

## Report to the Manitowoc Plan Commission

**Meeting Date:** January 22, 2020

**Report Print Date:** January 16, 2020; 3:50 PM

**Request:** PC 5 – 2020: Knutson, 2020 Dufek Drive: Request for a Conditional Use Permit for an Open Sales Lot Pursuant to 15.270(3)g

**Reason for Request:** Pursuant to 15.270(3)g Open Sales Lots in a B-3 General Business Zoning District require the issuance of a Conditional Use Permit. In 2017, a CUP was issued for the Open Sales of sheds and vehicles; per those conditions the CUP was to terminate in January 2020 and the owners would be required to re-apply.

**Existing Land Use for Subject Property:** Currently a vacant gravel and grass lot. The property formerly was the location of vehicle repair business.

**Existing Zoning for Subject Property:** B-3 General Business

### **Surrounding Property Land Uses and Zoning**

<b>Direction</b>	<b>Existing Land Use</b>	<b>Existing Zoning</b>
North, East, South West		B-3 General Business
West	Residential	
North	Restaurant / Industrial Park	
East	Commercial / Business (Menards)	
South	Residential / Vacant	

**Comprehensive Plan:** The Future Land Use Map indicates the property as being “General Business” which states that uses typically located in the B-2, B-3 and C-1 zoning districts would be consistent with the “General Business” classification.

#### Consistency Analysis

Conditional Use Permits do not have to be “consistent” with a communities’ comprehensive plan, although the Future Land Use Map does show the location to be General Business which would make the proposed use consistent.

#### **Report:**

In 2017, Carl Knutson and Tim Terp were issued a CUP for the operation of an Open Sales Lot located at 2020 Dufek Drive (parcel # 835-203-060). One of the conditions of the CUP was that it would automatically terminate on January 1, 2020. The intent of the condition was to encourage the owners to redevelop the property for a higher and better use but temporarily provided them with an interim use.

In September, of 2019 Tim Terp transferred his half interest in the property to Nicholas Knutson who is the son of Carl Knutson.

Carl & Nicholas Knutson are requesting another issuance of a Conditional Use Permit for the Open Sales Lot and are in agreement to follow the conditions of the previously issued permit. The Knutson's are planning to erect a drive thru coffee shop in 2020; they are planning to submit plans and specs in the next few months.

Carl Knutson has owned the subject property since 2007 at which time a barn was removed. In 2008, they began renting space to individuals for the sale of their vehicles. Around 2015, storage sheds started to be sold off the property which triggered some complaints and it was discovered that the property did not have a conditional use permit.

Over the past year Community Development staff has driven past the location and no violations to the CUP were noticed. The CUP permits up to 8 sheds and 5 vehicles to be sold at a time on the site. The CUP also requires setbacks from the west and north property lines in addition to a 100' x 70' vision triangle. The hours for the open sales lot will be from 7:00am to 7:00 pm Monday thru Sunday.

Site Assessment The property is 0.396 acres or 17,250 s.f. in size and measures 156' along Dufek Drive, 163' along the north property line, 136' +/- along the west property line and 89' along the south property line. The property was the former location of an automobile service station (Don's Auto?). There are approximately 13,000 vehicles that view the location each day, so the long term highest and best use for the property is not an open sales lot. It is assumed that the market demand of the lot will encourage a higher and better use that involves the redevelopment of the entire corner including the subject property and other abutting lots.

#### Compliance Analysis

Under a Conditional Use Permit pursuant to Section 15.370(27), the Commission and Council must determine if the proposed use:

- A. is reasonably necessary for the convenience and welfare of the public.
- B. Is in harmony with the character of the surrounding area.
- C. Will have a minimal effect or no effect on the surrounding property values.

The Commission and Council can affix conditions to the CUP to provide assurances that the proposed use will remain in conformity with the criteria under subsection (27)c as well as compliance with regulations of the particular zoning district which the conditional use would be located.

In 2017 the Wisconsin legislature passed Wisconsin Act 67 which lessened the discretion and control of local governments regarding the issuance of conditional use permits. The statute is copied and pasted below.

*“ §62.23(7)(de) Conditional use permits.*

*1. In this paragraph:*

*a. “Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.*

*b. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.*

*2. a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.*

*b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.*

*3. Upon receipt of a conditional use permit application, and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.*

*4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.*

*5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10."*

Public Comments Per 15.370(27)b. Notices were mailed out to property owners abutting or fronting the subject property on January 15th.

#### Timeline

- Application Received: January 10, 2020
- Notifications Sent: January 15, 2020
- Plan Commission Informational Hearing: January 22, 2020
- Common Council Public Hearing: February 17, 2020

**Recommendation:** Recommend approval of the request for a Conditional Use Permit to allow for the "outside storage or sales of merchandise" in a B-3 General Business District for property located at 2020 Dufek Drive pursuant to the attached map, conditions and petitioner's submittal packet.

**REQUIREMENTS FOR A  
CONDITIONAL USE PERMIT (CUP) APPROVAL FOR CARL KNUTSON AND NICHOLAS  
KNUTSON, 2020 DUFEK DRIVE  
01/22/2020**

Re: PC5-2020:       The CUP is granted exclusively to Carl A. Knutson and Nicholas Knutson (“Owners”) pursuant to Section 15.370(27) and 15.270(3)g of the Manitowoc Municipal Code (“Code”) for property located at 2020 Dufek Drive (Property”), and shall hereinafter serve as authorization for the location and operation at the Property of an “Outside storage or sales of merchandise” in a B-3 General Business Zoning District. The area of the CUP is identified on the attached map and shall hereinafter be referred to as the “CUP Area”. The CUP Area is defined as Tax Parcel # 052-835-203-060.00”.

The Owners are required to comply with the following conditions:

1. Compliance with the terms and conditions of the CUP shall be reviewed by the Plan Commission and Common Council in January, 2021.
2. The Open Sale Hours for the operation shall be between 7am – 7pm, Monday – Sunday.
3. All exterior lighting from the CUP area shall be contained to the site and shall not filter over the property lines onto adjoining properties.
4. In the event the property comprising the CUP Area is sold or leased to a party other than an entity in which Carl Knutson or Nicholas Knutson has a controlling interest, the CUP shall then terminate effective the date of conveyance.
5. The Property is limited to a maximum of 8 storage sheds and 5 vehicles at any single time. Vehicles include automobiles, trucks, trailers, campers, RV’s, and boats.
6. Product sold or stored on the site shall be setback at least 15 feet from the residential use along the west property line and setback at least 10 feet from the north property line. There shall also be a 100’ x 70’ vision triangle located at the northeast corner of the Owners parcel; the attached CUP map depicts this area. The intent of the above described vision triangle is to maintain the site vision to the business to the north.
7. The storage of any materials, junk, debris, garbage or inoperable vehicles is prohibited on the subject property.
8. All products displayed on the Property shall not be placed in the right-of-way or in the vision triangles. Product shall be displayed, placed, and located in an orderly fashion.
9. This CUP shall be reviewed by the Plan Commission at their January 2021 meeting. The intent of this CUP is to encourage the owners to redevelop the property for a higher and better use but temporarily provides the owners with an interim use. The owners shall have to reapply for a CUP after the termination date.

Gentlemen:

We are hereby requesting an extension of the Conditional Use Permit @ 2020 Dufek Dr. Manitowoc, Wis. originally granted 2-28-18. The Cup area is defined as Tax Parcel # 052-835-203-060.00.

We remain in agreement to maintain the 9 conditions outlined in the original agreement.

My new partners (Nicholas J. Knutson) and myself are engaged in plans to sometime this year erect an coffee shop (drive thru) that will take said property to a higher & better use. Said plans & specs. will be submitted to the City of Manitowoc as become available in the coming months.

Your efforts will be much appreciated in our quest to extend the permit for another 12 months @ this point in time.

Sincerely,

Carl A. Knutson 920-323-6335

Nicholas J. Knutson

1735 CROSS ST.

MANITOWOC, WISC.

54220






**Request for a Conditional Use Permit - Open Sales Lot**

# CONDITIONAL USE PERMIT

City of Manitowoc, WI

 Area of Conditional Use Permit for Open Sales Lot

PC 5-2020 Plate  
2020 Dufek Drive

DISCLAIMER: Maps and associated data are believed to be accurate, but are not warranted. This information is not intended for legal, survey, or other related uses. Please obtain the original recorded documents for legal or survey information.

Prepared by City of Manitowoc  
Community Development Department  
www.manitowoc.org  
Map Plotted: 1/14/2020

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Manitowoc City Plan Commission

