

Jennifer Swokowski

From: Jeffrey Patterson <pattersonlegal@comcast.net>
Sent: Tuesday, February 4, 2025 3:24 PM
To: Brett Vanderkin; Chad Beeman; James Brey - D4; Eric Sitkiewitz - D6; Tim Boldt; Bill Schlei; Todd Reckelberg; Michael Cummings; Brett Norell; William DeBaets; Justin Nickels; Jennifer Swokowski; Ryan -. SeehaferNews; aschafer@gannett.com
Subject: External: February Common Council Meeting - CUP Renewals for Lotus Recovery Homes
Attachments: Patterson Written Comment re Lotus Recovery Homes CUP Renewal 2025 Lake Street and Marshall Street.pdf

Dear Mr. Mayor and Common Council members:

Below, and attached as a pdf, are my written public comments for the Lotus Recovery Homes CUP renewals that will come before you at your February 17th meeting, specifically for:

PC 23-2023: Annual Review: Lotus Recovery Homes: Conditional Use Permit for the Operation of a Transitional Housing at 1111 Marshall Street.

PC 24-2023: Annual Review: Lotus Recovery Homes: Conditional Use Permit for the Operation of a Transitional Housing at 404, 406 & 408 N. Lake Street

Was it Manitowoc's plan to have **twelve** Recovery Residences in two neighborhoods?

What is Manitowoc's plan now?

In two of its older its neighborhoods, the City of Manitowoc has permitted twelve sites that congregate persons being supervised by the Department of Corrections, on probation or parole for drug offenses. These operations use the name "Recovery Residence." In Manitowoc's First and Third aldermanic districts, there are 112 beds in Recovery Residences.

The concentration of Recovery Residences that Manitowoc's Common Council has fostered is unheard of in most of Northeastern Wisconsin. Here are the number of Recovery Residences currently registered with the State of Wisconsin Department of Health Services (DHS) in other counties

- Sheboygan - None
- Fond du Lac - None

- Calumet - None
- Outagamie - None
- Kewaunee - None

So, who benefits from congregating people under supervision for drug crimes in neighborhoods? The City of Manitowoc neither requires nor keeps a record of where occupants in Recovery Residences come from. The operators have no residency requirement; they make a one-page application with DHS in order to obtain referrals on a state-wide basis.

The Common Council has never analyzed who benefits from 12 Recovery Residences –

- Do the two affected neighborhoods benefit? Exactly how? Tell your constituents.
- Does the city in general benefit? Exactly how? Tell your constituents.
- Do aldermanic districts with no Recovery Residences benefit by concentrating Recovery Residences in the First and Third districts?
- Do other municipalities and counties benefit by sending their residents to Manitowoc? Is that the Common Council's intent? If so, tell your constituents why. Such policy has never been openly deliberated or voted upon.
- Do residents from other counties benefit? Is that the Council's intent? If so, tell your constituents why.

Unlike Community-based Residential Facilities, Recovery Residences are not licensed, inspected, monitored or audited by DHS. There are simply no State of Wisconsin requirements to be met, as long as you're not providing on-premises treatment to anyone.

Every time a Recovery Residence operator has requested a permit to operate in Manitowoc, the permit has been granted. The City has never analyzed

1) how many beds are needed to serve its own residents and

2) whether it is best for the City to group Recovery Residences in older neighborhoods.

For example, what has it done to the near north side neighborhood to have 6 locations that, by their own definition, serve temporary occupants under treatment for substance use disorder? The operator of the Lake Street site reports it housed 39 people there during the past year.

The city inexplicably treats every request for a Recovery Residence as a zoning matter, rather than a public safety matter. No one has had the foresight to question

1) whether these operations fit the zoning code's definition of "Transitional Housing" and, if so,

2) whether this should be changed.

The City is not a sitting duck to the ignorant assertion made by Alderman Brey the last time a hearing was held on a Recovery Residence CUP: he said that everyone who requests a CUP must be granted the CUP unless the City proves the CUP requirements can't be met. Alderman Sitkiewicz lapped this up and repeated the fiction as the basis for his "Yes" vote. If that's the case, why don't aldermen just go to the lobby for a doughnut when a CUP request comes before the council?

The fact is that there has never been a discussion between council members as to

1) whether Recovery Residences fit within the zoning code's definition of "Transitional Housing," and if so

2) whether such definition should be clarified to exclude Recovery Residences from residential neighborhoods, or

3) whether the total number of Recovery Residences within the City or within aldermanic districts should be restricted.

Instead of the Mayor or alderpersons initiating such discussions, they have abdicated their authority and neglected their duties to their constituents.

The City Planner has, independent of input from any elected representative, or of any opinion by the City Attorney, interpreted Recovery Residences as a "Transitional Housing." But the Manitowoc Code of Ordinances defines Transitional Housing as:

. . . housing intended to provide the support needed for temporary occupants who **lack a fixed, regular and adequate nighttime residence to move into long-term housing**, and which is usually offered as part of a transitional program that helps homeless individuals and families become independent through counseling, job training, child care, skills training, and health care assistance.

Yet no Recovery Residence in Manitowoc requires, before it accepts a new resident, that such person must show he

1) "lacks a fixed, regular and adequate nighttime residence," or

2) needs temporary housing before he or she can “move into long-term housing.”

Thus, in granting the previous permits, the Common Council has done something it has no right to do: it has permitted operations that are not defined as “Transitional Housing” under its own Code of Ordinances. Such code binds the council. It’s not the Council’s code; it’s the citizens’ code. If the Council wishes to amend or clarify such code, it can do so under the procedures allowed by law, and then that will be the new citizens’ code.

There is more that happens in the dark: when a permit is requested for a Recovery Residence, only “abutting or fronting property owners” have been notified by letter. And, these letters are typically delivered shortly before the hearing. This is the same level of notice required for a permit for an elderly home or for a side-yard setback encroachment.

For CUP renewals for Recovery Residences, the City has just decided to disregard the notice letter. No such letters have been issued for renewal requests.

Even if it is the considered decision of the Common Council that Recovery Residences should be treated like all other zoning matters, the council could amend the notice requirements under its Comprehensive Zoning Code. In the era of word processing, it would be easy to provide notice to a much larger number of affected property owners. But that has not occurred to the Mayor or Common Council, even though the current notice requirements are antiquated. Sure, a Legal Notice is published twice in the Herald Times Reporter. But no one can credibly contend that such method still gives wide notice throughout the City of Manitowoc. The world has changed, but the Common Council likes operating in the dark.

More darkness: In December, a Recovery Residence renewal was approved by the Common Council via its “Consent Agenda” – i.e., without open deliberation or separate vote. This is striking since the supporting documents for the renewal show a lack of compliance with a requirement that is critical both for the residents and the community. The permit for the operation at 419 Park Street requires that:

A resident advocate shall be present in the Residence at all times when residents are present. The resident advocate counts towards the total residence count.

Thus, the Common Council decided that a staff person from the operator must be present at all times when those being served and monitored by the operator are present. The permit required on-site oversight – a watchful eye. The Council clearly distinguished such a person from the occupants being served and monitored. Yet, this is how the operator reported to the Commission and Council that it has treated this requirement:

At all times, one of the residents has served as the Resident Advocate.

Regardless of this glaring failure, the Common Council renewed the 419 Park Street Conditional Use Permit without any hearing or deliberation.

The same operator, Lotus Recovery Homes, has 4 more renewals that will come before the Common Council at its February meeting. Three of those are for Lotus' Lake Street building. Those Conditional Use Permits have the same requirement:

A resident advocate shall be present in the Residence at all times when residents are present. The resident advocate counts towards the total residence count.

Yet Lotus reports this non-compliance:

Each of the three houses had an elected resident advocate. When one left, another was elected.

For its Marshall Street operation, Lotus reports this non-compliance:

Residents chose 2 resident advocates. When one left, a new one would be elected so that two advocates were maintained.

The deference shown to Recovery Residence operators in the City of Manitowoc is startling. Consider this deference:

For operations that gather numerous unrelated persons into a single location, it is common to impose off-street parking requirements. So, for Lotus' locations at 419 Park Street and 1111 Marshall Street, their permits require:

All over-night vehicles shall be parked off-street on hard surfaced areas

This is an easy requirement for Lotus to meet. At 419 Park Street, there is an unusually large driveway and parking area. At 1111 Marshall Street, there is a large parking lot. So, in its renewal applications, Lotus reports:

- - - Park Street: "There have never been any vehicles belonging to residents parked overnight on the street (we have a huge driveway.)"

-
- **Marshall Street: “Full compliance with all off-street parking requirements, and all codes and regulations.”**

Yet, for Lotus’s Lake Street operation, the City Planner simply ELIMINATED any requirement for off-street parking from the Conditional Use Permit. Why would the planner do that? Because he wanted the CUP to fly through but Lotus could never fulfill those parking requirements because the site is very poorly situated for public safety. So, the problem got “fixed” by the City Planner and no one on the Plan Commission or Common Council ever noticed or raised a concern. Yet concern is well-deserved because in Lotus’s Lake Street location:

- the street is of substandard width;
- parking is prohibited on the east side of the street -- because there is no room;
- vehicles are often illegally parked on the City-owned lawn east of the street at the top of the bluff;
- vehicles consistently park facing the wrong direction – northbound in the southbound lane;
- there is no terrace between the sidewalk and the street on the east side; the sidewalk abuts the street;
- the street is a corridor for children walking and biking to school and for people accessing the lakefront at the steps to Maritime Drive; and
- that section of Lake Street is on a hill with a sharp curve and very poor visibility for oncoming cars.

In short, there couldn’t be a worse place in the City of Manitowoc to eliminate the requirement of off-street parking. But, in deference to another Recovery Residence, the City Planner quietly made this requirement vanish. And not a single member of the Plan Commission or Common Council has raised the issue of how or why this happened.

The issue here is actually not the safety of Lake Street. The issue is how Manitowoc city government works – or doesn’t work -- for its residents. It starts with whether the Council blindly rubber stamps the City Planner’s advocacy for every Recovery Residence that makes an application. This advocacy oozes out of the planner’s reports. This fix for favored applicants becomes damaging when

- 1) it extends to eliminating safety requirements because the operator can’t meet them, and
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