

## Report to the Manitowoc Plan Commission

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

**Request:** PC 21-2023: Swetlik: Request to Purchase City Owned Property. Parcel # 000-196-040. East 55' of Lot 4, Block 196 of the Original Plat

**Report:** Kassandra Swetlik, is requesting to purchase a city owned property that is adjacent to her dog grooming business located at 2105 Western Avenue. Her intention with the property is to expand her parking lot to support her business and provide parking for an upstairs residential use. The lot came into City ownership when the intersection was redesigned. The triangular shaped lot is approximately 0.06 acres.

The property is currently zoned R-6 Multiple Family Residential. Parking lots are not allowed in the R-6 zoning district so if the property is purchased Mrs. Swetlik would need to rezone the property to allow for the parking lot.

Currently the City removes the snow and cuts the grass on the lot.

As part of the sale the City will need to dedicate to itself the area needed for right-of-way, in addition an easement will need to be created for the traffic signal infrastructure.

Engineering, Public Works and Parks are all supportive of selling the property.

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 0.06 acre parcel with the Attorney's Office instructed to proceed with all facets of the sale and Swetliks paying for any of the following costs: drafting of legal descriptions, easement preparation, survey costs, recording costs and closing costs.

**From:** [Kassandra Swetlik](#)  
**To:** [Paul Braun](#)  
**Subject:** External: City Lot Purchase  
**Date:** Thursday, September 28, 2023 10:31:50 AM  
**Attachments:** [IMG\\_0599 2.jpg](#)

---

Hello,

I would like to put in a formal request to purchase the small city lot next to my building located at 2105 Western Ave. The lot is on the corner of 21st and Western Ave, across from Holy Family Hospital. I would like to purchase this lot to expand our park lot. I have included an image of what the parking lot expansion would look like. Please let me know if you have any questions or concerns, and let me know the next steps in the process!

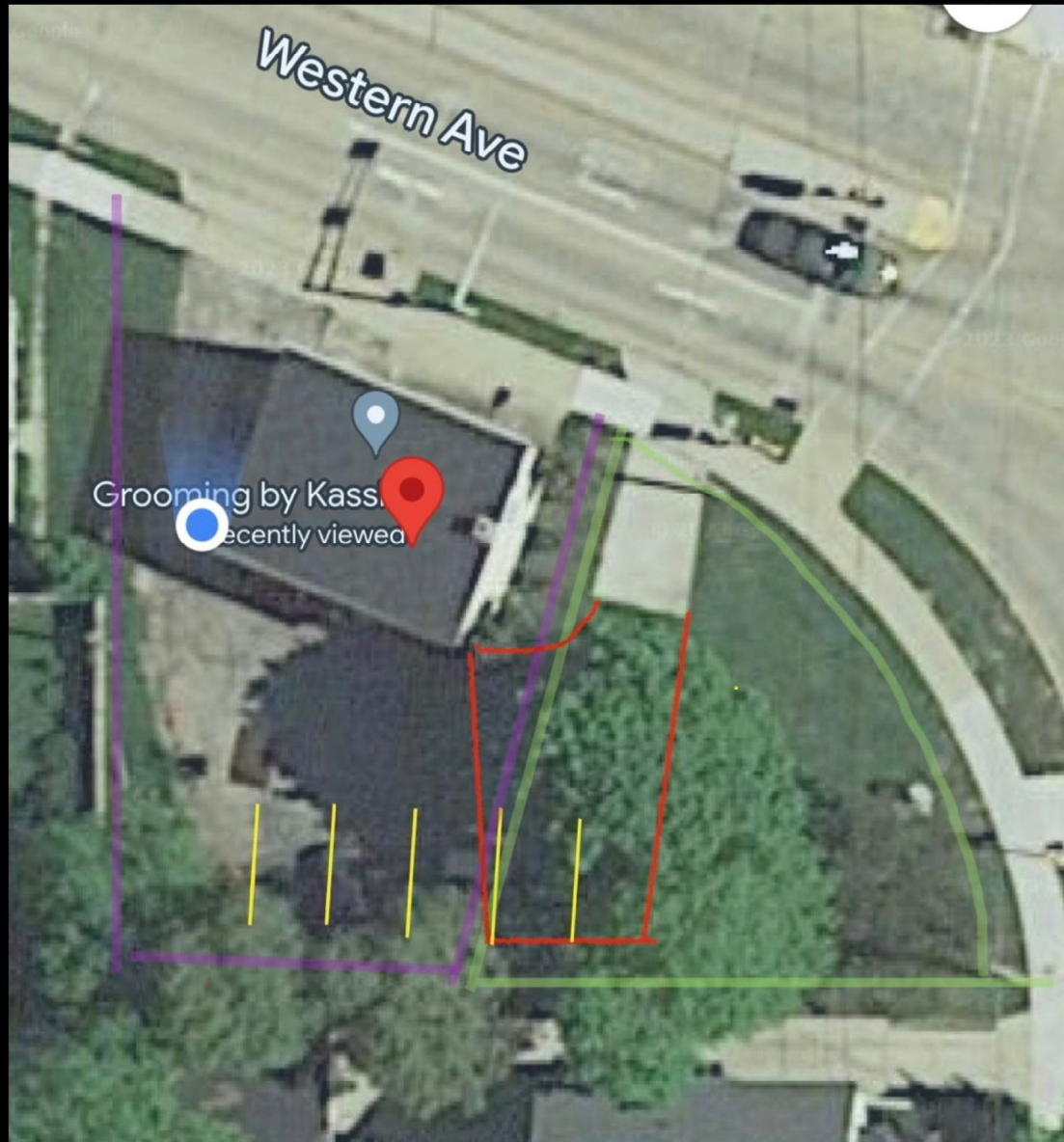
Thank you,  
Kassie Swetlik

Grooming by Kassie LLC   
[kassandra.swetlik@gmail.com](mailto:kassandra.swetlik@gmail.com)

## **Be Alert !**

This is External or System generated Email. Please verify before opening any links or attachments.

# 2105 Western Ave Proposed Parking Lot Expansion



Current lot lines

City lot lines


Parking lot  
expansion

Parking spaces



716 S 21st St

Manitowoc, Wisconsin

 Google Street View

Nov 2022

[See more](#)





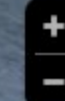
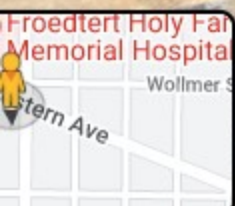
2105 Western Ave

Manitowoc, Wisconsin

Google Street View

Nov 2022

See more dates



2113

53.64'

7352

3 1/2" 40" DI N-VCP (2018)  
WESTERN AVE.

S. 21ST ST.

000196021

2105  
59.01'

7154

7-35

000196041

000196040

72.48'

S. 21ST ST.

75'-1" CONC (1981)

55'

55'

50.9'

6956

R22-63

2" CONC (1981)

149'-8" VCP (1912)

110'

000196050

2116

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

Funding the

# MIDWEST

one project at a time.



**MSA**

PROFESSIONAL SERVICES More Ideas. Better solutions.

800.362.4505 • [www.msa-ps.com](http://www.msa-ps.com)

ENGINEERING • SURVEYING • ARCHITECTURE • ENVIRONMENTAL • PLANNING • FUNDING

(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.