



City of Manitowoc

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

Meeting Minutes

Plan Commission

Wednesday, July 14, 2021

5:30 PM

Council Chambers. Meeting also available via
Zoom remote conferencing software.

Special Meeting

I. CALL TO ORDER

The Meeting of the City Plan Commission was called to order by Chairman J. Nickels at 5:30PM.

II. ROLL CALL

Present: 6 - Mayor Nickels, Dan Koski, Greg Jagemann, Jim Brey, Daniel Hornung and Dennis Steinbrenner

Absent: 2 - Curtis Hall and Dave Diedrich

Staff Present: Paul Braun, Adam Tegen, Jen Bartz

Others Present: Harold Kempfert, Robert Blattler, Janice Krueger, Gary Underwood, Terry Bosch, Autumn Bosch, Chris Gilbert, Michael Wellner, Ald. Todd Reckelberg, Nate Hochmuth, Mary Hochmuth, Rose Ann Kuehne, Linda Kempfert, Jon Swanson

V. OLD BUSINESS

[21-0498](#)

PC 18-2021: Connection Church; Request for a Conditional Use Permit pursuant to 15.110(3) a for the establishment of a Church and Gym/Community Center located at 1455 N Rapids Road

Chairman J. Nickels provided information on the process and next steps, and specifically noted that the meeting is to focus on what has happened since the last Plan Commission meeting. The Plan Commission will send a Conditional Use Permit (CUP) recommendation back to Council for their final determination. He stated that he verified with the City Attorney the process for the recommendation and shared that discussion with the Plan Commission members.

P. Braun stated that the new information was highlighted in red in the Plan Commission report. He reviewed that there is no CUP on file for the existing church, so it is classified as a legal non-conforming use; it can remain in operation as a non-conforming use but it cannot be expanded, enlarged, extended, reconstructed, moved or structurally altered. The CUP request is for both the existing church and the proposed Multi-purpose building.

P. Braun went on to review what occurred at the May meeting and stated that three new conditions were added per a Plan Commission recommendation from the June meeting:

1. When the facility is in use, the doors shall remain closed.
2. Storm water, related to the new building, shall be addressed during the site plan submittal process.
3. Per the submitted application, the area labeled Court #5, which is an exterior pickle ball court surface shall not be permitted.

P. Braun stated that the City was made aware by the neighbors that a meeting was held July 10 with three alders and a select number of neighbors being invited. He was told that four options were provided and that no consensus was reached.

Chairman J. Nickels opened the meeting to the Commission for discussion.

Ald. J. Brey stated that it sounded like there were good options presented by Connection Church at the neighborhood meeting held the weekend prior.

Ald. J. Brey made a motion to approve the conditional use permit with the original staff-recommended conditions, the three additional conditions, and with the location of the building being option "B". Seconded by D. Koski.

D. Hornung stated that he read more into state law ACT 67 and the restrictions it creates placing conditions on conditional use permits. While he said he agrees with the recommendation, he is unsure if it conforms to the law.

P. Braun stated that the applicant has to agree to all conditions and said that he has not asked if option B location is something they would consider.

Discussion ensued among Commissioners regarding adding option B as a condition. The hope is that the applicant will work with the neighborhood and that option B does not become a condition.

Chairman J. Nickels asked if applicant, C.Gilbert, publicly agrees.

C. Gilbert stated that at the Council meeting, the City Attorney stated is that it is not legal to make location of a building on the property a condition. While he agreed that option B is the best long-term option for the church, he cannot spend more on the project without church board approval.

Conversation ensued among Commissioners about the inability to add conditions to CUPs and the limitations and impact made by the state legislature decision.

D. Steinbrenner stated that there are no other options as there are no substantial facts to deny according to Act 67. While happy with options presented, he questioned if there are more options to consider.

G. Jagemann stated that substantial evidence needs to be in the official record to deny. He went on to say that after review of the City Attorney letter, the support can only be for approval as the Plan Commission needs to follow the rules and statutes.

Chairman J. Nickels stated that adding the location as a condition would be a sticking point by letter of law. The three additional conditions do not appear to be something that could be challenged. He asked P. Braun if there are other issues he is aware of.

P. Braun said that based on his discussions with the applicant, there were no issues with three added conditions.

G. Jagemann clarified condition D and opening the doors. He asked if it can further be stated that the doors must be closed when pickleball is in use.

G. Jagemann made a motion to amend J. Brey's motion to change condition D to read "when pickleball and any pickleball-related activities are in use, the doors must remain closed." Seconded by Ald. J. Brey.

Discussion ensued about the motion and clarification to ensure that the language reads that doors being closed during any pickleball activities such as play, practice, games, etc.

Chairman J. Nickels clarified that this motion pertains to original motion as amended for condition D only.

All Commissioners were in favor of the amended motion clarifying condition D.

G. Jagemann questioned if it is legal to include option B the proposed structure location as a condition. Based on input from City Attorney, it is likely not legal.

G. Jagemann made a motion to amend original motion and remove option B from the conditions. Seconded by D. Hornung.

Chairman J. Nickels stated that with the applicant's community meeting, four proposals, and statement that option B is a good option, Plan Commission should trust that option B is how the church would proceed. He agreed that legally including option B as a condition is not legal. He said he supports the original motion as amended.

Conversation ensued among Commissioners about option B as a condition.

Chairman J. Nickels stated that, as elected officials, all are tasked with what is the law for personal property rights. The law does not dictate that all neighbors must agree, but the Plan Commission is here to try to find common ground. He stated that the law says location is not legal and the Plan Commission is here to make a decision based off a state law.

Chairman J. Nickels restated the motion on the floor is to approve the Conditional Use Permit, but to remove option B as a condition, and add the three new conditions, with condition D as amended.

Nickels, Hornung, Steinbrenner, Jagemann, Koski - AYE
Brey - NAY

Chairman J. Nickels stated that the motion now is to approve the conditional use permit with three new conditions and condition D as amended.

Chairman J. Nickels asked if the language stating that the City encourages the applicant to listen and consider neighborhood input could be included. P. Braun stated that the suggestion could be stated in the minutes.

Chairman J. Nickels stated that the CUP is being issued for a new building and questioned if the City has any legal authority if applicant does not follow conditions. The City can revoke the permit, but the building is still there.

D. Hornung stated that the building still needs to go through site plan review and it must be approved.

Chairman J. Nickels shared an example as what is the recourse if they do not follow time for play condition. The City can revoke the CUP, but what about the use of the building.

P. Braun stated that Chapter 15 does have citation powers, which occurs through Building Inspection.

G. Jagemann clarified that the entire church would not be shut down if the conditional use permit would ever be revoked and he referred to Police Chief's comments related to noise concerns.

Chairman J. Nickels restated that the motion is to approve the Conditional Use Permit with three new conditions and condition D as amended.

Moved by Jagemann, seconded by Hornung, that the Conditional Use Permit with Condition D amended be approved and referred to council. The motion carried by the following vote:

Aye: 6 - Mayor Nickels, Member Koski, Member Jagemann, Brey, Member Hornung and Steinbrenner

VIII. ADJOURNMENT

Moved by Koski, seconded by Jagemann, that this meeting be adjourned at 6:12 PM. The motion carried by the following vote:

Aye: 6 - Mayor Nickels, Member Koski, Member Jagemann, Brey, Member Hornung and Steinbrenner

Respectfully Submitted,

Paul Braun
Secretary

CAUTION TO PLAN COMMISSIONERS: The documents attached to this agenda are for your review in preparation for the City Plan Commission meeting to be held on the above date. Any discussion or communication between members of the Plan Commission by any means prior to the Commission meeting regarding these documents may be a violation of the open meeting laws.