The Meeting of the Plan Commission of the City of Onalaska was called to order at 7:00 p.m. on Tuesday, August 27, 2019. It was noted that the meeting had been announced and a notice posted at City Hall.

Roll call was taken, with the following members present: Mayor Joe Chilsen, Ald. Tom Smith, City Engineer Jarrod Holter, Jan Brock, Skip Temte, Craig Breitsprecher, Steven Nott

Also Present: City Administrator Eric Rindfleisch, City Clerk Cari Burmaster, City Attorney Amanda Jackson, Planning Manager Katie Aspenson, Planning Technician Zach Peterson

Excused Absence: Paul Gleason

Item 2 – Approval of minutes from previous meeting

Motion by Craig, second by Ald. T. Smith, to approve the minutes from the previous meeting as printed and on file in the City Clerk's Office.

On voice vote, motion carried.

Item 3 – Public Input (limited to 3 minutes per individual)

Mayor Chilsen called three times for anyone wishing to provide public input and closed that portion of the meeting.

Consideration and possible action on the following items:

Item 4 – Public Hearing: Approximately 7:00 P.M. (or immediately following Public Input) – Consideration of a Conditional Use Permit request filed by Caleb Sheng of SMJ International, 49030 Pontiac Trail, Suite 100, Wixom, MI 48393 on behalf of CenturyTel of Wisconsin, LLC , 2615 East Avenue South, La Crosse, WI and wireless carrier Verizon to replace six (6) existing antennas with nine (9) new antennas and replace eighteen (18) Remote Radio Units (RRU) with six (6) new RRU, and adding ancillary equipment to the existing telecommunications tower located at 580 Lester Avenue, Onalaska, WI 54650 (Tax Parcel #18-4013-0)

Katie said this CUP request pertains to allowing Verizon to modify the existing telecommunication structure, a 160-foot tall monopole. Verizon will be adding its equipment to this site's tower by replacing six existing antennas with nine new antennas, and also replacing 18 Remote Radio Units (RRU) with six new RRUs. They will service those antennae by installing an equipment platform with cabinets and backup generator. The applicant has stated the height of the tower will not be extended, nor will there be any additional lighting. The existing use of the tower also will not be changed. The Structural Analysis Report, as prepared by American

Tower Corporation, states that based on the analysis results, the structure meets the requirements per the applicable codes, and the tower and foundation can support the proposed equipment. Katie noted telecommunication structures and tower are permitted only by CUP per Section 13-5-5, and pursuant to standards set forth in Sections 13-8-11. While the city has no basis for denial of the CUP, it has found a basis to impose the following conditions:

1. Owner/developer shall pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to issuance of occupancy permits. **Substantial Evidence:** This condition provides notice to the owner/developer that they are to follow procedure for orderly development in the City of Onalaska in order to promote the health, safety and welfare of the City.

2. All conditions run with the land and are binding upon the original developer and all heirs, successors and assigns so long as the conditional use is being actively used. **Substantial Evidence:** This condition acknowledges and provides public notice of the term and puts the owner/developer and future owners on notice that they are bound by the conditions and that they can continue the use as long as they follow the conditions and actively use the conditional use.

3. Owner/developer shall abide by the City's Ordinances, Unified Development Code and Building Code requirements, as amended. **Substantial Evidence:** This condition assures the owner/developer understands they must follow the city's Unified Development Code and Building Code, which they are required to follow in every way, and that as they are receiving the benefit of being allowed to have a use that is not within the standards of the City's zoning code, failure to follow City ordinances may result in loss of their Conditional Use Permit.

4. The Conditional Use Permit shall be reviewed every five (5) years to ensure continued use. **Substantial Evidence:** This shifts the burden to the owner of the property to provide proof that the use is active and continuing. Ensuring that existing permits are still valid and being properly used ensures compliance with the City's procedures and ordinances, and promotes interaction and communication with the City, which furthers orderly development and the health, safety and welfare of the City.

Katie noted a public hearing will be held this evening and said only where no reasonable conditions could exist to allow the Conditional Use may a CUP be denied.

Mayor Chilsen opened the public hearing and called for anyone wishing to speak in favor of the Conditional Use Permit request.

Mayor Chilsen called three times for anyone wishing to speak in favor of the Conditional Use Permit request and closed that portion of the public hearing.

Mayor Chilsen called three times for anyone wishing to speak in opposition to the Conditional Use Permit request and closed the public hearing.

Motion by Steven, second by Craig, to approve with the four stated conditions a Conditional Use Permit request filed by Caleb Sheng of SMJ International, 49030 Pontiac Trail, Suite 100, Wixom, MI 48393 on behalf of CenturyTel of Wisconsin, LLC , 2615 East Avenue South, La Crosse, WI and wireless carrier Verizon to replace six (6) existing antennas with nine (9) new antennas and replace eighteen (18) Remote Radio Units (RRU) with six (6) new RRU, and adding ancillary equipment to the existing telecommunications tower located at 580 Lester Avenue, Onalaska, WI 54650 (Tax Parcel #18-4013-0).

On voice vote, motion carried.

Item 5 – Public Hearing: Approximately 7:10 P.M. (or immediately following previous hearing at 7:00 P.M.) – Consideration of a Conditional Use Permit request filed by Lori Kopecky of Wireless Planning, LLC of 2310 Mill Street, New London, WI 54961 an agent on behalf of wireless carrier US Cellular and USCOC of La Crosse, LLC, 2310 Mill Street, New London, WI 54961 on behalf of 2GJF, LLP, 3264 George Street, Onalaska, WI 54650, to replace nine (9) existing antennas with six (6) new antennas, replace three (3) new Remote Radio Units (RRU) with nine (9) new RRU, and adding ancillary equipment to the existing telecommunications tower located at 1033 2nd Avenue SW, Onalaska, WI 54650 (Tax Parcel #18-939-0)

Mayor Chilsen opened the public hearing and called for anyone wishing to speak in favor of the Conditional Use Permit request.

Mayor Chilsen called three times for anyone wishing to speak in favor of the Conditional Use Permit request and closed that portion of the public hearing.

Mayor Chilsen called three times for anyone wishing to speak in opposition to the Conditional Use Permit request and closed the public hearing.

Katie said this CUP request pertains to allowing US Cellular to modify the existing telecommunication structure, a 118-foot tall monopole. US Cellular will replace nine existing antennas with six new antennas, and it also will replace three new remote radio units with nine remote radio units along with new ancillary equipment to the telecommunications tower. There is no intention to make improvements to or replace the equipment cabinets as part of this application. The applicant has stated the improvements to the antennas and radios are to provide enhanced and reliable coverage to users within the area, and upgrading the facility would be the

least disruptive to the community. The height and the footprint of the structure will not change. The Structural Analysis Report, as prepared by Edge Consulting Engineers, Inc., shows that the existing tower foundation is structurally adequate for the proposed improvements. Katie noted telecommunication structures and tower are permitted only by CUP per Section 13-5-5, and pursuant to standards set forth in Sections 13-8-11. While the city has no basis for denial of the CUP, it has found a basis to impose the following conditions:

1. Owner/developer shall pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to issuance of occupancy permits. **Substantial Evidence:** This condition provides notice to the owner/developer that they are to follow procedure for orderly development in the City of Onalaska in order to promote the health, safety and welfare of the City.

2. All conditions run with the land and are binding upon the original developer and all heirs, successors and assigns so long as the conditional use is being actively used. **Substantial Evidence:** This condition acknowledges and provides public notice of the term and puts the owner/developer and future owners on notice that they are bound by the conditions and that they can continue the use as long as they follow the conditions and actively use the conditional use.

3. Owner/developer shall abide by the City's Ordinances, Unified Development Code and Building Code requirements, as amended. **Substantial Evidence:** This condition assures the owner/developer understands they must follow the city's Unified Development Code and Building Code, which they are required to follow in every way, and that as they are receiving the benefit of being allowed to have a use that is not within the standards of the City's zoning code, failure to follow City ordinances may result in loss of their Conditional Use Permit.

4. The Conditional Use Permit shall be reviewed every five (5) years to ensure continued use. **Substantial Evidence:** This shifts the burden to the owner of the property to provide proof that the use is active and continuing. Ensuring that existing permits are still valid and being properly used ensures compliance with the City's procedures and ordinances, and promotes interaction and communication with the City, which furthers orderly development and the health, safety and welfare of the City.

Katie noted the public hearing had just been held and said only where no reasonable conditions could exist to allow the Conditional Use may a CUP be denied.

Motion by Steven, second by Ald. T. Smith, to approve with the four stated conditions a Conditional Use Permit request filed by Lori Kopecky of Wireless Planning, LLC of 2310 Mill Street, New London, WI 54961 an agent on behalf of wireless carrier US Cellular and USCOC

of La Crosse, LLC, 2310 Mill Street, New London, WI 54961 on behalf of 2GJF, LLP, 3264 George Street, Onalaska, WI 54650, to replace nine (9) existing antennas with six (6) new antennas, replace three (3) new Remote Radio Units (RRU) with nine (9) new RRU, and adding ancillary equipment to the existing telecommunications tower located at 1033 2nd Avenue SW, Onalaska, WI 54650 (Tax Parcel #18-939-0).

Skip noted the telecommunications structure is a monopole, and he asked if the structure discussed under Item 4 is more of a tower than a monopole even though it is labeled as a monopole.

Katie told Skip the applicant had referred to the structure as a monopole and said staff had utilized the applicant's words based off the applications.

On voice vote, motion carried.

Item 6 – Public Hearing: Approximately 7:20 P.M. (or immediately following previous hearing at 7:10 P.M.) – Consideration of an amendment to the Unified Development Code (UDC) to delete Part 2 of Chapter 6 of Title 13, related to Signage in the City of Onalaska Code of Ordinances

Katie said that as part of the Unified Development Code/Zoning Ordinance Rewrite Project, city staff is proposing to remove Part 2 of Chapter 6 of Title 13, which is the Sign Ordinance and part of the Zoning Code, to a new section – specifically, Title 16 – of the city's Code of Ordinances. Katie explained the purpose for this removal is to facilitate future amendments to the ordinance in an efficient manner. Currently, any changes to the Sign Ordinance take approximately four to five months. Katie said the process will be shortened to approximately two months once the ordinance is relocated. City staff still will request discussion by the Plan Commission for proposed changes, but a public hearing no longer would be required. The Plan Commission would be the reviewing entity for any deviations from the Sign Ordinance. Appeals would be made to the Common Council as opposed to the Board of Zoning Appeals.

Mayor Chilsen opened the public hearing and called for anyone wishing to speak in favor of an amendment to the Unified Development Code (UDC) to delete Part 2 of Chapter 6 of Title 13, related to Signage in the City of Onalaska Code of Ordinances.

Mayor Chilsen called three times for anyone wishing to speak in favor of an amendment to the Unified Development Code (UDC) to delete Part 2 of Chapter 6 of Title 13, related to Signage in the City of Onalaska Code of Ordinances and closed that portion of the public hearing.

Mayor Chilsen called three times for anyone wishing to speak in opposition to an amendment to the Unified Development Code (UDC) to delete Part 2 of Chapter 6 of Title 13, related to Signage in the City of Onalaska Code of Ordinances and closed the public hearing.

Motion by Ald. T. Smith, second by Craig, to approve an amendment to the Unified Development Code (UDC) to delete Part 2 of Chapter 6 of Title 13, related to Signage in the City of Onalaska Code of Ordinances.

Katie told commission members staff will be proposing a couple changes to the Sign Ordinance in September based on feedback received over the last year. The proposed changes, if approved, would go before the Administrative and Judiciary Committee in October.

Craig noted he had discussed the changes with Katie and said he believes the city should have taken this action a long time ago.

On voice vote, motion carried.

Item 7 – Review and consideration of an annexation application for Tax Parcel #: 9-57-3, (0.030 acres total, State Road 16) filed by Ben Phillips of BLP Holdings LLC, 2726 Larson Street, La Crosse, WI 54601

1. Owner to merge Tax Parcel # 9-57-3 with Tax Parcel # 18-3607-0 upon finalization of annexation.

2. Annexed land to be placed in the Community Business (B-2) Zoning District upon ordinance adoption.

3. Owner/developer must notify City prior to any utility connection to City-owned utilities takes place.

4. Owner/developer shall pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to issuance of occupancy permits.

5. All conditions run with the land and are binding upon the original developer and all heirs, successors and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.

6. Any omissions of any conditions not listed in minutes shall not release the property owner/developer from abiding by the City's Unified Development Code requirements.

Katie noted the Comprehensive Plan identifies this area as a Commercial District, which is

intended to accommodate large- and small-scale commercial and office development. A wide range of retail, service, lodging and office uses are appropriate in this district.
Katie noted Tax Parcel No. 9-57-3 is located directly adjacent to (north of) 9550 East 16 Frontage Road, and will be included as part of the previously approved Phillips Fencing/Phillips Outdoor Services commercial project. Katie said this annexation and zoning were required conditions of approval of a CUP and rezoning application. Upon annexation, the property be appropriately zoned Community Business (B-2), and will be required to merge with Tax Parcel No. 18-5607-0. Katie said staff supports the annexation request, and also that approval is recommended with the six stated conditions.

Motion by Craig, second by Steven, to approve with the six stated conditions an annexation application for Tax Parcel #: 9-57-3, (0.030 acres total, State Road 16) filed by Ben Phillips of BLP Holdings LLC, 2726 Larson Street, La Crosse, WI 54601.

Craig asked Katie if it is correct to say the B-2 zoning this parcel will become is according to current classifications.

Katie told Craig he is correct.

On voice vote, motion carried.

Item 8 – Review and consideration of Invoice No. 018-021-15 from Hoisington Koegler Group, inc. for UDC/Zoning Code Rewrite Project

Katie noted a copy of the 15th invoice for the UDC/Zoning Code Rewrite Project has been included in commission members' packets, and its total is $12,100.62.

Motion by Ald. T. Smith, second by Craig, to send to the Common Council for approval Invoice No. 018-021-15 from Hoisington Koegler Group, inc. for UDC/Zoning Code Rewrite Project in the amount of $12,100.62.

Ald. T. Smith inquired about the status of the budget for the UDC/Zoning Code Rewrite Project.

Katie told Ald. T. Smith the city to date has been billed slightly more than $77,000 and said the original amount was $90,000. Katie said the Plan Commission might discuss a portion of the budget Thursday afternoon at its special meeting and utilize some unused attorney funds, as needed, for this project.

On voice vote, motion carried.

Item 9 – Discussion related to Onalaska Unified Development Code (UDC)/Zoning Rewrite Project – Discussion about regulations for:

a. Swimming Pools

Katie said staff requested the consolidation, review and revising of the regulations pertaining to swimming pools. The code currently has regulations pertaining to swimming pools in Section 13-6-7 ("Detached Accessory Structures") and Section 13-6-11 ("Residential Swimming Pools"). Katie said commission members' packets include a list of draft regulations and a definition of a swimming pool, and she mentioned the following:

- Permits are not necessary for storable swimming or wading pools having a diameter of 18 feet or less and a wall height of four feet or less, and installed for less than 180 days in a calendar year. Katie said staff chose 180 days for storable swimming or wading pools as they are considered temporary structures, per the city's Building Code. Katie also noted many of the pools that fit this area typically are utilized solely for summer purposes.
- The construction requirements, setbacks, and fencing did not typically change. Katie noted the Plan Commission had reviewed many of the regulations two to three years ago.
- Setbacks have not changed in terms of how close a pool may be to a parcel line. If one obtains a permit for a permanent swimming pool, it counts toward the 25 percent of the city's rear-yard allotment.
- A new item pertains to an automatic pool cover serving as a barrier in lieu of a fence. Said pool cover would have to be closed when a responsible person is not present outdoors and within 25 feet of the pool. Katie said this standard had come from HKGi, and she asked commission members if this is something they find to be appropriate and would like to consider.

Craig said he assumes an automatic pool covers means someone would need to utilize it in order to be effective.

Katie told Craig he is correct.

Craig noted there is no protection if someone forgets about the automatic pool cover and said, "I'm not in favor of doing that. I think we need the guarantee of protection." Craig then asked Amanda about water draining onto adjoining properties and said, "We don't mention it specifically I would assume that also means the transfer of snow by artificial means from those areas onto neighboring properties. In other words, I know of a situation where someone, to prevent meltwater running into their pool, takes a snowblower back there and blows all the snow onto adjoining properties – in fact, right up against people's houses. I've seen it with my own eyes."

Amanda said it likely would be a neighbor-to-neighbor dispute at that point and asked Jarrod to address snow removal.

Jarrod said he believes it would be a civil issue, adding he does not believe it would be any different than one person depositing refuse on a neighbor's property. Jarrod said, "I don't know how we would enforce it."

Amanda said if there is water draining between two properties and one has met the city's guidelines, "We don't get into that. That's a dispute between two property owners, generally."

Craig pointed out the fact water cannot be drained onto lands of other property owners, and he asked, "How can we go there if we don't do the same thing with snow removal? That doesn't make sense to me. It's not logical."

Jarrod said he believes there would be a Nuisance Ordinance and the Police Department would issue a citation if a citizen had recorded a neighbor depositing snow onto another property.

Craig asked, "If we can say that you can't have waters going onto lands of adjoining property owners, why would that not hold true …?"

Jarrod said a homeowner does not drain pool water onto a neighboring property and told Craig, "I blow my snow onto the neighbor's lot, but he knows it. I don't think it's a pool [issue]. It's more of a nuisance item than a pool item."

Amanda said it is the same as grass clippings or refuse and told Craig the city is stating it does not want citizens to drain pools so that the water runs onto a neighboring yard.

Steven told Craig he believes his concerns would need to be addressed in a different section of the regulations. Steven said if he found himself in the situation Craig had described and he could not come to a resolution with his neighbor, it is his understanding the Police Department could issue a citation.

Amanda said she will need to examine the city's Public Nuisance Ordinance and stated the city does not become involved in disputes between two neighbors as it is a civil issue.

Craig said, "You're confining this to the contents of the pool, more or less."

Amanda told Craig he is correct.

Skip said from his viewpoint, he believes the Plan Commission is discussing the fact one cannot drain swimming pool water onto a neighbor's lot. However, Skip noted one could have runoff from rain gutters running onto a neighboring property.

Katie said, "This particular item has been in our code for a number of years. This isn't actually being proposed for change."

Ald. T. Smith told Katie he also objects to automatic pool covers serving as barriers.

Jan noted her neighbors have a pool cover that supports up to 400 pounds as well as a fence, and she asked if the proposed regulation insinuates one does not need a fence if he/she has an automatic pool cover.

Katie told Jan she is correct and said the city currently requires a fence. Katie said, "If they want to do a pool cover, that's of their own volition. This is proposing that if we allow the cover, you either get to remove your fence if you have one or you don't have to do it if you install a new pool."

Jan stated she prefers both.

Steven described a pool cover as being a solid barrier that is sealed all the way around the pool, whereas a fence may be climbed. Steven said he believes he could make a strong argument that a pool cover is more secure. Steven also said he understands one is not in compliance with the city's regulations if the cover is not utilized.

Craig told Steven that while he understands what he is saying, someone must make a conscious attempt to scale a fence and trespass on someone's property to access a pool. In contrast, Craig said if a property owner forgets to utilize a pool cover without a fence, "someone can wander into that unknowingly, and we have a problem. I think to prevent that, I guess that's my thought process for saying a pool cover is fine if they want to do that, but I think we need to keep the fences in place."

Jan said the requirement of having a 48-inch high fence does not seem that high, noting a small child could flip over four-foot high fence.

Katie noted the city's rule regarding a 48-inch high fence has been in place for several years, and she said everyone who had met the city's code would be considered nonconforming if the code were to be changed.

Jan asked Katie if most individuals build to the 48-inch height, or if they build higher.

Katie said most individuals staff has seen build to the minimum height, and she noted they are able to build higher than 48 inches if they so choose.

City Administrator Rindfleisch told commission members the 48-inch requirement is in line with Item No. 2, which states, in part: *"An approved barrier shall consist of a solid wall or durable material of which the pool itself is constructed and shall extend directly above the vertical water-enclosing wall of the pool a minimum of four feet above the level of the ground immediately*

adjacent to the pool." City Administrator Rindfleisch said, "If we create something beyond that 48 inches, then you're really having a fence immediately adjacent to the pool or on top of the pool wall. You see that more often the entryway is fenced in, but the above-ground area, which is 48 inches above, is not."

Craig told commission members he agrees with Steven and said he believes the theory is it is not the city's job to prevent an accident. Rather, Craig said, "Our job is to make sure there is a barrier there that takes a conscious effort to scale in order to put oneself in danger. I think four feet probably accomplishes that."

Amanda noted there is no requirement that a fence be locked or that it not be accessible. However, the city has a requirement stating that *"a gate latch shall be inaccessible to small children in some other manner approved by the Department of Inspection."* Amanda asked Katie what that has meant in the past.

Katie said staff has typically seen the lock placed on the interior, meaning one cannot reach up and over the fence to unlock the gate from the inside out.

Amanda noted there is no requirement that it be locked; rather, just that it be latching.

Katie told Amanda she is correct.

Steven said a positive aspect about allowing automatic pool covers to serve as barriers is citizens would be encouraged to purchase what he described as a more secure device. Steven said, "If we remain as we have been, then we do not provide that incentive."

Jan asked if a fence could be added to the automatic pool cover.

Craig said he believes the point Steven had made was if the pool cover is being utilized, it is as effective – if not a more effective – deterrent than a four-foot high fence. Craig said, "My only concern is if we allow that, people get lazy, they forget, it's not used. [Then] all of a sudden we have a problem. I'd rather not see that situation occur."

Katie noted HKGi's consultants had told her very few communities utilize this in lieu of a fence and said, "It's just because it was comments that came from citizens that we even included it here just for discussion purposes. [HKGi's consultants] did not see this as a popular option to forego the fence if you do the pool cover."

Steven asked how cost-prohibitive the pool covers are.

Jan told Steven she believes they are very expensive compared to a fence.

Jan asked if anyone is aware of statistics regarding individuals who perish yearly from scaling a fence and falling into a pool versus individuals who are inside the fence.

City Administrator Rindfleisch referred to Item E(1) regarding fencing, which reads: *"Every swimming pool which extends wholly above the ground or partially above the ground shall, at all times, be enclosed so as to prevent people and animals from accidentally falling into such pool."* City Administrator Rindfleisch said, "What best keeps people from accidently falling into a pool? You can have a fenced-in backyard that has a pool and your children may be at risk because there's no fence between your house and the pool. But that does prevent people and animals – generally, strangers or neighbors – from accidentally falling into your pool. So climbing a fence or 48 inches or a pool cover, I think if you're focusing on the fact that what you're trying to accomplish is just to prevent people from stumbling and tripping into a pool who are unaware it is there. That may help direct your conversation."

Craig asked, "When we talk about 25 percent of the backyard area as a permissible area to be covered by a pool, does that include the concrete aprons and that type of thing that are an inherent part of that."

Katie told Craig no and said concrete is not considered part of the 25 percent. Katie explained it must be something for which a permit may be pulled and said it is a structure that is greater than a 5-by-5.

Craig asked if that means someone could concrete the entire backyard.

Katie said, "Excluding a three-foot buffer surrounding their property, as required by city code."

Jan asked if the city's definition includes lap pools.

City Administrator Rindfleisch told Jan he believes lap pools would be included, per the definition of a swimming pool that is included in commission members' packets.

Katie asked commission members who support allowing an automatic pool cover to serve as a barrier without having a fence to raise their hands.

Steven and Jan raised their hands.

Katie told commission members she will remove that rule from the code.

b. Home Occupations

Katie told commission members the city's existing regulations address what is allowed for permitted home occupations and accessory home occupations. Katie addressed the following

items:

- There are proposed regulations that divide home occupations into two different categories.
- Prohibited home occupations include contractor shops, medical/dental offices, vehicle repairs, animal kennels, funeral chapels, dispatching, welding, firearm training/instruction, vehicle/equipment rentals, tow trucks, excavating, and large volume sales, wholesaling, storage and warehousing.
- A Minor Home Occupation is conducted entirely within the enclosed portion of the dwelling. It does not exceed 25 percent of the area of any floor. It only is conducted by inhabitants of the dwelling. There must not be any exterior evidence of the home occupation. There must not be any outdoor storage or display of products. Deliveries are limited to commercial companies typically used for household purposes. There is no activity or equipment used that creates noise, vibration, glare, fumes, odor, or electric or television interference discernable at the property line. Merchandise shall not be displayed or offered for sale either within or outside the residence. Orders previously made by telephone or at a sales party may be filled on the premises. Garage, basement, yard, or other similar sales related to the home occupation shall not be allowed. When required, a license from the state shall be maintained at all times and the home occupation shall operate in compliance with the terms of that license and all applicable regulations of the state. Signage as allowed in the Sign Code.
- A Major Home Occupation could be within the dwelling or a detached accessory structure. The home occupation may not exceed 25 percent of the area of any floor within the principal structure. However, the owner may utilize as much of the detached structure as he/she pleases, provided that he/she does not need the detached accessory structure to meet the minimum required two-car parking spaces. There must be no evidence of home occupation. There must not be any outdoor storage or display of products. Deliveries from commercial suppliers may not occur more than once a week. Deliveries must not restrict traffic circulation. There is no activity or equipment used that creates noise, vibration, glare, fumes, odor, or electric or television interference discernable at the property line. Merchandise shall not be displayed or offered for sale either within or outside the residence. When required, a license from the state shall be maintained at all times and the home occupation shall operate in compliance with the terms of that license and all applicable regulations of the state. Infrequent hobby, craft or art sales are allowed once a year for not more than three calendar sales. Customers must be scheduled by appointment only. There must not be any more than two customers on site at any time. Hours are limited from 7 a.m. to 8 p.m. In addition to off-street parking required for the dwelling, two off-street parking spots must be provided for customers and each non-resident employee. A Major Home Occupation is subject to review upon complaints from the neighborhood. If the Planning Department determines the complaints are substantial, the city may require a public hearing where additional conditions may be added to a permit, or the city could choose to revoke the Major Home

Occupation if it causing a major disturbance to a neighborhood. Signage as allowed in the Sign Code.

Steven expressed concern over allowing one non-resident employee, stating he does not know if he agrees with that. Steven said, "If we're allowing non-residents to be hired, I don't understand why that doesn't become a business, and now it's violated the zone. It's not an R-1 or an R-2 – it's Commercial. Now you're running a business. You actually have employees on a payroll coming to your house every single day to run a business. I think that changes the whole flavor of the home occupation."

Craig said he believes Steven has made a valid point, stating, "All of a sudden, you have a payroll. That's not really what we would normally define as a home business. The other question I had is, clearly with Major and Minor [Home Occupations], it is still all allowed, or not allowed, by zone, correct?"

Katie said yes.

Craig asked if the city still is reviewing which zones will allow which types of activities.

Katie said it currently is listed as Permitted, With Standards, meaning someone would have to meet all the regulations she had just noted. Those would be the standards for Home Occupation, Major versus Minor. Katie said, "We're working on the best way to regulate that, if it's a permit or some other method that would give Plan Commission control. But it wouldn't be a Conditional Use Permit because we can't say no to that."

Amanda noted some municipalities have a Home Occupation Permit, while others do it through a license or a certificate of zoning compliance, and she said the city is leaning toward a permit process. Amanda said applicants would have to come to City Hall and certify they understand the requirements. Amanda said in some cases, an applicant submits a basic site plan that shows where he/she will occupy the home occupation within the residence. Amanda said those possibilities are being examined.

Craig said that while he does not oppose either Major or Minor Home Occupations, "I think there are lines that you cross." Craig told Steven, "I think we can better govern that through an exploration of the zones or conditions or something like that. … I don't know how to deal with it."

Steven said he does not object to someone utilizing a portion of his/her residence for, as an example, an art studio, and he noted he/she still must follow noise regulations. Steven said, "It really comes down to how much of a detraction it's going to be for their neighbors. … I think the biggest thing is going to be whether or not it is restricted to that homeowner or owners in that house only. If they start bringing in third parties and now they'll also have to park their extra

full-time employee for eight or nine hours a day, it's a business."

Craig said he believes legally, "it would be a hard bridge to cross – why is one allowed [but] not two? In my mind, that almost becomes an arbitrary situation based on somebody's judgment. … If we start crossing that bridge …"

Amanda said this was included for discussion this evening based on what has been seen in other communities, and she asked Steven if his opinion is different if an employee were part-time and not full-time.

Steven said no and told Amanda, "Once you start having a payroll with employees – in this case, an employee that is showing up on a regular basis who is not a resident of that house to work there – then I think what you have is a business in a residential area."

Katie noted the Plan Commission has approved one home occupation that has a CUP on file and more so meets this definition of having employees. Katie said the home occupation, an irrigation home business, had either three or four employees who would drive to the house every day, park, get in the company vehicle and drive to job sites. Katie noted the Plan Commission had approved the home occupation with certain conditions of approval, including the commission's ability to add conditions. Katie said it is possible for someone to have a photography business and employ an assistant who does not come to the residence, but he/she could run payroll from his/her residence. Katie said, "Just because that person has a business that has more employees, is it the fact that the employees are coming to the residence? Or you can have a business that has it and you run all the administrative out of your home. Then you might not care because you don't have employees coming to the home on a regular basis."

Craig described the irrigation business as "a meeting place by which to go to a job site."

Katie told Craig the residents in that neighborhood did not like the fact four cars parked on the street every day. Katie said, "That would be more of a Major, but we would only allow one," and she asked commission members if they would like to keep thinking about home occupations, or engage in further discussion regarding employees.

Craig said he would like to engage in further discussions and stated, "I think once you become an employer, it changes things when employees come to the house."

Skip asked if there are any restrictions on contractors coming to a residence and said he could adopt FedEx's template in that all his employees are independent contractors. Skip added, "You can't stop that sort of thing."

Craig noted those individuals are not on someone's payroll.

Skip pointed out the individuals are accomplishing everything to which Craig and Steven are objecting. Skip also pointed out many companies are contracting rather than hiring people.

City Administrator Rindfleisch said he believes some of the concerns being expressed regarding payroll is less about finance and more about the impact on the neighborhood. City Administrator Rindfleisch noted the city is utilizing "Permitted, With Standards" instead of CUPs, and he said, "We're trying to establish a standard that protects neighborhoods of all nature. And I think the intent, if I'm reading the group correctly, is by having employees, there are cars parked on the street or the driveway, or there is additional traffic the neighborhood is not designed to be. For the most part, the interest, from my understanding, is we would like to allow home occupations because people are doing it anyway and it's not impacting the character of a neighborhood up to a certain point. The challenge is, what is that standard? … I think having one employee coming over may have less of an impact than having a business where there are four or five cars at a time coming and going in a business. … I'm not saying the answer is the employee or not. I think whatever the standard is, and maybe it's [a matter of] going back to the consultant and [asking], how do you establish a standard that protects the character? … Talking about deliveries, we don't want a constant amount of deliveries, because that impacts it. So what standards could they propose that exist elsewhere that, being an employee or being a customer, that don't have a negative impact on the neighborhood?"

Amanda said the city does not want to review a home business' records to determine if there is a payroll or staff, or if someone is an independent contractor. Amanda also said the city will not know if a home business has employees if they are not coming to the house, and she stated, "What we care about is the foot traffic and the parking, so maybe our focus should be on that and less on determining who is an employee and who is not an employee."

City Administrator Rindfleisch said the city has the ability to deny a license if there is a negative impact. By comparison, the city is attempting to create the full standard under zoning. City Administrator Rindfleisch said, "If they meet the full standard, it's allowed."

Katie said citizens and neighbors may come to the Planning Department and lodge complaints if there is a substantial Major Home Occupation in a neighborhood. A public hearing will be held if that occurs, and Katie said if individuals are able to demonstrate issues of neighborhood disruption, the Plan Commission could reject the home occupation and not allow it. Katie also said the Plan Commission could tell a businessowner he/she has outgrown a home occupation and now must go to a commercial business. Katie said, "We want to encourage home occupations because it's a great way for businesses to get started. But once you become so successful that you're now having a negative impact on the neighborhood, it's time for that to move or shift in another direction."

Craig asked if that is a defensible position at that point.

Amanda said at that point there is a permit issued against a set of standards, and a home businessowner is no longer meeting those standards. Amanda said if those standards are no longer being met, the city would have the authority to revoke the permit.

Craig said, "We're saying, 'with standards.' "

Katie said, "These are the standards. We're noting what they are."

City Administrator Rindfleisch noted it is for zoning purposes and said the second step is for an individual to obtain a license for his/her business, and he asked if the license must be renewed through the city.

Katie said staff still is trying to determine if the city will license or permit.

City Administrator Rindfleisch said he believe this speaks to the importance of licensing even if the city is going to set the standards to follow for zoning purposes and it does not have to rely on CUPs. City Administrator Rindfleisch said allowing licensing gives neighbors an opportunity to air grievances via a hearing, and it also allows for due process to determine whether or not the business may proceed.

Amanda said that would be through the permit process.

Craig said he believes "with standards" is the key and stated the city still is getting used to that.

City Administrator Rindfleisch said that as part of the zoning process, the city is not changing the zoning if neighbors complain as there already are established standards.

Amanda said the city would be pulling the Home Occupancy Permit.

Steven said his initial concern might have been focused on a symptom rather than the problem, and he told commission members his concern comes down to the impact on the neighborhoods. Steven said he would not object to someone running a software company from his/her home who has employees working in different states as it would not impact the neighborhood. Steven said, "It comes down to taking a really close look at how we have constrains on the impact on your neighbors and the neighborhood."

Craig said he believes the city's broader uses of home occupations and the broader uses being discussed for standards is something the city must get used to.

Katie said the city always has had standards for home occupations, but they were much less defined than what is being proposed. Katie said what is before the Plan Commission would be the "Permitted, With Standards" the city would utilize.

Craig said he would like to see this in a formalized form so the Plan Commission may evaluate the standards and under what conditions the Plan Commission would allow it as far as how it would affect neighborhoods. Craig said that while he believes taking the next step is a good thing, he still has concerns.

Jan referred to the standard prohibiting outside storage or display of products, equipment and merchandise, telling Katie she has received telephone calls regarding individuals parking their work vehicles on the driveway. Jan asked how this is enforced.

Katie said the city does not cite work vehicles that are appropriately licensed and parked.

c. Daycares

Katie said daycares are not considered home occupations and noted the city currently has limited regulations for them. Katie noted the City of Onalaska has four types of daycare facilities: child care provider, certified family; child care center, licensed; child care center, licensed group; and day care, adult. Katie shared the following proposals:

- Staff recommends that child care provider, certified family be allowed as an accessory use with no standards given that the resident is caring for only one to three children.
- Staff recommends that child care center, licensed family be permitted an accessory use as long as the following standards are met:
    - Must comply with all state and local standards.
    - No person, other than members of the family residing on the premises, shall be engaged or employed. This shall not apply to a substitute, non-resident person providing care on the premises while the owner/operator is sick or otherwise unable to provide care.
    - The use of any accessory building or accessory structure for the day care is not allowed.
    - Play equipment, swings, sand boxes, or structures shall not be located in front yards or in the required side yard setback area adjacent to a street.
    - If required to have an outdoor play area, such play area shall be fully enclosed by a fence, wall, or hedge of at least three (3) feet in height.
- Staff recommends that child care center, licensed group be permitted a permitted use as long as the following standards are met:
    - Play equipment, swings, sand boxes, or structures shall not be located in the front yard.
    - Boundaries of an outdoor play space shall be defined by a permanent enclosure not less than four (4) feet high to protect the children. Fencing, plants or landscaping may be used to create a permanent enclosure.
    - Off-street parking shall be provided based on the facility's licensed

capacity as follows: One space per employee on the maximum work shift. One space per eight children.

- Staff recommends that an adult day care center be allowed as a permitted use as shown in the Districts Allowed section. It is suggested that parking standards have a requirement of one space per employee on the maximum work shift, plus one space per 10 clients.

Craig inquired about requiring outdoor play areas to be fully enclosed by a fence, wall, or hedge of at least four feet instead of three feet.

Katie told Craig staff had taken what the state had recommended and said the height can be increased to four feet.

Steven inquired about the lack of an age restriction for child care center, licensed family.

Katie noted these are state rules and told Steven anyone seeking a license must follow these rules.

Steven asked if four to eight teenagers would be allowed at that type of center.

Katie said yes.

d. Short-Term Vacation Rentals

Katie said that per discussions at the July 16 Special Plan Commission meeting, it is beneficial for the city to have regulations for short-term vacation rentals. Users of short-term rentals often enjoy the “neighborhood” or “residential” feel of their accommodations, which typically cost less than a traditional hotel or other lodging. They also bring supplemental income to homeowners. City approaches to short-term vacation rentals vary across the region, including not regulating them, prohibiting them, only allowing them in owner-occupied units, permitting them with standards, requiring a Conditional Use Permit, and licensing them. Katie noted the City of Onalaska currently requires CUPs for tourist homes, which are defined as places where the entire house or limited rooms in an individual’s house are rented to travelers for one or more evenings, and include renting of rooms or properties through internet sites such as or similar to Craigslist, Airbnb.com, vbro.com, homeaway.com, and flipkey.com.

Katie said it is recommended that the city create either a license or a permit for short-term vacation rentals as zoning may not be able to adequately address the operational aspects that also have the potential for impacting the surrounding properties. The following are proposed regulations so as to allow short-term vacation rentals as a Permitted, With Standards accessory use:

- The maximum number of overnight guests will be limited to two times the number of bedrooms rented, plus one.
- Events are not allowed to be hosted by transient guests on the premises.
- A dwelling must be connected to city sewer and water. Rooms used for sleeping shall have an egress, windows and smoke detectors. Guests must have access during their stay to a full bathroom, including sink, toilet, and tub or shower. Accommodation of guests is not allowed in recreational vehicles, tents, accessory structures, fish houses, or similar structures.
- All guest parking must be accommodated on improved surfaces on the premises. No on-street parking is allowed for guests. At a minimum, there must be one parking space for each one- to two-bedroom rental; two spaces for each three-bedroom rental; and spaces equal to the number of bedrooms minus one for each four- and four-plus bedroom rental. In short-term vacation rentals where the property owner resides on the premises, additional off-street parking for personal use must be provided at a rate of one parking space per two bedrooms not dedicated to the guest use.
- If the property owner does not reside on the property, he/she or a manager/representative must be located within 30 miles of the property. The property owner shall maintain with the city the name, address, phone number, and email for the local contact or managing agent for the property.
- A guest record must be maintained, including the name, address, phone number, and vehicle license plate information for all guests. This record must be provided to the city within 48 hours of a request for the guest record.
- The property owner must disclose in writing to their transient guests the following rules and regulations: The name, phone number and address of the owner, operating lessee or managing agent/representative; the maximum number of guests allowed at the property; the maximum number of vehicles allowed at the property and where they are to be parked; city nuisance ordinances requirements that noise levels be reduced between 10 p.m. and 8 a.m., and that this will be enforced by the City of Onalaska Police Department; property rules related to the use of outdoor features such as decks, patios, grills, recreational fires, saunas, and other recreational facilities; and no events are allowed to be hosted on the premises.
- All garbage must be kept in rubbish containers that are stored out of view of a public street.
- No signage pertaining to the short-term vacation rental is allowed on the property.

Ald. T. Smith asked Katie if any of this is currently being enforced.

Amanda said the city currently licenses short-term vacation rentals, and she also noted the city will be sending out letters this week. Amanda explained that the state has a process that requires a lodging marketplace, and also that short-term vacation rentals must register. Amanda said the process has not moved quickly and told commission members, “We’re catching them right now

as we look for them, but we're not getting notified."

City Administrator Rindfleisch addressed not allowing events to be hosted on the premises, telling commission members he believes the intent is to prohibit parties held by college-aged adults versus renting out a large space for a wedding. City Administrator Rindfleisch said he wants to make sure the city is not eliminating opportunities.

Katie said the city is generally notified as to when such events are occurring unless there is a special event that requires a permit.

City Administrator Rindfleisch said weddings would not be allowed at a short-term vacation rental if someone wanted to rent a dwelling overnight and hold a wedding there.

Katie said that is correct.

City Administrator Rindfleisch said the Lumber Baron Inn is the only city property he can think of with a large yard that could host a wedding.

Katie noted the Lumber Baron Inn is a bed and breakfast that is regulated separately and has different standards and rules. Katie also said the Lumber Baron Inn has not been shown on Airbnb.com, vbro.com, or a similar site.

Skip asked how the city can enforce the regulations.

Steven said he believes the enablers will inform the city that something has gotten out of hand. Steven also said, "This empowers the neighborhood to have the ability to crack down on somebody who is abusing that."

Skip said, "Overall, it's not going to affect most people if their neighbors don't complain about it."

Craig said, "It also gives the city the ability to take action with this on the books."

Steven said he would be more restrictive on tourist homes than on his own proprety and stated, "The reason being, if I have a small wedding in the back of my yard for one of my daughters in the near future, I live there. I have to be concerned about my neighbors. Somebody coming in from out of state or out of town to do that doesn't know any of the neighbors, and it's a whole different dichotomy going on here. I have more problem being more restrictive on a tourist home than I would my own property."

City Administrator Rindfleisch referred to a comment Katie had made regarding no events would be hosted by the renters on the premise, and he said he believes adding that language to the

ordinance might be beneficial.

Katie noted events are not allowed to be hosted by transient guests on the premises and said, "It is the intent that if the property owner is doing something, they're not the ones who are under this regulation. It's specific to the people renting."

Amanda said this also is a required disclosure and told commission members she is not certain the city would fine a property owner assuming there was appropriate disclosure and someone took appropriate measures if someone were to hold an event. Amanda said, "We're asking for them to set some basic rules and guidelines for their short-term tenant. We're not necessarily going to go in and cite them if an event happens on the property. This is just a requirement that they're posting rules and regulations."

Steven said sites such as Airbnb.com police themselves, telling commission members the site will respond to negative comments and shut down a short-term vacation rental.

Skip said that while he believes this is a positive step, he also noted there are communities that are experiencing difficulties with short-term vacation rentals. To be specific, investors are purchasing properties and utilizing them on sites such as Airbnb.com. Skip said, "This is something you need to be aware of, that this is occurring across the country and there are cities that are having problems with it."

e. Drive-Through Facilities

Katie said in creating the Principal Use and Accessory Use Tables, the topic of regulations for drive-throughs such as for fast food restaurants, coffee shops, and banks was raised. One approach would be to list each type of business with a drive-through separately on the Principal Use Table. Katie said an alternative approach staff is recommending would be to list a drive-through as an Accessory Use. In either approach, it is recommended that regulations pertaining to drive-throughs as part of the Use Specific Standards Section be included. Katie shared the following proposed regulations:

- Drive-through facilities may be allowed as an accessory use to a specialty food or coffee shop, restaurant, standalone store/retail/service, and office uses, as well as other similar uses as approved by city staff.
- Drive-through facilities shall be located to the side or rear of a building and shall not be located between the principal building and a public street, park, plaza, or downtown alley.
- Drive-through facilities are limited to one drive-through lane in the B-1 and NMU districts.
- Drive-throughs must not be operated between the hours of 10 p.m. and 6 a.m. if located within 300 feet of residentially zoned properties.

- A drive-through canopy shall meet principal structure setbacks.
- All elements of the drive-through service area, including, but not limited to, menu boards, order stations, teller windows, and vehicle lights from stacking lanes must be screened from view of residential properties through an opaque fence at least five feet high; a landscaped berm at least five feet high; or two staggered rows of evergreen trees, with the trees in each row spaced a maximum of 12 feet.
- In addition to meeting the noise regulations, if within 300 feet of residential properties, speakers must not produce noise that exceeds 75 dBa as measured five feet from the speaker.
- Vehicle stacking spaces for drive-through facilities shall be provided according to the following provisions:
    - Stacking spaces shall be a minimum of ten (10) feet by 20 feet in size. Required width for vehicle drive aisles may not be allocated toward stacking spaces or stacking lanes.
    - Measurement of stacking spaces shall begin behind the first point at which the vehicle must stop (which may be the order board, a pre-order board or payment/pick-up window).
    - Stacking spaces shall be separated from other internal driveways by surface markings. Raised medians may be required where deemed necessary by staff for the purpose of traffic movement and safety.
    - Stacking spaces may not impede pedestrian movements, on- or off-site traffic movements, or movements in or out of off-street parking spaces.
    - A minimum stacking lane of 6 spaces or 120 feet must be provided.

City Administrator Rindfleisch asked if the fence height may be six feet.

Katie said yes.

Steven said that while there are several good, objective standards, “I assume the intent behind all this is to ensure that we aren’t interfering with the safe thoroughfare, if you will, of the servicing public road and public sidewalk. If it starts stacking up out to where we’re creating safety issues on the public sidewalk and public road in servicing a business, I think it needs to be in there that they’re going to have to resolve that or they’re going to get shut down. … I would like something that an overall catch-all if they’re violating the intent of this.”

Amanda noted that stacking spaces may not impede pedestrian movements, on- or off-site traffic movements, or movements in or out of off-street parking spaces.

Jan recalled an instance when automobiles going through Starbucks’ drive-through were backed up to the street that goes in by Culver’s, and there also were a significant number of cars backed up by McDonald’s drive-through further down State Trunk Highway 16. Jan said, “We really need to get ahead of this.”

Steven said the condition to which Amanda had referred gives the city the opportunity to tell a business to make changes or be shut down.

Jarrod noted other sections of the code address traffic and said, "If it's affecting the traffic flow on a public thoroughfare or public street, I think the Engineering Department and the Public Works Department would be able to take action on their facility. We do try to look at drive-throughs through the Site Plan process, but there are times where things are more popular than you thought at the get-go. A lot of this is written more so for circulation within the parking area of the actual business, and some of that is actually dictated by users. If it's hard to get in and out, you just don't go. That's the reason the McDonald's on the corner of Theater Road bought out Slumberland next door – bought out a whole business and building – and literally moved their drive-through over there so they can stack all those people out because people weren't using their drive-through because there wasn't any room to use it." Jarrod noted he has seen anywhere from four to six cars during the lunch hour and at dinnertime at the Jersey Mike's drive-through and said, "They can use that. It stacks well."

Skip noted customers may remain in their cars and receive their meals at Outback Steakhouse and Arby's and said that also should be considered. Skip next addressed the condition stating drive-through facilities are limited to one drive-through lane in the B-1 and NMU districts, pointing out the McDonald's located on George Street in the City of La Crosse is in violation of that. Skip noted there are several McDonald's restaurants in the nation that have multiple locations where customers may place an order and then move through multiple lines, and said he believes the aforementioned condition "keeps them from ever building something like that."

Craig noted he has seen dual lanes in more than one location and said, "As long as they abide by the other regulations we have in place for each lane, because it's their property."

Katie addressed the two drive-through lanes and told commission members it is possible that if the city wants to focus on having one drive-through lane if it is within the 300 feet of a residential property, it would offer more neighborhood protection. Katie said one lane could be allowed in certain areas, but in other districts where there is more of a focus on commercial, a restaurant owner may do as he/she wishes.

Amanda reminded commission members drive-through facilities are limited to one drive-through lane in the B-1 and NMU districts.

City Administrator Rindfleisch said the intent of the drive-through facility is to drive past the window for service, but what is listed for a drive-through facility would include pull-up parking.

Jan asked if food establishments are the same as banks.

Katie told Jan they are listed here.

Katie told commission members home occupations likely would appear on the agenda again for further discussion at the September 24 Plan Commission meeting.

Adjournment

Motion by Craig, second by Skip, to adjourn at 8:41 p.m.

On voice vote, motion carried.

Recorded by:

Kirk Bey