55 P.M.

Respectfully Submitted,

David Less
City Planner