

## Report to the Manitowoc Plan Commission

**Meeting Date:** Wednesday, May 24, 2023

**Request:** PC 14-2023: Hartfield – Request to Purchase City-Owned Land, Between Broadway and Conroe Streets, Part of Lots 2, 3 and 4, all in Block 14 part of the Subdivision of Manitowoc Rapids. Parcel # 450-014-010

**Report:** Matthew Hartfield, 3509 Macarthur Drive, is requesting to purchase a portion of city owned property that is part of parcel # 450-014-010 for \$2,000 (see attached letter). The area Hartfield is inquiring about is approximately 0.23 acres, which is a portion of the larger 1 acre, city-owned parcel.

The triangular shaped parcel that Mr. Hartfield is interested in is off of dedicated, but unimproved Conroe Street. The property is zoned P-1 Conservancy. It is also shown as wetland on the DNR Wetland Inventory map and it is located in the 1% (100 Year) flood plain which makes the property difficult to develop (see attached maps). The City would still retain the land abutting the Manitowoc River keeping the ability to construct a trail and preserve public access along the river.

A request for comments was sent out on May 10, 2023 regarding the request. Comments received back were in favor of the request.

Attached is an article from the League of Wisconsin Municipalities that discusses the procedures a municipality must follow when it sells land.

**Recommendation:** Staff recommends proceeding with the sale of the approximate 0.23 acre parcel with the Attorney's Office instructed to proceed with all facets of the sale and Mr. Hartfield paying for any of the following costs: drafting a legal description, survey costs, recording costs and closing costs.

Matthew Hartfield  
3509 Macarthur Dr.  
Manitowoc, WI 54220  
mahrtfield04@gmail.com  
920-242-3664  
2023/05/10

City of Manitowoc  
City Clerk's Office  
900 Quay St  
Manitowoc, WI 54220

Subject: Proposal to Purchase Land - Parcel Number 05245001401000

Dear City of Manitowoc Officials,

My name is Matthew Hartfield, and I am writing to submit a proposal to purchase a section of land from parcel number 05245001401000. I am a proud resident of Manitowoc and have lived in this beautiful neighborhood for many years. I am deeply committed to preserving and maintaining the natural beauty and historical significance of our area.

The parcel in question is adjacent to several other parcels that I currently own, with parcel numbers 05245001406000, 05245001405000, 05245001407000, and 05245001408000. As the owner of these connecting properties, acquiring part of parcel number 05245001401000 would allow me to better maintain and preserve the land and its surroundings.

The land I am inquiring to purchase is a triangle of wooded land roughly 148' by 208'4" by 150'. This letter contains an attachment image from <https://manitowocmaps.info/gisviewer/>, which contains a red outline of my projected proposal.

There are several reasons why I am particularly interested in purchasing this land:

1. Improved Maintenance: The small woods in the area require regular upkeep to maintain their health and beauty. By acquiring this parcel, I would ensure that proper care is provided to the trees and natural surroundings.
2. Trash Removal: There are various items, such as a riding lawnmower, that have been left on the property and need to be removed. As the owner, I would take responsibility for cleaning up and maintaining the land, ensuring that it remains free of debris and trash.
3. Historic Preservation: The parcel contains the foundation of a house from the 1800s that has been lost to time. Owning this land would allow me to preserve this piece of our neighborhood's history and share it with the community.
4. Personal Connection: As someone who grew up in this neighborhood, I have a deep appreciation for the beauty and serenity that this land offers, particularly with its views overlooking the Manitowoc River. Owning this property would be a dream come true for me.

I understand that the City of Manitowoc has a vested interest in ensuring that this parcel is well-maintained and cared for, and I am the ideal candidate for this responsibility. I would like to propose a purchase price of \$2,000.00 for the land.

I would be grateful to discuss this proposal further with the appropriate city officials. Please feel free to contact me at 920-242-3664 or mharrtfield04@gmail.com to arrange a meeting or conversation.

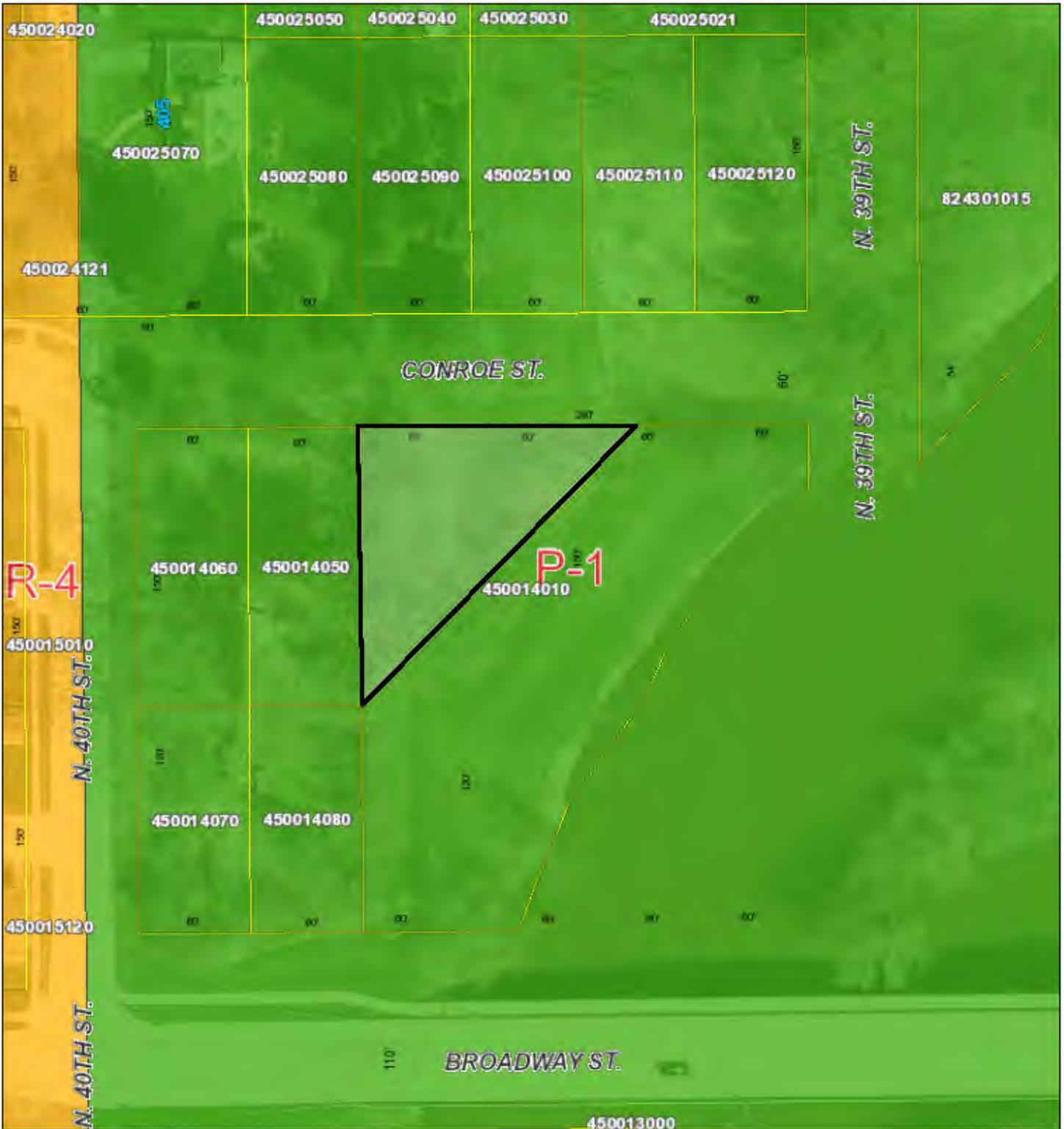
Thank you for your time and consideration. I look forward to working with the City of Manitowoc to preserve and enhance the beauty and history of our neighborhood.

Sincerely,  
Matthew Hartfield

Search for place

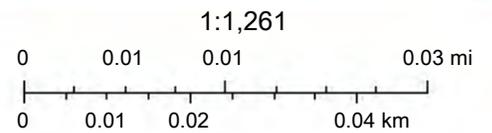


# Hartfield Request to Purchase - Zoning



5/18/2023, 7:55:06 AM

 Parcels	 R-3	 B-1	 I-1
Zoning	 R-4	 B-2	 I-2
 P-1	 R-5	 B-3	
 R-1	 R-6	 B-4	
 R-2	 R-7	 C-1	

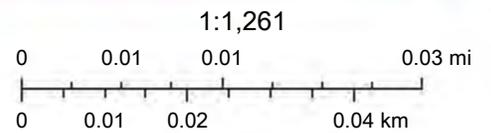


# Hartfield Request to Purchase - Wetland

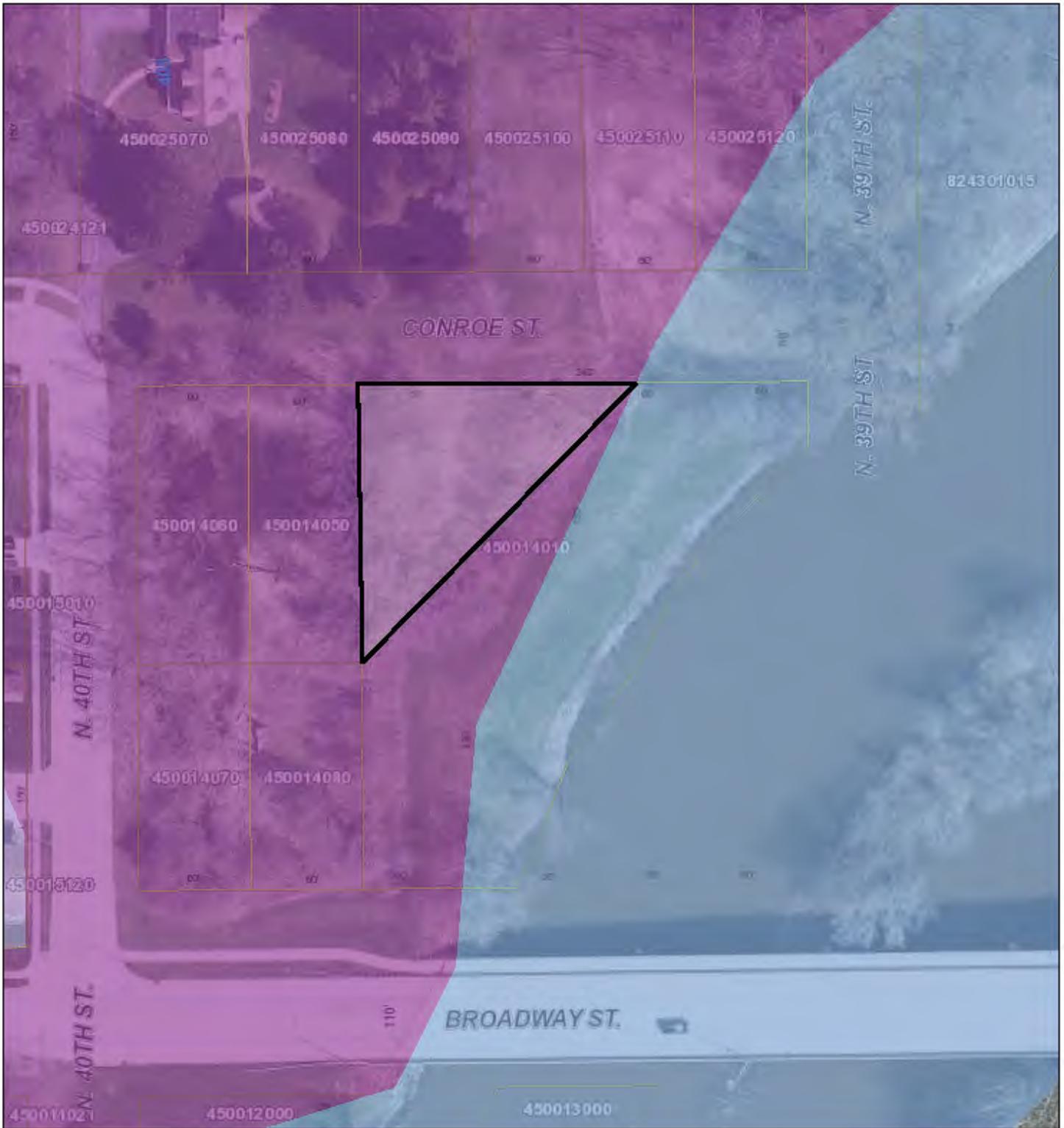


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-  Parcels
-  Wetland Class Areas



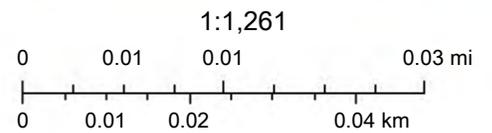
# Hartfield Request to Purchase - Floodplain



5/18/2023, 7:52:37 AM

## Flood Hazard Areas

-  1% Annual Chance Flood Hazard
-  0.2% Annual Chance Flood Hazard
-  Regulatory Floodway
-  Parcels



LEGAL FAQs

# FREQUENTLY ASKED QUESTIONS LEGAL

**1. What procedures must a municipality follow when it sells land and may a municipality sell land for below fair market value?**

Cities and villages are expressly authorized to sell and convey property. See Wis. Stat. secs. 61.34(1) and 62.22(1). The statutes do not specify any procedures a municipality must follow when selling property. We often get asked whether a municipality must, when selling property, solicit bids and sell to the highest bidder. A municipi-

pality may, but is not required to, use a competitive bidding process when selling property. A municipality may, just as well, choose to list the property with a real estate broker or establish any other reasonable sales procedure.

When a party interested in buying a particular parcel of land from a municipality initiates discussion with the municipality about the possibility of purchasing the parcel, the municipality may negotiate exclusively with the interested party and need not publicly

advertise the lot's availability before selling the property to the interested party.

We have advised municipalities in the past, however, that they should obtain an appraisal of any parcels to be sold to eliminate the possibility of a successful taxpayer's suit challenging the adequacy of the purchase price. The Wisconsin Supreme Court has held that a sale of municipal property authorized by the governing body may be voided if a taxpayer can establish

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(1) illegality, (2) fraud or (3) a clear abuse of discretion on the part of the governing body. *Newell v. Kenosha*, 7 Wis.2d 516, 96 N.W.2d 845 (1958); *Hermann v. Lake Mills*, 275 Wis. 537, 82 N.W.2d 167 (1957). If a municipal governing body sells property for substantially less than a fair consideration in money or other benefits, it may be found to have abused its discretion.

*See Hermann v. Lake Mills, supra.* This is especially true if the land is sold to private parties who intend to use the land for purely private purposes.

When municipalities sell property to nonprofit organizations or governmental entities for a municipal public purpose, the sale price is less of a concern. Under such circumstances, the sale price could even be below fair market value as long as the amount of loss incurred by the municipality as a result of the sale is for a public purpose under the public purpose doctrine. The public purpose doctrine requires that a municipality's expenditure of public funds be for a public purpose. *Hopper v. City of Madison*, 79 Wis.2d 120, 256 N.W.2d 139, 142 (1977).

The courts have stated that what constitutes a public purpose is, in the first instance, a matter for the legislature to determine and that the legislature's determination is entitled to great weight. *Id.* The courts have established the following test for determining whether a particular appropriation is for a public purpose:

For the public purpose requirement to be met, the subject matter of the appropriation must be a public necessity, convenience or welfare. Each case must be decided with ref-

erence to the object sought to be accomplished and to the degree and manner in which that object affects the public welfare. Factors which may be considered include the course or usage of the government, the objects for which taxes have been customarily levied, the objects which have been considered necessary for the support and proper use of government, the extent to which the expenditure results in competition with private enterprise, the presence or absence of a general economic benefit, the number of citizens benefited, and the necessity and infeasibility of private performance.

*Id.*, 256 N.W.2d at 143 (all citations omitted). For further discussion of the public purpose doctrine see League legal opinion Powers of Municipalities 852.

Finally, any proposed sale of municipal property should be referred to the plan commission, if there is one, for its recommendation before final action is taken by the governing body. Wis. Stat. sec. 62.23(5). See also *Scanlon v. Menasha*, 16 Wis.2d 437, 114 N.W.2d 791 (1962).

**2. Can municipalities adopt and enforce ordinances prohibiting the discharging of a gun within the municipality?**

Yes. While municipalities are generally prohibited from regulating firearms more stringently than state law, the statutes expressly provide that municipalities may enact ordinances restricting the discharging of firearms. Wis. Stat. sec. 66.0409(3)(b).

Section 66.0409(2) prohibits, with certain exceptions, any city, village, town or county from enacting an ordinance or adopting a resolution that regulates the "sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components," unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute. "Firearm" is defined to mean "a weapon that acts by force of gunpowder." Wis. Stat. sec. 167.31(1)(e). As a result of this prohibition, municipalities may adopt or continue to enforce ordinances regulating the use of a firearm only if the ordinance has a statutory counterpart. Any municipal ordinances which attempt to regulate firearms differently or more stringently than state law are invalid and unenforceable.

**3. May a municipality enforce a municipal ordinance outside its corporate boundaries (e.g., on land the municipality owns that is located in an adjacent town)?**

No. The general rule is that absent an express grant of authority to enforce an ordinance extraterritorially, municipal ordinances have no effect outside of the municipality's corporate boundaries. See *Wisconsin's Environmental Decade, Inc. v. DNR*, 85 Wis.2d 518, 271 N.W.2d 69, 76 n. 8 (1978).

Municipal ordinances would apply to territory owned by and lying near but not necessarily contiguous to a city or village if annexed under Wis. Stat. sec. 66.0223.