



City of Manitowoc

900 Quay Street
Manitowoc, WI 54220
www.manitowoc.org

Meeting Minutes

Plan Commission

Wednesday, January 27, 2016

6:00 PM

Council Chambers

I. CALL TO ORDER

The Meeting of the City Plan Commission was called to order by Chairman Nickels at 6:00PM

II. ROLL CALL

Present: 7 - Jim Brey, Dave Diedrich, Daniel Hornung, Mayor Nickels, Dan Koski, Jim Muenzenmeyer and Dennis Steinbrenner

Absent: 1 - Peter Dorner

Staff Present: Nic Sparacio, Paul Braun, Lisa Mueller, Tyler Caulum

Others Present: Beverly Mann, Steve Mann, Audrey Suess, Lee Suess, Tim Frey, Todd Meerdink, Bob Popp, Randy Popp, Albert Sears, Harold Beckman, Joseph George

III. APPROVAL OF MINUTES

[16-0063](#) Approval of the Minutes of the December 17, 2015 Meeting.

Moved by Diedrich, seconded by Hornung, that the Minutes of the December 17, 2015 Meeting be approved. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

IV. PUBLIC INFORMATIONAL HEARINGS

[16-0064](#) PC 22-2015: Priority One Investments, LLC d.b.a TLC Homes Inc. Request for a Conditional Use Permit for the establishment of an Adult Day Services Use located 1004 N. 17th Street.

Paul Braun reviewed for those in attendance the conditional use permit request including the history and previous uses of the property. Mr. Braun continued by explaining the purpose of an adaptive re-use and its goal in the comprehensive plan. Mr. Braun explained the purpose of the Adult Day Service request and any licensing requirements.

Mr. Braun then reviewed changes the applicant, Mr Tim Frey, made to his business plan since the original request in August of 2015; which was denied by the Plan Commission and Council. The changes include reduced hours of operation to 9:00 AM - 3:00 PM as well as reduced days

of operation to Monday through Friday. There also is a reduction in the number of individuals served from 40 to 25 and a reduction in the number of employees from 19 to 12, leading to a reduction in on street vehicle parking to 3 vans, down from 5.

Mr. Braun reviewed area neighbor comments he received prior to the meeting. Of those, Steven and Beverly Mann, Harold and Fran Beckman, Kristy Kreie as well as Kevin Christensen communicated that they are not in favor of the request on account of the lack of available parking on the street and concerns regarding the vision triangle at the intersection of North 17th Street and Wisconsin Avenue.

Eugene and Kaylene Rauen sent an email showing their support for the proposed adult daycare facility. Ted Lettenberger also left a voice message for staff indicating his support for the Adult Day Service.

Dan Koski asked if the vans will only be parked on street during the operation; to which Mr. Braun replied the van parking would only occur during the hours of 9:00 AM - 3:00 PM Monday through Friday.

Mayor Nickels opened the public informational hearing.

Beverly Mann, 1013 N 7th Street, Harold Beckman, 1019 N 17th Street and Joseph George, 1026 N 17th Street addressed the Commission; they are against the proposal and have concerns about the increased traffic, traffic visibility at the intersection surrounding the yield sign, and the high number of occupants relative to the size of the neighborhood. Other concerns that were raised include the accident history, safety of the children, as well as the current issue of vehicles speeding on N 17th Street in order to "beat" the traffic lights on Waldo Boulevard.

Tim Frey, owner of TLC Homes and Priority One Investments, provided a brief history of his business. Mr. Frey then addressed some concerns stating that parking will be contained in the front of the property with 3 vehicles parked on Wisconsin Avenue out of the vision triangle and no parking on N 17th Street. Mr. Frey is requesting an Adult Day Service which does not require any State licensing but he will operate his facility to the standards that are required for an Adult Day Care centers which do require licensing and allows one person per 50 square feet. Mr. Frey could have approximately 50 individuals based on square footage of the building, however, Mr. Frey is only asking for up to 25 individuals to help reduce the parking on the street.

Howard Sears, 1021 N 17th Street and Steve Mann, 1013 N 17th Street then further stated their concerns for the proposal for the same reasons as

previously presented by the other neighbors.

Mayor Nickels closed the public informational hearing portion of the meeting and opened discussion to the Commission. Discussion ensued pertaining to the different options regarding parking for the TLC vans and employees including parking the vans in the driveway instead of the employee vehicles as well as placing a no parking sign to prevent parking too close to the yield sign.

Dave Diedrich asked Mr. Frey what he would do if the CUP does not pass, to which Mr. Frey responded he could open a CBRF for 8 individuals or less which is a permitted use.

Mayor Nickels requested that Mr. Braun clarify the difference between a re-zone and a conditional use permit. Mr. Braun then provided examples of permitted uses and conditional uses permitted in an R-4 zoning district to further clarify the purpose of the request. A conditional use permit would not change the zoning if approved.

Mayor Nickels stated he cannot think of a re-use for an abandoned church that would have less impact on parking than the proposed Adult Day Service.

Mr. Braun then read the staff recommendation to approve the proposed CUP and require TLC to comply with the following conditions:

1. The CUP authorizing the siting and operation of TLC in the CUP Area shall not become effective and binding until the latest date that: (i) the Common Council approves the CUP as outlined herein. In the event the Council does not approve said CUP on or before midnight on March 31, 2016, the authorization for this CUP by the Common Council shall automatically terminate effective April 1, 2016 and TLC shall be required to re-apply.
2. The maximum number of Day Service individuals at the CUP Area shall not exceed 25 individuals at any time. Day Service hours of operation shall be Monday - Friday from 9am - 3pm. Up to two staff may be on site prior to or after the hours of operation (9am - 3pm) to "setup" or "clean-up" after the Day Service operation is closed.
3. There shall be no office facilities established at the property.
4. All exterior lighting from the CUP area shall be contained to the site and shall not filter over the property lines onto adjoining properties.
5. In the event the property comprising the CUP Area is sold or leased to a party other than an entity in which TLC or Tim Frey has a controlling interest, the CUP shall then terminate effective the date of conveyance.
6. The CUP shall not be assigned, transferred, sublet or conveyed without the written approval upon review and recommendation by the City Plan Commission, and approval by the Manitowoc Common Council.

7. Non-compliance with the terms of the CUP may result in the modification of the terms and conditions of the CUP, issuance of citations and financial penalties, or immediate revocation of the CUP.
8. Compliance with the terms and conditions of the CUP shall be reviewed by the Plan Commission and Common Council in January, 2017. The Plan Commission and Council shall at that time determine if an annual review shall continue into subsequent years. The annual review may result in the disclosure of non-compliance issues or the identification of terms and conditions that are no longer necessary or required to maintain the intent or compliance with the CUP, and may result in the modification of the terms and conditions of the CUP, issuance of citations and financial penalties, or immediate revocation of the CUP. The Plan Commission and Common Council reserve the right to review the CUP at any time.
9. There shall be no exterior signage allowed advertising the Adult Day Service use.
10. The Property shall only provide Adult Day Services to individuals from other TLC facilities which are located in Manitowoc County.
11. Employees who are not transported to the property in TLC transport vans shall park on the driveway off of N. 17th Street.
12. A maximum of 3 TLC transport vehicles shall be parked at the property at a time. TLC shall make every reasonable attempt to park their transport vehicles along the north side of Wisconsin Avenue directly adjacent to their property. The transport vehicles shall not block the vision triangle and shall park at least 15 feet away from the intersection right of way line of Wisconsin Avenue and N. 17th Street.

Mr. Steinbrenner stated that vacant churches are hard to find a reasonable re-use and they often become an eye sore. If a use that has minimal impact on the area such as the proposed use is presented, it should be seriously considered.

The Commission then compared a CBRF to an Adult Day Service, specifically the traffic and parking. Mr. Sparacio suggested that if parking and traffic are the main concerns, it is reasonable to request input from the Public Safety Committee to determine what conditions would be necessary to apply.

Mr. Brey asked for accident reports for N 17th Street and requested the item get reviewed at the next Licensing and Permit Inspection meeting.

Dan Hornung stated that he would make a motion to approve the draft with an amendment to condition number 3; the amendment would allow office related functions to only onsite operations; he would also motion to strike condition number 10.

3. There shall be no office facilities established at the property except for an onsite use.
10. ~~The Property shall only provide Adult Day Services to individuals from other TLC facilities which are located in Manitowoc County.~~

The amendment to condition number 3 was to allow TLC to have an office directly pertaining to the Adult Day Service to manage its affairs. The proposal to strike condition number 10 was considered in response to Mr. Frey's statement that about a third of his customers come from private residences that are not served by one of his other facilities.

Discussion ensued regarding a possible amendment to condition number 12 to increase the required distance to greater than 15 feet. Ultimately it was decided that such controls would be difficult to enforce, so the condition will not be amended.

Moved by Hornung, seconded by Steinbrenner, to approve the Conditional Use Permit for the Adult Day Service with the recommended conditions of approval amended as follows: delete condition 10, and condition 3 to state "There shall be no office facilities established at the property except for an onsite use".

The motion carried by the following vote:

Aye: 4 - Member Hornung, Mayor Nickels, Member Koski and Member Steinbrenner

Nay: 3 - Alderperson Brey, Member Diedrich and Member Muenzenmeyer

[16-0065](#)

PC 3-2016: Shady Lane Inc: amendment to a 2011 Conditional Use Permit to Increase the Capacity from an 88 Bed to a 151 Bed CBRF.

Mr. Braun stated that the request is from Shady Lane Inc. and that they would like to amend a 2011 conditional use permit which allowed up to a maximum of 88 beds for a Community Based Residential Facility. Shady Lane would like to increase their capacity to 151 beds. All of the physical changes would be internal in the buildings and there would be no exterior changes made. Shady Lane is converting the high cost skilled nursing rooms to lower cost assisted living rooms to adapt to the changing market demands in the health care industry.

Mr Braun told the Commission that he talked with Steve Hanson, 1232 S. 24th Street on the phone and Mr. Hanson stated he has no concerns with the amendment request to expand the number of beds but he did have some concerns with parking. In the past some employees were parking in front of his residence to eat lunch and smoke due to Shady Lane's smoke free campus, and because of that, littering became an issue. The issue was resolved with help from Shady Lane and the Police Department.

Todd Meerdink, Shady Lane, Inc. President, discussed the history of Shady Lane and the proposed project request. Mr Meerdink stated that the changes are needed to keep up with the changing demands of the assisted living and skilled nursing industry. Mr. Meerdink also briefed the Commission on the long range plans for the Shady Lane campus which includes the construction of new buildings and the razing of some of the old

structures. Mayor Nickels opened the public informational hearing, but there was no one present to speak to this item. The public informational hearing was closed.

Mr. Braun read the staff recommendation which requests that Council: amend the November, 2011 CUP to approve and authorize the increase in CBRF beds from 88 to 151; all other conditions in the November 2011 CUP will remain the same.

Moved by Diedrich, seconded by Muenzenmeyer, to amend the November, 2011 CUP to approve and authorize the increase in CBRF beds from 88 to 151; all other conditions in the November 2011 CUP will remain the same. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0066](#)

PC 6-2016: Popp Request to Rezone Property located east of S. 35th Street and north of Dewey Street from "R-6" Multiple Family Residential to "I-1" Light Industrial.

Tyler Caulum reviewed for those in attendance the rezone request. In addition Mr. Caulum discussed the existing zoning, property layout, the proposed mini-warehouse use, the city's comprehensive plan and wetland delineation. The Popp would like to construct some mini-warehouse structures on their property but the use is not allowed in the current R-6 Multiple Family zoning district; a change in zoning to I-1 Light Industrial is needed. Due to the amount of wetlands that are present, the property is not conducive for apartments. The proposed area to be rezoned is approximately 2.7 acres, measuring roughly 490' X 265'.

Mayor Nickels asked if there were questions of the commissioners. Mr. Hornung questioned the unimproved property to the north and access to it. Mr. Braun explained the property has access from S. 35th Street over a short east - west running dedicated but unimproved right of way in which the Popp currently have authority to use. Mr. Hornung asked if a paving petition would be necessary as it appears the development could potentially land lock the vacant LaViolette property. Mr. Braun replied that the east west unimproved street off of S. 35th Street is already dedicated and that if it wasn't dedicated the site plan process would provide the mechanism to get any petitions or dedications. Mr. Sparacio provided that if the driveway is vacated and the vacant lot has no frontage access of its own the vacant lot will become non-conforming and if the lot ownership is contiguous with an adjacent lot the lots can be treated as one.

Mayor Nickels opened the public informational hearing, which there was no public input; the hearing was closed.

Mr. Caulum read the staff recommendation which requests that the Council

instruct the Clerk to: i) introduce the ordinance at the February 15th Council meeting, ii) call for a public hearing on this matter to be scheduled for March 21, 2016 and iii) the Commission further recommends final approval of the zoning ordinance amendment upon completion of the public hearing.

Moved by Brey, seconded by Koski, to i) introduce the ordinance at the February 15th Council meeting, ii) call for a public hearing on this matter to be scheduled for March 21, 2016 and iii) approve the zoning ordinance amendment upon completion of the public hearing. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

V. REFERRALS FROM COMMON COUNCIL: None

VI. OLD BUSINESS: None

VII. NEW BUSINESS

[16-0067](#)

PC 2-2106: Annual Review of Community Living Arrangements.

Paul Braun, stated that the annual review of Community Living Arrangements is pursuant to Section 15.370(19)b of the Municipal Code. Mr. Braun stated that he contacted the Police, Fire, Clerk and Building Inspection Departments to see if there were any complaints or concerns on record for the past year; no complaints were on record with the Departments.

As of January 14, 2016 there was a total of 34 Community Living Arrangements in the City; 8 of which are Adult Family Homes with a total of 32 beds and 26 Community Based Residential Facilities with a total of 406 beds for a total of 438 CLA beds in the City. Mr. Braun also informed the Commission that the State Statutes have a density requirement which can be waived by the Commission and Council. The density requirement states that the total capacity of Community Living Arrangements may not exceed 1% of the population of the City; 1% of the population would be 337 and the current number of 438 beds exceeds the density requirement. The Commission discussed if the density requirement and potential conflicts under Federal Fair Housing and Americans with Disabilities Laws.

Mr. Braun read the staff recommendation which requests that Council approve the associated licenses for these facilities for 2016. The Commission also recommends that the Council grant the exception to the density requirements that are cited in Section 62.23(7)i of the State Statutes.

Moved by Diedrich, seconded by Muenzenmeyer, to approve the associated licenses for Community Living Arrangements for 2016 and grant the exception to the density requirements that are cited in Section 62.23(7)i of the State Statutes. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0068](#)

PC 7-2016: Kaysun Corporation: Partial Release of Easement, I - 43 Industrial Park Subdivisions No. 1 & 2.

Mr. Braun stated that the partial release of easement rights is associated with the current plant expansion for the Kaysun Corporation. Kaysun's expansion is over an existing electric and telephone easement that has existing utilities in place. Both Manitowoc Public Utilities and AT&T have authorized and approved the building expansion over their infrastructure. The current utilities have been placed in conduit which allows for the building to be placed over the infrastructure.

Mr. Braun read the staff recommendation which requests that the Council: (i) authorize the partial release of the easement rights; and (ii) authorize the Mayor and Clerk to sign the document at the call of the City Planner.

Moved by Hornung, seconded by Diedrich, to authorize the partial release of the easement rights and authorize the Mayor and Clerk to sign the document at the call of the City Planner. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0069](#)

PC 5-2016: Chapter 15 - Comprehensive Zoning Ordinance Text Amendment to Section 15.270(2) adding Laboratories to the "B-3" General Business District Permitted Uses.

Paul Braun, reviewed the zoning text amendment for the Commission. Mr. Braun stated that there is a potential business development in the community involving a laboratory use that may consider utilizing a property that is currently zoned B-3, but the B-3 zoning district does not allow laboratories. Mr. Braun continued to state that Community Development staff reviewed the proposal and felt that in lieu of changing the zoning on the subject property and creating a potential spot zone issue it made more sense to add "laboratories, except a physical testing laboratory" as a permitted use into the B-3 zoning district seeing that laboratories are very similar to and consistent with other permitted uses in the B-3 district.

Mr. Braun read the staff recommendation which requests that the Council instruct the Clerk to: i) introduce said ordinance at the February 15th Council meeting, ii) call for a public hearing on the proposed change to Chapter 15 with the hearing to be set for the March 21st Council meeting, iii) publish as a class 2 publication the required notices, and iv) that the Commission recommend to Council adoption of the Ordinance to effectuate these changes.

Moved by Hornung, seconded by Koski, to i) introduce the zoning ordinance at the February 15th Council meeting, ii) call for a public hearing on the proposed

change to Chapter 15 with the hearing to be set for the March 21st Council meeting, iii) publish as a class 2 notice, and iv) adoption of the Ordinance to effectuate these changes. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0070](#)

PC 1-2016: Grant of Access and Easement - City of Manitowoc to Central Brown County Water Authority (CBCWA), east of Maritime Drive, from St. Clair Street extended to south line of Chicago Street extended, , Section 20, T19N, R24E.

Mr. Braun stated that the Grant of Access and Easement request is related to the transfer of the fiber optic utility from Central Brown County Water Authority to NSight. The fiber optics are located in the same easement as the CBCWA water pipeline. A portion of the water and fiber utility are over some City owned property. NSight purchased the rights to the fiber optic utility and the easement rights to them also had to be transferred from the City to NSight. He further explained that the next several easement requests are all related.

Moved by Diedrich, seconded by Steinbrenner, to authorize the assignment of the easement rights and authorize the Mayor and Clerk to sign the assignment documents at the call of the City Attorney and Director of Public Infrastructure. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0071](#)

PC 1-2016: Grant of Access and Easement - City of Manitowoc to Central Brown County Water Authority (CBCWA), east of Maritime Drive located in Lot 6, Government Lot 2, Section 20, T19N, R24E.

Mr. Braun stated that this Grant of Access and Easement request is related to the other CBCWA items and has the same report and recommendation.

Moved by Diedrich, seconded by Steinbrenner, to authorize the assignment of the easement rights and authorize the Mayor and Clerk to sign the assignment documents at the call of the City Attorney and Director of Public Infrastructure. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0072](#)

PC 1-2016: Grant of Access and Easement - City of Manitowoc to Central Brown County Water Authority (CBCWA), west of South Lakeview Drive and south of Quay Street, Section 29, T19N, R24E.

Mr. Braun stated that this Grant of Access and Easement request is related to the other CBCWA items and has the same report and recommendation.

Moved by Diedrich, seconded by Steinbrenner, to authorize the assignment of the easement rights and authorize the Mayor and Clerk to sign the assignment documents at the call of the City Attorney and Director of Public Infrastructure. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0073](#)

PC 1-2016: Grant of Access and Easement - City of Manitowoc to Central Brown County Water Authority (CBCWA), east of Maritime Drive, located in Lots 3 and 4, Government Lot 1, Section 20, T19N, R24E.

Mr. Braun stated that this Grant of Access and Easement request is related to the other CBCWA items and has the same report and recommendation.

Moved by Diedrich, seconded by Steinbrenner, to authorize the assignment of the easement rights and authorize the Mayor and Clerk to sign the assignment documents at the call of the City Attorney and Director of Public Infrastructure. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0074](#)

PC 1-2016: Grant of Access and Easement - City of Manitowoc to Central Brown County Water Authority (CBCWA), east of Maritime Drive, north of Little Manitowoc River, located in Lot 1 of Government 2 , Section 20, T19N, R24E.

Mr. Braun stated that this Grant of Access and Easement request is related to the other CBCWA items and has the same report and recommendation.

Moved by Diedrich, seconded by Steinbrenner, to authorize the assignment of the easement rights and authorize the Mayor and Clerk to sign the assignment documents at the call of the City Attorney and Director of Public Infrastructure. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

[16-0075](#)

PC 1-2016: Grant of Access and Easement - City of Manitowoc to Central Brown County Water Authority (CBCWA), east of Maritime Drive, south of Little Manitowoc River located in parts of Lots 6 & 7, Government Lot 1 and 2 and part of Lots 4 and 5, Block 3, Section 20, T19N, R24E.

Mr. Braun stated that this Grant of Access and Easement request is related to the other CBCWA items and has the same report and recommendation.

Moved by Diedrich, seconded by Steinbrenner, to authorize the assignment of the easement rights and authorize the Mayor and Clerk to sign the assignment documents at the call of the City Attorney and Director of Public Infrastructure. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

VIII. MISCELLANEOUS

A. Manitowoc County Activities: None

B. Certified Survey Maps (CSM):

1. T&L Investment Group, LLC / Braun SW ¼, NE ¼ and NW ¼ SE ¼ Section 13, Township 19 North, Range 23 East, City of Manitowoc.

C. Summary of Site Plans: None

D. Director's Report

Mr. Sparacio provided a Director's Report to the Commission via email. There were no questions on the Director's Report.

IX. ADJOURNMENT

Moved by Diedrich, seconded by Hornung, that the Meeting be adjourned at 8:05 PM. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Mayor Nickels, Member Koski, Member Muenzenmeyer and Member Steinbrenner

Respectfully Submitted,

Paul Braun
Secretary