

PLAN COMMISSION MINUTES - 8/11/2010

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
August 11, 2010
6:30 P.M.

I. CALL TO ORDER

The meeting of the City Plan Commission was called to order by Chairman Justin Nickels at 6:30 P.M.

II. ROLL CALL

Members Present

Dan Hornung
Steve Alpert
Val Mellon
David Diedrich
Jim Muenzenmeyer
Jim Brey
Justin Nickels

Members Excused

Maureen Stokes

Staff Present

David Less
Paul Braun
Michelle Yanda

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular July 14, 2010 Meeting.

Motion by: Mr. Diedrich _____ Seconded by: Mr. Muenzenmeyer
Moved that: the minutes be _____ Upon Vote: the motion was
approved as presented. approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

- A. PC36-2010/PC33-94: Holy Family Memorial; Request for Special Permit Under Section 15.43(11), and a Conditional Use Permit (CUP) Under Section 15.13(3)10. for Creation of a Parking Lot in a Residential Zoning District

Mr. Less explained that this was a request from SMI, Inc. on behalf of Holy Family Memorial, requesting: (i) a Conditional Use Permit (CUP) pursuant to Section 15.13(3)10. of the Manitowoc Municipal Code (Code) for a hospital in an "R-3" Single Family District; and (ii) a Special Permit to establish an off-street parking lot on residentially zoned land pursuant to Section 15.43(11) of the Code. Mr. Less noted that the CUP procedure to be followed was articulated in Section 15.37(27) of the Code, and that neither of these proposed changes disturbed the underlying zoning of the proposed parking area.

Mr. Less explained that Section 15.37(27) established procedures for the issuance of a CUP, by which the Commission and Council had to determine if the proposed use was reasonably necessary for the convenience and welfare of the public, was in harmony with the character of the surrounding area, and would have a minimal or no effect on surrounding property values. Mr. Less 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 Section 15.43(11) of the Code authorized the issuance of a Special Permit to allow for a parking lot to be located in a residentially zoned area, when the parking lot was used in connection with an adjoining business land use in a "B", "C" or "I" zoning district. Mr. Less continued that he would discuss both of these procedures concurrently and in the context of the requested Special Permit, as the issuance of the CUP would be required if and after the Special Permit for the parking lot was approved. Mr. Less noted that the CUP required approval of the City Council, while the Special Permit could be approved by the Plan Commission.

Mr. Less noted that the subject property at issue was a parcel of land legally described as Lot 4, Block 1 of the Amended Plat of Riverview Addition in the City of Manitowoc. Regarding this parcel, Mr. Less noted that it measured 59' abutting Liberty Place by 94.28' in lot depth, for a total area of 5,563sf; was identified by tax #615-001-040; was zoned "R-3" Single Family District; was acquired by Holy Family Memorial from Donald and Janet Rank for \$95,000 on October 21, 2009; had a total assessed valuation of \$75,200 based on City Assessor records; and generated approximately

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\$1,400 in annual real estate taxes. Mr. Less stated that this parcel contained a single family, 3-bedroom home built around 1918, which measured approximately 1,058sf in area.

Mr. Less continued that the requested Special Permit was a request to expand the geography of a 1994 Special Permit and CUP issued to Holy Family. Mr. Less noted that the 1994 Special Permit and CUP covered all of Lots 1-3, and Lots 9-14, Block 1 of the Amended Plat of Riverview Addition in the City of Manitowoc. Regarding the 1994 Special Permit, Mr. Less noted the following:

1. The 1994 Special Permit was related to Holy Family's desire to create a parking lot to the northwest of the hospital, in an area bounded by Meadow Lane, Riverview Drive and Liberty Place—the total area of the 1994 authorization was 1.19-acres.
2. The homes acquired by Holy Family which were located in the current Special Permit area were subsequently deeded to Habitat for Humanity, which then relocated the home structures to the south side of the City.
3. The purpose of the 1994 Special Permit was to relieve on-street parking pressures in adjoining residential area. At that time, Holy Family estimated that they were 75 stalls short of their parking needs. The 1994 parking lot created approximately 84 parking spaces for uses including, but not limited to short term employee parking, plant operations parking, radiology parking, volunteer parking, and temporary disabled employee parking.
4. The 1994 Special Permit, which covered and included 9 parcels (Lots 1-3, and 9-14 in Block 1) authorized a parking lot extension of approximately 302' into the residential zoning district.
5. The 1994 Special Permit included provisions regarding hours of operation, ingress/egress, lighting, landscaping, setbacks and signage in the parking lot.

Mr. Less noted that the properties comprising the 1994 and proposed 2010 Special Permit and CUP areas, represented a total of 10 properties that were acquired for

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a total purchase price of \$554,700 between October, 1987 and October, 2009, and which in total, measured 1.32-acres in area.

Mr. Less continued that the proposed redevelopment plan for the subject parcel (Lot 4) included the removal of the building from the site on terms to be determined by Holy Family, and the expansion of the existing parking lot which would result in a net increase of 14 off-street parking spaces, bringing the total number of parking spaces in the lot to 97. Mr. Less added that the addition of Lot 4 into the overall parking lot plan did not impact the existing ingress/egress into the overall parking lot, and as access to the Lot 4 area would be via the existing ingress/egress from Riverview Drive and Meadow Lane.

Mr. Less stated that in addition to the Special Permit consideration, he again noted that Holy Family was concurrently requesting a CUP pursuant to Section 15.15(3)10. which would allow for accessory buildings and uses to a hospital in an "R-3" zoning district. Mr. Less explained the surrounding zoning and land uses in the area.

Mr. Less detailed the compliance requirements under Section 15.43(11), and noted that the parking lot would have to meet certain conditions in order to comply with this section of the Code:

1. Accessory to a business use in an adjacent "B", "C" or "I" zoning district (the adjacent Holy Family Memorial hospital was zoned "B-1").
2. Parking lot shall not extend more than 150' into the residential zone (the 1994 Special Permit authorized the extension into the residential zoning district approximately 302'). Adding Lot 4 into the Special Permit area would be an extension of approximately 234' as measured from the west line of Lot 4 to the west line of Riverview Drive.
3. Parking lot to be used solely for parking of passenger vehicles.
4. No commercial repair work or service of any kind would be permitted to take place in the parking lot.
5. No sign of any kind, other than those designating entrances, exits and conditions of use could be maintained on such parking lot.

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6. No charge could be made for parking in such parking lot.
7. Parking was permitted from 5AM - 11PM, and closed at all other times. The 1994 Special Permit limited parking to between 6AM - 8PM (Monday - Sunday).
8. Each entrance and exit to and from the parking lot had to be at least 20' distant from any adjacent property located in a residential zone. The existing points of ingress/egress are well beyond the 20' requirement.
9. Plan Commission can modify these requirements where desirable.

Mr. Less continued that regarding Section 15.43(12), which detailed parking area development and maintenance requirements for lots of 5 vehicles or greater, that:

1. The area would have to be hard surfaced and striped.
2. The Lot 4 area would require site screening along its north and west sides.
3. No part of the parking lot at Lot 4 could be within 10' of a dwelling unit.
4. If the parking lot at Lot 4 included lighting, it had to be directed away from the adjoining residential use.

Mr. Less noted that in addition to the above, if the Special Permit was approved, the parking lot would also have to meet: (i) site plan requirements under Section 15.37(2)3.; (ii) requirements under Section 15.69 for landscaping the parking lot; and (iii) site plan performance agreement and letter of credit requirements under Section 15.37(2)(h).

Mr. Less continued that for the Special Permit, notices were mailed to adjacent and abutting property owners to Lot 4, as well as to property owners within 200' of the subject property for the CUP on August 4th, and that he had not received any responses to the mailing.

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In closing, Mr. Less noted that the City's 2009 Comprehensive Plan identified the existing off-street parking area as "Institutional and Community Facilities", while the subject property, Lot 4, was identified as "Single and Two Family Residential - Urban". Mr. Less continued that under the "Institutional and Community Facilities" land use category of the 2009 plan, a description of the district noted that "Future small-scale institutional uses and community facilities may also be located in areas planned for residential, commercial, office, industrial, mixed, or traditional neighborhood uses." Mr. Less added that under that same category, the "policy and program" objectives of this district included considering the impact on neighboring properties before approving any new or expanded institutional uses, and encouraging the adaptive reuse of vacant and/or underutilized buildings and properties.

Mr. Less added that the "Single Family and Two Family Residential - Urban" land use category in the 2009 plan identified under its "Policies and Programs" objectives, to "Pursue residential infill and redevelopment opportunities where feasible..." In closing, Mr. Less noted that reading these 2 sections of the plan together, looking at this pre-existing condition, and recognizing that Lot 4 would be an addition to an existing parking lot pursuant to the existing 1994 Special Permit, led him to conclude that this planned improvement appeared to be consistent with the plan and land use for this area.

Finally, Mr. Less noted that the issuance of a Special Permit tonight was in no way to be interpreted as an implied approval or vesting of rights regarding any further modifications to Lot 4 or this larger area under Section 15.43(11).

Mr. Diedrich asked if there had been any issues with the current CUP?

Mr. Less replied "no".

Don Rank, 519 So. 25th, explained that there was an adjoining driveway between 519 So. 25th and 2417 Liberty, and asked how that would be divided up and incorporated into the site design?

Mr. Less explained the 10' setback for the parking lot from the adjoining residential land use.

Mr. Rank asked if the concrete would be cut?

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Mr. Muenzenmeyer commented that according to the preliminary site plan provided, the common driveway area would be saw cut and removed, as necessary, and that the plan showed a straight line in a north-south direction.

Mr. Rank asked if the 10' area would be landscaped with grass?

Mr. Less stated that it needed to be more than grass, and would have to be site screened.

Mr. Rank asked if there were any drawings of the site screening?

Mr. Less stated there was just a simple schematic at this time, but Holy Family would have to provide greater detail as part of its formal site plan submittal.

Richard Medina, 513 So. 25th, asked for clarification regarding the landscaping, and wanted to know if the requirement for the current request would be the same as was included in the 1994 Special Permit?

Mr. Less stated "yes", and estimated that the site screening in place would be relocated to the west of Lot 4 to frame the new parking lot area.

Mr. Medina commented on lighting in the new area.

Mr. Less advised that any new lighting would be directed away from the abutting residential land uses. Mr. Less added that they had not seen any formal lighting plan as of today. Mr. Less again stated that in his recommendation, the 2004 approvals and compliance requirements would be merged into and incorporated into the 2010 approval and compliance conditions.

Mayor Nickels asked Mr. Less for his recommendation.

Mr. Less recommended: (i) the Commission approve the Special Permit pursuant to Section 15.43(11) for the addition of Lot 4, Block 1, Amended Plat of Riverview Addition, plus include in the 2010 authorization the terms and conditions of the 1994 Special Permit previously issued to Holy Family Memorial under 15.43(11); and (ii) recommend to Council approval of a CUP pursuant to Section 15.13(3)10. of the Code for the parking lot as an accessory use to a hospital in an "R-3" Single Family District,

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and subject to the conditions provided to the Commission. Mr. Less added that his recommendation included the listing of compliance conditions provided to the Commission which merged the 1994 actions into the proposed 2010 Special Permit and CUP.

Mr. Brey wanted to confirm that process of site plan review for this project.

Mr. Less stated that the project would require site plan review by a variety of City departments and MPU, and that it was entirely likely that there would be additional site plan compliance conditions identified in this process, in addition to those conditions being part of the CUP and Special Permit.

Mr. Brey stated that he felt the concerns of the neighborhood were likely related to the site screening issue.

Additional discussion was held.

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

V. REFERRALS FROM COMMON COUNCIL

A. PC38-2010: Manitowoc County; Property Foreclosures in the City of Manitowoc

Mr. Less explained that properties included in this current listing were moving through a foreclosure proceeding. Mr. Less stated that he didn't think there were any properties that the City would have interest in acquiring, and recommended that the Commission recommend to Council that no further action be taken on this matter.

Mr. Hornung stated that he was curious about the property at Memorial Drive and Lilac Drive.

Mr. Less commented that the property of interest to him was on Washington and So. 25th, but added that it was impacted by split zoning, and while interesting, it was not at a great enough level to pursue considering acquisition.

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Mr. Brey commented that he felt there was interest in the Washington Street property by other third parties.

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

- B. PC1-2010: Noskowiak Etal.; Quit Claim Deed to the City of Manitowoc for .12-Acres for So. 19th Street Purposes

Commission members reviewed the above referenced deed. Mr. Less recommended that the Commission recommend approval of the document to Council.

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. PC1-2010: Noskowiak; Quit Claim Deed to the City of Manitowoc for .22-Acres for So. 15th Street Purposes

Commission members reviewed the above referenced deed. Mr. Less recommended that the Commission recommend approval of the document to Council.

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.

- D. PC1-2010: Olson; Quit Claim Deed to the City of Manitowoc for .117-Acres for Edgewood Lane Purposes

Commission members reviewed the above referenced deed. Mr. Less recommended that the Commission recommend approval of the document to Council.

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.

VI. OLD BUSINESS

A. PC33-2010: First Presbyterian Church; Proposed Animated Sign at 502 N. 8th Street Pursuant to Section 15.45(18) of Manitowoc Municipal Code

_____ Mayor Nickels began by stating that the Commission at its previous meeting had granted approval for the animated sign, and that the revised drawing given to the Commission that evening was ultimately approved. Mayor Nickels added that when he learned that it was discovered after the July meeting that the sign still was not in compliance with the Municipal Code (Code), he asked Mr. Less to place the item on the Commission agenda for this evening. Mayor Nickels continued that he had been contacted by the Church, which expressed concern to him about the sign approval process. Mayor Nickels advised the Commission that Mr. Hornung was versed in this issue, as he had talked with him at a recent MPU Commission meeting. Mayor Nickels continued to give his explanation of the history of this issue, noting that the Church had filed their initial request with the City approximately one month prior to the July Commission meeting, and that on the day of the July Commission meeting, were advised that their proposed sign did not meet Code. Mayor Nickels added that the Church had the drawing revised, as they were now under the impression that the revision would meet Code, and were dismayed to find yet again on the next day, that it did not. Mayor Nickels commented that he felt the City dropped the ball on this matter, and recommended that the Commission grant the waiver at this time.

Mr. Less asked Mr. Muenzenmeyer if the animated sign Code allowed for the Commission to waive the 30 per cent regulation?

Mr. Muenzenmeyer commented that the animated sign review process which was shifted to the Commission several years ago, was done so as to provide a greater level and more objective review of these requests. Mr. Muenzenmeyer continued that regarding waiving the 30 per cent requirement, the Commission had done so in the past. Mr. Muenzenmeyer commented that the Commission had granted a waiver of the 30 per cent rule in the past, and cited the Lords and Ladies animated sign on So. 39th Street. Mr. Muenzenmeyer stated again that he believed the Commission was involved in this process to provide a greater level of objectivity, and did not feel rigidly interpreting this Code was part of the original thought in this process. Mr. Muenzenmeyer added that to be rigid in interpreting this Code for animated signs would be a negative.

Mr. Less commented that to be clear on what happened in this situation, the original application was sent to Planning from Building Inspection, and it wasn't until the day of the July Commission meeting that Mr. Less reviewed the application. Mr.

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Less noted that from his perspective, the presumption was that when an animated sign application was delivered to Planning, it had been reviewed by Building Inspection and was Code compliant and without deficiencies. Mr. Less explained that when he was given the new sign graphic at the last Commission meeting by Mr. Muenzenmeyer, the presumption was that the proposed sign met Code. Mr. Less stated that he felt Mr. Muenzenmeyer had been advised by others that the revised sign was compliant and was the basis for Mr. Muenzenmeyer's representation to the Commission, and then continued that while the revised sign met the 24sf requirement that was the initial reason for denial of the sign, it now met that requirement, but did not meet the 30 per cent threshold requirement. Mr. Less added that it was not until the day after the July meeting that he reviewed the revised sign information, and concluded that it was still not to Code. Mr. Less expressed his frustration with this process, and stated that he did not believe omissions of this type were a valid rationale for granting such an exception. Mr. Less continued that he was concerned with waiving the 30 per cent animated sign regulation in this case, particularly when the sign vendor had indicated in a recent e-mail that the original sign order had been placed on hold, with no financial impact to the Church, and that it was not a big deal to modify the drawing. Mr. Less added that he was not clear why reducing the animated portion of the sign would not be the preferred direction.

Mr. Less continued that the contention that the City dropped the ball in this matter was not correct. Mr. Less added that as there was a Code which was to be followed, the expectation was that both staff and vendors should be familiar with the Code. Mr. Less added that when development plans, whether animated signs, plats or the like, were submitted to the City, the presumption was that they were Code compliant, and that the intent was not for the City to have to review the details to assure Code compliance and to spot every flaw. Mr. Less continued that the submitting party had a responsibility to make sure their drawings met Code prior to being submitted.

Mr. Hornung commented that subdivision reviews often produced long laundry lists of compliance conditions, and that the City would approve a subdivision plat subject to those conditions. Mr. Hornung stated that Mr. Less reviewed these documents with a fine tooth comb, and added that he did not understand Mr. Less' argument in this case.

Mr. Less agreed with Mr. Hornung, but differentiated the current situation by again stating that the drawing that the Commission approved in July had not been seen or reviewed prior to the actual meeting. Mr. Less explained that the revised drawing given to him at the July Commission meeting was his first view of the drawing, so it would have been impossible for him to identify the deficiency at the Commission meeting. Mr. Less noted that while the revision met the 24sf total sign size requirement,

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it now was deficient in a different area, that being the 30 per cent animated sign requirement. Mr. Less stated that any commentary regarding dropping the ball was not appropriate.

Mr. Hornung added that applying the 30 per cent rule to the proposed 24sf Church sign would allow for an animated sign of 7.2sf, and questioned if this made sense for an animated sign of this size?

Mr. Muenzenmeyer commented that when the Code would be revised, he would encourage a larger/higher animated/non-animated sign threshold. Mr. Muenzenmeyer added that the current regulations encouraged going to larger overall sign sizes in order to maximize the size of the animated sign portion of the structure, and added that the current Code also precluded a stand alone animated sign. Mr. Muenzenmeyer added that these were unintended consequences of the animated sign code.

Mr. Less replied that the thought was that the City didn't want boxed or free standing animated signs as stand alone signs, but rather only when part of an integrated sign structure.

Mr. Hornung commented that the original animated sign ordinance was good at that time, but suggested it should be modified to reflect the knowledge gained by the Commission over the past few years in this area.

_____ Mr. Brey made a motion in favor of granting the exception.

_____ Mr. Muenzenmeyer recommended that the motion include a statement that the proposed sign would not promote visual clutter, would not have an adverse effect on nearby property, and would not create a safety hazard.

_____ Additional discussion was held.

Motion by: Mr. Brey _____ Seconded by: Mr. Alpert
Moved that: the Commission re-confirm _____ Upon Vote: the motion was
its previous approval of the proposed animated sign, waive the 30 per cent limitation on the size of the animated portion of the sign, and adopt the recommendation as stated above. approved unanimously.

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Mr. Muenzenmeyer explained that since the last Commission meeting, the review process for animated signs within the Building Inspection Department had been changed, so that there would now be 2 people reviewing these applications, and he would have to sign off on an application before it would be advanced to Planning.

Mr. Brey commented that he felt the sign company had some responsibility in this matter as well, as they should have known the sign Code before filing the proposed sign application as well as the revision with the City.

- B. PC49-2006: LVR Properties, LLC/Larry's Hauling, Inc; Request for Extension of 2006 Conditional Use Permit (CUP) Under Section 15.35(3)26. for Operation of a Recycling Facility at 901 So. 17th Street - Annual Compliance Review _

Mr. Less explained that this was a 2006 CUP, and reminded Commission members that in the past, there had been garbage complaints brought forward. Mr. Less advised that he had sent a copy of the meeting agenda to a nearby property owner that had been present in the past as a complainant, Nora Rodriguez, 1011 So. 16th, and to Kory Brockman at Wisconsin Aluminum Foundry, and had not received any feedback regarding the compliance review. Mr. Less added that file reviews by Building Inspection and the Police Department did not produce any complaints over this past year.

Mr. Diedrich stated that he drove through this area almost daily, and did not see evidence of any problems.

Mr. Brey echoed Mr. Diedrich's commentary.

Mr. Muenzenmeyer commented that they had inspected the facility in June, and did not identify any problems with the LVR operation.

Mr. Less recommended to the Commission that they recommend to Council that the CUP not be modified, amended or revoked.

Mr. Brey explained that one neighbor in the area had complained about rodents since the opening of the LVR operation, but he didn't know if that might be related to the condition at 1512 Washington.

Mr. Muenzenmeyer added that when that same constituent contacted his office, it turned out to be a problem within her dwelling.

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Motion by: Mr. Hornung _____ Seconded by: Mr. Brey
Moved that: the Commission recommend _____ Upon Vote: the motion was
Council acceptance of the Planner's recom- approved unanimously.
mendation above.

- C. PC43-2009: Spencer's Total Auto Repair & Towing LLC/Kerschler & Bucha /Ruzek, Inc.; Request for a Conditional Use Permit (CUP) Under Section 15.27(3)1. for a Wrecker Service Business as Part of Ruzek's, Inc. Vehicle Repair Business at 734 N. 8th - Annual Compliance Review

_____ Mr. Less explained that this was probably the most interesting of tonight's compliance reviews. Mr. Less noted that tonight's meeting agenda had been sent to Angela Radaj, Mr. Ruzek as well as his legal counsel, and Pat Dewane. Mr. Less also made reference to a letter from Mike and Karen Cisler, 735 N. 8th that he had received and forwarded by e-mail to Commission members on August 9th. Mr. Less continued that reviews by Building Inspection and the Police Department did not produce any complaints over this past year for this operation. Mr. Less did note that in the attachment provided to the Commission, he had included various communications from the Cisler's which included photos of problems with the Radaj operation, and noted a history of concerns in the neighborhood. Mr. Less summarized the August 9th letter from the Cisler's, and stated that there were likely several layers of issues going on in this area. Mr. Less reviewed suggestions in the Cisler letter for additional compliance conditions to the CUP.

Mr. Diedrich noted that the attachment packet included a March 8th letter from Mr. Muenzenmeyer to Mr. Radaj regarding the storage of wrecked vehicles on the property.

Mr. Muenzenmeyer commented that they had been contacted on several occasions by the Cisler's, and after looking back in his file as far as it went, found a long history of complaints, even before Mr. Ruzek owned the property. Mr. Muenzenmeyer continued that he had visited this property on several occasions, and gave the owner a warning letter, and felt that since delivery of the warning letter, the owner had progressed by bringing the operation into compliance with the terms of the CUP. Mr. Muenzenmeyer added that the photos provided to him by the Cisler's were not enough to issue a citation, and noted further that he was worried about the CUP being more restrictive than the current zoning, and noted that the current zoning would allow Mr. Radaj to change a headlight or tire outside of his building, but the CUP did not. Mr. Muenzenmeyer stated that he felt the CUP was originally required because of the proposed towing service. Mr. Muenzenmeyer continued that he had not observed too

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many junked vehicles on the property as were allowed in the CUP, and added that insurance adjusters couldn't work within the 5 day period allowed. Mr. Muenzenmeyer noted that the junked cars were no longer an issue, but felt the Cilser's were more concerned with the appearance of the property. Mr. Muenzenmeyer added that he had visited the site more than 12 times, and hadn't found any CUP violations since the delivery of his March 8th letter.

Dwayne Radaj, 1615 Madison, invited the Commission to look at copies of letters from customers and vendors to attest to the quality of his business. Mr. Radaj commented that the CUP was restrictive, and that they would continue to serve their customers. Mr. Radaj continued that the Cisler's had problems with cars parked in his parking lot. Mr. Radaj continued that he was working on putting up a gate to cloak the used tires so that they would no longer be an eyesore. Mr. Radaj noted that other businesses in the City doing auto repair had tires stored outside, and noted that with his business, he did not want to be put into a situation where he would have to make customers wait (ie. fixing a flat tire).

Mike Cisler, 735 N. 8th, stated that he was concerned with the appearance of the property, adding that the tires and garbage were not little matters. Mr. Cisler continued that he felt storage for 70-90 tires seemed excessive, and did not want this property to become a parking lot. Mr. Cisler added that 2-3 vehicles as well as a boat, had been on-site for several months at a time, and in the winter, cars on the lot were simply plowed around. Mr. Cisler concluded the appearance of this property had an impact on his property value, and again stated that he did not want to see this property turned into a parking lot.

Mayor Nickels asked what the restrictions were regarding vehicles remaining on-site?

Mr. Muenzenmeyer commented that regarding the issue of an operable vs. inoperable vehicle, if it could be driven, it was considered operable and they were not considered junk.

Mr. Radaj explained that many of these cars were registered, and were having extensive repairs done, but noted that the ordering of parts sometimes took time as parts were not always readily available.

Mayor Nickels summarized what he had been hearing, that the operation had been improving since receipt of the warning letter, but that there were still concerns with

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the Cisler's regarding overall site appearance and potential impacts upon their property values.

Mr. Muenzenmeyer noted that outside storage, as well as major auto repair were issues as they were not traditionally allowed in this zoning district. Mr. Muenzenmeyer again commented on the restrictive nature of this CUP, as this zoning district would allow for minor auto repair.

Mr. Brey asked what level of repairs could be done at the site?

Mr. Muenzenmeyer stated that the CUP was limited to minor auto work to be done within the building, and added that changing a headlight, for example, could not be done outside of the building and still be in compliance with the CUP.

Mr. Cisler responded that he would not have a problem if work was done on the vehicles inside the building.

Mr. Muenzenmeyer replied that the City had to follow the code.

Lawrence Hansen, 809 Huron, stated that he was an adjacent property owner, and felt that Mr. Radaj was a very good neighbor.

John Ruzek, 3202 Pheasant Lane, stated that he felt Mr. Radaj was doing a wonderful job, and added that there had always been one person complaining over time about the business operation at this site. Mr. Ruzek added that Mr. Radaj should be able to change a tire outside of the building if he wanted, and if he was busy with other vehicles in the garage.

Mr. Muenzenmeyer commented that the current operation was a great improvement over the past.

Mr. Alpert commented that there were 23 support letters provided by Mr. Radaj, and felt this was impressive.

Mr. Muenzenmeyer commented that some of these letters were from adjacent neighbors.

Mr. Less stated that the options for the Commission were to forward a recommendation of compliance to the Council, or to consider amending the CUP to add in the proposed Cisler suggestions.

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Motion by: Mr. Brey _____ Seconded by: Mr. Alpert
Moved that: the Commission recommend _____ Upon Vote: the motion was
Council approval to continue the CUP on _____ approved unanimously.
the same terms and conditions as were
presently in place.

_____ Mr. Muenzenmeyer commented about the need to be less restrictive in this CUP regarding minor automobile work.

Mr. Less stated that he would be careful about relaxing anything in the CUP at this time, as the Municipal Code (Code) did not provide definitions of “minor” and “major” auto repair work, and that was why the presumed definition of minor auto repair work was included in the original CUP. Mr. Less added that a future series of proposed changes to Chapter 15 would include definitions of those terms, but as of now, they were not in place, and felt that the CUP should not be modified until changes to Chapter 15 had been approved and in place.

Mr. Muenzenmeyer commented that the reason for the CUP was the towing operation, and if Mr. Radaj chose to eliminate that portion of his business, there wouldn't be a need for a CUP.

Mr. Less explained that the CUP represented a balancing act for the City in terms of the needs and wants of the business vs. the protection of the neighborhood, and noted under that scenario and in the absence of a CUP that explicitly defined the owner's ability to do minor auto repair at this site, the extent of the permitted activities at the property would default to the underlying zoning district regulations which in this case, allow an “automobile service station”. Mr. Less continued that this would then require an interpretation regarding what this term allowed and didn't allow under that definition, in light of the absence of specific, detailed definitions for minor and major auto repairs in the Code at present.

Mr. Hornung stated that after Mr. Muenzenmeyer's discussion of the appearance issue, the Commission might be open in the future to discuss the outside storage and “minor” auto repairs in the future.

- D. PC45-2009: Voigt/Myrik Properties, LLC; Request for a Conditional Use Permit (CUP) Under Section 15.29(3)1. for Operation of a Tattoo and Body Piercing Business at 904 So. 8th Street - Annual Compliance Review

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_____ Mr. Less noted that compared to the last discussion, this matter would be simple. Mr. Less stated that a file review by both Building Inspection and Police Departments did not produce any complaints over this past year for this operation. Mr. Less recommended to the Commission that they recommend to Council that the CUP not be modified, amended or revoked.

Motion by: Mr. Hornung _____ Seconded by: Mr. Brey
Moved that: the Commission recommend _____ Upon Vote: the motion was Council acceptance of the Planner's recom- approved unanimously.
mendation above.

VII. NEW BUSINESS

A. PC39-2010: Heritage Real Estate; Request for City to Acquire Certain Properties in Downtown Manitowoc

Mr. Brey stated that the Public Property and Safety Committee had this request in their file and would not be taking any further action on the matter.

Mr. Less advised that the Commission should also go on record stating that while this matter had not been formally referred to it by the Council, it wanted to share its opinion with the Council that it had no interest in moving forward towards acquiring these properties, and recommended that the Commission recommend to Council that no further action be taken regarding these properties.

Motion by: Mr. Muenzenmeyer _____ Seconded by: Mr. Alpert
Moved that: the Commission recommend _____ Upon Vote: the motion was acceptance of the Planner's recommen- approved unanimously.
dation above.

B. PC35-2010: Bugarino; Review Boundary Survey for 602 N. Water Street, and Consideration of Concept for Pedestrian Walkway at N. Water Street to Manitowoc River

Mr. Less explained that there was no action to be taken this evening, and that this was more of a general discussion of a contemplated project by Tony Bugarino. Mr. Less advised that Mr. Bugarino had recently acquired title to the property where the Tower Tavern was located on N. Water Street at Park Street. Mr. Less explained that Mr. Bugarino was in the process of having a boundary survey done at the property, so as to determine if there were any R/W overlap issues that would require the City to issue a

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“Sidewalk Privilege Agreement” (SPA). Mr. Less continued that Mr. Burgarino’s long range plan was to renovate the property, and to develop a pathway down the hillside and across City-owned property, to moor his boat at the river. Mr. Less explained that this was an Erosion Hazard Area (EHA) which would require consideration and approval by the Commission in the future.

Tony Burgarino, 4240 Springhill Drive, explained that his plan was to put a restaurant and bar at this location, and added that the living quarters were being renovated, and 2 garages on-site had already been removed. Mr. Burgarino continued that he met with Mr. Muenzenmeyer last week, who felt a portion of the building might be on City R/W, and noted that Colin Rayford was in the process of preparing a boundary survey to determine if there was any overlap, but that the work had not yet been completed. Mr. Burgarino noted that SMI would be asked to draw up plans regarding dealing with the hillside and EHA. Mr. Burgarino noted that the issue of traversing the hillside was not a priority at this time, and noted that Park Street was not a plowed street.

Ms. Mellon stated that she did not know if it was plowed or not.

Mr. Burgarino noted that the prior owner of the property had told him that she had the street plowed, and that his plan was for a quick, turnaround restaurant that would be a burger and drink establishment, with customers in and out in 15 minutes. Mr. Burgarino asked if the Commission would start the SPA process this evening?

Mr. Less stated the SPA process couldn’t begin until the boundary survey was completed to see what the nature of the overlap, if any, would be. Mr. Less continued that the discussion and process for the SPA was separate and distinct from the discussion regarding the EHA.

Mr. Diedrich asked who had jurisdiction regarding development of an EHA?

This question began a discussion regarding whether the hillside area would be the Department of Natural Resources (DNR) or Corps of Engineer (COE) jurisdiction. Mr. Less advised that he felt the City would have jurisdiction of the hillside, and explained an indemnification agreement that would be required as part of any private improvement authorized on the hillside. Mr. Less continued that the issue could change depending on whether or not improvements were made into the river beyond the bulkhead, and could become a DNR permit issue.

Mr. Diedrich asked if this was a DNR or COE issue?

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Mr. Brey stated he felt it was a COE issue, and referenced a bridge at Silver Creek Park.

Ms. Mellon stated that she felt it was the COE.

Mr. Burgarino explained that he had sent pictures to Mr. Less taken from his jet skis, and noted that there would be a substantial amount of work required in this hillside area.

Mr. Braun commented that this would be COE jurisdiction up to the 21st Street bridge.

Mr. Burgarino noted that someone had installed sheet piling along this portion of the river, and that the Park Street hillside was just to the north of where the sheeting ended. Mr. Burgarino added that if he purchased the property to the south, it might be an easier pathway down to the river. Mr. Burgarino asked if he would need the City's approval to cut down trees on the hillside?

Mr. Muenzenmeyer stated that he would need the City's approval before he could cut down any trees on the hillside. Mr. Muenzenmeyer continued that the reason for the boundary survey was to determine if the building extended into the public R/W, making it a legal, nonconforming structure, as these nonconforming uses could not be expanded or structurally altered under WI law.

Additional discussion was held. No action was taken. This matter would be kept on the September agenda for further discussion.

C. PC40-2010: Review of Evergreen Cemetery Expansion - Section "X", Pursuant to §62.23(5)

Mr. Less explained that cemetery plats were not regulated under Chapter 21 of the City's Municipal Code, and as such, tonight's review would be pursuant to §62.23(5) Wis. Stats. Mr. Less reviewed proposed plat with the Commission.

Motion by: Ms. Mellon _____ Seconded by: Mr. Muenzenmeyer
Moved that: the Commission recommend _____ Upon Vote: the motion was
acceptance of the Planner's recommen- approved unanimously.
dation above.

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D. PC41-2010/PC51-2008/PC30-79: City of Manitowoc; Discussion of Potential Official Map Amendment and Comprehensive Zoning Map Amendment Regarding Erosion Hazard Areas

Mr. Less provided Commission members with various handouts, and explained that there were discrepancies regarding Erosion Hazard Areas (EHA) as described on the City's comprehensive zoning map and Official Map. Mr. Less asked the Commission to review these discrepancies and that at the September meeting, a more detailed discussion would be held regarding proceeding to zoning and Official Map mapping amendments so that both maps had the same mapped EHA's.

Mr. Muenzenmeyer asked if additional steep sloped areas could be added into this mapping process, and cited Springhill Drive as an example?

Mr. Less stated "yes", and asked Mr. Muenzenmeyer to work with Ms. Werdermann to identify these additional changes he would like to see made.

No action was taken.

E. Review Planning Department Proposed 2011 Budget

_____ Mr. Less reviewed the proposed 2011 department budget, noting that the numbers were still preliminary. Mr. Less examined the various exhibits he provided, which detailed GIS, licensing, training and other larger expenditures planned for 2011.

Mayor Nickels asked Mr. Less if all website charges had been removed from his proposed budget?

Mr. Less replied that he had a \$1,500 line for any unanticipated web changes or maintenance that might be required.

Mr. Muenzenmeyer asked about a budget item related to the City-owned animated marketing sign on the west side of I-43, and questioned if this was related to problems or general maintenance?

Mr. Less replied that this proposed capital investment was for replacing some of the sign panels which were dimming.

Mr. Braun elaborated on this point, stating that the replacement of these panels would be a temporary fix vs. replacing the entire sign at a significantly higher cost.

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Motion by: Mr. Diedrich _____ Seconded by: Mr. Hornung
Moved that: the Commission recommend that _____ Upon Vote: the motion was
the 2011 Department Budget be forwarded for inclusion in the Mayor's Executive Budget. approved. Mr. Brey abstained.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. PC13-2010: City of Manitowoc; Consideration of Tax Incremental Financing (TIF) Activities Regarding TIF District #16 (Boundary and Text Amendment), and TIF Districts #7, 9 and 10 (Boundary Amendment).

Mr. Less commented that the Commission had been sent draft minutes of the TIF Joint Review Board meeting held on August 10th, and thanked the Commission for their strong support in this area. No action was taken.

B. Certified Survey Maps (CSM):

1. Fabian/Petri; CSM in the NE¹/₄ of NE ¹/₄ Sec. 7, T.18N., R.24E., Town of Manitowoc

_____ Mr. Braun explained a proposed CSM located to the west of So. 10th Street (CTH "LS"), south of Silver Creek Road, and north of Pheasant Drive. Mr. Braun stated that there were 2 lots at issue, and the current owner's mother owned her home located on her daughter's property. Mr. Braun noted that the new home would be constructed on proposed TR1. Mr. Braun continued that the lots were being re-configured to put the mother's home on her property, and to separate her mother's home site from the larger parcel. Mr. Braun noted that a 90' Official Map R/W for So. 10th Street would be identified on the CSM, as well as a driveway easement across the southerly tract which provided access to the northern parcel. Mr. Braun recommended approval.

Motion by: Mr. Diedrich _____ Seconded by: Mr. Hornung
Moved that: Commission approve the _____ Upon Vote: the motion was
CSM as presented, subject to required easements, petitions, and other conditions approved unanimously.
as specified above.

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2. Priority 1AC Inc/Bruenig; CSM in NE¼ of SE¼ Sec. 2, T.18N., R.23E., Town of Newton

Mr. Braun explained a proposed CSM for property located north of Silver Creek Road, and west of CTH “CR”. Mr. Braun noted that buildings on the tract were being taken down, and that a new warehouse would be constructed at the southwest end of the tract. Mr. Braun explained that a 50' wide strip of land would be added to the CSM on the west side of the parcel. Mr. Braun also noted that there was a need to modify an existing ingress/egress easement to reflect changes in the grantor and grantee names. Mr. Braun recommended approval.

<u>Motion by:</u> Mr. Hornung	<u>Seconded by:</u> Mr. Alpert
<u>Moved that:</u> Commission approve the CSM as presented, subject to required easements, petitions, and other conditions as specified above.	<u>Upon Vote:</u> the motion was approved unanimously.

3. Wetenkamp; CSM in NW¼ of NW¼ Sec. 17, T.18N., R.23E., Town of Newton

Mr. Braun explained that this was a CSM located south of English Lake and east of So. Union Road, between Wehausen Road and Carstens Lake Road. Mr. Braun advised that this parcel was located near the terminus of the City’s 3-mile extraterritorial jurisdiction, and that the owner wanted to split off the existing home and garage from the abutting farm land. Mr. Braun noted that the existing home would remain with the farm. Mr. Braun identified the Official Map R/W’s and easements that would have to be identified on the CSM. Mr. Braun recommended approval.

<u>Motion by:</u> Mr. Hornung	<u>Seconded by:</u> Mr. Brey
<u>Moved that:</u> Commission approve the CSM as presented, subject to required easements, petitions, and other conditions as specified above.	<u>Upon Vote:</u> the motion was approved unanimously.

4. Welnetz/Matthias; CSM in Gov’t Lot 5 Sec. 15, T.19N., R.23E., Town of Manitowoc Rapids

Mr. Braun explained a proposed CSM located north of CTH “JJ” and west of N. Union Road. Mr. Braun detailed that there were 4 CSM tracts abutting Gemstone Court, and that Mr. Welnetz wanted to split the existing 2.04-acre CSM tract that was created

