

PLAN COMMISSION MINUTES - 5/12/2010

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
May 12, 2010
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

Steve Alpert
Val Mellon
Jim Muenzenmeyer
Justin Nickels
David Diedrich

Members Excused

Dan Hornung
Jim Brey
Maureen Stokes

Staff Present

David Less
Paul Braun
Michelle Yanda
Elizabeth Werdermann

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular April 14, 2010 Meeting.

Motion by: Mr. Diedrich _____ Seconded by: Mr. Muenzenmeyer
Moved that: the minutes be _____ Upon Vote: the motion was
approved as presented. approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

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- A. PC21-2009: Bank First National; Request for Assignment of Adaptive Reuse Conditional Use Permit (CUP) Previously Issued to Keith Gauthier Pursuant to Section 15.37(29) for Property at 1402 Clark Street

Mr. Less explained that this was a request from Bank First National, the recent owner of property located at 1402 Clark Street, who was requesting that the City assign an existing adaptive reuse Conditional Use Permit (CUP) for the property formerly owned by Keith Gauthier pursuant to Section 15.37(29) of the Manitowoc Municipal Code. Mr. Less noted that Section 15.37(29) established procedures for the issuance of a CUP to encourage the adaptive reuse of buildings such as churches and schools, as well as historically significant buildings, buildings larger than 100,000sf in area, and governmental buildings.

Mr. Less stated that Section 15.37(29) required procedural compliance with Section 15.37(27) of the Manitowoc Municipal Code, and that under the adaptive reuse 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, would have a minimal or no effect on the surrounding property values, if the reuse of the building was made more difficult to the extent that the marketable value of such properties may be substantially diminished, and that the adaptive reuse of a building furthered the promotion and conservation of the economic value of such buildings and thereby protected and improved the City's tax base. Mr. Less noted that the Commission and Council could affix conditions to the CUP to provide assurances that the proposed use would not have a negative impact on the surrounding area.

Mr. Less continued that Bank First National became the owner of this property on April 5, 2010 by virtue of a Quit Claim Deed that was issued by Mr. Gauthier to the bank in lieu of foreclosure, and that the conveyance was for all rights, title and interest in the property. Mr. Less continued that the City had previously issued an adaptive reuse CUP to Mr. Gauthier on May 18, 2009, and that he discovered this most recent conveyance to the bank on April 22, 2010, and subsequently advised the bank and the Plan Commission that same date that the existing CUP included an assignment provision under Section 5. of the CUP, and that technically, there was no CUP in place for this property until an assignment to the new property owner was approved.

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Mr. Less then explained that back in 2000, the City sold this property, legally described as Lots 5, 8, 9 12, 13, 16 and 17, in Block 189 of the Original Plat, to Richard Gehrke for \$75,000; that Mr. Gehrke then sold the property to 2XR, LLC in June, 2006; and 2XR, LLC then sold it to Mr.Gauthier in March, 2007.

Mr. Less then noted that the Clark Street property was currently zoned "R-6" Multiple Family District which permitted single and two family uses, multiple family dwellings, boarding and lodging houses, day care centers and community living arrangements for not more than 15, and that conditionally permitted uses in this district included churches, schools, private clubs and lodges, homes for the elderly, and day care centers and community living arrangements for 16 or more persons. Mr. Less continued that the rationale behind the adaptive reuse CUP issued to Mr. Gauthier in 2009 was to allow him greater latitude in terms of the types of businesses that could occupy his building, more specifically, business and professional uses that would be eligible under the "B-1" office-residential zoning district.

Mr. Less noted that the 1.45-acre Clark Street property in 2009 had a fair market value of \$218,400, was currently assessed at \$208,900 with its land valued at \$78,800, and generated just over \$4,200 in real estate taxes annually.

Mr. Less identified surrounding land uses and zoning in the area.

In closing, Mr. Less noted that notices were mailed from the Planning Department to property owners within 200' of the subject property on May 4th, and that no comments were received in response to the mailing. Mr. Less continued that the City's 1999 Comprehensive Plan identified the subject property as "Sewered Residential", and further encouraged the adaptive reuse of buildings, the conversion of second and upper floors into residential uses, and the redevelopment of underutilized sites. Mr. Less noted that in the 2009 comprehensive plan, the property was identified as "Planned Mixed Use"; a district intended to facilitate a carefully controlled mix of commercial and residential uses that would serve as a vibrant urban place and as a community gathering spot. Mr. Less concluded that the original adaptive reuse CUP and the proposed assignment were consistent with the City's comprehensive plan.

There was no public comment.

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Mr. Less reviewed the proposed CUP compliance conditions, and noted that Dan Lalko from Bank First National had been provided a copy of the draft earlier in the day. Mr. Less then recommended that the Commission recommend to Council approval of the assignment of the adaptive re-use CUP under 15.37(29) to Bank First National, subject to the compliance conditions provided to Commission members.

Mayor Nickels asked Mr. Less for his recommendation.

Motion by: Mr. Alpert _____ Seconded by: Ms. Mellon
Moved that: the Commission approve the Upon Vote: the motion was
Planner's recommendation above. approved 5-0. Mr. Diedrich abstained.

- B. PC21-2010/PC53-2009/PC28-2007: Great Lakes Energy Technologies, LLC/Orion Energy Systems, Inc.; Proposed Small Wind Energy System on Woodland Drive Under Section 15.77 of Manitowoc Municipal Code

Mr. Less explained that this was a request from Orion Energy Systems, Inc. as the managing member or "parent" of Great Lakes Energy Technologies, LLC, as the owner of record of the subject real estate located between Woodland Drive and Mirro Drive in the City, and more specifically identified as 2210 Woodland Drive in the City of Manitowoc. Mr. Less continued that Orion was the sole member and 100 per cent owner of Great Lakes Energy Technologies, LLC, and that for purposes of this hearing, reference would be made to these entities together as Orion.

Mr. Less commented that the specific request was to authorize the construction of a 3-bladed, 50kw, 176.5' tall monopole wind turbine on the Orion property pursuant to Section 15.77, which was the City's "Small Wind Energy Systems" ordinance. Mr. Less added that the effective date of the ordinance was September 23, 2008, and noted that Orion proposed to place the single turbine approximately 60' south of its north property line shared with the Skana Aluminum Company.

Mr. Less continued that as an upfront note, the City in December, 2009, issued a Conditional Use Permit (CUP) to Great Lakes Energy Technologies, LLC and Orion Energy Systems, Inc. for a single, 115' tall monopole wind turbine to be located adjacent to the rotary, and to the east of the entrance to its technology center. Mr. Less noted that this tower had not yet been constructed, and added that under Section 15.77(5)(d) of the City's code, a permit issued under this section expired if the small wind energy system was not installed and functioning within 24 months from the date the permit was issued.

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Mr. Less then went on to explain that procedurally, Section 15.77(7) required the processing of an application to be handled as a CUP pursuant to Section 15.37(27), and 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 or no effect on surrounding property values. Mr. Less stated that the Commission and Council could affix conditions to the CUP to provide assurances that the proposed use would not have a negative impact on the surrounding area.

Mr. Less stated that the proposed wind tower would be located on a 30.10-acre parcel identified as a Lot 1 of a CSM recorded in V. 24, P. 63, and noted further that the proposed CUP area was surrounded on all sides by "I-2" heavy industrial zoning and land uses.

Mr. Less then spent time outlining the regulatory framework for the siting of a wind tower in the City, explaining first the matter of legislative intent. Mr. Less noted that the statutory scheme for regulating the siting of wind towers was found in §66.0401 Wis. Stats. which was, in effect, a legislative restriction on the ability of municipalities (ie. counties, cities, towns and villages) to regulate solar and wind energy systems. Mr. Less explained that the statute promoted renewable energy sources, and was not superceded by municipal zoning or conditional use powers. Mr. Less continued that the statute: (i) denied a local community with the power to make its own policy regarding wind energy systems, and prohibited acting in a manner that would be in conflict with the statute; (ii) delegated the authority to the locality to execute and administer the State's established policy of favoring wind energy systems; and (iii) required the locality to review and evaluate each system based upon its own merits--in other words, on a case-by-case basis, and not a "one size fits all" scheme.

Mr. Less continued that this statute barred local governments from placing any restrictions on wind or solar power systems, unless they satisfied at least 1 of 3 criteria: (i) the restrictions served to preserve or protect public health or safety; (ii) it did not significantly increase the cost of the system or significantly decrease the system's efficiency; or (iii) it allowed for an alternative system of comparable cost and efficiency.

Mr. Less went on to note that also at the State level, Chapter PSC 119 detailed requirements for interconnecting distributed generation facilities with a capacity of 15mw or less, noting that the proposed Orion tower at 50kw would be classified as a "Category 2" facility under this chapter. Mr. Less continued that §114.136 Wis. Stats.

authorized counties, cities, towns and villages that were the owner of an airport to protect their aerial approaches, and could limit structures to no higher than 150' AGL (above ground level).

Mr. Less noted that at the County level, airport height limitation matters were covered under Chapter 11 of the County Code, which had authority pursuant to §114.136 Wis. Stats. Mr. Less noted that as Manitowoc County was the owner of the airport, the County Board of Adjustment served as the County's version of the City's Zoning Board of Appeals in matters dealing with height limits in a 3-mile area around the airport. Mr. Less explained that this ordinance was designed to protect the airport by restricting and determining the use, location, height, number of stories, and size of buildings within 3 miles of the airport. Mr. Less clarified that this was also known as the "Height Limitation Zoning Ordinance" (HZLO).

Mr. Less explained that at the City level, the HZLO was found in Section 15.47 of the City's code, and that "small wind energy systems" within the City were regulated under Section 15.77 of the City's code, and were procedurally handled utilizing CUP procedures under Section 15.37(27) of the code. Mr. Less explained that the City's ordinance provides for the following (*note the information specific to the Orion request appears in bold text*):

1. Maximum # of towers - 2. **Request is for "1", but together with the 2009 authorized tower, would be a total of 2 towers.**
2. Maximum height - 425'. **Proposed tower height is 176.5' to grade.**
3. Permitted Zoning - "I-1" and "I-2". **Zoning is "I-2".**
4. Setbacks: 125% of tower height from: (i) public R/W (unless waived by City Council); (ii) overhead utility lines (unless waived by relevant utility); (iii) exterior boundary of all lots of record under same ownership (unless waived by affected land owner); and (iv) any other tower or structure. **The 125% factor would be a setback of 220.63' which was not satisfied with the proposed location. The location of the tower @ 60' from the property line abuts the Skana Aluminum Company property to the north. Consent from Skana would be required.**

At least 1,000' from nearest residence, school, hospital, church or public library. **The setback requirements was not satisfied with the proposed location, as it was within 1,000' of a residence and supper club on the east side of Woodland Drive.**

5. Access - Tower non-accessible/climbable for minimum height of 15' above ground. **Detail not available at this time.**
6. Lighting - Unlit, unless required by FAA. **Unknown at this time. FAA hazard determination would be required.**
7. Lowest point of blade tip no less than 75' above ground clearance. **According to Mike Potts from Orion, the tower would be 140' in height and would have a blade length of 36'. The distance from the blade tip to the ground would be 103' which would exceed the requirement.**

Mr. Less noted the following regarding the Orion application:

1. The Orion application was filed with the City on April 29, 2010.
2. On April 30, 2010, the City Clerk provided notice to various County entities as required under City ordinance.
3. The Orion application included a copy of an FAA "Determination of No Hazard to Air Navigation" issued on March 1, 2010 for a 388' tall tower that was originally planned for a location to the south of the current proposed tower location. An application for the 388' tower was never filed with the City. The FAA determination stated: (i) the structure didn't exceed obstruction standards and would not be a hazard to air navigation; and (ii) that marking and lighting would be necessary for aviation safety.
4. Regarding the proposed 176.5' tower, Orion would need to secure a variance from the County Board of Adjustment. The County Board of Adjustment previously issued a variance to Orion on February 16, 2009 for the 388' tower which exceeded the HZLO by 218 feet, based on findings that:
 - a. There was a 510' existing tower nearby (approximately 1,485' from an existing radio tower).

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- b. Paint, markings and lighting requirements would be as specified by the FAA.
 - c. FAA had determined no adverse impact on the airport.
5. An engineering statement evaluating intermodulation and potential disturbance issues was also included in the current Orion application, but appeared to be related to the 388' tower that was the topic of earlier discussions. The study concluded that in the opinion of the consulting engineer, the proposed turbine was not expected to produce interference for AM and FM broadcast facilities, television facilities, microwave facilities, 2-way and mobile facilities, and satellite services. The report concluded that the proposed wind turbine might have an effect on existing AM broadcast facilities, but it would be minor, and if it was found to be a problem, could be reduced by implementing a detuning scheme to correct resultant disturbances to AM antenna-radiation patterns.

In summary, Mr. Less stated that the current Orion application was not complete, would be carried forward to next month's Commission agenda, and then explained that there were several items of information that would need to be provided by Orion before this matter could be considered for approval by the City Council. Mr. Less identified the following application deficiencies:

- 1) Site plan (15.37(2) which included:
 - a) Drawings detailing wind energy system facilities and lighting systems, as required.
 - b) Drawings detailing foundation details, equipment facilities, and grading elements of the site.
 - c) Intermodulation study, RF study or non-interference letter from an RF engineer, providing technical evaluation of existing and proposed transmissions, other transmitting facilities in the area, etc.

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- d) Aeronautical study and obstruction evaluation report (FAA).
 - e) Tower height and design graphics, cross sections and elevations, along with break apart calculations or fall radius calculations.
 - f) Report from a qualified engineer that proposed tower met current structural and electrical code requirements.
- 2) Documentation that the Manitowoc County Board of Adjustment had approved and issued a variance to authorize the tower at its current proposed height.
 - 3) Letter from Skana supporting the tower in its proposed location and acceptance at less than the required setback.

Mr. Less noted that under Section 15.77((7)(b), the Council could waive or reduce the burden on a small wind energy system owner of 1 or more requirements of the CUP, if the Council concluded that the intent of this section was better served.

Mr. Less continued that regarding tonight's meeting, notices detailing tonight's informational hearing were mailed from Planning on May 4th to property owners within 200' of the Orion property. Mr. Less explained that earlier in the day he had a conversation with Tom Testwuide, Sr., Chairman and CEO of Skana Alumimum Company, the owner of the former Koenig & Vits property, who expressed concern with the tower encroachment issue as the proposed tower was only 60' from the Skana property line. Mr. Less explained to the Commission that Mr. Testwuide would be talking with Orion's President, Neal Verfueth about this, as well as other matters. Mr. Less then explained a telephone conversation he had with Green Bay Mayor Jim Schmitt, the owner of property on the east side of Woodland Drive, who appeared to be supportive of the Orion proposal. Mr. Less added that other than this conversation, he received no other written communications regarding the proposed tower.

Mr. Less then noted that in addition to the May 4th notice, a separate notice was issued by the City on April 30th to satisfy the requirements under Section 15.77(7)(a) and (b)1. of the code. Mr. Less elaborated that a copy of the Orion application as filed, along with a copy of highlighted Sections 15.77(7)(a) and (b)1. of the code, and a cover letter from the Clerk's office which referenced this evening's informational hearing were sent to the Manitowoc County Airport Advisory Committee, Manitowoc County Airport, and Manitowoc Public Utilities. Mr. Less continued that under the code, the City was required to provide to these entities a notice of the City's receipt of the wind tower application, adding that the Airport Advisory Committee had a

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30-day period from the date a notice was provided to file a written recommendation with the City Plan Commission on the proposal. Mr. Less noted that the code further stated that failure to file such a recommendation would be interpreted that the Advisory Committee did not oppose the proposed tower. Mr. Less added that no such recommendation had been received to date.

In closing, Mr. Less did advise the Commission that he did discuss this matter on May 4th with Reed Gaedtke, the County's code administrator regarding the issue of Orion having to seek County Board of Adjustment approval for their tower, and advised that the company would need to contact Mr. Gaedtke to make the request.

Finally, Mr. Less stated that the Orion property was identified in the City's 2009 comprehensive as "Office/Industrial" and therefore, the request was deemed to be consistent with the City's plan.

Mr. Less concluded his comments by advising that there would be no action taken tonight, as the deficiencies in the Orion application would have to be met, and that the Commission should allow the 30 day notice period to run its course. Mr. Less noted that this item would be placed on next month's meeting agenda to continue this discussion, providing time for Orion to provide the additional information required under the Code.

Jim Schmitt, 509 Spring Street, Green Bay, complimented the Planning Department on the thoroughness of the packet provided, and stated that he had owned property on the east side of Woodland Drive for a long time. Mr. Schmitt noted that he supported the Orion effort, and encouraged Manitowoc to continue looking at alternative energy sources and felt it was the right thing to do. Mr. Schmitt supported the Orion effort, and complimented the Commission on this effort.

Michael Potts, Executive Vice President, Orion Energy Systems, Inc., N7203 CTH "S", Plymouth, explained that the larger 388' tall turbine referenced earlier in the discussion was an abandoned idea, and added that the proposed 50kw tower was a better fit for Orion's business model, and they had customers around the country looking at this model. Mr. Potts noted that the City had previously approved a 20kw, 115' tower for Orion, adding that it would be installed concurrent with Orion's current installation of a 273kw solar panel system on their roof. Mr. Potts added that they were waiting for the Governor to sign, or to not veto legislation related to the Orion light pipe, which was part of a larger renewable package. Mr. Potts added that Orion was trying to demonstrate the value of renewable energy at their corporate facility, and noted that they were already working on the punch list of items referenced earlier by Mr. Less.

Mr. Less asked Mr. Potts when the 115' tower would be constructed?

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Mr. Potts advised that Orion was waiting for a few issues to be resolved between Focus on Energy and the tower constructor, Renewegy, and estimated that the tower construction would begin in approximately 30 days with installation taking another 28 days thereafter. Mr. Potts estimated the tower to be installed by early July, 2010.

Ms. Mellon asked if there was any reply to the meeting notice from the residential property owners within 1,000' of the tower?

Mr. Less advised that these owners were on the notice mailing list, and that there was no response to the mailing.

No action was taken.

V. REFERRALS FROM COMMON COUNCIL

A. PC20-2010: NST Manitowoc Acquis LLC/Parker Hannifin Corporation; Sidewalk Privilege Agreement for Signs in N. 24th Street Right-of-Way

Mr. Less explained that the "Sidewalk Privilege Agreement" (SPA) was related to the City Council authorizing Parker Hannifin Corporation to place 5 private signs into the public R/W on N. 24th Street. Mr. Less noted that the name of the grantee in the document was not correct and that his report to Council would recommend that the current SPA be placed on file with no further action taken, and that the agreement be re-drafted and re-executed. Mr. Less recommended that the Commission recommend Council approval of the recommendation as just stated.

<u>Motion by:</u> Mr. Diedrich _____	<u>Seconded by:</u> Ms. Mellon
<u>Moved that:</u> the Commission approve the Planner's recommendation above.	<u>Upon Vote:</u> the motion was approved unanimously.

Mr. Less emphasized the importance of actually checking title to properties when these type of agreements were drafted. Mr. Less noted that the problem was that some departments were relying on the accuracy of the name of grantors and grantees in the Assessor's computer records, which were often abbreviated and therefore not matching the conveyance documents. Mr. Less emphasized that these departments needed to actually view the deeds to make sure the precise names of parties were correctly referenced on future City agreements.

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Mr. Diedrich noted that while it might be a legal document, the error could make the document unenforceable.

B. PC22-2010: SMI, Inc./Merwynn Trade Group, LLC; Request for Easement Over Unopened So. 39th Street, South of Dewey Street

Mr. Braun explained a request from SMI on behalf of the Merwynn Trade Group, LLC, for the granting of an easement over unopened So. 39th Street, south of Dewey. Mr. Braun provided Commission members with a written chronology and outline of events related to this area, including a reference to a July 23, 2009 access easement previously approved across an unopened So. 39th Street. Mr. Braun noted that the 2008 concept plan for this area had been followed, and outlined required site plan conditions. Mr. Braun then raised the issue about the ultimate improvement of So. 39th Street. Mr. Braun elaborated and explained that the Streets and Sanitation Committee recently approved not requiring So. 39th Street to be improved at this time, and that their action included a provision that no more development abutting So. 39th would be permitted unless the street was fully improved at that time.

Mr. Diedrich asked why the easement would be needed, if it was previously granted in 2009?

Mr. Braun explained that one of the conditions of site plan approval was the improvement of So. 39th Street, and that subsequently, the project owners went before the Streets and Sanitation Committee to get relief from the requirement to install So. 39th Street. Mr. Braun reported that on April 24th, the Committee authorized approval of the current easement agreement request, with the understanding that no more development would be allowed along So. 39th Street.

Mr. Diedrich again asked why the easement would have to be granted, when it was already in place from 2009?

Ms. Mellon explained that the argument had been made at the Streets Committee meeting that the existing properties did not require sewer and water service from the unimproved So. 39th Street. Ms. Mellon continued that the Committee did not want to grant a further extension of the easement to the south without putting in utilities and the street. Ms. Mellon concluded that the City did not want to have long laterals.

Mr. Braun read his recommendation from his outline (on file in the City Planner's office), and recommended that the Commission recommend to Council that the Council authorize the approval of the current request.

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Motion by: Mr. Diedrich _____ Seconded by: Mr. Muenzenmeyer
Moved that: the Commission approve the _____ Upon Vote: the motion was
Deputy Planner's recommendation above. _____ approved unanimously.

C. PC23-2010: SMI, Inc./Popp Enterprises LLC; Popp Subdivision No. 3 -
Review of Preliminary Plat

Mr. Braun explained the details surrounding the proposed preliminary plat for Popp Subdivision No. 3, and described the lay of the land in the area of So. 21st Street and Flambeau Street. Mr. Braun noted that a lot at the northeast corner of Flambeau and So. 21st (TR4 @ V. 26, P. 141) would be included in the subdivision, thereby making the final plat 17 lots of record instead of the 16 identified on the preliminary plat. Mr. Braun detailed that missing public works and water petition requirements would be required at the time of final plat approval.

Mr. Less provided Commission members with a punch list of conditions precedent to approval of the final plat.

Paul Steinbrecher, SMI, 102 Revere Drive, questioned the compliance conditions regarding prevailing wage rates and the payment in lieu of parkland dedication. Mr. Steinbrecher noted that he had a legal opinion from a lobbyist for the Building Association on this matter regarding the former.

Mr. Less explained that his read of the statute was that the prevailing wage law was applicable in this matter, and that he worded this item in the punch list to make it clear that it was the subdivider's express responsibility to comply with the law. Mr. Less continued that the prevailing wage law was modified in Wisconsin's 2009-2011 Budget (Act 28), and was applicable as of January 1, 2010 to public infrastructure paid for and constructed by private developers and dedicated to a municipality such as roads and sewers.

Mr. Steinbrecher asked if the payment in lieu of parkland dedication was back?

Mr. Less replied that the provisions regarding the ability of a City to collect a payment in lieu of parkland dedication had been re-enacted into State law a few years ago, and was never removed from the City's subdivision ordinance.

Mr. Braun commented that it was a straight forward subdivision, and recommended that the Commission recommend approval to Council of the preliminary plat, subject to the compliance conditions on file in the City Planner's office.

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Motion by: Mr. Brey _____ Seconded by: Mr. Alpert
Moved that: the Commission approve the _____ Upon Vote: the motion was
Deputy Planner's recommendation above. approved unanimously.

VI. OLD BUSINESS

- A. PC13-2010: City of Manitowoc; Consideration of Tax Incremental Financing (TIF) Activities Regarding TIF District #16 (Boundary and Text Amendment), and TIF Districts #7, 9 and 10 (Boundary Amendment)

_____ Mr. Less explained that there had not been any resolution to this discussion as of today, and that the matter was still being deliberated by the Streets and Sanitation Committee. Mr. Less advised that he met to explain this matter to the Streets Committee on April 26th. Mr. Less added that he did not know when, or if action would be taken on this matter, and added that he was not sure whether or not moving forward with this proposal would occur, or when.

Mr. Diedrich asked if the lack of action by the Streets Committee would be problematic for the timing to get the amendments in place?

Mr. Less stated that this could be the case, and added that he was going to be taking a 3 week vacation during the summer, and was not sure how his absence would complicate the process.

Ms. Mellon suggested that she recalled that the Streets Committee held up on taking action as it did not have all of its members present at its last meeting.

Mr. Less responded that Streets could delay it for as long as they wanted, as he had previously articulated that there was a window of opportunity to capture the tax benefit of the Dermatology project, and that if the matter continued to be postponed, then that window would essentially close and would diminish the effectiveness of the TIF 16 amendment.

No action was taken.

VII. NEW BUSINESS

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A. PC24-2010/PC10-97: Standard Utility Easement Conditions - Proposed Amendment No. 1

Mr. Less presented a proposed first amendment to the “Standard Utility Easement Conditions” (SUEC) document that was recorded in 1997. Mr. Less explained the history of the SUEC document, and noted that he had been asked by Steve Bacalzo at MPU to consider an amendment of this type. Mr. Less continued that as currently drafted, the proposed amendment would require utility approvals before a fence, and other permanent and non-permanent structures could be placed into the ground within utility and drainage easement areas. Mr. Less noted that he thought about Mr. Muenzenmeyer on this topic, and assumed that there was a checkoff process already in place regarding fence placements. Mr. Less added that the recommendation would be for the Commission to recommend approval of the amendment to Council.

Motion by: Mr. Alpert

Seconded by: Mr. Diedrich

Moved that: the Commission approve the _____
Planner’s recommendation above.

Mr. Diedrich questioned what utilities were included under the reference to “utility”?

Mr. Less explained the range of franchised and licensed utilities authorized by the City, and explained that the SUEC was not a municipal ordinance, but was a document that would be identified against the title for each and every parcel of land in the City.

Mr. Muenzenmeyer apologized for not discussing this with Mr. Less earlier, and then advised that he did not support this request at this time, and felt it would become very problematic and unpopular to property owners. Mr. Muenzenmeyer stated that he was not supportive of the proposal at this time, and noted that this change would greatly impact people who put up fences. Mr. Muenzenmeyer asked that no action be taken at this time, and that this matter be carried on future agendas, to provide time for he and Mr. Bacalzo to develop a programmatic mechanism to make this arrangement less onerous. Mr. Muenzenmeyer continued that they currently had a provision like this in their building permit application, and added that most setback requirements typically took care of the problem of construction in easement areas. Mr. Muenzenmeyer added that fences were different, in that they were almost always built on lot lines within an area impacted by the SUEC. Mr. Muenzenmeyer added that there was no single place for a person to check to see if there was an easement against their property, and he wasn’t quite clear at this time as to how to advise the public to check for themselves. Mr. Muenzenmeyer continued that he was trying to work with Mr. Bacalzo and Steve Kipping in Engineering to develop a data base that would be somewhat accurate, but added that no one could guarantee 100 per cent accuracy.

Ms. Mellon concurred that based on her conversation with Mr. Kipping, that while the City could validate the location of recorded City and MPU easements, it could not attest that all easements would be discovered.

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Mr. Muenzenmeyer added that they would continue to modify their building permit application to make the property owner responsible in these cases, but it was still deficient at this time. Mr. Muenzenmeyer stated that while he felt this was a good idea, the matter was still too premature to support at this time.

Mr. Less asked Mr. Muenzenmeyer if he'd have more comfort in the next month or so?

Mr. Muenzenmeyer stated that he hoped to have additional clarity in the next 2 months, as Mr. Kipping had vacation time to take. Mr. Muenzenmeyer noted the importance of having a system in place wherein the land owner could be clearly informed of the easements related to their property.

The motion and second were withdrawn, and Commission members concurred with Mr. Muenzenmeyer's concerns, and agreed to keep this matter on next month's agenda.

No action was taken.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Gates; Proposed CSM in the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ of S $\frac{1}{4}$ Sec. 21 T.19N., R.23E., Town of Manitowoc Rapids

_____ Mr. Braun explained a proposed CSM for property located north of Middle Road, south of CTH "JJ", and west of N. Alverno Road. Mr. Braun stated that the owner wanted to split off the homestead from the vacant land, with the owner retaining the vacant land as a 14.35-acre TR1. Mr. Braun noted that the existing home on a 2.75-acre TR2 was for sale. Mr. Braun explained that the CSM would have to show the Official Map R/W for Middle Road, as well as an 80' unnamed north-south Official Map street that ran parallel to N. Alverno Road. Mr. Braun added that any wetlands would also have to be identified on the CSM, and recommended approval of the CSM, subject to Town and County approvals.

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Motion by: Mr. Muenzenmeyer _____ Seconded by: Mr. Diedrich
Moved that: Commission approve the _____ Upon Vote: the motion was approved
CSM as presented, subject to required easements, petitions, and other conditions unanimously.
as specified above.

2. Gintner/Herrmann; Proposed CSM in the NE¹/₄ of NE¹/₄ Sec. 8 T.19N., R.23E., Town of Manitowoc Rapids

_____ Mr. Braun explained that the proposed CSM located north of Union Road and east of Branch River Road. Mr. Braun stated that Mr. Gintner would be acquiring property from the landowner to the south (Mr. Herrmann), and subsequently, Mr. Gintner would construct a detached garage to the south of his residence. Mr. Braun noted that the land that would be transferred to Mr. Gintner was along the north line of the Herrmann property, and measured approximately 238' x an average lot depth of 35'. Mr. Braun stated that he had no issues with the proposed CSM and recommended approval.

Motion by: Ms. Mellon _____ Seconded by: Mr. Alpert
Moved that: Commission approve the _____ Upon Vote: the motion was approved
CSM as presented, subject to required easements, petitions, and other conditions unanimously.
as specified above.

3. Blaszczyk/Hubbartt; Proposed CSM Being a Resurvey of TR1.4, TR1.5, TR1.8, and TR1.9 in V. 19 P. 357, and TR3 in V. 20 P. 275, and TR6 in V. 22 P. 33, all in the E¹/₂ Sec. 9, T.18N., R.24E., Town of Manitowoc

Mr. Braun explained that this was a proposal for property that was considered and approved at last month's Commission meeting for lands on the west side of So. 10th, north of Creek Trails and abutting Silver Creek. Mr. Braun stated that the Commission had previously approved a CSM to combine 5 tracts into a single lot of record. Mr. Braun continued that some of the owner's homestead improvements were outside of the previously approved CSM, and at this time, the owner would be adding the homestead into the CSM and would also be enlarging the lot. Mr. Braun added that he did not see a problem with the current proposal

Motion by: Ms. Mellon _____ Seconded by: Mr. Diedrich
Moved that: Commission approve the _____ Upon Vote: the motion was approved
CSM as presented, subject to required easements, petitions, and other conditions as specified above. unanimously.

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C. Summary of Site Plans 3/4/2010 - 4/7/2010:

1. SP2-2010: Manitowoc Public School District, 800 So. 35th (Franklin School) - Building Addition (approved).
2. SP3-2010: Manitowoc County; Communication and Technology Building, 909 Hancock - Parking Lot (approved).
3. SP4-2010: Merwynn Trade Group, LLC, 3821 Dewey - New Construction (approved).

D. Discussion of Ordinance Related to Structure Moving Across Public Rights-of-Way

Mr. Muenzenmeyer requested that the next time an amendment to Chapter 15 would be considered, it include changes to that part of the ordinance dealing with the moving of structures across public R/W's. Mr. Muenzenmeyer stated that while he felt the requirement made sense for moving a house within the City to a new location in the City, he felt that requests for moving accessory buildings such as garages within the City should be handled administratively by his department, and not be burdensome to the Commission. Mr. Muenzenmeyer noted that under current ordinance, moving a structure from within the City to outside the City didn't require approval by the Commission. Mr. Muenzenmeyer added that his department always validated the travel route, and requested that this modification be included in the next array of ordinance changes for Chapter 15.

Mr. Less stated that he wanted to think about this a bit, as his recollection was that the moving of a structure from within the City to a location outside the City was not precluded under the current ordinance. Mr. Less noted that he recalled that Commission review and approval was required any time a structure, of any type, was moved across City R/W, regardless of whether or not the destination was in or outside the City limits.

The Commission was supportive of reviewing this matter in the future as part of the next set of proposed Chapter 15 changes.

Mr. Diedrich stated that he felt this matter needed to be fixed.

Additional discussion was held. No action was taken.

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Ms. Mellon commented on funding problems related to the Bay-Lake Regional Planning Commission, and reference the planned departure of Brown County from the Commission. Ms. Mellon noted that she would be going to the County Board meeting on or around May 24th to encourage their continued financial support of the Commission.

No action was taken.

IX. ADJOURNMENT

The meeting was adjourned at 7:40 P.M.

Respectfully Submitted,

David Less
Secretary