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CITY OF
MANITOWOC

David Less
City Planner

May 19, 2014

To: Mayor and Common Council

From: Manitowoc City Plan Commission

Subject: PC23-2013: Manitowoc Lutheran High School; Request to Rezone a Portion of Property at 4045 Lancer Circle from "R-2" Single-Family District to "I-1" Light Industrial District for a Future Telecommunication Facility Pursuant to Section 15.330 of the Manitowoc Municipal Code

Dear Mayor and Common Council:



OFFICE OF CITY PLANNING,
CITY PLAN COMMISSION

At the regular May 14, 2014 meeting of the Manitowoc City Plan Commission, the Commission held a public informational hearing regarding a request from The Manitowoc Lutheran High School Federation, Inc. (MLHS), as owner, and Shane Begley, as agent for AT&T, as tenant. Together, they are requesting that the City rezone an 80' x 100' area of the MLHS property from its current "R-2" Single-Family District to "I-1" Light Industrial District, as a first step towards authorizing the construction of a new telecommunication tower, that will ultimately require a Conditional Use Permit (CUP) pursuant to Section 15.330(4)(c) of the Manitowoc Municipal Code (Code). While schools are conditionally permitted in the "R-2" zoning district, the placement of a telecommunication tower requires an industrial zoning, and subsequent authorization by issuance of a CUP.

The Commission notes that the project comprises the raw land construction of a 130' tall, monopole telecommunication tower and support equipment to be placed within a 60' x 80' fenced compound, within an 80' x 100' lease area. The lease area is the area proposed for rezoning, and is identified on the attached map. In addition to the proposed rezoning area, a 30' wide access easement will run approximately 300' between the tower compound and an existing parking lot on the property, and a separate 10' wide utility easement will run approximately 350' north-south between the tower compound and the right-of-way along Waldo Boulevard, where buried electric and telecom utilities will be sourced. In addition to a monopole tower centered in the lease area, this area will also include an 11'5" x 28' AT&T equipment shelter. The lease area will be accessed from a gate on its west side, and an 8' high steel fence will surround the 4 sides of the compound. Landscaping outside of the compound is proposed to be in the form of arbor



vitaes, and will be located on the north, east and west sides. A 9' high cedar privacy fence will be located along the south side of the lease area, but outside of the compound.

MLHS has entered into an Option and Lease Agreement with New Cingular Wireless PCS, which is formerly known as AT&T Mobility, and is a wholly owned subsidiary of AT&T, Inc. The effective date of the lease is March 26, 2014, and it details the terms and conditions for usage of the 80' x 100' lease area, as well as grants the referenced easements. The tenant has indicated that the new tower will provide better cellular coverage for this area with an impact radius of approximately 1.3-miles.

There were 2 other issues that filtered into the Commission's discussion of this request: (i) the matter of whether or not this proposal constituted a spot zone; and (ii) Wisconsin's telecommunication siting law under Wis. Stat. § 66.0404. As to the spot zoning question, the conclusion of the Commission was that this was not a spot zone, as the rezoning and the subsequent telecommunication tower would meet a public purpose and benefit. Additionally, the Commission felt that the location of the proposed rezoning area was compatible with surrounding land uses, would not disturb the tenor of, or harm neighboring properties, and was being done consistent with State priorities.

As to the State's new "Mobile Tower Siting Regulations" law under Wis. Stat. § 66.0404, the Commission notes that this new law is the State's effort to create a standardized regulatory framework pertaining to telecommunication facilities. The law provides a 90-day period for a community to review a completed application. Admittedly, the new law has had the impact of altering local authority to regulate cell tower siting, and imposes limits on the manner and extent to which a community can use its zoning authority to regulate the siting and modification of mobile service facilities. The new law states that if a political subdivision has in effect on July 2, 2013 an ordinance that applies to new mobile service support structures and facilities, or the substantial modification of an existing structure and mobile service facilities, then a community can rely upon its local ordinance, but only to the extent that it is not inconsistent with the State law (66.0404(2)1.). If the local ordinance is inconsistent, it does not apply and can't be enforced. Thus, 66.0404 severely limits the ability of a community to use its zoning authority to regulate cell towers, and only if the zoning ordinance doesn't violate the parameters set forth in the new law.


In closing, the Commission notes that notices of the informational hearing were mailed from Planning on May 7th to property owners within 200' of the proposed rezoning area. There were no comments received in response to that mailing, and no opposition present at the informational hearing.

The Commission recommended by a vote of 7-1 that the Council: (i) instruct the Clerk to call for a public hearing to be scheduled for June 16th; and (ii) approve the zone change upon completion of the public hearing.

Finally, the Commission further recommends that Council, by adoption of this report, waive the requirement for following the procedure under Section 15.370(27) of the Code for this project, due to the duplicitous nature of that proceeding vs. the information proved at the current rezoning proceeding. Further, as the CUP process and the information presented would be a redundancy as a result of the State's new "Mobile Tower Siting Regulations" law under Wis. Stat. § 66.0404, and restrictions imposed therein, the Commission is of the opinion that there was no need to pursue a separate proceeding for a CUP. The Commission notes that under the CUP proceeding, the general public receiving the notice of the informational hearing, the information provided at the May 14th informational hearing, along with the detail presented regarding the application for the new telecommunication tower, would be identical, and redundant. The Commission notes further that commentary regarding how the CUP would be handled, and the subsequent recommendation contained in this report, were fully disclosed at the informational hearing.

The Commission notes that it will be filing a separate report regarding the CUP, in which it will recommend approval and issuance of a CUP to MLHS pursuant to Section 15.330(4)(c) of the Manitowoc Municipal Code, with the Council's action to occur at the subsequent meeting of the Council, after it adopts the ordinance to rezone the property.

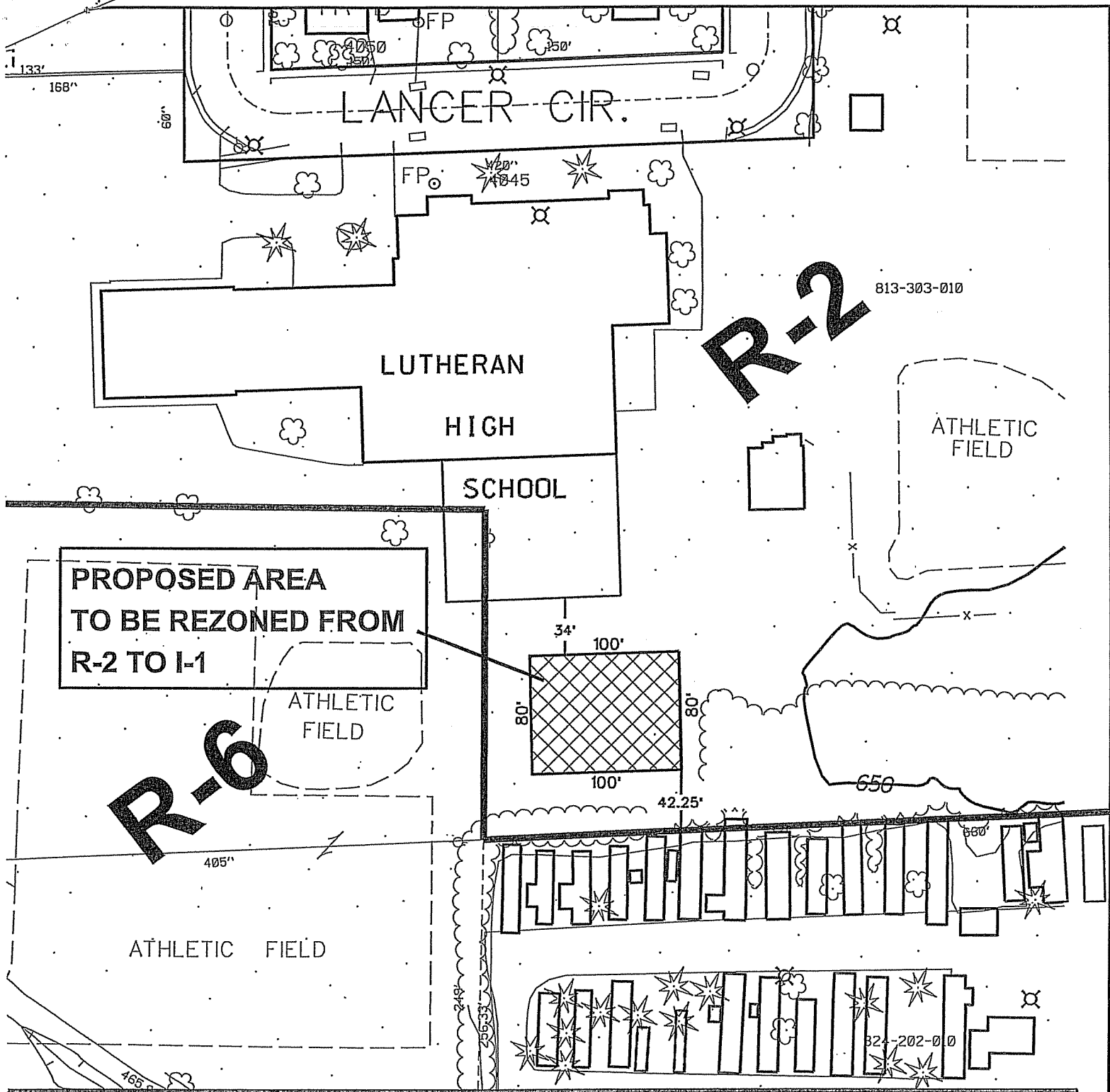
Respectfully Submitted,



David Less
City Planner

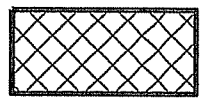
Attachments

Re: Granicus #14-946



CHANGE IN ZONING

CITY OF MANITOWOC, WI



**TO BE REZONED FROM "R-2"
SINGLE FAMILY RESIDENTIAL
TO "I-1" LIGHT INDUSTRIAL**

