



September 16, 2020

City of Manitowoc
Plan Commission
900 Quay Street
Manitowoc, WI 54220

Re: Applications of True Endeavors LLC for the September 16, 2020 Meeting/File Nos. 20-0875 and 20-0906.

Dear Plan Commissioners,

This letter contains comments of Briess Industries, Inc. ("Briess") in opposition to the two items posted to the Agenda for the September 16, 2020 Plan Commission meeting, the application of Seehafer/True Endeavors, LLC ("Seehafer") to rezone 606 Quay Street, Manitowoc, Wisconsin (the "Wharf Property") from I-2 Heavy Industrial to B-4 Central Business District ("Rezoning Action") and the discussion and possible action on Seehafer/True Endeavors LLC requested reduction of on-site parking spaces ("Parking Action").

Briess owns industrial land west, east, and south of the Wharf Property, which is zoned I-2 to permit heavy industrial uses; including the loading and unloading of ocean going vessels from the Manitowoc River, the loading and unloading of trucks and railroad cars, as well as the manufacture of numerous products, including the generation of the noise, dust, and traffic which is inherent to a heavy industrial zoning district. The preservation of job-supporting manufacturing is vitally important to the City of Manitowoc ("City"). The preservation of port activities, with contiguous access between these industrial lands and the Manitowoc River and Lake Michigan, to permit such activities is also vitally important to the City and have been for a century.

The Rezoning Action and Parking Action are on the Agenda based on a request by Seehafer for approvals that will allow it to take two small lots on Quay Street, which are currently occupied by portable shipping containers housing a bar and which have only temporary water and sewer connections, and to build on the Wharf Property a permanent bar and/or restaurant ("Future Use"). While we find no building permit application of record which defines the exact layout of the Future Use, or the number of patrons which it can serve inside or outside the buildings, we know, based on the Conceptual Site Plan attached to Seehafer's application and attached to this letter as Exhibit A, that the intention is to have a bar/restaurant with significant outside space for patrons to enjoy the riverfront. We also know from experience, and have seen pictures confirming, that this bar regularly hosts bands, which draw hundreds and sometimes more than a

thousand guests. The site plan for the Proposed Use indicates a proposed stage, and significant outdoor space, presumably for outdoor concerts. If the current Seehafer operation in shipping containers operates in this fashion, we have every reason to believe that a Future Use will be at least as intensive.

We strongly object to the approval of either the Rezoning Action or the Parking Action on the following grounds:

1. The Proposed Rezoning Action is Not Compatible with the Surrounding Industrial Zoning. Attached as Exhibit B is the current zoning map of this area of the City, with the areas zoned Industrial in blue. X marks the spot where the Wharf Property is located, clearly surrounded on all sides by I-2 Heavy Industrial Zoning. The staff reports attached to the Agenda do not show any acknowledgement of the potential impacts of the juxtaposition of an outdoor bar and dining venue, with no private parking, on the surrounding industrial uses; which potentially include not only manufacturing and traffic from Briess, but also from Lakeside Foods, MPU, and coal piles that serve the Ferry.
2. Loading Tower and Tunnel. The Wharf Property is adjoined on the east by 6th Street, and then a Briess owned parcel that contains Briess' only loading tower and underground tunnel with conveyors, for the loading and unloading of ocean going vessels. When this tower and or tunnel are in operation, they produce loud noise, dust, and vibration, which is appropriate to an Industrial use. Briess uses this tower when the price of water shipment is lower than rail shipment, so the fact that Briess has not used the tower in the last year does not mean it will not or cannot need to use it in the future. This is a vital part of the business and no hospitality use should be allowed to potentially conflict with the use of the land for industrial use.
3. Shipping. When Briess is loading or unloading ships, the ships must pull alongside the dock wall, and with a length of about 500-1000 feet, and a height of about 20 feet above the water line which as you know is now at the ground surface and will block the view of patrons of the Wharf. Attached as Exhibit C is a photo of just such a shipping operation, to visualize how necessary maritime operations would impact any such Future Use.
4. Homeland Security. Because foreign ships can and do dock in Manitowoc's port, including at the grain tower, the US Department of Homeland Security has regulations requiring cordoning off the area, and use by restaurant/bar patrons, or pedestrian travel by such patrons to off-site parking, would make compliance with the required security regulations more complex.
5. Staff Report. We find a number of issues with the Staff Report on the Rezoning Action which was attached to the Agenda:

- a. There are no commercial properties adjacent to the Wharf Parcel; although commercial uses are located across the river or to the southwest of the Wharf Parcel, several lots away. While the Comprehensive Plan may have aspirational plans to turn the land currently zoned I-2 in this area into B-4 Central Business District zoning, with no adjoining land zoned B-4, the proposed rezoning would create an island of B-4 zoning in a sea of industrial zoning.
- b. Seehafer is proposing the Zoning Action in order to allow the proposed restaurant/bar without any on-site parking. It is not true that this section of Quay Street has other commercial uses. The B-4 CBD zoning does allow more flexibility with respect to required parking, but in a central business district there are a variety of uses, which need parking at different times. In order to make the case that it can rely on street parking for all of its parking needs, for employees and customers. Seehafer needs to make a showing of the maximum number of patrons it will have on the Wharf Property, and show how parking needs for those patrons would be met. We have not seen any information setting forth the employees who would be working on a shift and would also need parking. Given that the surrounding streets are heavily used for truck traffic, for Briess, Lakeside, and MPU and others, pedestrians on foot traveling to or from a distant street parking spot to the bar would present a safety issue.
- c. Lastly, the Staff Report assumes that there is available parking for the business on the Briess lot, and library lot, and that is not true. Briess owns the property west of the Wharf Property at 720 N. Quay Street. It is leased to the City with only limited permitted uses. Under Section 4.1, “customary civic or public festivals, exhibitions, fairs or fundraisers, including a farmers’ market and parking ancillary to such uses.” A copy of the relevant pages of the Ground Lease is attached as Exhibit D. It does not allow the City to sublease spaces to an adjoining owner to provide parking for a private commercial venture. It also allows Briess to terminate the Ground Lease at any time Briess wishes to build a building on the Wharf Property. Briess as the owner of that property has potential liability for what happens on that property. An adjoining property owner cannot park, or have its patrons park, or put portable toilets, or serve liquor, on the land that is owned by Briess. The City should not grant a rezoning of a parcel dependent on that business’ utilizing trespassing as a way to satisfy parking requirements for its business. Exhibit E shows pictures of Seehafer’s operations during the last year, which include not only crowds much larger than accounted for in the parking assumptions, but also customer parking and tailgating on the Briess lot, and food trucks parked on the Briess lot, presumably to serve Seehafer’s patrons. This exhibit also includes a posted schedule of events to show that the events are not an occasional civic or public festival, but rather part of Seehafer’s business plan.

The Parking Action on the Agenda similarly should not be approved for the following reasons.

1. The Zoning Code Anticipates Parking Needs for this Use. Section 15.430(4)(d) 2 of the MMC requires that establishments providing food, alcoholic beverages and refreshments, must have 5 parking spaces, plus 1 space for each 3 customer seats or 1 space for each 100 square feet of gross floor area, whichever is greater. In addition, if there are exterior or outside areas available for customer services, there shall also be one additional space for each 200 square feet of exterior or outside developed area, plus one space for each staff member working the same hours.

2. Waiver. The waiver provisions in MMC Section 15.430(5)(a) allow the City to reduce the on-site parking requirements “to reflect the typical daily demand.” Given that this operation in the past year routinely had hundreds of patrons on a busy weekend night, growing to up to a thousand patrons when there is a band, and the requisite employees needed to serve such a crowd of patrons, the staff’s conclusion that even 44 spaces are not necessary, and that parking needs can be served elsewhere, does not take into account this typical daily demand. Neither of the two justifications for such a waiver in the Code, apply here. Subsection (b) says that the applicant must bear the burden of proof to demonstrate to the Plan Commission, using existing and projected (five year) employment, customer or other relevant data, that the reduction in parking is warranted. Even without projected permanent restaurant use, if Seehafer intends to continue its temporary bar business as operated over the last year, this burden is not met, and certainly its planned expansion would require even more parking. The Code does reserve the right to enter into a written agreement with the Plan Commission, that limits the number of patrons to the available parking, as a condition of issuance of the waiver. The Code also allows, in the Industrial district, that the uses and the parking needs can be “pooled” but only for parking spaces located within 400 feet of the proposed building. The City does not have the authority under the Ground Lease to sublease spaces in the Briess lot to Seehafer. There can be no written agreement to guaranty that those spots would be available to Seehafer. That is not permitted under the Ground Lease, and in fact could be a reason for termination of the Ground Lease. Such a document also requires an analysis of the peak parking times for the uses.

3. Incorrect Assumptions. The Staff Report on the Parking Reduction acknowledges that the Code requires that a Waiver needs a finding that the off-street parking exceeds any reasonable likely need. Seehafer’s application identifies it intends to build a 3,120 square foot building, and use most of the lot as outdoor patron space, with only 8 employees. Calculating that indoor and outdoor space by the parking requirements in MMC Section 15.430(4)(d) 2 for restaurants and bars with indoor and outdoor space, would certainly result in a greater parking need. When even the current use, much less an enlarged use, involves concerts with up to 1,000 patrons, this finding is not supported by the record. The Staff Report concludes that this Proposed Use would require 44 spaces, but does not identify what that calculation is based on; number of seats in the restaurant, proposed guests, proposed employee count, or some other factor. It may also be true that, under current operations, in inclement weather there would be fewer patrons, but the Proposed Use is an enclosed building with only parts outdoors, and the current use uses heating

lamps, so it is not likely that 44 spaces meets the typical daily demand or reasonable likely need.

4. Parking Studies. The Report to the Manitowoc Plan Commission is incomplete with respect to Parking Demand (surplus or deficit), for the area around the Wharf. The Report includes only Map 4, which shows a “current” parking surplus. It does not include Maps 5, 6 and 7 from the Downtown Parking Analysis, all of which show a significant future parking deficit in this area. The 2018 analysis shows a future deficit of 78 spaces, even before the current use, much less the Proposed Use. The Staff Report identifies that the parking count was done on a Wednesday, between 11am and 1 pm, and not at peak hours of operation for a bar, much less parking needs when The Wharf hosts bands. Again, the counts of available parking assumes the Briess owned lot is a public lot which can be included in these numbers, which is not allowed by the Ground Lease, and therefore any projected parking surplus is reduced to a deficit.

For all of these reasons Briess respectfully requests the Plan Commission to decline to recommend approval of either the Zoning Action or the Parking Action.

BRIESS INDUSTRIES, INC.

By: 

Ryan O'Toole, President

Cc: Mayor Justin Nickels

Adam Tegen, Community Development Director