

PLAN COMMISSION MINUTES - 1/14/09

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
January 14, 2009
5:00 P.M.

I. CALL TO ORDER

The meeting of the City Plan Commission was called to order by Mayor Kevin Crawford at 6:30 P.M.

II. ROLL CALL

Members Present

Kevin Crawford
Maureen Stokes
Dan Hornung
Steve Alpert
Valerie Mellon
David Diedrich
Jim Muenzenmeyer
Jim Brey

Members Excused

None

Staff Present

David Less
Paul Braun
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular December 10, 2008 Meeting.

Motion by: Ms. Stokes

Moved that: the minutes be approved as presented.

Seconded by: Mr. Hornung

Upon Vote: the motion was approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

- A. PC4-2009/PC18-2008: The Holy Family Convent of the Franciscan Sisters of Christian Charity, Inc.; Request for a Conditional Use Permit Pursuant to Section 15.19(3)2. of Manitowoc Municipal Code for Operation of a School

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Mr. Less advised that the discussion regarding the potential annexation under Section V.A. of the agenda would be discussed before consideration of the Conditional Use Permit (CUP).

Mr. Less explained that this was a request from Attorney Andy Steimle, representing the Holy Family Convent of the Franciscan Sisters of Christian Charity, Inc., as the owner of property located at 2406 So. Alverno Road, who was requesting that the City issue a CUP pursuant to Sections 15.19(3)2. of the Manitowoc Municipal Code for the operation of a school (Silver Lake College or SLC). Mr. Less noted that the CUP would allow for the operation of a school under the "R-6" zoning district regulations.

Mr. Less stated that under a CUP, the Commission and Council had to determine if the proposed use was reasonably necessary for the convenience and welfare of the public, was in harmony with the character of the surrounding area, and would have a minimal effect or no effect on surrounding property values. 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 stated that this discussion came on the heels of a request from the petitioner for the annexation of 23.7-acres of territory into the City, and that the proposed CUP area covered the identical area that would be annexed into the City. Mr. Less noted that the annexed territory would be given a temporary zoning status of "R-6", Multiple Family District, at the time the annexation was finalized and adopted by the Common Council. Mr. Less added that the CUP was needed for the legal operation of a school in an "R-6" zoning district pursuant to the municipal code, and that the goal of the SLC project was to increase residency, and to position the university to pursue the more traditional (non-commuting) student. Mr. Less reminded Commission members that they did receive a presentation on the SLC master plan at the September meeting. Mr. Less added that the land on the south side of USH151/ Calumet Avenue was owned by the Convent and was leased to SLC.

Mr. Less explained that the CUP area included the 4-story Clare Hall and academic area, with Clare Hall being renovated and upgraded into a 100-bed student housing complex to be completed in June/July, 2009. Mr. Less noted that the renovation included the addition of approximately 30,000sf of new building area, and was being monitored by the Town which would be responsible for issuance of an occupancy permit upon completion. Mr. Less advised that the current master plan for SLC included a music performance center and an event center that would be ultimately located in the proposed CUP area.

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Mr. Less noted that the 23.7-acre area covered under the proposed CUP was irregular in shape, and measured approximately 1,201' along USH151; 1,293' along the south end of the CUP area; 724' along the east end of the CUP area; and 723' along the west end of the CUP area. Mr. Less added that the proposed CUP area abutted the west line of So. Alverno Road, south of USH151/Calumet Avenue, and noted that So. Alverno was not included in the CUP area.

Mr. Less continued that the "R-6" district permitted single, two family and multifamily land uses, as well as community living arrangements and day care centers for up to a maximum of 15 residents. Mr. Less added that conditionally permitted uses in "R-6" included schools, churches, private clubs and lodges, homes for the elderly, and day care centers and community living arrangements for 16 or more persons, as well as residential buildings used in connection with the above conditional uses.

Mr. Less added that the proposed CUP area had the City's "R-1" (Residential-Agricultural) zoning to the north and west, and the County's "A-1" agricultural district to the west, south and east. Mr. Less explained that the Town of Manitowoc Rapids was covered by the County zoning ordinance.

Mr. Less stated that regarding tonight's informational hearing, notices were mailed from Planning on January 7th to property owners within 200' of the proposed CUP area, and that there were no comments received in response to the mailing.

Mr. Less noted that the City's 1999 Comprehensive Plan identified the subject property as institutional, and as such, the proposed use was consistent with the City's current comprehensive plan.

Mr. Brey acknowledged that he was clear that the unpaid assessments related to the annexation were payable prior to issuance of the CUP by the Council, but questioned how unpaid assessments would be collected which were related to the Convent land already in the City, and located to the west of the planned annexation area?

Mr. Less replied that only unpaid assessments related to the proposed CUP area would be payable at this time. Mr. Less then outlined the proposed conditions that would become part of the CUP, and that had been previously provided to Commission members.

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Bill Fessler, 5629 Calumet Avenue/USH151, asked if the City would issue another CUP when the developments to the west of the current CUP area would occur on the property already in the City?

Mr. Less stated "yes", and added that the only item covered under the proposed CUP was the existing school and Clare Hall.

Mr. Fessler commented that the assessments were deferred on the property to the west already in the City, and felt that this was the time for the City to collect these unpaid assessments. Mr. Fessler questioned how those assessments would ever be collected?

Mr. Less stated that he was not familiar with any existing agreements that would be part of the history of the Convent land already in the City, and stated that he would have to research that item.

Mr. Fessler stated that they were the same assessments that would be payable under the current CUP request. Mr. Fessler then displayed a July 21, 2003 letter from the City's Engineering Department which discussed the deferred assessment issue for the lands already in the City.

Mr. Less stated that he was not aware of this issue, as he did not recollect any items moving through the Plan Commission on the matter of assessments. Mr. Less noted that this would have been an Engineering Department issue, and questioned if there was any enlightenment that could be offered from Engineering? Mr. Less continued that as far as he was concerned, only the assessments related to the CUP area would be payable at this time, unless there was some requirement for payment contained in a previous agreement regarding the lands already in the City that would be triggered by the current annexation and CUP request.

Mr. Fessler asked what would trigger assessment payments for the Convent property already in the City?

Mr. Less replied that he felt that in the absence of a pre-existing agreement, the payable assessments would be limited to the current annexation and CUP area.

Mr. Fessler questioned why the proposed CUP was not for both the property already in the City, as well as the lands to be annexed into the City?

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Mr. Steimle commented that there was no current plan to develop the western end of the Convent property for several years into the future.

Mr. Fessler stated that this was a convenient response, and added that if development of the land already in the City did not occur within a 10-year limit, the City would not be able to collect assessments for that area. Mr. Fessler added that the 5-year limit on power had already lapsed and, as such, the taxpayers would be stuck with that cost as well.

Mr. Less stated that he was not versed with the terms and conditions for all the utility installations in the area, and added that unless the information was shared with him upfront, he was not omnipotent.

Sister Laura Nay, 2409 So. Alverno Road, commented that she was not sure if the owner of the land was ever consulted at the time of annexation, and felt that the Convent land already in the City was taken by eminent domain in order to get to the property beyond. Sister Laura added that to her knowledge, there was no agreement with the owner when those assessments would be payable. Sister Laura continued that they intended to pay for assessments related to the property being annexed into the City. Sister Laura added that they further intended to follow City ordinances regarding repayment obligations for the land to the west, and added that there was no attempt to not pay what was owed; they were not privy to arrangements that were made. Sister Laura noted that they were not developing the land already in the City, and would have to pay assessments at the time when they have to tap into those utilities.

Mayor Crawford asked if the delayed assessment question was a Board of Public Works matter?

Mr. Brey stated that he was not clear on that detail.

Mr. Less noted that if there were delayed assessment agreements, he would have to find them, and determine what the commitments of the parties were.

Mr. Steimle re-stated that there was no intent to not pay delayed assessments that were payable, as the scope of the master plan project was larger than the current annexation and CUP matters.

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Mr. Less stated that he would research this matter, and would provide Council with a supplementary report at its February 2nd meeting regarding the Convent property already in the City and any assessments payable.

Mayor Crawford commented that the City did not practice eminent domain, and explained that the Convent property was part of an annexation, which was necessary as, without it, the City would not have been able to extend services to Silveridge Subdivision.

Mr. Fessler asked if the master plan was being looked at, why were separate CUP's being issued instead of a single CUP covering the entire Convent property?

Mr. Less replied that the master plan was a statement grounded in vision and conjecture, much of which was not in place at present. Mr. Less added that no one knew how the master plan could change over time, and added that a piece meal approach to issuing CUP's required the petitioner to come back to the City at the time they were actually prepared to move forward with development. Mr Less continued that regarding whether or not there were any previous agreements for the repayment of delayed assessments that would somehow be triggered by the current annexation, that was what he needed to look into. Mr. Less felt that if there were delayed assessment agreements, they most likely would say that upon development of specific lands and the requirement to hook up the new development to existing utilities, that the repayment of delayed assessments would be required at that time. Mr. Less noted that issuing a CUP for a concept that may, or may not, materialize was not good practice.

Mr. Fessler asked if any meetings between SLC, WisDOT and the City had been held regarding changes to Calumet Avenue/USH151 related to an entrance into SLC?

Mr. Less stated that he was not aware of any meetings being held, and added that he was under the impression that Matt Wolfort from Bray Associates was suppose to be following up on that item on behalf of SLC.

Mr. Fessler stated that this raised the issue of how to handle So. Alverno Road, south of Calumet Avenue/USH151.

Mr. Less stated that the CUP specified that the City would have no responsibilities for So. Alverno, and advised that including this provision in the CUP was intended to put everyone on notice that the City did not intend to inherit this road.

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Mr. Fessler asked what would happen if WisDOT required So. Alverno to become the main entrance into the property, and added that this annexation was a great package for the City, but expressed concern in future dealings with WisDOT.

Mr. Brey commented that the master plan identified a future main ingress-egress into the SLC campus to the west, and felt that if that didn't materialize, WisDOT might focus the main entrance at So. Alverno Road, which could have substantial cost to the City.

Mr. Less stated that he would rely on the City Engineering Department to make sure that they protected the City in any negotiations with WisDOT, and that knowing the City's non-appetite for taking over So. Alverno Road, that by default the Convent or SLC would become responsible in that project. Mr. Less added that inclusion of the language in the CUP regarding So. Alverno Road was so that all parties would be put on notice regarding the City's position on that matter. Mr. Less continued that unless the City Council accepted a deed for the R/W, the City would have no ownership interest in So. Alverno Road.

Additional discussion was held.

Mayor Crawford asked Mr. Less for his recommendation on this matter.

Mr. Less recommended that the Commission recommend to Council the issuance of a 2009 CUP exclusively to SLC as defined in the supplementary operating conditions to be made part of the CUP, and were on file in the City Planner's office.

Motion by: Mr. Brey

Seconded by: Mr. Diedrich

Moved that: the Planner's recommendation as presented above be approved.

Upon Vote: the motion was approved unanimously.

V. REFERRALS FROM COMMON COUNCIL

- A. PC3-2009/PC18-2008: The Holy Family Convent of the Franciscan Sisters of Christian Charity, Inc.; Petition for Direct Annexation Pursuant to Section 66.0217(2) Wis. Stats.

Mr. Less explained that a petition for direct annexation by unanimous approval had been filed with the City for 23.7-acres of land owned by the Convent. Mr. Less stated that the Commission had been previously apprised of the planned annexation.

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Mr. Less noted that the Wisconsin Department of Administration (WDOA) survey had already been completed and filed with the State, and that the review of the proposed annexation by WDOA had already been completed. Mr. Less stated that the City had just received notice from WDOA which contained a finding that the proposed annexation was found to be in the public interest.

Mr. Less recommended that the Commission recommend to Council: (i) the annexation of 23.7-acres from the Town of Manitowoc Rapids as filed by the petitioner; (ii) that the Council approve the Annexation Petition as presented, and adopt an Annexation Ordinance; and (iii) that the property be zoned "R-6" Multiple Family District pursuant to §66.0217(8)(a) Wis. Stats.

Motion by: Mr. Diedrich

Seconded by: Mr. Alpert

Moved that: the Planner's recommendation as presented above be approved.

Upon Vote: the motion was approved unanimously.

B. PC1-2009: Osuld Torrison River Front Condos LLC; Easement to City of Manitowoc for Riverwalk Purposes

Mr. Less explained the easement he had prepared for the riverwalk that was part of the City's development agreement with the developers of the 2. N. 8th Street property.

Motion by: Mr. Hornung

Seconded by: Ms. Stokes

Moved that: the Commission recommend Council approve the above referenced easement.

Upon Vote: the motion was approved unanimously.

C. PC1-2009: R&J Property Management LLC; Quit Claim Deed to the City of Manitowoc for 3.877 Acres for Storm Water Pond Purposes

Mr. Less explained that this deed was related to a planned purchase of land by the City off of So. 30th Street for the siting of a storm water pond. Mr. Less added that the Commission reviewed and approved an associated Certified Survey Map at its previous meeting.

Motion by: Mr. Diedrich

Seconded by: Mr. Hornung

Moved that: the Commission recommend Council approve the above referenced deed.

Upon Vote: the motion was approved unanimously.

VI. OLD BUSINESS

A. PC52-2006: FY2007 Comprehensive Planning Grant - Multi-Jurisdictional Project with Manitowoc County:

1. Update - Manitowoc County Planning Advisory Committee (MCPAC)

Mr. Muenzenmeyer reported that there was a tentative meeting scheduled for early March for MCPAC. Mr. Muenzenmeyer added that Bay-Lake RPC would also be conducting intergovernmental cooperation meetings at the 3 planning cluster sessions that were tentatively scheduled for March and April, 2009, and added that the development of the Manitowoc county-wide plan would begin in June.

Additional discussion was held. No action was taken.

2. Vandewalle Update - Review of Downtown Plan

Mr. Braun explained that Vandewalle was not present tonight due to inclement weather conditions, and added that the next step in the process was to meet at the regular March Commission meeting which would begin at 5:00 P.M. to review the draft of the plan and the revised land use map. Mr. Braun stated that this would be held as part of the Commission's regular March 11th meeting.

Mr. Braun noted that a more detailed draft of a downtown market and business mix analysis had been prepared by Vandewalle, but which relied upon ESRI data that was more than 7 years old. Mr. Braun stated that the age of this data, and the type of conclusions being drawn from it, were a concern.

Mr. Braun asked Commission members to provide him with any comments or edits on the various drafts.

Mr. Hornung commented on the relevance of Magnolia Avenue on the arterial roadway extension map appearing on p. 105 of the current draft plan. Mr. Hornung stated that he agreed with the extension of Goodwin Road, but asked for the Commission's thoughts on extensions of Magnolia Avenue and Albert Drive. Mr. Hornung asked what the group's feelings were regarding Magnolia across the golf course, and asked if it was a key component to the future growth of the City?

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Commission members stated that they felt Magnolia was important. Mr. Less stated that Magnolia remained on the City's Official Map.

Mr. Braun stated that he had added text to the draft that stated that Magnolia should get constructed.

Mr. Hornung, playing the devil's advocate, questioned why the City wanted Magnolia constructed?

Mr. Less replied that Magnolia was important as there was a need for a secondary east-west street located to the north of Waldo Boulevard.

Mr. Hornung agreed, but stated that he was not sure Magnolia was a good east-west street.

Mr. Diedrich asked Mr. Hornung if he had an alternative in mind?

Mr. Hornung stated that the problem was with the location of the airport, and that Goodwin Road was the only logical alternative.

Mr. Braun commented on the alignment of Goodwin Road that was on the City's Official Map.

Mr. Hornung stated that the portion of Magnolia at its juncture with Menasha Avenue, was missing from the map.

Mr. Less noted that the map on p. 105 should replicate the City's current Official Map.

Mr. Hornung questioned where the extension of Albert Drive would terminate?

Mr. Braun noted that it would end at N. 18th Street.

Mr. Hornung asked if there would be a large traffic generator anticipated at the east end of Magnolia?

Mr. Less stated that he hoped the mall properties would someday be redeveloped in a new land use, and would become such a generator.

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Mr. Less explained that the comprehensive plan process would include an annual review that would occur after the plan was adopted by the Council. Mr. Less explained that this was a planned methodology to keep the plan current and refreshed, as the “consistency” issue would become legally relevant after January 1, 2010. Mr. Less added that this annual update approach would provide the City with flexibility in making sure the plan continued to reflect the current reality.

Additional discussion was held. No action was taken.

B. PC23-2007: City of Manitowoc; Aquatic Center - Review of Final Site Plan Pursuant to Section 15.37(2)(g) of Manitowoc Municipal Code

Mr. Muenzenmeyer explained that the new pool included 9,000sf of water along with 5,000sf of new building and a 700 bather load. Mr. Muenzenmeyer explained the site plan, and noted that he was going to use a direct purchase method to save on any item or group of items/purchases greater than \$10k in value to save the sales tax.

Mr. Diedrich asked if the proposed building was expandable?

Mr. Muenzenmeyer replied that it could be expandable for an extension of the same use, even though the interior walls would be block.

Mayor Crawford commented that Orion Energy Systems had donated up to 12 light pipes for the building, and added that the local carpenter’s union would be contributing labor towards the construction as well.

Mr. Muenzenmeyer commented that the word on the street was that regarding the bidding climate, he felt that most companies would be underbidding in order to get work.

Mr. Less explained that the Commission had previously reviewed this concept and approved the concept site plan and location of the project back in July, 2007, and that the Council subsequently accepted a report from the Commission on this matter which it approved on July 16, 2007. Mr. Less added that as the project had changed since the original filing, it was appropriate for the Commission to review the current site plan for the planned family aquatic center to be located in Citizen Park.

Mr. Less recommended that the Commission advise the Council of the following actions: (i) that it had reviewed the location and architectural design of the structure, and unanimously recommended the Council approve the proposed project pursuant to

§62.23(5) Wis. Stats.; and (ii) that it had approved the project site plan pursuant to Section 15.37(2)(g) of the Manitowoc Municipal Code.

Motion by: Mr. Hornung

Seconded by: Ms. Mellon

Moved that: the Planner's recommendation as presented above be approved.

Upon Vote: the motion was approved unanimously.

VII. NEW BUSINESS

A. PC2-2009: Annual Review of Community Living Arrangements (CLA's)

Mr. Less explained that this was the annual review of CLA's in the City pursuant to Section 15.37(19)(b) of the Manitowoc Municipal Code. Mr. Less noted that the Commission's review was based largely on a review of Police and Building Inspection Department records in 2008 regarding these facilities. Mr. Less stated that there were no problem facilities identified.

Mr. Less reviewed the CLA demographics previously provided to Commission members, and noted that as of January 1, 2009, there were 7 Adult Family Homes (AFH) for 3-4 residents, and 23 Community Based Residential Facilities (CBRF) located in the City. Mr. Less reviewed a map of the 30 CLA's in the City, and subsequently recommended that the Commission recommend to Council that they approve the associated licenses for these facilities for 2009.

Motion by: Mr. Alpert

Seconded by: Mr. Muenzenmeyer

Moved that: the Planner's recommendation as presented above be approved.

Upon Vote: the motion was approved unanimously.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. None

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C. Summary of Site Plans 12/5/08 - 1/7/09:

1. None.

IX. ADJOURNMENT

The meeting was adjourned at 5:45 P.M.

Respectfully Submitted,

David Less
Secretary