

PLAN COMMISSION MINUTES - 6/16/2010

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
June 16, 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 6:35 P.M.

II. ROLL CALL

Members Present

Steve Alpert
Val Mellon
Jim Muenzenmeyer
Jim Brey
Maureen Stokes
Justin Nickels

Members Excused

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 May 12, 2010 Meeting.

Motion by: Mr. Muenzenmeyer
Moved that: the minutes be
approved as presented.

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

IV. PUBLIC INFORMATIONAL HEARINGS

A. PC27-2010: Lakeshore Interfaith Hospitality Network; Request for a Conditional Use Permit Under Section 15.37(29) for the Adaptive Reuse of Property at 1110 So. 10th Street for Transitional Housing Services

Mr. Less explained that this was a request from Attorney Richard Mozinski, representing the Lakeshore Interfaith Hospitality Network (LIHN) of Manitowoc County, Inc., as the proposed lessee of space in the former St. Boniface Rectory located at 1110 So. 10th Street. Mr. Less noted that LIHN was requesting that the City issue an adaptive reuse Conditional Use Permit (CUP) for a portion of the St. Boniface property pursuant to Section 15.37(29) of the Manitowoc Municipal Code (Code) to provide both daytime and evening services to homeless individuals.

Mr. Less explained 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 continued that Section 15.37(29) required procedural compliance with Section 15.37(27) of the 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, and would have a minimal or no effect on the surrounding property values. Mr. Less noted that in addition to the above referenced evaluation criteria, the City would have to consider 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 if 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 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 continued that Section 15.37(29) further authorized reductions to off-street parking and other zoning requirements so as to not render the reuse of a building under this section unfeasible.

Mr. Less then explained that the LIHN was a non-profit, non-stock Wisconsin corporation established in 2004 to serve the needs of homeless individuals in Manitowoc County. Mr. Less added that their business and administrative offices were currently located at 1203 N. 16th Street; a facility which LIHN acquired in March, 2005, and which was known today as the "Day Center", and which served as a staging area for coordinating services which assisted the target population in moving towards self

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sufficiency. Mr. Less stated that at the “Day Center”, clients met with social workers, which helped them to connect to community resources. Mr. Less continued that the LIHN provided shelter, meals, support and case management for up to 30 days, to assist 1 or 2 parent families with children who were currently homeless. Mr. Less added that LIHN provided overnight accommodations, 3 meals/day, and was established to address the absence of a homeless shelter in Manitowoc County.

Mr. Less continued that LIHN provided case management, transportation and job search support out of the N. 16th site on a transitional basis, and added that LIHN was currently part of a 14 church network, and an affiliate of the “Family Promise Network”. Mr. Less stated that the LIHN proposal was an attempt to address a problem for homeless in that these individuals were moved from location to location, which has had a degrading effect on this population.

Mr. Less stated that LIHN was seeking a static site for the lodging function for the homeless, and potentially for their administrative offices, and had identified the Rectory space in the former St. Boniface, 1001 So. 10th. Mr. Less noted that if successful, this Rectory space would be re-named to the “Faith Formation Center Rectory”.

Mr. Less then detailed the St. Boniface property, noting that it was owned by St. Francis of Assissi Parish, Corporation, and was further defined as Lots 1-7, 9-10, the W20' of Lot 8 and the N½ of Lot 13, all in Block 287 of the City’s Original Plat. Mr. Less noted that the St. Boniface campus measured 300' of frontage on Marshall Street, 180' on So. 10th, and 330' on So. 11th. Mr. Less added that the property was exempt from taxes, and included the church, school, parsonage and an off-street parking lot for 64-66 vehicles, as well as a driveway area to the west of the parsonage for another 3-4 vehicles. Mr. Less noted that St. Boniface was essentially vacant now, except for some bereavement groups that periodically used the space.

Mr. Less continued that the City’s 1988 “Intensive Survey Final Report” identified the church and Rectory with a construction date of 1885, and stated that “St. Boniface was the “mother church” of Manitowoc; the original parish from which all the others were created.” Mr. Less noted that the St. Boniface parish was first established in 1853, the current church constructed in 1886, and the Rectory constructed in 1896. Mr. Less added that the school, which was connected via a breezeway to the west side of the church, was built in 1950.

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Mr. Less then explained that the area for the proposed adaptive reuse CUP was the Rectory a/k/a the parsonage, and the adjacent area to the west. Mr. Less stated that this area was irregular in shape. Mr. Less continued that the Rectory structure measured approximately 50' x 55', and was set back approximately 17' from the So. 10th Street property line. Mr. Less noted that the CUP area in its entirety measured 60' along So. 10th with a depth of 114', and a west side measuring 24' in length, and added that the CUP area excluded the area occupied by the Church structure.

Mr. Less then provided some detail regarding the Rectory (which measured a total of approximately 6,500sf on its 4 floors, and which historically served as the parish office and meeting place), and noted that there was: (i) a basement used primarily for storage and utilities; (ii) a main floor with a kitchen, dining and living room area, 3 offices and a half bathroom area; (iii) a second floor with 6 bedrooms of various sizes and 3 bathrooms; and (iv) an attic which contained additional storage space and 3 additional bedrooms. Mr. Less added that the Rectory was not air conditioned, and likely did not meet ADA requirements.

Mr. Less explained that as only families (and not singles) were permitted in this facility under LIHN rules, and as the attic was not actively used, the 6 bedrooms on the second floor translated into an estimated capacity of 18 persons, assuming 3 persons/household. Mr. Less advised that based on information provided by LIHN, homeless residents had been staying at the Rectory since the 6 Catholic parishes in Manitowoc merger approximately 4-5 years ago. Mr. Less continued that historically, St. Boniface had been one of the merged churches that had been housing the homeless on a temporary basis, wherein each week, a different church would be host to the homeless. Mr. Less continued that typically, the St. Boniface's Rectory was used for housing the homeless 3-4 times per year. Mr. Less advised that he believed the capacity at the Rectory had been capped at 12 people by LIHN policies. Mr. Less stated that the location of administrative offices to this site would be new.

Mr. Less then explained that LIHN intended to enter into a "Commercial Property Lease" with the property owner, St. Francis of Assisi Parish, adding that he had been provided with a copy of an unsigned lease that included the following key terms:

1. The Lease's description of the "premises" to be leased was still undefined, but appeared to exclude a 2-car garage structure used for the storage of maintenance equipment to the southwest of the parsonage.

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2. The Lease would expire on June 1, 2012, but contained an option for one, 2-year renewal.
3. The Lease limited the use of the “premises” to the business office and housing for LIHN employees and clients.
4. The Lease allowed usage of off-street parking on the defined “Premises”, as well as access to parking spots at the west end of the St. Boniface site.
5. The Lease was not assignable without the property owner’s approval.
6. The lease authorized LIHN to use any off-street parking on the “Premises”.

Mr. Less continued that the St. Boniface property currently was overlaid by a split zoning district with “B-3” zoning impacting Lots 1, 2, the E½ of Lot 3, Lot 7 and the W 20' of Lot 8, and “R-7” zoning impacting the W½ of Lot 3, Lots 4,5,6, 9, 10 and the N½ of Lot 13. Mr. Less explained surrounding zoning and land uses in the area, and then identified permitted and conditionally permitted uses in both the “B-3” and “R-7” portions of the property.

Mr. Less then commented on the regulatory framework regarding how a homeless facility fit within the Code. Mr. Less noted that: (i) in both the “R-7” district regulations under Section 15.21(3)14. and the “B-3” district regulations under Section 15.27(3)7., adaptive reuse CUP’s were authorized as a conditional use; (ii) the City’s code did not define the term “homeless” nor did it preclude them; (iii) the courts had generally concluded that a temporary housing facility for children was covered by the definition of a “dwelling” under the Fair Housing Act (FHA), and that the FHA should be given a “generous construction” to effectuate its broad and inclusive language; and (iv) the adaptive reuse CUP was applicable in this situation as the subject property was part of a historically significant church pursuant to Section 15.37(29) of the Code.

In closing, Mr. Less explained that notices were mailed to property owners within 200' of the subject property on June 9th, and noted that he had received an e-mail from Emmett and Sandy Wagner on June 14th representing the Wesley United Methodist

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Church which encouraged approval of the LIHN request and the CUP. Mr. Less continued that he had also received a telephone call from Ron Ziolkowski, who owned property at 1012 Marshall and had no objection to the proposal, and that he had also received a telephone call this afternoon from Ruth Bushman, 1019 So. 11th who was very much in favor of the LIHN proposal. Mr. Less noted that there were no other comments received in response to the mailing.

Mr. Less further noted that it appeared that LIHN did some outreach to the surrounding neighborhood, as he was in receipt of an LIHN letter dated May 28th and sent to area owners.

Mr. Less stated in closing, that the City's 2009 Comprehensive Plan identified the subject property as "institutional and community facilities", and added that the 2009 plan described this district to include large-scale public buildings, schools, religious institutions and the like. Mr. Less noted that listed under "policies and programs" in this district, was encouraging "the adaptive reuse of vacant and/or underutilized buildings and properties." Mr. Less concluded his presentation by noting that this proposed CUP was consistent with the City's Comprehensive Plan.

Mr. Brey asked if this proposed use would cause a change in the tax exempt status of St. Boniface?

Mr. Less stated that he did not believe it would cause any change.

Mr. Muenzenmeyer commented that his department had inspected this building for the revolving homeless program since 2007, and last inspected it in May, 2010, and found no problems. Mr. Muenzenmeyer added that he felt that the owners had a great record and good maintenance at the property.

Leon Soeldner, 1136 So. 10th, stated that he was in favor of the proposed CUP, and questioned if a stay at the facility would be limited to 30 days?

Mr. Less replied that the 30-day maximum was his understanding of the LIHN policy.

Mr. Soeldner then noted that he had seen a lot of homeless situations while in Chicago, and added that he had seen a lot of homeless people sitting outside, and was concerned that the front steps of the Rectory could become a haven for this to occur.

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Mr. Soeldner asked what rules the City would be imposing on LIHN, and then questioned where the homeless occupants for this facility would come from?

Mr. Less explained that his proposed recommendation included an annual review provision, so that any problems could be addressed with an annual check and balance. Mr. Less suggested that someone from LIHN should address the issue of where the homeless people originated.

Rick Mozinski, 903 Washington, identified himself as legal counsel for LIHN, and then introduced his team including Sister Camilla Wolfgram as the current President of the LIHN Board, and Marj LaBrecque as the outgoing President. Mr. Mozinski noted that regarding the period of residency question, it was a maximum of 30 days, but could be extended for up to 90 days, if requested.

Marj LaBrecque, 4914 Morgan Drive, explained that most of their homeless clients were from Manitowoc County, and advised that they did background checks on these individuals before they could come into the program to make sure there were no drug issues or felonies. Ms. LaBrecque added that 98 per cent of the program was reliant on volunteers. Ms. LaBrecque continued that some of the program clients smoked, but they were limited to smoke in certain areas, adding that new rules regarding smoking would be taking effect on July 1st. Ms. LaBrecque added that they did not allow residents to sit on the front porch steps.

Father Dan Felton, 601 N. 8th, stated that he was supportive of the LIHN request, and explained the need for this program in Manitowoc. Mr. Felton continued that excluding single men from the program was a problem, and that most of these individuals went to either Green Bay or Oshkosh. Mr. Felton stated that he hoped to collaborate with the City on this matter in the future.

Mr. Mozinski stated that LIHN had successful discussions regarding the lease with St. Francis through their attorney, Kate Reynolds, and that all parties were in agreement regarding the substantive lease terms. Mr. Mozinski noted that they hoped to make the lease effective July 1st, did not want to sign the lease until they knew if the CUP was approved by Council. Mr. Mozinski then requested that the capacity in the draft CUP compliance conditions be increased to not more than 18 individuals, as LIHN was anticipating a growing demand for this service. Mr. Mozinski noted that they already had a 13th person wishing to enter their program.

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Mr. Less explained that the Commission was a recommending body in this matter, and he was hopeful that the matter would be in front of the Council on June 21st. Mr. Less then reviewed the proposed CUP compliance conditions, and noted that LIHN and the Commission 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 adaptive reuse CUP to LIHN under Section 15.37(29) of the Code, subject to the compliance conditions provided to Commission members, and including a change in capacity to not exceed 18 individuals at any one time.

Mr. Brey commented that he was very impressed with the integrity of the LIHN operation, and felt that they had themselves together as an organization.

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

- B. PC25-2010: Manitowoc Eagles Aerie #706; Request for a Conditional Use Permit Under Section 15.21(3)3. and 4. for the Location of Private Club and Lodges, and Fraternal Organizations

Mr. Less explained that this was a request from Robert Kloida, Secretary of the Manitowoc Eagles Aerie #706 (Eagles or Club) requesting that the City issue a Conditional Use Permit (CUP) for operation of a private club and lodge, and a fraternal organization at their property at 823 Hamilton Street. Mr. Less noted that the CUP was to be considered in accordance with Section 15.37(27) of the Manitowoc Municipal Code (Code), which established procedures for the issuance of a CUP by which, the Commission and Council had to determine if the proposed use was reasonably necessary for the convenience and welfare of the public, was in harmony with the character of the surrounding area, and would have a minimal or no effect on surrounding property values. Mr. Less noted that the Commission and Council could affix conditions to the CUP to provide assurances that the proposed use will not have a negative impact on the surrounding area.

Mr. Less continued that the Eagles Club had been well established at its current location on the south side of Hamilton Street, between So. 8th and So. 9th, but had never secured a CUP which would authorize them to be legally located and operate at their property. Regarding the Eagles property, Mr. Less noted the following:

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1. The property was currently zoned "R-7", Central Residence - a district adjacent to the older, downtown area that was intended to provide more flexibility in primarily residential development standards.
2. A CUP was required for private clubs and lodges, and fraternal organization under Section 15.21(3)3. and 4. of the Code, and there was no CUP of record in place for the Eagles.
3. The subject property in total measured 1.22-acres, with 300' of frontage on Hamilton Street, 240' of frontage on So. 8th Street, and 115' of frontage on So. 9th Street.
4. The subject property was comprised of 3 tax parcels: (i) 000-318-010 (150' x 90'); (ii) 000-318-020 (150' x 115'); and (iii) 000-318-080 (150' x 150').
5. The subject property was identified as a significant and contributing historic property in the "Manitowoc Intensive Resource Survey Final Report", June, 1988. The building was identified individually in the report, but was not located in a certified historic district. The historic property was the former Henry Burger residence, circa 1901, the founder of the Burger Boat Company. The building is a Queen Anne style design, with brick and wood shingled exterior, with a combination gable and hip roof with a tower.
6. The subject property included a building, and an adjacent off-street parking area for approximately 40 vehicles.
7. The CUP being considered this evening would address the Club, as well as the current catering business as a subordinate or accessory use at the subject property. Jim Vnuk currently used the Eagles kitchen, and catered for the Club and for other venues such as the City picnic.

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Mr. Less advised that City staff began meeting with representatives of the Club back in December, 2008, at which time City staff outlined the Eagles options under the current zoning, as well as other development options. Mr. Less noted that it was ultimately decided that the Eagles would pursue the CUP.

Mr. Less continued that the Club was contemplating a proposed building addition to the east that would measure approximately 27' in width x 50' in length, or a total of approximately 1,367sf in area. Mr. Less explained that in 1953, an addition was completed to the east of the original structure, to house a meeting hall, bar and kitchen. Mr. Less noted that it was his understanding that the current project would not increase building capacity, rather it would add additional restrooms and address handicap accessibility on the basement and main floors. Mr. Less again stated that the Club was seeking the CUP at this location, as they had never been issued one in the past.

Mr. Less described the 4 long term phases of development envisioned by the Eagles at this time: (i) the current contemplated addition that would include creating handicap accessibility to their building including accessible bathrooms, and construction of a new meeting room that would be for the Club-only, and not available to the general public; (ii) renovation of the upstairs to upgrade the bar and dance hall area; (iii) renovation of the downstairs dining hall and kitchen; and (iv) renovation of the original mansion.

Mr. Less noted that historically, the Club organized and began in 1904, 6 years after the Eagles organization was founded in Seattle in 1898. Mr. Less added that the Eagles clubhouse at 823 Hamilton was acquired in 1925, and noted that the Manitowoc Club was a 501(c)(8) tax exempt corporation, was the third largest Aerie in Wisconsin with approximately 650 members, and was the 225th largest of the 1,628 Aeries in the organization. Mr. Less noted that the Club received just over \$16,000 in revenue from catering commissions for their fiscal year ending May 31, 2009.

Mr. Less explained surrounding zoning and land use in the area, and detailed permitted and conditionally permitted land uses under the current "R-7" zoning.

Mr. Less added that notices were mailed from Planning to property owners within 200' of the subject property on June 9th, and that in response to that mailing, he received an e-mail from Emmett and Sandy Wagner on June 14th representing the

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Wesley United Methodist Church stating that they had no objection to the Eagles CUP request. Mr. Less advised that he had also received a letter on June 10th from Attorney Tom Van Horn, 1131 So. 8th, stating no objection to the proposed CUP, and added that no other comments were received in response to the mailing.

In closing, Mr. Less noted that the City's 2009 Comprehensive Plan identified the subject property as "institutional and community facilities", and explained that the 2009 plan described this district to include large-scale public buildings, schools, religious institutions and the like. Mr. Less continued that listed under "policies and programs" in this district was the priority to "encourage the adaptive reuse of vacant and/or underutilized buildings and properties." Mr. Less stated that this proposed CUP would be consistent with the City's Comprehensive Plan.

Robert Kloida, 3106 Coolidge Place, identified himself as the Secretary of the Eagles, and explained that they had invited the neighborhood to attend an open house on June 7th, at which 2 property owners showed up and had no objections. Mr. Kloida noted that there was no neighborhood opposition to the proposed issuance of the CUP. Mr. Kloida clarified that the Eagles development plans would not include a new meeting room, and noted that their proposed addition would be bid out in the next few days, and would include a new entrance, elevator, stairs and accessible restrooms. Mr. Kloida noted that the addition would not increase the capacity of the building.

Mr. Less reviewed the proposed CUP compliance conditions, and noted that Mr. Kloida and the Commission had been provided a copy of the draft recommendation earlier in the day. Mr. Less then recommended that the Commission recommend to Council approval of the CUP to the Eagles pursuant to Sections 15.21(3)3. and 4. of the Code, subject to the compliance conditions provided to Commission members.

Mr. Brey advised while he was in favor of this action, he was a member of the Eagles and would abstain from voting.

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

Seconded by: Ms. Mellon
Upon Vote: the motion was
approved by a vote of 5-0. Mr. Brey
abstained.

C. PC30-2010/PC6-2009: Reinertson; House Moving Application Under Section 15.37(3)

Mr. Less explained that this was a request from Alan and Ellen Reinertson, who were requesting approval to move a home pursuant to Section 15.37(3) of the Manitowoc Municipal Code (Code). Mr. Less identified the “Donor” property, or the structure to be moved, as a 1.5-story, brick structure, which was located on the west side of Dufek Drive, north of the Subway Restaurant and west of Menards. Mr. Less identified this parcel by Tax #835-203-040. Mr. Less noted that the “Donor” parcel was owned by GLS Subs, Inc. by virtue of a Warranty Deed dated July 21, 2005 and recorded in V. 2105, P. 132, and was more particularly described as Tract “A” of a CSM recorded in V. 3, P. 127.

Mr. Less continued that according to the Assessor records, the “Donor” structure was a 3-bedroom home built in 1930, and measuring approximately 2,380sf in area. Mr. Less noted that the property was assessed at \$122,000, with the improvements assessed at \$11,600. Mr. Less added that the structure at the “Donor” property was a non-conforming land use, and the property was currently zoned “I-1” Light Industrial.

Mr. Less then explained the “Recipient” property, or the location to where the structure would be moved. Mr. Less noted that this property was a vacant lot of record identified as the E½ of Lots 25 and 28, Block “C”, Reed’s Addition. Mr. Less stated that this parcel was located at the southwest corner of Pine and N. 9th Street, and measured 62.5' on Pine Street by 100' on N. 9th, or 6,250sf or .14-acres. Mr. Less continued that this parcel was owned by Alan and Ellen Reinertson by virtue of a Warranty Deed dated June 9, 2005 and recorded in V. 2088, P. 672. Mr. Less explained that the “Recipient” property was currently zoned “R-4” Single and Two Family Residential District, and had single family homes to the south, east and west of the site, and Immanuel Evangelical Lutheran Church to the north. Mr. Less added that the vacant lot today resembled more an arboretum than a developable parcel. Mr. Less identified the parcel by Tax #585-003-281.

Mr. Less then explained, as background information, that the current request was originally submitted to the City back in January, 2009, and that the Commission kept this item on its agenda through July, 2009, at which time it was recommended for “no further action” as the information required was never filed by the petitioner.

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Mr. Less then advised that pursuant to Section 15.37(3), the Planning Department did send a notice to the property owners abutting, and adjacent to the “Recipient” property on June 9th, and that to date, there were no responses to the mailing.

Mr. Less then detailed the requirements before issuance of a permit for moving a structure in the City, and noted that they included the following:

1. A building inspection of the building to be moved (***conducted on June 4th***).
2. Applicant to contact other City officials (***other than contact with Jim Muenzenmeyer, no evidence provided that other officials have been contacted.***
3. If improvements were required to be made to the structure by the Plan Commission, an irrevocable Letter of Credit, in an amount approved by the Director of Building Inspection, was required (***not in place at this time***).
4. Requirement for a performance bond (at least \$25k) which would indemnify the City for any costs or expenses incurred related to the moving process (***not in place at this time***).
5. Property location (“Donor” and “Recipient” parcel locations) are in place.
6. Photographs and elevations are in place.
7. Scaled site plan of the “Recipient” property is in place.
8. Identification of the travel route (***not in place at this time***).
9. Filing of an insurance certificate naming City as certificate holder (\$500k/\$1mm liability and property damage not less than \$500k levels) (***in place at this time***).

Mr. Less advised that regarding the current request, the report of the Building Inspector on the “Donor” structure included replacement and upgrading of the electrical system in its entirety, and retrofitting the plumbing to match the new foundation at the

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“Recipient” property. Mr. Less added that except for a reference to completing this move in the latter part of June, there were no specifics provided regarding the date, time or specific route to complete this relocation.

Mr. Less stated that the petitioner had submitted most of the information required under the Code.

Mr. Muenzenmeyer commented that the “Donor” structure had been recently inspected and was sound, and added that the route had been determined as of 4:30 P.M. today. Mr. Muenzenmeyer added that a letter of credit in the amount of \$15,000 would be required, but had not yet been delivered. Mr. Muenzenmeyer noted that this would be enough to raze the building if the process was not completed.

Mr. Brey asked for some clarification regarding the route.

Mr. Muenzenmeyer explained briefly that the house would be first moved out to Whitelaw, and then back into the City to avoid route obstacles.

Mr. Brey noted that he was curious as to how the structure would be routed to get through the valley by the Manitowoc River.

Mr. Muenzenmeyer commented that the roof of the “Donor” structure would be removed prior to transport, which would eliminate conflicts with power lines and other overhanging structures.

Don DeVooght, 13003 USH151, Valders, explained that he was the house mover, and that the travel route was estimated at 19.5 miles. Mr. DeVooght added that the route would not have any conflicts with trees, and the move should not have any issues. Mr. DeVooght noted that the insurance was already on file with the City, and the performance bond would be secured upon approval by the City.

Mr. Less noted that the construction financing mortgages appeared to be in place, and were of record around June 10th.

Alan Reinertson, 1430 Birch Cove Court, Cato, commented that the roof and the second floor would be removed almost down to the main floor, and would be plenty low to make the transport without issue. Mr. Reinertson added that the letter of credit would be provided to Mr. Muenzenmeyer next week.

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Ellen Reinertson, 1430 Birch Cove Court, Cato, commented that the neighbors adjacent to the “Recipient” property were very supportive of this project, and added that the design of the home would fit nicely into the surrounding neighborhood.

Mr. Less recommended that the Commission recommend to Council approval of the request for house moving, subject to compliance with Section 15.37(3) of the City’s Code, and with the Director of Building Inspection authorized to issue the necessary permits upon his review and approval of: (i) the route; (ii) resolution of any obstruction or traffic issues identified by the Police Chief, Department of Public Works and MPU-Electric; (iii) a performance bond; (iv) an irrevocable Letter of Credit pursuant to Section 15.37(2)(k). of the Code; (v) a foundation plan; (vi) issuance of a demolition permit; and (vii) a review and approval of an agreement between GLS Subs, Inc. and the petitioner in which: (a) GLS Subs, Inc. authorizes the transfer of the structure from the “Donor” property; and (b) the parties indemnify and hold the City harmless.

Mayor Nickels asked what other City officials needed to be consulted in this matter?

Mr. Less advised that DPW, Police and MPU-Electric should be consulted.

Mr. Muenzenmeyer noted that Mr. DeVooght would take care of those contacts.

Motion by: Mr. Brey _____ Seconded by: Ms. Stokes
Moved that: the Commission approve the Planner’s recommendation above. Upon Vote: the motion was approved unanimously.

V. REFERRALS FROM COMMON COUNCIL

A. None.

VI. OLD BUSINESS

A. 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 follow up to a public informational hearing held last month on 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 between Woodland Drive and Mirro Drive in the City, and more specifically identified as 2210 Woodland Drive. Mr. Less stated 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 of the City's Municipal Code (Code), which was the City's "Small Wind Energy Systems" ordinance. Mr. Less noted that the effective date of the ordinance was September 23, 2008. Mr. Less added that Orion proposed to place the single turbine approximately 60' south of its north property line.

Mr. Less explained that no action was taken in May, at which time he identified deficiencies in the Orion application. As an update, Mr. Less stated that Orion had now provided all the missing pieces, and noted the following:

1. Setbacks: 125 per cent of tower height from: (i) a public R/W (unless waived by City Council); (ii) overhead utility lines (unless waived by relevant utility); (iii) the exterior boundary of all lots of record under the same ownership (unless waived by affected land owner); and (iv) any other tower or structure. The 125 per cent factor was a setback of 220.63' which was not satisfied with the proposed location. The location of the tower @ 60' from the property line abutted the Skana Aluminum Company property to the north. Consent from Skana was required. ***Mr. Less stated that he was in receipt of a letter agreement between Skana and Orion dated June 15th evidencing support for the wind tower at the proposed location.***
2. The setback requirements were not satisfied with the proposed location, as the proposed tower was within 1,000' of a residence and supper club on the east side of Woodland Drive. ***These setbacks will have to be waived as part of the Commission's action this evening.***
3. Lighting - Unlit, unless required by FAA. ***A new FAA determination was issued June 3rd which stated no hazard, and no markings and lighting were required for the proposed tower.***

4. On April 30, 2010, the City Clerk provided notice to various County entities under Section 15.77(7)(a) and (b)1. of the Code. 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 last month's informational hearing was sent to the Manitowoc County Airport Advisory Committee, Manitowoc County Airport, and Manitowoc Public Utilities. Under the Code, the City was required to provide to these entities a notice of the City's receipt of the wind tower application. Further, the Airport Advisory Committee had a 30-day period from the date a notice was provided to file a written recommendation with the City Plan Commission on the proposal. The Code further stated that failure to file such a recommendation was interpreted that the Advisory Committee did not oppose the proposed tower. ***There have been no responses from any of the County entities that received the April 30th notice. The City's ordinance stated that if there was no response, there was a presumption of approval.***

5. Regarding the proposed 176.5' tower, Orion needed to secure a variance from the County's Board of Adjustment. The County Board of Adjustment previously issued a variance on February 16, 2009 to Orion for a tower with a height of 388'. ***The County's Planning & Zoning Department has issued a letter dated May 26th stating that no new variance was needed for the proposed Orion tower, as it was covered under the previous approval for the 388' tower.***

6. 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. ***A new engineering statement dated June 2nd was received. 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 at WOMT, 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.

7. Delivery of drawings detailing foundation details, equipment facilities, and grading elements of the site. ***Orion has provided this detail.***
8. Delivery of drawings of tower height and design graphics, cross sections and elevations, along with break apart calculations or fall radius calculations. ***Orion has provided this detail on June 10th.***
9. Delivery of a report from a qualified engineer that the proposed tower met current structural and electrical code requirements. ***Orion has provided this detail on June 10th.***

Mr. Less then identified the post CUP-approval requirements that were contained in Section 15.77:

1. Payment to the Building Inspector of: (i) building permit; and (ii) installation, inspection and management fee.
2. Facility installation must occur within 24-months from the date a permit was issued, or the permit expires. For existing facilities, the permit expires if the system is out-of-service for 12 months.
3. Insurance certificates to the Building Inspector for workers' compensation, liability and property damage, and all risk property insurance for full replacement value.

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4. Preparation of a facility inspection report to the Director of Building Inspection at least every 3 years.
5. The Building Inspector may inspect the tower site annually.
6. If the tower facility was discontinued, abandoned or terminated, the tower owner would be required to send notice to the Director of Building Inspection detailing its intent to discontinue, abandon or terminate. Additionally, the tower owner would be required to provide to the Director any notice the owner is required to send to the FCC or FAA. The tower owner would be required to dismantle, remove and restore the site to its pre-construction condition within 60 days after the tower had been discontinued, abandoned or terminated.

In closing, Mr. Less noted that Orion's plan was to have the 115' tall tower authorized in 2009 installed in August, 2010. Mr. Less added that it was likely that the 176.5' turbine would follow the same installation timetable.

Mr. Brey asked why the Evergreen Cemetery tower, which was about the same height as the proposed Orion tower, was required to have lighting, and questioned why the proposed Orion tower would not be required to be lit by the FAA?

Mr. Muenzenmeyer stated that he believed it had to do with the flight approach angle to the airport.

Mr. Less added that as the proposed tower was dwarfed by the WCUB tower at approximately 400', it might have precluded any required lighting of the Orion tower.

Ms. Stokes asked if WOMT was aware that this was happening, and that the new tower might interfere with their signal?

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Mr. Less stated that WCUB would have been contacted regarding last month's informational hearing.

Mr. Muenzenmeyer stated that he believe WOMT's engineer cooperated in the preparation of the intermodulation study. Mr. Muenzenmeyer added that he had reviewed the site, footing and foundation plans, and had no problems with these.

Mr. Brey commented that a similar tower request ran into problems in Brown County related to concerns that the groundwater would be potentially contaminated.

Mr. Muenzenmeyer commented that the groundwater was at 13', and the foundations would not be going that deep.

Mr. Less advised that the PSC had developed draft wind tower siting rules, and at some time, if approved, the City would have to determine if their ordinance was in compliance with these requirements.

Mr. Less then recommended that the Commission recommend to the Council: (i) approval of the 176.5' tall small wind energy system as proposed, subject to the compliance conditions provided to the Commission; (ii) as authorized under Section 15.77(7)(b), waive setback requirements along the north property line abutting the Skana Aluminum Company property pursuant to Section 15.77(4)(a); (iii) as authorized under Section 15.77(7)(b), waive the minimum 1,000' separation requirement from a residence pursuant to 15.77(4)(b)1. as the nearest residence was well outside the fall area of the proposed tower and was located on the east side of Woodland Drive; and (iv) authorize the Director of Building Inspection to act as the City's agent in this matter to collect all fees, issue permits, and to oversee that all aspects of the project are implemented as represented.

<u>Motion by:</u> Ms. Stokes _____	<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.

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B. PC27-2009: Annual Review of Special Permits for Fixed Animated Signs Pursuant to Section 15.45(18)(e)7. of the Manitowoc Municipal Code

Mr. Less provided the Commission with information regarding its annual review of fixed animated signs authorized by special permit. Mr. Less identified the signs for which a special permit had been issued, but the animated sign had not been constructed:

- PC47-2008: Lamar/Kaderabek, Leonard Lane/Rapids Road.
- PC48-2008: Lamar/Coldwell Banker, 2406 Washington.
- PC56-2008: Home Care Health Services, 1004 Washington.
- PC37-2009: Harmony of Manitowoc/Culver's, 4201 Calumet.
- PC5-2010: Popp Enterprises, LLC, 50 Maritime Drive.
- PC6-2010: Lamar/HFM, Inc., Clay Pit Road.

Mr. Less then identified animated signs that had been installed, but for which no landscaping had been completed, or landscaping has died and not been maintained.

- PC29-2009: City of Manitowoc, Washington Park.
- PC35-2009: Lehman, 1440 So. 39th .
- PC9-2010: Rob's Family Market, 2330 Menasha.

Mr. Less recommended that the Commission recommend to Council that the Director of Building Inspection be authorized to contact the owners of the signs regarding their non-compliance status in either: (i) construction; and/or (ii) landscaping, and that the Director advise these parties that in the event the sign owner fails to construct the animated signs as authorized under special permit by December 31, 2010, and/or the sign owner's fail to complete landscaping at the base of the sign as required pursuant to Section 15.45(18)(c)8. of the Code by December 31, 2010, the City shall initiate action to revoke the special permits previously issued for said signs not yet constructed, as well as for those signs not meeting the landscaping requirements by that date.

Mr. Muenzenmeyer commented that most of the sign owners had been very cooperative.

____Ms. Mellon commented on the importance of compliance with these signs along the Calumet Avenue, Washington Street corridor.

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

- C. 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 provided the Commission with an update on the proposed amendments to various TIF districts in the City. Mr. Less advised that a public hearing would be held on July 14th on this matter before the Commission on this matter.

No action was taken.

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

_____ Mr. Less explained that Mr. Muenzenmeyer and Mr. Bacalzo from MPU were in discussions on this topic.

No action was taken.

VII. NEW BUSINESS

- A. PC28-2010; Olson; Annexation Discussion at West Custer and Edgewood Lane

Mr. Braun explained a proposed annexation of lands located on the south side of West Custer, east of I-43 and west of Edgewood Lane. Mr. Braun commented that the Olson's had recently been contacted when a nearby property owner, Mr. Hacker, was considering annexation. Mr. Braun noted at that time, the Olson's were not interested in participating in the annexation. Mr. Braun continued that the Olson's were now having issues with their septic system, and were now interested in annexing into the City. Mr. Braun noted that the Olson's had been asked to contact Mr. Hacker and Mr. Wampler (another nearby property owner) to determine if they were interested

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in participating in the annexation, but Mr. Hacker declined to do so for financial reasons, and Mr. Wampler was not interested.

Mr. Braun then explained outstanding assessments that the Olson's would be responsible to pay, adding that there was approximately \$15,000 in assessments, including a storm sewer assessment, that they would have to pay as a condition to annex. Mr. Braun stated that he had detailed the assessment information in a letter to the Olson's.

Mr. Braun noted that there would be 2 residents included in the annexation, and that he anticipated that if affirmatively received by the Commission tonight, a petition for direct annexation could be filed tomorrow. Mr. Braun detailed a timetable for approval of the annexation, and noted that the property would be given temporary zoning as "B-1" to match the nearby zoning for the Doneff property. Mr. Braun noted that there was a well on the Olson property that serviced the lot to the south.

<u>Motion by:</u> Mr. Muenzenmeyer _____	<u>Seconded by:</u> Mr. Brey
<u>Moved that:</u> the Commission go on record _____	<u>Upon Vote:</u> the motion was
supporting the potential annexation.	approved unanimously.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Merwynn Trade Group LLC; Resurvey of TR3, Vol. 28, P.145 in the NE¼ of the SW¼ Sec. 36, T.19N., R.23E., City of Manitowoc

Mr. Braun explained a proposed CSM related to the Aurora Rehab project on the south side of Dewey Street, east of So. 39th Street. Mr. Braun noted that the Aurora site was located to the west of Sherwin Williams, and explained that the owner would be splitting a 1.148-acre parcel off of a larger parcel to create a lot of record for construction of a medical rehabilitation building. Mr.

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Braun noted that the site plan for this building had already been approved, and that they would also be collecting Public Works Petitions from the property owners. Mr. Braun stated that there were no other issues, and recommended approval of the CSM as proposed.

Motion by: Ms. Stokes _____ 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
as specified above. unanimously.

2. Kenneth Noskowiak Etal; Resurvey of TR1-1, Vol. 12, P. 297 & a Resurvey of TR2, Vol. 8, P. 385, located in Lot 17 of the Subd. of the E½ of Sec. 6 and the NE¼ of the SE¼ of the NW 1/4 of Sec. 6, T.18N., R.24E., Town of Manitowoc

Mr. Braun explained that this parcel was located north of Lone Oak Lane, between So. 15th and So. 19th Street, and that the owner wanted to re-arrange the existing common property line. Mr. Braun noted that the owner's son owned the existing eastern lot of record, and would like to add additional property currently owned by an estate that was west of, and adjacent to his property. Mr. Braun continued that the western lot was owned and used as the owner's homestead, and added that the owners would not be creating a new building lot of record. Mr. Braun stated that a City Official Map street was located to the north of the parcel in question, and added that there were no other issues, and recommended approval of the CSM as proposed, subject to require the dedication of So. 15th and So. 19th Street, along with Public Works Petitions. Mr. Braun stated that he did not have any problem with the proposal, and recommended approval of the CSM as proposed.

Motion by: Mr. Muenzenmeyer _____ Seconded by: Ms. Mellon
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.

3. Luedtke; Certified Survey in the NE¼ of the NE ¼ Sec. 2, T.18N., R.23E., Town of Newton

_____ Mr. Braun explained that this was a proposed CSM for property located to the east of I-43, south of Viebahn and west of CTH "CR". Mr. Braun noted that Mr. Luedtke owned 29.5-acres in

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this area, and wanted to carve out a new tract measuring 11.14-acre parcel that had a potential purchaser. Mr. Braun explained that the parcel was abutting I-43, and was connected to CTH "CR" by virtue of an existing driveway on the north, and a 5' wide opening on the south. Mr. Braun stated that the Town Board would be meeting on June 28th to consider a variance from township requirements for a minimum 150' lot frontage requirement on a public R/W, and then recommended approval of the CSM, subject to approval by the Town and County.

_____ Additional discussion was held.

Motion by: Mr. Brey

Seconded by: Mr. Alpert

Moved that: Commission approve the CSM as presented, subject to required easements, petitions, and other conditions as specified above.

Upon Vote: the motion was approved unanimously.

C. Summary of Site Plans 5/6/2010 - 6/9/2010:

1. SP5-2010: MPSD; Wilson Jr. High School, 1201 N. 11th - Office Renovation (approved).
2. SP6-2010: PBJC Fest I, LLC; Retail Building, 3955 Dewey - New Construction (approved).
3. SP7-2010: Satori Land, LLC/Satori's Auto Service, LLC; 1610 N. 30th - Building Addition (approved).

IX. ADJOURNMENT

The meeting was adjourned at 7:55 P.M.

Respectfully Submitted,

David Less
Secretary

