

Report to the Manitowoc Plan Commission

Date: August 26, 2015

Request: PC 27-2015 / 37-2006 Deed Restriction between Manitowoc Public Utilities & the City of Manitowoc for property on State Highway 310

Reason for Request: MPU is requesting deed restriction. MPU wrote initial deed restriction draft and is requesting the City's input.

Existing Land Use: Vacant. Adjacent to the an electrical substation and City of Two Rivers' industrial park.

Existing Zoning: P-1 Conservancy

Report: MPU's request for a deed restriction is bringing closure to conversations that occurred between the City and MPU from back in 2006.

- MPU purchased 9.92 acres from Floyd Anhalt on February 19, 2001 (V 1481 P 296). The Property had two tax parcel numbers 18-133-015-003.00 (2.00acres) & 18-133-016-003.00 (7.92 acres). Purchase price was \$35,000 according to transfer fee on deed.
- Property was in in the Town of Two Rivers at time of purchase.
- MPU planned to construct an 80 megawatt gas turbine which would be adjacent to the Shoto Substation.
- MPU wanted to be a good neighbor with the City of Two Rivers (TR's industrial park is directly east of the property, they share a property line). MPU and City of Two Rivers tried to negotiate the use, landscaping, street dedication etc. The negotiations between MPU and Two Rivers became problematic .
- MPU decided to deed property to the City of Manitowoc, the City can annex its own property. Municipalities can annex their own property even though it is not contiguous with itself. 8/25/2006 MPU quit claims the property to the City of Manitowoc (V 2206 Pg 732 Doc 1014196)
- Sept 27, 2006 City annexes property, zones the property "P-1" Conservancy which permits public utilities (per Plan Commission minutes)
- In the Plan Commission file from 2006 there is a reference to a ground lease or other agreement between the City and MPU but that agreement was never completed. The agreement was supposed to clarify that the City could not sell the subject property without first having consent from MPU.

The current draft deed restriction prohibits the City's ability to sell the property without MPU Commissions approval.

The draft deed restriction has been submitted to the City Attorney for review and an opinion.

Recommendation: The Community Development recommends to enter into the deed restriction with Manitowoc Public Utilities and to incorporate any edits or amendments identified by the City Attorney after their review.

DEED RESTRICTION
AGREEMENT

Document Number

Document Name

This Deed Restriction Agreement (the "Agreement") is made and entered into between the City of Manitowoc (hereafter referred to as the "City"), and Manitowoc Public Utilities, 1303 South 8th Street, Manitowoc, WI, a utility organized and managed in accordance with the Wisconsin Statutes (hereafter referred to as "MPU").

DRAFT

RECITALS

WHEREAS, the City is the owner of one (1) parcel of real estate located at Highway 310, City of Manitowoc, Manitowoc County, Wisconsin, referred to as Parcel No. 052-833-404-010.00, as legally described on the attached Exhibit A, (hereafter referred to as the "Subject Property"); and

Recording Area

WHEREAS, the City has agreed to refrain from conveying the Subject Property to any party other than MPU except in accordance with the terms and conditions more particularly set forth herein; and

Parcel Identification Number (PIN)
052-833-404-010.00

WHEREAS, the provisions set forth shall be recorded as formal deed restriction affecting the Subject Property;

Return to:

Attorney Andrew J. Steimle
Steimle Birschbach, LLC
PO Box 2225
Manitowoc, WI 54221-2225

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. The Recitals are restated as if fully set forth herein and incorporated into the terms and conditions of this Agreement.
2. The City shall not convey the Subject Property to any party other than MPU without the prior written consent of the MPU Commission, which may be withheld in the MPU Commission's sole and absolute discretion.
3. This Deed Restriction Agreement is for the benefit of MPU or any successor in interest to MPU. The restrictions and other provisions of this Agreement shall continue until such time that MPU purchases the Subject Property or until the MPU Commission consents to the conveyance of the Subject Property to a party other than MPU.

[Signature page immediately follows.]

Effective this _____ day of _____, 2015.

CITY OF MANITOWOC

By: _____
Name: Justin Nickels
Title: Mayor

By: _____
Name: Jennifer Hudon
Title: City Clerk

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me this ____ day of _____, 2015, the above-named **Justin Nickels**, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Name: _____
Notary Public, State of Wisconsin
My Commission: _____

STATE OF WISCONSIN)
) ss.
MANITOWOC COUNTY)

Personally came before me this ____ day of _____, 2015, the above-named **Jennifer Hudon**, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Name: _____
Notary Public, State of Wisconsin
My Commission: _____

Drafted by:
Attorney Andrew J. Steimle
Steimle Birschbach, LLC
PO Box 2225
Manitowoc, WI 54221-2225

EXHIBIT A

The "Subject Property"

Real property in the City of Manitowoc, County of Manitowoc, State of Wisconsin, and is described as follows:

A tract of land in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) and in the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of Section Thirty-three (33), Township Twenty (20) North, Range Twenty-four (24) East, in the City of Manitowoc, Manitowoc County, Wisconsin, described as follows:

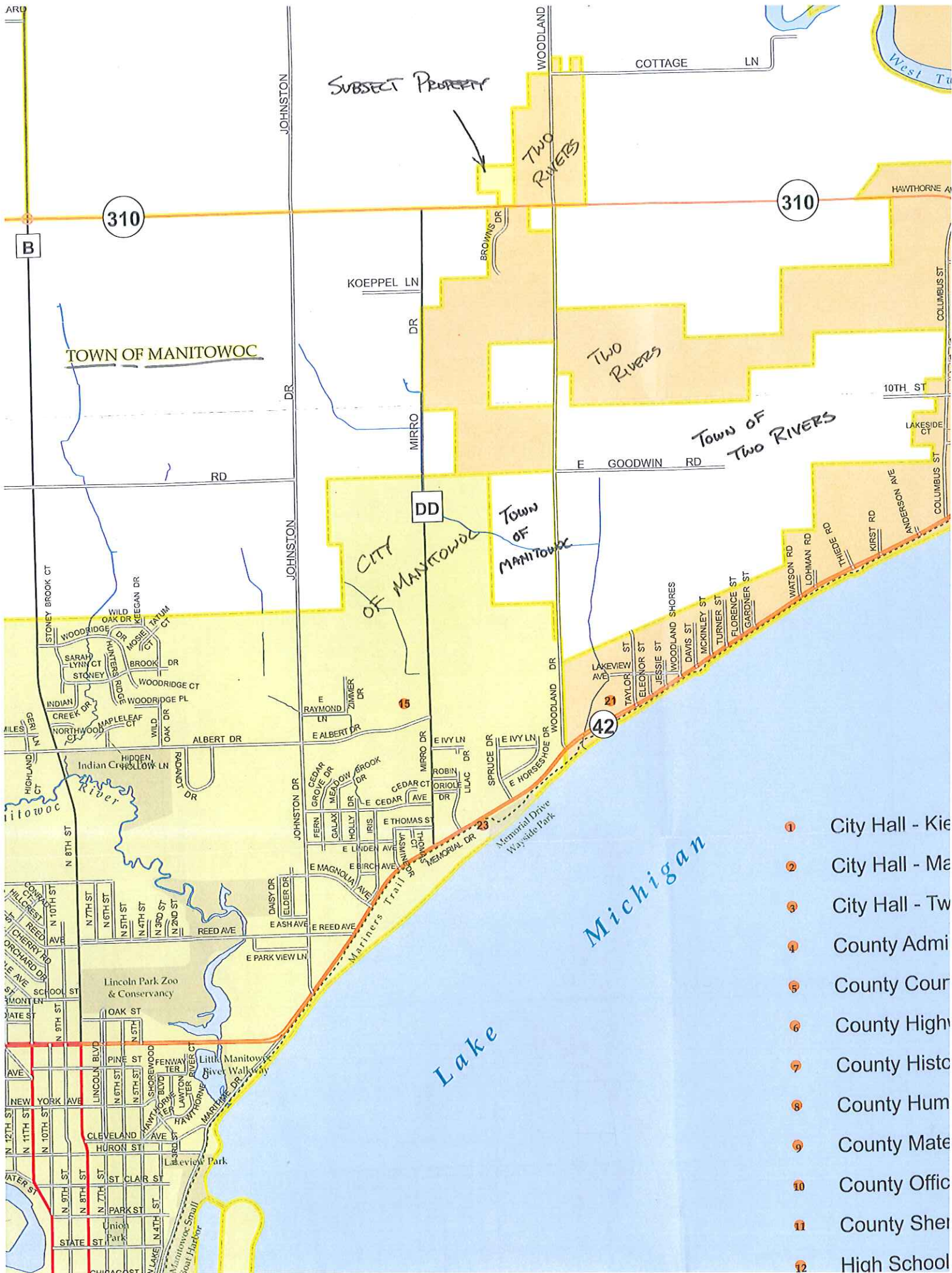
The South 820 feet more or less of the West 556 feet more or less of said SE1/4 SE1/4 excepting the West 233 feet more or less of the South 290 feet. (Said tract is bounded on the East by the Two Rivers City Limits as it exists on January 1, 2001 and on the West by the North-South 1/16th section line and an existing parcel).

ALSO the East 164 feet of the North 530 feet of the South 820 feet of said SW1/4 SE1/4.

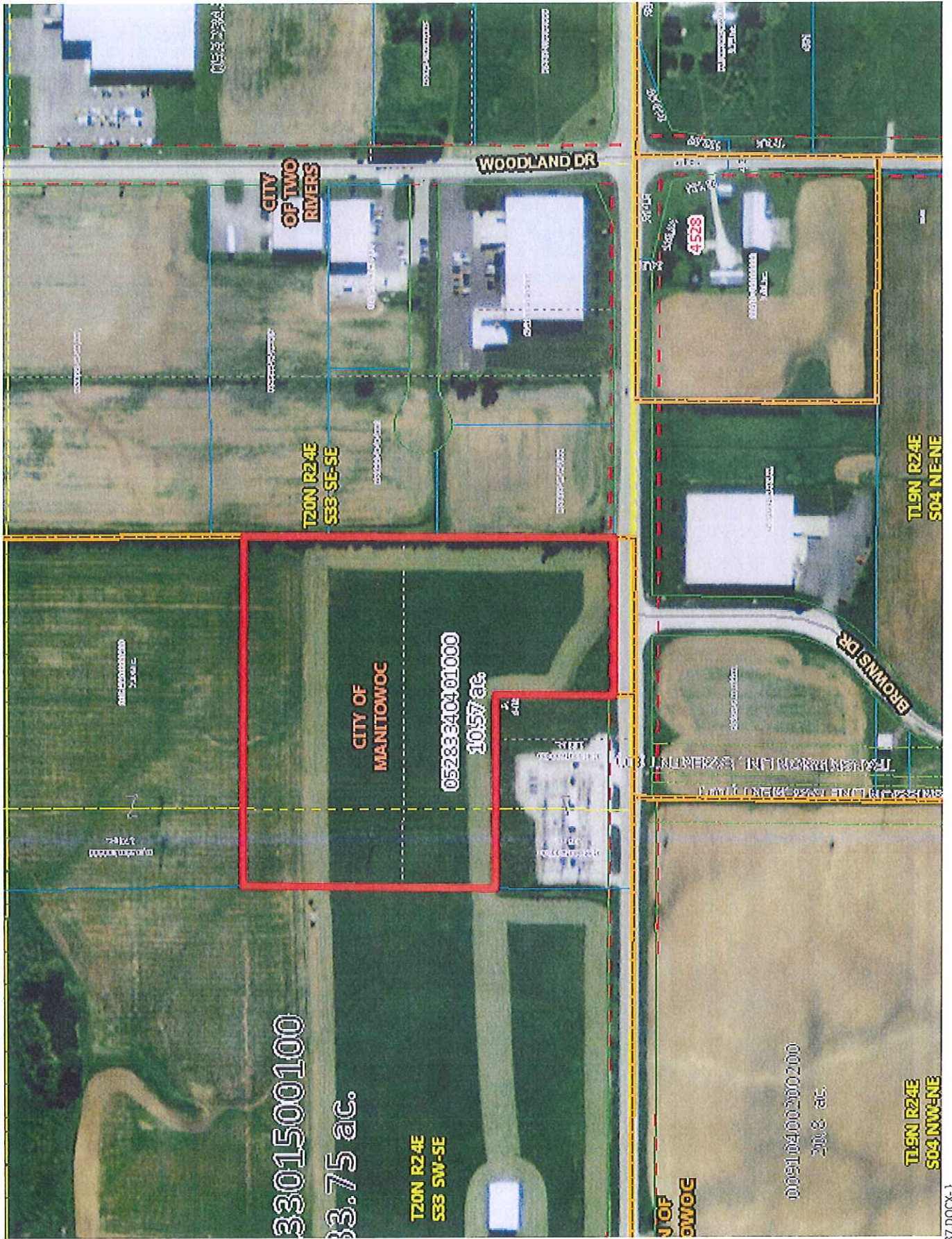
Also described as: A parcel of land located in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) and in the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of Section Thirty-three (33), Township Twenty (20) North, Range Twenty-four (24) East, City of Manitowoc, Manitowoc County, Wisconsin more particularly described as follows:

Commencing at the Southeast corner of said Section 33; thence N.89° 48' 11"W., (recorded as N.89° 47' 00"W.) along the section line 770.00 feet to the point of real beginning; thence N.00°02'08"W., (recorded as North) a distance of 820 feet more or less; thence west and parallel to the south section line a distance of 720 feet; thence south and parallel to the east line of the Southwest 1/4 of the Southeast 1/4 of said Section 33 a distance of 530 feet; thence east and parallel to the south line of said Section 33 a distance of 397 feet; thence south along the east line of Tract A of a Certified Survey recorded in Volume 4 of Certified Survey Maps, Page 19, a distance of 290 feet to the south line of said Section 33; thence east along the south line of said Section 33 a distance of 323 feet more or less to the point of real beginning.

APN/Tax Key No.: 052-833-404-010.00



- 1 City Hall - Kie
- 2 City Hall - Ma
- 3 City Hall - Tw
- 4 County Admi
- 5 County Cour
- 6 County High
- 7 County Histo
- 8 County Hum
- 9 County Mate
- 10 County Offic
- 11 County Sher
- 12 High School



3301500100
33.75 ac.

T20N R24E
S33 SW-SE

CITY OF
MANITOWOC

05288940401000
10.57 ac.

CITY
OF TWO
RIVERS

T20N R24E
S33 SE-SE

WOODLAND DR

CITY OF
MANITOWOC

00910400200200
20.8 ac.

T19N R24E
S04 NW-NE

T19N R24E
S04 NE-NE

BROWN DR

Paul Braun

From: Paul Braun
Sent: Wednesday, August 19, 2015 8:29 AM
To: Nilaksh Kothari
Cc: Nicolas Sparacio; Justin Nickels; Kathleen McDaniel
Subject: FW: MPU Deed Restriction
Attachments: Deed Restriction - MPU-City of Manitowoc (Town of TR) (00204469-2xBC490).docx;
Deed Restriction - Town of Two Rivers Property (GIS MAP) (00206687xBC490).docx

Hi Nilaksh, I will put the deed restriction topic for the HWY 310 property onto the next Plan Commission meeting which is scheduled for August 26, at 6:00pm. After Plan Commission it will be referred to the Common Council for their approval. Will someone from MPU be at the Plan Commission meeting to answer any questions if they come up?

Mayor/Nic/Kathleen,

MPU and the City were going to work on the deed restriction years ago but it never was completed, so this is completing the loop on the project. Below in red is a quick history that I copied and pasted from a different email.

Here is a quick summary of the property history:

- MPU purchased 9.92 acres from Floyd Anhalt on February 19, 2001 (V 1481 P 296). Property had two tax parcels numbers 18-133-015-003.00 (2.00acres) & 18-133-016-003.00 (7.92 acres). Purchase price was \$35,000 according to transfer fee on deed.
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- MPU planned to construct an 80 megawatt gas turbine which would be adjacent to the Shoto Substation.
- MPU wanted to be a good neighbor with the City of Two Rivers (TR's industrial park is directly east of the property, they share a property line). MPU and City of TR tried to negotiate the use, landscaping, street dedication etc. City of TR really didn't have much leverage and seemed to push too many conditions, no agreement was finalized.
- MPU decided to deed property to the City of Manitowoc, we could then annex it into the City. Municipalities can annex their own property even though it is not contiguous with itself. 8/25/2006 MPU quit claims the property to the City of Manitowoc (V 2206 Pg 732 Doc 1014196)
- Sept 27, 2006 City annexes property, zones the property "P-1" Conservancy which permits public utilities (per Plan Commission minutes)
- In the file there is a reference to a ground lease between the City and MPU but I was unable to find the lease.

Thanks
Paul

From: Nilaksh Kothari
Sent: Monday, August 17, 2015 5:50 PM
To: Paul Braun
Subject: FW: MPU Deed Restriction

Hi Paul:

For your review and comments in reference to our meeting for HWY 310 property. Please advise and next steps
Thank you