

PLAN COMMISSION MINUTES - 4/13/2011

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
April 13, 2011
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
Justin Nickels
David Diedrich
Dan Hornung
Val Mellon
Jim Muenzenmeyer
Maureen Stokes

Members Excused

Jim Brey

Staff Present

David Less
Paul Braun
Michelle Yanda
Elizabeth Werdermann

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular March 16, 2011 Meeting.

Motion by: Mr. Diedrich _____

Moved that: the minutes be approved as presented.

Seconded by: Mr. Alpert _____

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

- A. PC17-2011: Manitowoc Elks Lodge 687; Request to Rezone Elks Club House Property Located at 200 East Waldo from "R-2" Single Family District to "B-3" General Business District and "P-1" Conservancy District

Mr. Less explained that tonight's public informational hearing was in regard to a request from the Benevolent & Protective Order of Elks 687 a/k/a Manitowoc Elks Lodge 687, the record owner of property located on the north side of Waldo Boulevard, and west of Memorial Drive. Mr. Less noted that the Elks were requesting that the majority of their club house property be rezoned from "R-2" Single Family District, to "B-3" General Business District pursuant to Section 15.27(2)60. of the City's Municipal Code (Code), and that 2 additional areas of the club house property be rezoned from "R-2" to "P-1" Conservancy District pursuant to Section 15.07(2)7. of the Code to match the zoning on the adjacent golf course parcel. Mr. Less noted that this rezoning proposal was related to a pending Offer to Purchase for a third party entity to acquire both the club house and golf course parcels, to convert the existing club house into a restaurant open to the public as a permitted use in the "B-3" zoning district, and to convert lands currently zoned "R-2" to "P-1" to match the zoning at the adjacent golf course.

Mr. Less explained that the area proposed for rezoning was located in Government Lot 1, Section 20, T.19N., R24E., and was identified as follows:

1. Portion to be Rezoned "R-2" to "B-3" (an area as measured from the c/l of Waldo Boulevard and the 1/16th section line):

From the west line of the Elks property, north 735', then east 370', then south 490', then southwesterly 295' to a point on the north R/W line of Waldo Boulevard being 150' east of the west line of the property, then south 58' to the c/l, and then west along the c/l 150'.

238,620sf or 5.48-acres including R/W

Mr. Less stated that this was the property upon which the club house building sat with a footprint of approximately 6,500sf, along with a cart shed, a blacktopped parking lot measuring approximately 300' x 150', and an access drive measuring approximately 280' x 75'. Mr. Less added that the building included a main dining area, kitchen, bar and lobby, plus a basement that was essentially an open meeting area.

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2. Portion to be Rezoned "R-2" to "P-1" (southeast corner of parcel):

An area as measured from a point being 150' east of the west line of the Elks property at the c/l of Waldo Boulevard, then north 58', then 295' along a southwest-northeast line to the east property line, then south 245' to the c/l of Waldo Boulevard, and then west 220'.

33,330sf or .77-acres including R/W

3. Portion to be Rezoned "R-2" to "P-1" (north of club house at north end of parcel):

An area measured from a point approximately 815' north of the c/l of Waldo Boulevard along the west property line, and measuring an area of 80' x 370'.

29,600sf or .68-acres

Mr. Less explained that the club originally entered into a "Commercial Offer to Purchase" in February, which was subsequently amended and executed by the seller on March 21, 2011. Mr. Less identified the purchaser of the property as A&M Hospitality Group LLC, which was proposing to utilize the club house as a restaurant including the sale of liquor. Mr. Less noted that these principals were the owners of the Charcoal Grill in Manitowoc, adding that the Offer was contingent upon the City rezoning the club house parcel (as it was being outlined tonight) to permit a restaurant ("B-3" permitted all types of restaurants). Mr. Less added that the Offer specified a date of closing on or before May 31, 2011, and noted further that the zoning of the golf course portion of the property was not being changed. Mr. Less continued that the post-closing, long term operation and maintenance of the golf course was not precisely clear, but at present, appeared to be the responsibility of the Elks.

Mr. Less continued that the Club had experienced a declining financial position over the decade including losses over several of these years, a decreasing asset base, increasing liabilities, and declining equity on the balance sheet, along with declining revenues and increased expenses on the income statement side of the business. Mr. Less added that club membership had also declined over time from a high in 2004 of 474, to 292 in 2010.

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Mr. Less stated that the proposed sale and restaurant operation would make the club house property taxable, and would generate wages for new employees in the area of \$129,000 in its first year of operation, and increasing thereafter.

Mr. Less continued that the plan going forward was for the Elks to utilize the lower level of the club house for their meetings. Mr. Less added that this sale had been approved by the Board of Grand Trustees of the Elks, and was acceptable under their charter as long as the Elks didn't have any ownership interest in the property. Mr. Less noted that if the sale was not completed and the Elks retained ownership, the club house would have to remain for private, club usage only. Mr. Less noted that the estimate was that the Elks would hold 2 meetings per month, and that they would subsequently lease a portion of the building from the future owners, but there was no lease in place at this time. Mr. Less added that in addition to a lease for usage of the building, the future owners would allow the Elks to use the golf course, and that the Elks appeared to be the party responsible for maintaining the course for 2011; a course that would now be open to the public, and would no longer be exclusively used by the club.

Mr. Less explained that the rationale for this sale was that the future owners saw this property as an opportunity for banquets and larger groups of 100+, that couldn't be handled at the Charcoal Grill. Mr. Less continued that the future owners had been looking for a location to do this for some time, adding that his understanding was that the proposed owners were planning mainly interior/cosmetic changes to the club house at this time, along with resurfacing of the parking lot and driveway, and erection of a ground sign on the parcel. Mr. Less advised that the new owners hoped to be in business around June 1st.

Mr. Less then explained that under the City's current zoning scheme, restaurants were permitted under the "B-2" district, but only as long as they were \leq 2,500sf in area. Mr. Less added that restaurants of any type were permitted in the "B-3" district, noting that the club house contained somewhere in excess of 7,000sf available for a restaurant.

Mr. Less continued that the lands included in the sale were the golf course and club house parcels, which were identified respectively as 817-404-010 (golf course) and 817-404-020 (lodge). Mr. Less added that the 48.4-acre golf course parcel was identified as commercial and was assessed at \$390,800 by the City Assessor, and generated just over \$8,000 in real estate taxes in 2010. Mr. Less continued that the golf course abutted Lincoln Park Zoo on the northwest, and covered the area framed by Memorial Drive and Johnston Drive, to just south of E. Reed Avenue, and more specifically, just south of E. Park View Lane.

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Mr. Less noted that the 9.53-acre club house parcel was identified as exempt according to the City Assessor records, adding that the dimensions of this parcel were approximately 680' along Waldo Boulevard and along its north line, with a lot depth of 560' on its east line and 661' on its west line. Mr. Less stated that the club house building measured approximately 60' x 109'.

Providing some history to this issue, Mr. Less noted that the Elks, first organized in 1907, had owned this property since 1956, and that the property was annexed into the City in 1925. Mr. Less continued that the former "Lakeside Country Club" purchased the property from the Osuld Torrison Company in 1915, and subsequently sold the property to "The Trustees of Manitowoc Lodge No. 687, Benevolent and Protective Order of Elks" in 1956. Mr. Less did note that historic records were not very clear in detailing the evolution of the zoning of this property, but added that they were able to determine the following:

1. In 1946, a City-wide zoning map identified the property as "A" Residential District. This district permitted one (1) family dwellings, plus other uses including golf clubs.
2. In 1959, the entire property, including an area identified for "Building Construction Area" (location of current clubhouse) was rezoned from "A" Residential to "OL" Open Land District. "OL" District permitted public and semi-public buildings, including non-profit organizations and fraternal organizations. The "OL" district required an average minimum width or lot frontage of not less than 120 feet, at least 1 acre in area, and limited the area of the lot occupied by the principal and accessory buildings to not exceed 8% of the area of the lot. The "Building Construction Area" measured only 375' x 710' in area, and did not include lands to the west which abutted the Manitowoc River.
3. In 1963, a City-wide zoning map identified the area west of the club house to the Manitowoc River as being zoned "R-2", with the balance of the Elks property zoned as "P-1".
4. In 1969, a City-wide zoning map identified an expanded area of "R-2" and the golf course as "P-1". The expanded "R-2" appeared to be the same area as the current zoning.

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Mr. Less added that despite the evidence above, he was unable to identify the specific timing for establishment of the current zoning for the Elks, and added that trying to do so any further would be a waste of resources, so he clarified that the zoning map carried a presumption of correctness.

Continuing on, Mr. Less stated that the land underlying the club house to the Manitowoc River was currently zoned "R-2" Single Family District, which was principally a single family residential district. Mr. Less added that "Private Clubs and Lodges" were permitted as a conditional use, but he stated that he found no evidence that the Elks ever requested, or received a Conditional Use Permit (CUP) from the City.

Mr. Less stated that the balance of the Elks property was zoned "P-1" Conservancy which listed golf courses and driving ranges as specific permitted uses, along with sportsmen's clubs and clubhouses.

Mr. Less continued that the subtleties and distinction between these 2 definitions was at best blurry, and that regardless, it appeared that the current Elks Club would more closely meet the former definitional requirements more so than the latter, absent the issuance of a CUP.

Mr. Less then explained permitted and conditionally permitted land uses under the "R-2", "B-3" and "P-1" zoning districts. Mr. Less then detailed the zoning and land uses surrounding the proposed rezoning area, noting that the surrounding area was essentially vacant land with the exception being the Lefky residence to the west, and the Waldo Boulevard business park to the south.

Mr. Less then stated that notices of tonight's informational hearing were mailed to property owners within 200' of the proposed rezoning area on April 5th, and that there were no comments received in response to this mailing.

Finally, Mr. Less explained that this request for rezoning was consistent with the City's 2009, 20-year land use map as part of the Comprehensive Plan, in that it identified the proposed rezoning area as "General Business"; a land use category intended for commercial and retail uses at a neighborhood scale. Mr. Less continued that the golf course area around the rezoning area was identified on the 20-year land use map as "Public Parks and Open Space", and was an area dedicated to playgrounds, and passive and active recreational areas. Mr. Less concluded that based on the City's Plan, it appeared that the proposed rezoning would be consistent with the current Comprehensive Plan.

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Mr. Alpert and Mr. Hornung identified themselves as members of the Elks Club, and that they would be abstaining from voting tonight on this matter.

There was no public comment.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that it authorize Clerk to call for a public hearing to be held on May 16th, and further recommend adoption of a rezoning ordinance upon completion of the public hearing.

<u>Motion by:</u> Mr. Muenzenmeyer _____	<u>Seconded by:</u> Ms. Stokes
<u>Moved that:</u> the Commission approve _____	<u>Upon Vote:</u> the motion was
the Planner's recommendation above.	approved by a vote of 5-0 with Mr. Alpert and Mr. Hornung abstaining.

Mr. Less explained that the property owners who received notice of tonight's hearing would not be notified in writing of the public hearing, adding that notices for the May 16th public hearing would be published in the HTR on the 2 Monday's prior to the date of the hearing.

- B. PC15-2011/PC23-2010: Popp Enterprises, LLC/WRP Properties, LLC/Randall Popp Investments, LLC; Proposal for the Discontinuance and Vacation for Portion of So. 21st Street Under §66.1003(2) Wis. Stats. and Official Map Amendment Under §62.23(6) Wis. Stats. for Portion of So. 21st

Mr. Less explained that there were actually 2 requests that would be detailed and handled concurrently – first was a request from SMI, Inc. on behalf of Popp Enterprises, which had submitted a request for an amendment to the Official Map to reduce the R/W width of So. 21st Street between Summit and Flambeau Streets, and second, a request from Popp Enterprises, LLC; WRP Properties, LLC; and Randall Popp Investments, LLC to discontinue or vacate a portion of So. 21st Street between Summit and Flambeau Streets. Mr. Less explained that the Official Map amendment proceedings would be pursuant to §62.23(6)(c) Wis. Stats., while the request to discontinue or vacate a portion of the So. 21st Street R/W would be pursuant to §66.1003(2) Wis. Stats.

Mr. Less explained that the street vacation process was governed under §66.1003(2) Wis. Stats. which provided that a portion of a public R/W may be vacated

upon submittal of a written petition to the Common Council, signed by the owners of all of the frontage abutting the portion of the street sought to be vacated, plus the owners of more than one-third of the frontage of the remaining portion of the street which lay within 2,650' of the ends of the portion of the street to be vacated. Mr. Less added that a vacation petition was filed with the Clerk's office on March 30, 2011, and that a "Notice of Lis Pendens" was filed at the Register of Deeds office on that same day.

Mr. Less continued that the proposed vacation would cover a distance of 825.74' along the west side, and 825.38' along the east side of So. 21st Street between the south R/W line of Summit and the north R/W line of Flambeau, resulting in a reduction of the R/W width on So. 21st Street in this area from its current 80' width to a 66' width, with each side of R/W losing 7'. Mr. Less noted that the net result of the vacation would be that the actual travel way on a portion of So. 21st Street would be reduced from 36' to a 24'.

Mr. Less added that regarding So. 21st, the R/W width to the north of Summit Street and to the south of Flambeau would remain at 80', and added that the proposed 66' R/W matched the R/W width on nearby So. 18th and So. 23rd Streets, and was slightly wider than at flanking So. 19th and So. 22nd Streets.

Mr. Less explained that for purposes of this discussion, he would use the term "vacation" to describe these proceedings, but noted that the more correct term was "discontinuance" as that term was used in §66.1003 of Wis. Stats. Mr. Less noted that he would use the terms vacation and discontinuance interchangeably.

Mr. Less then noted that the vacation petition was reviewed by his office, and found to contain owner signatures representing: (i) 100% of the frontage abutting the areas proposed to be vacated; (ii) 85.28% of the frontage from the south line of Summit Street north to the south line of Dewey Street; and (iii) 17.1% of the frontage from the north line of Flambeau Street south to the north line of Viebahn Street. Mr. Less continued that at present, the petition was deficient and did not satisfy the requirement for owner signatures representing at least one-third of the frontage for the 2,650' extension to the south. Mr. Less explained that as such, the City would need to adjoin on to the petition as the owner of the frontage along the east line of Radandt Park, which would increase the percentage on the petition to the south to 33.86%, and the petition would then be adequate and sufficient to proceed. Mr. Less added that in the case of this proposed vacation and for the purpose of determining satisfaction with the 2,650' requirement of the statute, So. 21st Street only existed as far north as Dewey Street on the north, and as far south as Viebahn Street on the south, and that for purposes of

determining who must petition, the ownership of intersections was not considered, but the length of the intersection was included within the calculation of the 2,650'.

Mr. Less continued that regarding the vacation under §66.1003(2) Wis. Stats., the Council could act on the vacation petition without conducting a public hearing on the request, however, the Official Map amendment would require a public hearing, and these would be concurrently run processes. Mr. Less added that pursuant to §66.1005(2) Wis. Stats., the City would retain all easement and utility rights incidental to the vacated R/W which were in place prior to the vacation of the R/W.

Mr. Less went on to explain that the subdivider, Popp Enterprises, planned to develop a 15-lot subdivision (Popp Subdivision No. 3). Mr. Less then offered, as a geographic and historical reference, that the City had previously approved Popp Subdivision No. 1 (platted December, 2004) which covered an area abutting So. 22nd Street, south of Summit; and Popp Subdivision No. 2 (platted August, 2006) which abutted So. 21st Street to the north of the proposed Popp Subdivision No. 3, between Dewey and Summit Street. Mr. Less continued, and provided some history related to this current preliminary plat, which he summarized as follows:

1. The original version of the preliminary plat for 16-lots was adopted by Council resolution on May 17, 2010.
2. Wetlands were discovered in the area, and the Plan Commission on September 15, 2010 evaluated several street design alternatives including reducing the width of So. 21st Street in certain areas, and cul-de-sacing So. 21st Street from both the north and south, and subsequently recommended (and the Common Council approved on September 20th), the non cul-de-saced extension of So. 21st Street between Summit and Flambeau, albeit constricted in width in part to maneuver through the wetland.
3. The City, as the landowner of the impacted R/W, subsequently filed an application with DNR on September 28, 2010 to narrow and extend So. 21st Street through the wetland. Under the request, the roadway would be narrowed to 24' in width through the wetland crossing area. The impacted area was a length of approximately 100', with the travel width varying between 20' and 40'.

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4. DNR approved and issued a State water quality certification to fill .09-acres of wetlands, and approved the extension of So. 21st Street (with the roadway narrowed to 24') through the wetland on November 23, 2010. This decision became final 30 days after the date a notice was published in the HTR, assuming no objections were filed (notice was published on December 6, 2010).
5. The Department of the Army (Corps of Engineers) on January 6, 2011 completed their review and authorized the general permit to proceed, upon the petitioner obtaining a water quality certification from DNR.
6. On February 16th, the Commission reviewed this matter, and went on record supporting the importance of maintaining So. 21st Street as a through street in this area, the re-alignment of So. 21st, a revision for a 15-lot plat, and detailed a protocol for the subdivider to proceed.
7. On March 22, 2011, SMI, on behalf of the subdivider, re-filed a revised preliminary plat within the City reflecting the post-vacation delineation of the So. 21st Street R/W.
8. On March 30, 2011, the petition to vacate was filed with the City.

Mr. Less again stated that the proposed street vacation would not require a formal public hearing, but it would be necessary to publish a Class 3 notice notifying the public of the earliest date when and where the petition could be acted upon.

Mr. Less continued that contemporaneous with the proposed street vacation, was an amendment to remove and reduce the width of So. 21st Street R/W from the City's Official Map pursuant to §62.23(6)(c) Wis. Stats. Mr. Less stated that the City viewed any vacation of a street as an amendment to the Official Map, and then noted that the Official Map process required a Class 2 notice to be published prior to a formal public hearing. Mr. Less added that the area to be removed from the Official Map was identical to the area proposed for vacation.

Mr. Less stated that regarding tonight's public informational hearing, notices were mailed on April 7th to impacted property owners abutting So. 21st Street between Viebahn and Dewey Street, and that no responses were received in response to this mailing. Mr. Less then outlined the timetable, going forward, as follows:

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1. City approve adjoining the vacation petition, and introduce vacation resolution, and Official Map ordinance - April 18th.
2. Publication of public notices - April 25, May 2nd and 9th.
3. Public hearing on Official Map (combined notice) - May 16th.
4. Plan Commission final recommendations - June 15th.
5. Council adopts resolution and Ordinance - June 20th.

In closing, Mr. Less commented that the City's 2009 Comprehensive Plan included a transportation element, which more specifically identified the following objective and policy:

Objective: "Include safe and interconnected local streets within neighborhood and between non-residential developments."

Policy: "Discourage the extensive use of cul-de-sacs that would force local traffic onto a limited number of through streets, as they are difficult to maintain, and break up neighborhood continuity."

Mr. Less concluded by noting that the proposed actions were consistent with the City's 2009 Comprehensive Plan.

Paul Steinbrecher, SMI, Inc., 102 Revere Drive, commented that it was vital that the vacation be approved to pick up the extra 7' on each side of So. 21st Street, and added that it was a make or break issue for the project.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less recommended that the Commission recommend to Council that it: (i) authorize Mayor and Clerk to sign and adjoin on to the vacation petition; (ii) instruct the Clerk to call for the public hearing and to publish notices; and (iii) that both matters be referred back to Commission for final recommendation prior to final Council action.

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

Mr. Less complimented Mr. Steinbrecher on his efforts in working with the DNR to receive approval for authorizing the extension of the So. 21st Street R/W through a wetland.

V. REFERRALS FROM COMMON COUNCIL

A. PC23-2010: SMI, Inc./Popp Enterprises LLC; Popp Subdivision No. 3 -
Revision to Previously Approved Preliminary Plat

_____ Mr. Braun explained that the subdivider, Popp Enterprises, LLC, had previously filed a preliminary plat for a 16-lot development; the preliminary plat for which was adopted by Council resolution on May 17, 2010. Mr. Braun detailed wetland issues that were associated with the area of the proposed plat, and noted that a revised preliminary plat had now been filed which had 15 lots, and included several underlying Certified Survey Maps (CSM). Mr. Braun noted that he had distributed compliance conditions related to the revised plan, and added that the revised preliminary plat was suppose to show the lot, block and R/W configuration assuming ultimate approval of the discontinuance/vacation of 7' on each side of So. 21st between Summit and Flambeau. Mr. Braun reviewed the compliance conditions he had prepared, and noted that easements previously identified on the underlying and recorded CSM's would have to be released and re-established so as to match lot lines in the new subdivision.

Mr. Braun recommended that the Commission recommend to Council that it approve the revised preliminary plat, subject to the revised compliance conditions on file in the City Planning Department, and further adopt a resolution approving the revised preliminary plat, which would state that the revised preliminary plat and the revised compliance conditions would supersede and replace the previously approved preliminary plat and compliance conditions.

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

B. PC19-2011: Holm; Proposed Entrance Modification at Ron Rubick Municipal Athletic Field

Mr. Less explained a proposed monument to be constructed at the entrance to the “Ron Rubick Municipal Athletic Field” (RR), which was property owned by the Manitowoc Public School District (MPSD). Mr. Less advised that the reason this matter was before the Commission was that state statute required the Commission’s review of the location and architectural design for the improvement to be located at the northeast corner of Grand Avenue and So. 23rd Street. Mr. Less introduced Peter Holm as the head of the committee organizing this project.

Peter Holm, 2640 So. 14th Street, Manitowoc, introduced himself as the head of the committee for this project, and explained that the project entailed re-doing the entrance to RR at an estimated cost of \$230,000. Mr. Holm continued that this project would look at volunteer support to reduce this estimated cost. Mr. Holm explained that the current entrance was inadequate and difficult to use, and that the proposal would have the improvement and new entrance placed further west. Mr. Holm continued that the new entrance would have 2 ticket booths, and would simulate a football field in its design with the overall flavor of the improvement intended to memorialize Ron Rubick’s 30 years as coach and his accomplishments. Mr. Holm noted that each of the improvements had a special meaning regarding Mr. Rubick’s career, and explained the rationale and overall logic for how the memorial was designed.

Mr. Less stated that it was a great looking project, and asked Mr. Holm if their fundraising effort was currently underway?

Mr. Holm noted that they were working on that part of the project, and referenced a business sponsorship program being developed, and explained further that sponsorship paver bricks would be sold as part of the fundraising effort. Mr. Holm added that he had already been contacted by former athletes, and noted that if all the pavers were sold, it would raise nearly all the capital required for this project. Mr. Holm explained that they had met with the MPSD on several occasions, and was receiving materials referencing the “Ron Rubick Field” which he advised, was not correct.

Mr. Less noted that the former City-owned Municipal Athletic Field, which was sold to the MPSD in September, 1998, was now officially known as the “Ron Rubick Municipal Athletic Field” pursuant to an agreement and “Amendment No. 1 to an agreement between the City and the MPSD (Document No. 2009-528).

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Mr. Holm explained that an injury to the project architect had set them back a bit, so they were behind schedule.

Mr. Less noted that the City would not require a site plan for this project, and again stated that the only reason the project was in front of the Commission was because of the requirements to review statues or memorials pursuant to §62.23(5) Wis. Stats. Mr. Less continued that arrangements regarding liability, indemnification, constructability, drainage etc. would be formalized between the group and the MPSD, and not the City.

Mr. Less then recommended that the Commission advise the Council that it had completed its review of the location and architectural design for the proposed project and found it acceptable, and that it further recommend that Council approve the project, as described, pursuant to §62.23(5) Wis. Stats.

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

C. PC1-2011: 7-Saints Corp.; Quit Claim Deed to the City of Manitowoc for .16-Acres for Custer Street Purposes

Mr. Less explained that the deeds identified under C. and D. could be addressed together, and were for portions of public rights-of-way located north of Calumet Avenue and south of Custer Street; both associated with a Certified Survey Map (CSM) that was recently approved by the City Plan Commission in December, 2010 for the property housing PDQ Car Wash and the former Schmidt Tire business. Mr. Less recommended approval of both deeds referenced under C. and D.

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

D. PC1-2011: 7-Saints Corp.; Quit Claim Deed to the City of Manitowoc for .19-Acres for Calumet Avenue Purposes

See discussion under C. above.

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

VI. OLD BUSINESS

A. PC29-2010: Code Publishing Company; Reformatting of Municipal Code
- Review of Reformatted Code

Mr. Less explained that Michelle Yanda had led on the project to re-format the Municipal Code (Code), and that she had been coordinating this effort since mid-2010 with Code Publishing Company (CPC). Mr. Less stated that this project had now been completed, and the current effort was a structural re-design of the Code that established a format for moving forward, and was not correcting deficiencies in the content of the Code.

Ms. Yanda provided Commission members with a written summary of the project which identified the essential terms of the agreement between the City and CPC, the project time line, and information on how to access an on-line version of the Code. Ms. Yanda then gave a short demonstration of the on-line version of the reformatted Code. Ms. Yanda explained the capabilities of the new on-line Code, and noted that the new Code would be updated within 3 days after an ordinance would be adopted, whereas the current process took longer. Ms. Yanda noted that the City's agreement with CPC was a 5-year term ending mid-year 2015.

Mr. Less complimented Ms. Yanda on her exemplary work on this project.

Mr. Hornung asked if there were mistakes discovered that were corrected in the project?

Ms. Yanda explained that minor errors were corrected as long as they were not content-related.

Mr. Less stated that he was recommending to the Commission that it recommend to Council that it instruct the Clerk to call for a public hearing on the re-formatted Code at its May 16th meeting, with the understanding that the re-formatted Code would be adopted and would supersede and replace the current Code after the public hearing on May 16th and upon adoption of the ordinance.

Additional discussion was held.

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

B. 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 - Annual Compliance Review

Mr. Less reviewed a request from Jeff Stegemann and Tim Peterson d/b/a New School Investments, LLC, and identified the LLC as the new owner of record for property located at 1402 Clark Street. Mr. Less advised that the new owner acquired title from Bank First National (BFN) on March 31st, 2011 subject to a 2010 CUP that had been assigned to BFN in May, 2010. Mr. Less continued that the immediate past owner advised him that they were not aware of the CUP, nor the requirement for approval of assignment of the CUP. Mr. Less reminded Commission members that BFN was the previous title owner of the property, and was the assignee of an adaptive reuse CUP for the property formerly owned by Keith Gauthier pursuant to Section 15.37(29) of the Manitowoc Municipal Code (Code).

Mr. Less also noted that when BFN became the owner of the property and requested the assignment to them of the CUP, the Commission held a public informational hearing. Mr. Less advised that in this instance, there was no need for a hearing as the sale transaction between BFN and New School Investments, LLC had already taken place, there were no operational changes in terms of the CUP, so an informational hearing would be moot.

Mr. Less advised that he had met with the new owners, after they had taken title, who were now requesting that the CUP be further assigned to that entity. Mr. Less provided Commission members with a history of the sale transactions related to this property since the City owned and sold it in 2000. Mr. Less continued that as the new owner had represented to him that there were no proposed changes to the usage of the property that would not be consistent with the terms and conditions of the current CUP, he was recommending that the Commission unanimously recommend that Council approve the assignment of the adaptive re-use CUP under Section 15.37(29) to New School Investments, LLC, subject to the attached conditions of compliance on file in the City Planner's office.

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

C. PC17-2010: McMahon; Request for a Conditional Use Permit (CUP) Under 15.27(3)7. for the Operation of a Tattoo/Body Piercing Business at 2203B N. Rapids Road - Annual Compliance Review

Mr. Less explained that this was an annual compliance review in accordance with Section "I" of a CUP originally issued to the petitioner in April, 2010 for the operation of a tattoo and body piercing business at 2203B N. Rapids Road. Mr. Less advised that neither the Director of Building Inspector or the Police Chief had any reportable issues related to this previously issued CUP.

Mr. Less recommended that the Commission advise the Council that its compliance review produced no negative findings or material disclosures related to the McMahon operation, and further recommend that the CUP not be modified, amended or revoked, except that the annual review provision under Section "I" should be stricken and removed from the CUP. Mr. Less noted that in all other respects, the terms and conditions of the CUP would remain in full force and effect, and the City would further retain the right to review matters of non-compliance at any time pursuant to Section "J" of the CUP.

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

D. PC40-2006/8-2005: Michels Corporation/City Centre LLC; Request for a Conditional Use Permit (CUP) Under Section 15.35(3)23. for Operation of a Stone Transloading Operation on So. 16th Street - Annual Compliance Review

Mr. Less explained that this was an annual compliance review in accordance with Section "Q" of a CUP originally issued to the petitioner in February, 2005 and subsequently amended in July, 2005 and again in November, 2006. Mr. Less noted that the CUP was issued to Michels Corporation for their operation on the former Manitowoc Company peninsula property on So. 16th Street and the Manitowoc River. Mr. Less advised that neither the Director of Building Inspector or the Police Chief had any reportable issues related to this previously issued CUP.

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Mr. Less recommended that the Commission advise the Council that its compliance review produced no negative findings or material disclosures related to the Michels operation, and that the CUP should not be modified, amended or revoked.

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

- E. PC8-2007: Thuermer/Baas; Request for a Conditional Use Permit Under Section 15.37(29) for the Adaptive Reuse of Property at 630 N. 10th Street to Operate as a Theater - Annual Compliance Review

Mr. Less explained that this was an annual compliance review in accordance with Section 9. of an adaptive reuse Conditional Use Permit (CUP) originally issued in February, 2007 to the petitioners, for operation of a children's theater at the former St. Paul Norwegian Lutheran Church a/k/a St. Paul Evangelical Lutheran Church at 634 N. 10th Street. Mr. Less advised that neither the Director of Building Inspection or the Police Chief had any reportable issues related to this previously issued CUP.

Mr. Less recommended that the Commission advise the Council that its compliance review produced no negative findings or material disclosures related to the Thuermer/Baas operation, and further recommended that the CUP should not be modified, amended or revoked, except that the annual review provision under Section 9. should be stricken and removed from the CUP. Mr. Less noted that in all other respects, the terms and conditions of the CUP would remain in full force and effect, and the City further retained the right to review matters of non-compliance at any time pursuant to Section 8. of the CUP.

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

VII. NEW BUSINESS

- A. PC18-2011: Signs Plus/TDW Enterprises, LLC; Proposed Animated Sign at 211 N. 10th Street Pursuant to Section 15.45(18) of Manitowoc Municipal Code

Mr. Less explained that this was a request for issuance of a Special Permit to authorize the construction of a fixed animated wall sign on the north wall of a building

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at 211 N. 10th Street. Mr. Less reviewed the application for the sign, as well as his analysis and recommendation with the Commission.

Mr. Less provided Commission members with a revised version of his recommendation, and explained that the sign company had filed a revision to the sign that now met the requirement that the animated portion of the sign not exceed 30% of the total sign structure, and provided Commission members with a copy of the revised sign graphic. Mr. Less recommended that the Commission approve the animated sign and authorize the issuance of the Special Permit, subject to waiving the 100' separation requirement from an intersection under Section 15.45(18)(g)9., as the proposed sign would not promote visual clutter, would not have an adverse effect on nearby property, and would not create a safety hazard.

Mr. Muenzenmeyer commented that he had no problem with the proposed sign, but noted that the existing sign code was not overly friendly, as the code encouraged larger sign structures to meet the 30% requirement.

Ms. Mellon commented that she had no problem with the proposed sign.

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

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None.

B. Certified Survey Maps (CSM):

1. Gulseth; Proposed CSM in the NW¼ of SE¼, Sec. 7, T.19N., R.24E., Town of Manitowoc

Mr. Braun explained that the proposed CSM for 4.4-acres of land located south of Goodwin Road and east of CTH "Q" / N. 18th Street . Mr. Braun stated that the owner owned approximately 38-acres, and wanted to split off a 4.4-acre parcel abutting CTH "Q" on the west and the center of the Little Manitowoc River on the east.

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Mr. Braun stated that as the property was located in the Town of Manitowoc, the County's zoning ordinance would control. Mr. Braun explained that the current zoning of the parcel was "A-2" which required a minimum 5-acre area per lot, and that the owner would have to pursue a variance from Manitowoc County. Mr. Braun added that a FEMA Letter of Map Amendment would also be pursued as the mapped flood line and the flood line established by elevation were different.

Mr. Braun stated that he didn't have any issues with the proposal, and recommended approval of the CSM, subject to the granting of a variance as referenced above.

Motion by: Mr. Hornung

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

Seconded by: Ms. Mellon

Upon Vote: the motion was approved unanimously.

C. Summary of Site Plans 3/10/2011 - 4/6/2011:

1. None

IX. ADJOURNMENT

The meeting was adjourned at 7:30 P.M.

Respectfully Submitted,

David Less
Secretary