



City of Manitowoc

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

Meeting Minutes

Plan Commission

Wednesday, April 27, 2016

6:00 PM

Council Chambers

I. CALL TO ORDER

The meeting of the City Plan Commission was called to order by Acting Chairman Jim Brey at 6:00 pm.

II. ROLL CALL

Present: 7 - Jim Brey, Dave Diedrich, Daniel Hornung, Dan Koski, Jim Muenzenmeyer, Dennis Steinbrenner and Peter Dorner

Absent: 1 - Mayor Nickels

Staff present: Nic Sparacio, Paul Braun, Tyler Caulum, Lisa Mueller

Others Present: Amy Kleifgen, Ryan Thomas, Paul Phillips, Gerry Neuser, Stuart Johnson, Adrienne Spaulding, Peter Wills, Paul Steinbrecher

III. APPROVAL OF MINUTES

[16-0360](#) Approval of the Minutes of the March 23, 2016 Meeting.

Moved by Diedrich, seconded by Hornung, that the Minutes of the March 23, 2016 meeting be approved. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dorner

IV. PUBLIC INFORMATIONAL HEARINGS

[16-0361](#) PC 14-2016: Manitowoc County / Meijer: Request to Rezone Property from R-1 "Residential - Agricultural" and B-1 "Office - Residential" to C-1 "Commercial" for a portion of land located on the Manitowoc County Expo Grounds west of S. Rapids Road.

Mr. Braun described the area involved in the rezoning request and stated that in preparation for the sale of a portion of the Manitowoc County Expo Grounds to Meijer, the property needs to be rezoned to C-1 Commercial. Mr. Braun explained that the C-1 Commercial district allows for the proposed retail development, and the outdoor display and storage of merchandise and equipment.

Chairman Brey opened the public informational hearing.

Paul Phillips with Greenberg Farrow representing Meijer stated that the Meijer building will be approximately 194,000 square feet and will consist of a grocery, department store, pharmacy, garden center and convenience store. In addition to the building, two outlots will be created along with an area for a storm water pond. Meijer, at their expense, will extend Dewey Street to their future west property line and they will also dedicate a road to the south of the building. The store will have outdoor display and sales of merchandise which requires the C-1 zoning category.

There were no further public comments, so Chairman Brey closed the public hearing.

Mr. Braun stated the recommendation to approve the requested rezoning from R-1 Residential-Agricultural and B-1 Office-Residential to C-1 Commercial upon completion of public notification and the public hearing.

Moved by Diedrich, seconded by Koski, to i) approve the requested rezoning from R-1 Residential-Agricultural and B-1 Office-Residential to C-1 Commercial for lands located on the Manitowoc County Expo Grounds west of S. Rapids Road, ii) introduce the ordinance at the May 16th, 2016 Council meeting, and iii) call for a public hearing on this matter to be scheduled for June 20th, 2016 with the hearing notices to be published on June 6th and June 13th. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dorner

[16-0362](#)

PC 12-2016: Doneff: Request for an Official Map Amendment West of Mirro Drive and South of E. Albert Drive.

Mr. Caulum described the property location and zoning. The lot is currently undeveloped and has DNR mapped wetlands in the western portion of the parcel.

The future land use classification shown in the comprehensive plan for the area is Planned Mixed Use, which encourages a mix of business and residential uses. The removal of the Official Map street would not create any land locked parcels or eliminate any possible street network connections; the existing pattern provided access to only the property owned by Doneff Holdings, LLC. The presence of wetlands in the western portion of the parcel creates further challenges for any development to occur in the future.

Mr. Caulum stated that Care Partners Assisted Living is interested in

developing a Community Based Residential Facility (CBRF) adjacent to one of their existing CBRF's which is to the east side of the parcel they are interested in purchasing from Doneff LLC. The proposed future street on the Official Map impedes potential construction of the CBRF, which is the source of this request. The remaining 12.5 acres are offered as a donation to the City and will be discussed later in the meeting.

Mr. Caulum stated that he didn't receive any comments from notified property owners regarding the requested Official Map amendment request.

Chairman Brey opened the public informational hearing.

Ryan Thomas, Director of marketing for Care Partners, explained that the plan is to add a stand alone 25 bed CBRF west of their existing 15 bed CBRF building. The new building would consist of assisted living patients and the old building would specifically house dementia patients.

Adrienne Spaulding, 1910 Mirro Drive, stated that she is supportive of the amendment and CBRF but also had questions regarding the location and operation of the new building in relation to her pet boarding business. Ms. Spaulding stated that there have been issues in the past with residents from the CBRF leaving their property to come and visit the dogs.

There were no further public comments, so Chairman Brey closed the public hearing.

Mr. Caulum stated the staff recommendation which is to approve of the requested Official Map Amendment upon completion of public notification, the public hearing, and billing of the petitioner.

Moved by Hornung, seconded by Muenzenmeyer, to i) approve the requested Official Map Amendment west of Mirro Drive and south of E. Albert Drive, ii) instruct the Clerk to call for a public hearing to be scheduled for the June 20th Council Meeting, iii) instruct the Clerk to publish the required legal notices; and iv) bill the petitioner for all required notices and recording costs. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dorner

[16-0363](#)

PC 16-2016: Kadlec, Fluffy Investments, LLC / Doneff - Request for a Conditional Use Permit, Exception to the 2,500' separation and density rules for a Community Living Arrangement for up to 25 beds located west of Mirro Drive and south of East Albert Drive.

Mr. Braun described the property location, history and zoning. Mr. Kadlec is offering to purchase 3.2 acres of the land to construct a 25 bed Community Based Residential Facility (CBRF) for Care Partners, LLC.

A CBRF with 9 beds or more requires the issuance of a conditional use permit. The existing land is currently undeveloped. Mr. Braun commented that a wetland delineation will likely need to be completed, and if the area is determined to be a wetland the project may be discontinued.

The new facility will be located directly west of a current facility operated by Care Partners; the two facilities will be operated by the same entity but will be licensed independently. Care Partners operates over 40 CBRFs throughout the state and are headquartered in Oshkosh. The facility will employ 20 - 25 full and part time individuals.

Mr. Braun stated that in addition to the required conditional use permit there is a state statute requiring that the Common Council and Plan Commission grant an exception to the 2,500 foot separation distance and density requirements.

Mr. Braun stated that he received one written comment from Stan Johnson, who is the property owner that leases to Doggy Daycare that is located to the north of the subject area. Mr. Johnson's concern is not related to the use but wants the residents and owners to know that the pet boarding use is present and that there will be barking and other activities generated from the site.

Chaiman Brey opened the public informational hearing.

John Doctor, 1750 Mirro Drive is located south of the proposed area; Mr. Doctor voiced his concerns for the short time notice regarding the meeting date. Mr. Doctor didn't express any opinions against or in favor of the proposal.

There were no further public comments, so Chaiman Brey closed the public informational hearing.

Mr. Braun stated the staff recommendation to grant Care Partners a Conditional Use Permit for up to 25 beds pursuant to the conditions and grant the exception to the 2,500 foot spacing and density requirements:

1. If Care Partners does not secure CBRF licensing ("License") from the State of Wisconsin, Department of Health Services ("State") by December 31, 2017, this CUP is void and terminates effective January 1, 2018. Care Partners to provide the City Planner written documentation evidencing the issuance of the License for the 25-person CBRF in the CUP Area. In the event this license is not secured by January 1, 2018, Care Partners shall be required to re-apply to the City for a CUP.
2. The CUP authorizing the location and operation of a CBRF in the CUP Area shall not be approved until the Common Council approves the CUP as outlined herein, and shall not become effective until the latest date that all of the following have been approved and completed: (i) City Council approves the issuance of the CUP, (ii) the date that Care Partners takes title or signs a lease to the CUP Area, (iii) Care Partners completes all conditions related to the approval of a Site Plan and Development Agreement.
3. This CUP shall be terminated in the event Care Partners fails to acquire or lease the CUP Area Property.
4. This CUP does not waive or pre-empt any requirements under any building or zoning codes or any other requirements of any municipal, state or federal regulation, statute or law.
5. In the event the property comprising the CUP Area is sold or leased to a party other than an entity in which the Owner has a controlling interest, this CUP shall terminate effective the date of conveyance, unless the Owner is permitted to occupy the CUP Area under the new ownership.
6. Non-compliance with the terms of the CUP may result in the modification of the terms and conditions of the CUP, issuance of citations and financial penalties, or immediate revocation of the CUP.
7. The CUP shall automatically terminate effective the date any License or certification granted to the Owner by the State, or any State-approved license which is assigned or transferred to a City-approved assignee or licensee for the CBRF at the CUP Area is closed, denied, revoked, or terminated by either the Owner or the State.

Moved by Hornung, seconded by Diedrich, to approve with the recommended conditions the request for a Conditional Use Permit and exception to the 2,500' separation and density rules for a Community Living Arrangement for up to 25 beds located west of Mirro Drive and south of East Albert Drive. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dorner

V. REFERRALS FROM COMMON COUNCIL - None

VI. OLD BUSINESS - None

VII. NEW BUSINESS

[16-0364](#)

PC 13-2016: Doneff: Offer of Land Donation to the City of Manitowoc West of Mirro Drive and South of E. Albert Drive.

Mr. Braun stated this item is related to the same property discussed earlier in the meeting regarding the official map amendment and conditional use permit request. The owner is offering to donate 12.5 acres of land to the City. Mr. Braun stated that the exact location of the wetlands are a potential issue, and that he contacted the Manitowoc Public School District who have expressed interest in the property.

Discussion ensued regarding the City's potential interest in the property, its assessed value, and its developability. There was a consensus that the School District would be the more logical recipient, and that the owner should work directly with them on a potential donation.

Moved by Hornung, seconded by Diedrich, to place on file the request for land donation west of Mirro Drive and south of E Albert Drive. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dorner

[16-0365](#)

PC 15-2016: Country Visions Convenience Store: 311 N. Rapids Road
-Request to Reduce Off-Street Parking Requirements pursuant to Section 15.430(5) of the Municipal Code.

Mr. Braun described the location and explained the site plan.

The existing 2,978 square foot store will be expanded by an additional 2,889 square feet. The owner is required to provide 38 off-street parking stalls and the most recent site plan shows 34 off-street parking spaces available. Mr. Braun stated the Zoning Code authorizes the Plan Commission to reduce the number of off street parking spaces.

Discussion ensued regarding the combination of uses on the site and within the building. There was a consensus that the proposed parking would be adequate for this combination of convenience store, fuel station, and fast food uses.

Mr. Braun stated that staff recommends, pursuant to section 15.430(5) of the Zoning Code, approval of the reduction of off-street parking from 38 spaces to 26 spaces plus 8 fueling spaces.

Moved by Diedrich, seconded by Steinbrenner, to approve the request to reduce off-street parking requirements, pursuant to Section 15.430(5) of the Municipal Code, from 38 spaces to 26 spaces plus 8 fueling spaces at 311 N. Rapids Road. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dörner

[16-0366](#)

Discussion regarding the 2,500 foot spacing and density requirement for Community Living Arrangements pursuant to § 62.23(7)i 1 & 2.

Mr. Sparacio explained that the State Statutes, not the City Zoning Code, are the source of these requirements, and that municipalities following these statutes have been found through many court cases to be in violation of the Federal Fair Housing Act and the Americans with Disabilities Act. As a result, most Wisconsin municipalities have removed conditional use and special use permit requirements for Community Living Arrangements with 8 or fewer residents. Mr. Sparacio recommends that the City revises its Zoning Code to that effect.

Discussion ensued regarding the notification provided to neighboring property owners, potential discrimination against protected classes, and whether the state should be petitioned to change the statute. The Commission directed staff to work with the City Attorney to draft an ordinance reflecting an amendment to the Chapter 15.370 of the Zoning Code. Bringing the item back as an ordinance amendment will allow the Council to also be involved in any decision.

Moved by Hornung, seconded by Diedrich, to table the discussion on Community Living Arrangements and to direct staff to bring the item back as an ordinance amendment. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dörner

[16-0367](#)

Election of the 2nd Vice Chair for the Plan Commission

Alderman Brey called for nominations for the 2nd Vice-Chair. Mr. Diedrich nominated Mr. Hornung as 2nd Vice-Chair. There were no other nominations. A motion was made by Mr. Diedrich and seconded by Mr. Koski to cast a unanimous ballot for Mr. Hornung as 2nd Vice-Chair. The motion was carried unanimously.

Moved by Diedrich, seconded by Koski, to approve the nomination of citizen member Dan Hornung as the 2nd Vice Chairperson for the Plan Commission. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dorner

VIII. MISCELLANEOUS

A. Manitowoc County Activities: None

B. Certified Survey Maps (CSM):

1. Shady Lane Inc: SW ¼ Section 30, Township 19 North, Range 24 East, City of Manitowoc.

2. Vogel: SW ¼ Section 12, Township 19 North, Range 23 East, City of Manitowoc.

C. Summary of Site Plans From March 12th, 2016 – To April 7, 2016

1. SP 3-2016: Novak's Service Center, LLC, 1320 Washington Street. Building expansion.

2. SP 4-2016: WOMT/WQTC, 3730 Mangin Street building expansion.

3. SP 5-2016: Country Visions Convenience Store, 311 N. Rapids Road, building expansion.

4. SP 6-2016: Manitowoc Youth Baseball Association - Citizens Park

5. SP 7-2016: Manitowoc Youth Baseball Association - Dewey Street Park

D. Director's Report

Mr. Sparacio provided a Director's Report via email. Discussion ensued regarding various potential developments in the community.

IX. ADJOURNMENT

Moved by Diedrich, seconded by Koski that the meeting be adjourned at 7:34 PM. The motion carried by the following vote:

Aye: 7 - Alderperson Brey, Member Diedrich, Member Hornung, Member Koski, Member Muenzenmeyer, Member Steinbrenner and Member Dorner

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.