

PLAN COMMISSION MINUTES - 3/13/2013

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
March 13, 2013
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

Dan Hornung
Jim Muenzenmeyer
Justin Nickels
Greg Minikel
Steve Alpert
Maureen Stokes

Members Excused

Dave Diedrich
Jim Brey

Staff Present

David Less
Paul Braun
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular February 13, 2013 Meeting.

Motion by: Ms. Stokes

Seconded by: Mr. Hornung

Moved that: the minutes be approved as presented.

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

A. PC5-2013/PC39-90/PC28-85: Leschke/R & J Transport, Inc.; Request to Rezone Property at 608 N. 41st Street from "P-1" Conservancy and "R-4" Single-and Two-Family District to "C-1" Commercial District Pursuant to Section 15.310 of the Manitowoc Municipal Code

Mr. Less explained that tonight's public informational hearing was in regard to a rezoning request by Ron Leschke d/b/a R & J Transport, Inc. regarding an area located north of Fulton Street, and west of N. 40th Street Mr. Less stated that the petitioner was requesting that a 1.59-acre area (including public R/W) be rezoned from "P-1"

Conservancy and "R-4" (Single- and Two-Family District), to "C-1" (Commercial District). Mr. Less noted that this rezoning addressed the encroachment of the R & J business operation onto properties that were not appropriately zoned for the existing land use.

Mr. Less noted that if the rezoning was ultimately approved, then a second process would commence to amend the existing Conditional Use/Special Permit that was initially issued by the City in 1987 and which was subsequently amended in 1990. Mr. Less emphasized that both the rezoning and conditional use processes were designed to correct the underlying zoning of certain properties, and to modify the Conditional Use/Special Permit so as to match the extent of the current R & J operation.

Mr. Less then identified the 3 parcels of land included in this rezoning, noting that they were located west of the centerline of N. 40th Street, and north of Fulton Street, and were more specifically described as:

- A. City of Manitowoc (450-039-122). A parcel with 120' of frontage on Fulton Street, approximately 75' of lot depth along its west line, and approximately 80' of length along its east side, which is the west line of a cul-de-sac at N. 40th Street. This parcel covers part of Lots 11 and 12 in Block 39 of the Original Plat of Manitowoc Rapids, and measures approximately 8,712sf in area, or .20-acres. This parcel is impacted by a drainage ditch, and an MPU utility easement and power poles, and is currently zoned "R-4".
- B. Ronald Leschke (450-039-021). A parcel located directly north of, and abutting the City parcel with approximately 110' of length along its south boundary, approximately 90' along its north boundary, approximately 175' of length along its west side, and approximately 110' along its east side which is the west line of a cul-de-sac at N. 40th Street. This rezoning area covers all of Lots 1 and 2, and part of Lots 11 and 12 in Block 39 of the Original Plat of Manitowoc Rapids, and measures approximately 23,231sf in area, or .53-acres. This parcel is currently zoned "R-4".
- C. Ronald Leschke (450-038-020). A parcel located at the western half of the rezoning area, and which abuts the City parcel (described in "A") along its southeast line, with 120' of length along its north and south boundaries, and approximately 250' along its east and west boundaries. This rezoning area covers part of Lots 3 and 4, and all of Lots 9 and 10 in Block 39 of the Original Plat of Manitowoc Rapids (but which are part of a tax parcel number in Block 38), and measures approximately 30,000sf in area, or .69-acres. This parcel is currently zoned "P-1", and said zoning was established to provide a buffer between the R & J operation and the residentially zoned land to the east and north.

Mr. Less explained that the area of these 3 parcels measured approximately 61,943sf or 1.4-acres, and when R/W was included, measured approximately 1.59-acres, with exterior dimensions of approximately 200' (N), 270' (S), 302' (E) and 280' (W).

Mr. Less then explained the origin of the City's involvement with this business at this location, noting that it dated back to 1985. Mr. Less stated that at the last Commission meeting, a summary document outlining the key elements of the history of the City's regulatory involvement with R & J had been prepared, and which included: (i) a zoning text change in 1986 that added "trucking, distribution, and load assembly depot" as a conditional use in a "C-1" zoning district; (ii) a Conditional Use/Special Permit issued by the City in 1987 which was subsequently amended in 1990; (iii) a zoning map amendment approved in 1990 establishing the current "P-1" zoning flanking the R & J operation; (iv) a 1990 street vacation of Fulton Street from the west line of N. 41st Street to the east line of N. Rapids Road; and (v) Mr. Leschke issuing a Quit Claim Deed to the City in 1991 for 2.24-acres zoned "P-1" Conservancy to serve as a buffer between his business operation and the Indian Bluff residences to the north.

Mr. Less then noted that the issues today centered on correcting the underlying zoning, and ultimately amending the Conditional Use/Special Permit to match the physical extent of the existing R&J operation. Mr. Less stated that in his opinion, the encroachment was clearly not intentional, and was the result of confusion regarding what property was owned by whom.

Mr. Less continued that going forward, the strategy was to bring the rezoning to final resolution which would result in matching the underlying zoning with the extent of the business operation, and then a separate process to amend the current Conditional Use/Special Permit to reflect the new geography if the rezoning was approved; and finally to have the City deed back at no cost to Mr. Leschke the 2.24-acre parcel deeded in 1991 at no cost to the City, as well as deeding the City-owned parcel #450-039-122 at the corner of N. 40th Street and Fulton at no cost, which was negatively impacted by a drainage ditch, utility easement and power poles.

Mr. Less then explained surrounding zoning and land use in the area.

Mr. Less then noted that under the existing "R-4" single and two family district, permitted principal uses were essentially limited to single and 2-family residential, along with community living arrangements, and adult and child day care centers for not more than 8 individuals, as well as vacant lot residential gardens. Mr. Less continued that potential conditional uses included churches, domestic violence centers, transitional housing and collaborative, intergenerational housing options, bed and breakfast establishments, farmers' markets, and community living arrangements and day care centers for 9 or more individuals.

Mr. Less continued that under the current "P-1" conservancy zoning, principal permitted uses were limited to agricultural, parks, sportsmen's clubhouses, golf courses

and farmers' markets, and added that there were no conditional uses identified for this district.

Mr. Less continued that the proposed land use as depicted on the City's 2009 Comprehensive Plan, 20-year land use map, identified this general area as a mixture of "Planned Mixed Use" (an area featuring a carefully controlled mix of commercial and residential uses on public utilities and infrastructure), and "Single and Two Family Residential - Urban", and further identified an environmental corridor that covered the hillside south of Indian Bluffs and north of the R & J operation. Mr. Less noted that a guiding theme of the plan was that in considering proposed amendments to the zoning map, the Plan Commission and Common Council should evaluate the relationship of the proposed rezoning to both the existing and planned land uses in an area. Mr. Less added that considering the rationale for this proposed rezoning, and as the current proposal was designed to eliminate the encroachment issues and was viewed as a maintenance rezoning to match the underlying zoning to the existing land use, and further did not change the lay of this land, nor the future land use or density of development in this area, but rather eliminated a nonconforming land use issue, he viewed the proposed rezoning to be consistent with the City's Comprehensive Plan. Mr. Less closed by noting that recognizing that zoning dealt with the appropriateness of land uses in a particular location, the proposed zoning and land use were deemed consistent with the City's plan.

Mr. Less continued that regarding tonight's informational hearing, his department did mail notices to property owners within 200' of the proposed rezoning area on March 6th, and that there were no comments received in response to this mailing.

Mayor Nickels asked for public input.

There was no public comment.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less recommended to the Commission that they recommend to Council: (i) that Council instruct the Clerk to call for public hearing to be scheduled for April 15th; (ii) that by acceptance of this report, Council authorize joining onto this rezoning to include the City-owned parcel (450-039-122) as outlined above; (iii) that the Commission offers its final recommendation to Council to approve and adopt the rezoning ordinance upon completion of the public hearing; and (iv) that the Council instruct the City Attorney to prepare the necessary deed, conveying to Mr. Leschke the 2.24-acre parcel deeded in 1991 at no cost to the City, as well as deeding the City-owned parcel #450-039-122 at the corner of N. 40th Street and Fulton at no cost, which was currently negatively impacted by a utility easement and drainage ditch, with said conveyance to occur prior to April 15, 2013.

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

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

V. REFERRALS FROM COMMON COUNCIL

A. PC1-2013: Moore; Quit Claim Deed to City of Manitowoc for .50-Acres of Land for So. 26th Street

Mr. Less explained the above referenced deed for So. 26th Street R/W, south of Orchard Lane. Mr. Less recommended that the Commission recommend Council approval of the Deed.

Motion by: Mr. Hornung

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

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

B. PC1-2013: Moore; Quit Claim Deed to City of Manitowoc for .51-Acres of Land for Orchard Lane Purposes

Mr. Less explained the above referenced deed for Orchard Lane R/W, west of So. 26th Street. Mr. Less recommended that the Commission recommend Council approval of the Deed.

Motion by: Mr. Hornung

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

Seconded by: Mr. Muenzenmeyer

Upon Vote: the motion was approved unanimously.

VI. OLD BUSINESS

A. PC38-2012: Proposed Changes to the Sign Code Section of Chapter 15.450

Mr. Less provided an overview of the changes made to a draft ordinance addressing multiple topics, including changes to the sign ordinance and the delegation of design review responsibilities to Mainly Manitowoc. Mr. Less provided Commission members with a third version of the draft ordinance, and noted that he had added a new section into the document to clarify the qualifications for certain professionals preparing certain types of plans. Mr. Less added that he had also removed the proposed change to the "home occupation" definition, as he felt that was the correct action pursuant to discussions he had with Mr. Muenzenmeyer. Mr. Less then provided Commission members with copies of comments received since the February meeting.

Mr. Hornung commented that his email comments had to do more with the overall process.

Mayor Nickels concurred, adding that these were the same concerns held by the Council regarding comfort levels with delegation of design review authority to Mainly Manitowoc.

Mr. Less commented that the suggested approach that he outlined in the draft ordinance was that delegation of responsibilities wouldn't occur until there was a separate agreement in place with Mainly Manitowoc, and that in the absence of an agreement, the responsibilities would remain with the City as they were at present.

Mayor Nickels commented that one of Council's concerns centered on actually naming the organization in the ordinance, and suggested that a more generic reference to "an organization as designated by the City" replace that text in lieu of specifically naming an entity in the ordinance.

Mr. Hornung asked if CDA was aware of this matter?

Mr. Less stated that CDA had been made aware of this potential to delegate responsibility to the downtown organization. Mr. Less added that the changes requested would not be problematic to integrate into the next draft of this ordinance.

Mr. Hornung asked what would happen if the third party organization ceased to exist?

Mr. Less responded that this particular topic, as well as others, were specified in the draft ordinance, and represented the minimal elements that should be present in any agreement with the City delegating responsibilities. Mr. Less emphasized that the verbiage in the ordinance was not written to be included in an agreement, but rather identified essential topics that he felt needed to be addressed in any such agreement.

Mr. Hornung expressed concern that this process would be confusing to downtowners, and was concerned how responsibilities would be handled, and what would happen if the downtown organization ceased to exist?

Mr. Less replied that the sign still needed to meet code, and that while Mainly Manitowoc would approve designs under this model, the responsibility to enforce code would remain with the City's Building Inspection Department, and was not being delegated.

Ms. Stokes asked what would happen if a design was approved by Mainly Manitowoc, but didn't meet code?

Mr. Less stated that no permit would be issued in this case.

Mr. Hornung asked if code interpretation would be done by Mainly Manitowoc?

Mr. Less responded that while he hoped Mainly Manitowoc would have an understanding of the code, the final review of a proposed sign's code compliance was the Building Inspector's, and that in the end, instead of CDA approving the design, it would be reviewed by Mainly Manitowoc.

Ms. Stokes asked if Mainly Manitowoc had a thorough understanding of the City's code?

Mr. Less replied that he could not answer that question on behalf of Mainly Manitowoc, but hoped that they did. Mr. Less added that under this approach, Mainly Manitowoc would not issue any permits.

Ms. Stokes was concerned that Mainly Manitowoc might be spinning their wheels in this area.

Mr. Less stated that he hoped not, and added that only the design review function would be delegated, and that decisions on design would be made by Mainly Manitowoc, adding that projecting signs, the design for which had been approved by Mainly Manitowoc, would be allowed in the downtown.

Ms. Stokes asked what happened if Mainly Manitowoc approved an ugly sign?

Mr. Less replied that if the design was approved by Mainly Manitowoc, that would be their issue, and that the City's issue would be conformance to the code.

Mayor Nickels stated that one person's garbage was someone else's art, and asked about the amount of time spent on design review.

Mr. Less replied that the sign vendors knew what was acceptable, and that he would typically pre-approve a design so a sign permit could be issued promptly, with the formal approval from CDA occurring at their next meeting.

Mayor Nickels stated that the only change would be that a sign vendor would go to Mainly Manitowoc instead of Mr. Less.

Mr. Less agreed.

Mr. Hornung asked what if Mr. Less and Mainly Manitowoc didn't see eye-to-eye on a proposed design?

Mr. Less responded that he and CDA would be out of that matter, if the responsibility was officially delegated, and the only question would be code compliance which would be done by Building Inspection.

Mayor Nickels asked if the ultimate goal was for Mainly Manitowoc to have a vision for what downtown should look like?

Mr. Less replied that he was operating under an assumption that Mainly Manitowoc had some sort of design guidelines that they would follow, but added that he had never seen them, and did not know if this was the case or not.

Mr. Muenzenmeyer asked if there was an appeals process if a party didn't like the decision of Mainly Manitowoc?

Mr. Less stated that he'd have to review the ordinance in that regard.

Mayor Nickels asked if the current code included an appeals process?

Mr. Less stated that there was currently an appeals process in the design review ordinance.

Mr. Muenzenmeyer commented that the current design review process was very responsive, noting that when a sign or exterior building improvement design would come in, it was often pre-approved within 24 hours by Mr. Less, clearing the way for Building Inspection to issue the appropriate permit. Mr. Muenzenmeyer noted that he was concerned with the quickness of response if this function was delegated to Mainly Manitowoc. Mr. Muenzenmeyer asked how responsive Mainly Manitowoc would be in this regard?

Mr. Less stated that he didn't know what Mainly Manitowoc intended.

Tony Fodden, 619 Pine, commented that Mainly Manitowoc was setting up a design committee comprised of 3 architects and 2 contractors to review these requests. Mr. Fodden noted that they would meet at least monthly, and probably twice per month.

Mr. Muenzenmeyer noted again that he was concerned with the issue of timing of responses.

Mr. Fodden noted that Mainly Manitowoc was currently approving sign grant requests within a week, adding that he didn't think it would be too much to make the sign review authority work. Mr. Fodden added that there was an appeals process in the draft ordinance.

Mr. Less again noted that the 9 items identified in the design review delegation section of the draft was what he viewed as essential ingredients of any delegation agreement.

Mr. Hornung asked if there were any types of signs that would not be addressed by the current draft ordinance?

Mr. Fodden replied that he and Mr. Less had not had a chance to talk about this, but noted that the Mainly Manitowoc service district was larger than the CDA's design review area.

Mr. Less explained the design review area was a combination of the downtown loan program area, plus historic district. Mr. Less continued that it was his vision that the delegation agreement would specify the service area to be covered.

Mr. Hornung asked why the CDA and Mainly Manitowoc service areas were not the same?

Mr. Less replied that they were different areas, designed for different functions, at different times. Mr. Less commented that the district boundaries should be based on geography and blocks, and not on any specific zoning designation.

Mr. Braun displayed mapping of the design review and Mainly Manitowoc district boundaries. Mr. Braun commented that Mainly Manitowoc would be looking at their district.

Mr. Less stated that CDA would not be performing any design reviews under the current code, outside the design review area.

Mayor Nickels noted that at present, there was no services agreement in 2013 with Mainly Manitowoc, and added that while he liked the concept, it was not yet perfected to the level necessary to make it an ordinance. Mayor Nickels continued that he still wanted the design responsibility for murals and projecting signs to be incorporated under the CDA's responsibility, with this arrangement continuing while work was being done on the services agreement with Mainly Manitowoc, and that these items could be included in a new services agreement and ultimately delegated to Mainly Manitowoc.

Mr. Hornung asked Mayor Nickels if he felt the services agreement would go along with the ordinance?

Mayor Nickels stated that he was looking at the services agreement in a broader framework in 2013 than in the past, including locating Mainly Manitowoc offices in City Hall. Mayor Nickels added that he felt a lot of the draft language could be put into the services agreement, but didn't think the draft ordinance was complete enough.

Mr. Less stated that the ordinance could still be adopted with CDA maintaining control over downtown design review, until a services agreement would be put into place, and the authority delegated at that time to Mainly Manitowoc.

Mayor Nickels stated that he felt murals and projecting signs were currently not allowed in downtown, based on the language of the ordinance until a delegation agreement would be signed.

Mr. Less stated that currently murals were allowed in downtown, and was the domain of the Plan Commission, and that currently projecting signs in the downtown were not permitted, with one exception at present.

Mayor Nickels stated that he wanted to make sure the ordinance would allow for projecting signs and murals in downtown, regardless of whether or not a services agreement was in place.

Mr. Less stated that under the Mayor's approach, CDA would include projecting signs within their review authority, until such time a delegation agreement was in place.

Mayor Nickels commented that was what he wanted to do.

Mr. Less stated that he'd make the change to allow projecting signs in the downtown design review district, but noted that the rest of the draft could remain, and would provide the legal authority to transmit responsibilities to a new third party entity.

Mr. Muenzenmeyer stated that the code regulating projecting signs would have to be changed anyways.

Mr. Hornung asked if sandwich board signs would be included in this ordinance?

Mr. Less stated that technically they were illegal and weren't part of the draft, as they were a separate and more complicated matter. Mr. Less suggested that it might be prudent to incorporate a sidewalk privilege agreement into the new services agreement related to these types of signs.

Mayor Nickels stated that insurance for these signs would be necessary.

Mr. Muenzenmeyer commented that sandwich board signs were problematic.

Mr. Hornung stated that he was not in favor of anything this complicated.

Mr. Muenzenmeyer commented that you'd have a real problem if they remained unregulated.

Mr. Braun questioned why the 9 items under the design review portion of the draft ordinance had to be included?

Mr. Less replied that they were added to provide guidance to whoever would be drafting the delegation agreement. Mr. Less stated that these were, in his opinion, the minimum requirements that would need to be addressed by whoever the drafter of the document would be.

Mr. Braun asked if they could simply be referenced in Plan Commission minutes?

Mr. Less stated "yes", but cautioned that inclusion in the minutes was not the same as code.

Mayor Nickels asked Mr. Hornung if he felt the 9 items should remain in the draft?

Mr. Hornung stated that he was indifferent.

Mayor Nickels stated that he felt Mainly Manitowoc should put together a dummies guide to downtown signage to simplify this process.

Mr. Hornung concurred with Mayor Nickels.

Mr. Less stated that he could remove these guidance items, but the City would have to hope the agreement was completed and adequately drafted.

Ms. Stokes stated she agreed with Mayor Nickels.

Mayor Nickels stated that he felt Council would want those 9 items removed from the ordinance.

Mr. Less stated that it didn't matter to him, and that he would strike that text.

Ms. Stokes and Mr. Muenzenmeyer stated that they didn't agree with striking the text, and felt the items should remain in the draft ordinance.

Mr. Fodden agreed with Ms. Stokes and Mr. Muenzenmeyer's position on this item.

Mr. Less added that he'd make the suggested changes and have a new draft ready for the April meeting. Mr. Less asked about other components of the ordinance.

Mayor Nickels suggested adding sandwich board language into the draft, so that ultimately there'd be a single public hearing on the ordinance.

Mr. Fodden noted that they had information from other cities regarding the treatment of sandwich board signs.

Mr. Less stated that he'd add in this language, and have it for the next draft.

Commission members agreed with this position. No action was taken.

VII. NEW BUSINESS

A. None

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Cvetezar: CSM in the NW¼, SW¼, Section 26, T.19N., R.23E.,
Town of Manitowoc Rapids

Mr. Braun explained that this proposed CSM was located north of West Custer and west of Woodview Lane, and just beyond the City limits. Mr. Braun noted that the owner wanted to put an addition on to their house, but that under the current lot configuration, the improvement would encroach into the side yard setback. Mr. Braun continued that the County was requiring Mr. Cvetezar to combine the 2, 1-acre lots he owned into a single 2-acre lot. Mr. Braun added that he was okay with the proposal, but would consider requiring dedication of Woodview Lane if it wasn't already dedicated, or if it was in the best interest of the City. Mr. Braun recommended approval of the CSM.

Motion by: Mr. Hornung
Moved that: the Commission approve the CSM as outlined, subject to any required easements, petitions, and other conditions as specified above.

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

C. Summary of Site Plans 2/8/2013 – 3/7/2013

1. None

IX. ADJOURNMENT

The meeting was adjourned at 7:20pm.

Respectfully Submitted,

David Less
City Planner