

Report to the Manitowoc Plan Commission

Meeting Date: June 26, 2019

Request: PC 28-2019: Strand Adventures LLC / Mike Howe Discussion and Action regarding Chapter 15.370(28) regarding Underground Utilities in the Downtown.

Reason for Request: Section 15.370(28) titled "Underground Utilities" require that all new utilities installed after June 1, 1999 in the Downtown Underground District shall be required to be placed underground. Based on certain criteria the Plan Commission can waive the requirement (full code section is attached)

Existing Land Use for Subject Property: Commercial

Existing Zoning for Subject Property: B-4 Central Business District

Surrounding Property Land Uses and Zoning Commercial uses; B-4 Central Business District

Comprehensive Plan: Central Business District

Consistency Analysis: One of the four incremental steps identified in the Downtown Master Plan is to "Improve Visual Character" to enhance the downtown as visual character and placemaking are critical to the success of downtowns.

Report: The applicant recently completed an adaptive re-use of the former Strand Theater in the downtown into an indoor recreation complex. Additional work needs to be completed on the electrical for the project. Manitowoc Public Utilities has indicated that as part of the project, the electrical utilities will need to be placed underground, consistent with the City's ordinance. The ordinance identifies that such utilities don't have to be placed underground "if economic, technological or land characteristic factors make underground placement unfeasible as determined by City Plan Commission and Manitowoc Public Utilities. The applicant has indicated it will be more costly to place the electric underground and therefore is requesting Plan Commission to allow the electric to remain overhead.

Recommendation: Community Development staff has limited information available about the request from the applicant; the applicant is to provide more detail at the Plan Commission meeting. However, based on the understanding of the project, it does not appear underground placement is unfeasible due to economic, technological or land characteristic factors. There will be a greater cost to have the electric placed underground, however it is not deemed to be an economic hardship or the result of unique or unusual circumstances on the site.

Staff recommends the request be denied, and that the electric utility be placed underground consistent with the City's ordinance.

(f) Revocation. Where the conditions of a conditional use permit, or permits under MMC 15.670, are not complied with, the permit may be revoked by the Common Council at any time. The Plan Commission shall first hold a public informational hearing on the proposed revocation, subject to notice procedures under subsection (27)(b) of this section. The Commission, after holding a public informational hearing, shall provide its written recommendation to the Council with its determination regarding whether or not the permit holder has, or has not, complied with the provisions of this chapter. The Council may, at its sole discretion, hold a public hearing regarding the proposed revocation. Where the conditions of the permit are not complied with, the permit may be revoked by the Common Council.

→ **(28) Underground Utilities.** All new utilities installed on or after June 1, 1999, in the Downtown Underground District defined under subsection (28)(a) of this section, including electric, telephone, telecommunication, cable and other utilities customarily carried on poles, shall be required to be placed underground within easements or dedicated public right-of-way, unless economic, technological or land characteristic factors make underground placement unfeasible as determined by the City Plan Commission and Manitowoc Public Utilities. The installation of underground utilities shall be in accordance with the prevailing standards and practices of the utility or utilities (hereinafter referred to, whether one or more, as the “utility”) providing such services.

Associated equipment and facilities which are appurtenant to underground electric and communication systems, including but not limited to pad-mounted transformers, pad-mounted sectionalizing switches and above-grade pedestal-mounted terminal boxes, may be located above ground.

(a) Downtown Underground District. The area bordered by South 10th Street, Marshall Street, South 7th Street and Chicago Street (all of Blocks 154 – 156, 165 – 167, 174 – 176, 182 – 184, 217 – 219, 226 – 231, 238 – 240, and 270 – 275 in the original plat) excluding adjacent public rights-of-way.

(b) Cost and Expense. The cost and expense of converting existing overhead facilities to underground, or installing new facilities underground, and connection from such facilities to buildings, residences and other structures, shall be borne by the serving utility. However, if the City Plan Commission determines that the public health, welfare, convenience and pedestrian and vehicular traffic safety in any street or road widening or relocation project require conversion of existing overhead facilities to an underground installation, with connection to the buildings, residences and other structures served thereby, then in any such event, the utility affected shall rebuild their utility facilities at their own cost and expense. Unless waived by the serving utility, all owners or occupants updating or upgrading their electric service entrance and facilities due to an increase in service or due to a substandard voltage condition or a change in the character of their load shall, at their sole expense, be required to pay for the conversion of their own facilities and meet all utility service voltage and location requirements on said particular property.

(c) Easements. In order for the serving utility to be responsible for the costs of connecting the underground utility facilities to buildings, residences and other structures to be served, the utility shall be entitled to obtain from each property owner easements or licenses and permission to enter onto the property of such owner for the purpose of the installation, maintenance or replacement of such utility facilities. Each serving utility

shall be responsible for securing the easements. All easements are subject to standard utility easement conditions as recorded at the Manitowoc County Register of Deeds in Volume 1252, Page 498 of Records, as Document No. 798738, as may be amended from time to time.

(d) Service Upgrades. Property owners or occupants submitting an application for upgrades of their electric service equipment shall be required to meet all serving utility service voltage and location requirements. If the serving utility facilities are not in place to provide underground service, the serving utility shall bear all costs for temporary utility facilities required to serve the upgraded service equipment.

(29) Adaptive Reuse of School, Church and Other Buildings.

(a) The purpose of this section is to facilitate the conversion of older, economically distressed, or historically significant buildings to a new use while keeping the building's historic features intact.

(b) The Common Council may, in accordance with the procedures under subsection (27) of this section, issue a conditional use permit for the preservation, maintenance and adaptive reuse of any building which meets at least one of the following criteria:

1. Buildings originally designed and constructed as a school building as defined under MMC 15.030, and which are or once were owned by a school district;
2. Buildings originally designed and constructed as a church building as defined under MMC 15.030, and which are or once were owned by a church;
3. Buildings individually listed in the National Register of Historic Places, or "contributing" structures identified in the "Manitowoc Intensive Resource Survey Final Report" dated June 1988, and as may be amended from time to time;
4. Buildings larger than 100,000 square feet in building area; or
5. Buildings originally designed and constructed as governmental buildings, and which are or once were owned by a governmental agency.

(c) Criteria. In addition to the criteria under subsection (27)(c) of this section, a conditional use permit issued under this section shall require a finding by the Common Council that: (1) the reuse of a building is made more difficult to the extent that the marketable value of such properties may be substantially diminished; and (2) the adaptive reuse of a building furthers the promotion and conservation of the economic value of such buildings and thereby protects and improves the City's tax base.

(d) Compliance with Development Regulations. A land use authorized under this section is subject to all development regulations applicable to permitted or conditionally permitted uses in the zoning district in which it is located, excepting reductions or waivers under subsection (29)(e) or (f) of this section, and all building improvements related to the adaptive reuse shall be in compliance with any applicable Federal, State or local laws.

(e) Off-Street Parking. Compliance with the parking requirements under MMC 15.430 may render the reuse of buildings under this section unfeasible. Therefore, the City Council may authorize a reduction or waiver to the number of off-street parking spaces normally required for a particular land use pursuant to MMC 15.430(5). Such reduction or waiver may only be authorized as part of a conditional use permit under this section.