

**Plan Commission
of the City of Onalaska**

Tuesday, October 22, 2019

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1 The Meeting of the Plan Commission of the City of Onalaska was called to order at 7:00 p.m. on
2 Tuesday, October 22, 2019. It was noted that the meeting had been announced and a notice
3 posted at City Hall.

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

7
8 Also Present: City Administrator Eric Rindfleisch, Deputy City Clerk JoAnn Marcon, Planning
9 Technician Zach Peterson

10
11 Excused Absence: Mayor Joe Chilsen

12
13 **Item 2 – Approval of minutes from previous meeting**

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15 Motion by Craig, second by Skip, to approve the minutes from the previous meeting as printed
16 and on file in the City Clerk’s Office.

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18 On voice vote, motion carried.

19
20 **Item 3 – Public Input (limited to 3 minutes per individual)**

21
22 Ald. T. Smith called for anyone wishing to provide public input.

23
24 **Mark Brockberg**
25 **1551 West Young Drive**
26 **Onalaska**

27
28 “I’m here representing First Free Church; I’m the Executive Pastor of First Free Church, [which
29 is] located at 123 Mason Street, Onalaska. I’m here tonight to inform you of our recent
30 development to our campus on Mason Street. A little over a year ago, we acquired the Four
31 Square Church that was adjacent to our property. We remodeled it and turned it into our youth
32 program, and we call it ‘The Chapel at First Free.’ With the acquisition, we established a new
33 501(c)(3) for that property. Before you tonight is a request to rezone our properties under two
34 separate 501(c)(3) entities, and to have it rezoned from R-1 to P-1; our main campus,
35 incorporated under 501(c)(3) called ‘First Free Church, Incorporated’; and the chapel at First
36 Free, Incorporated under a separate 501(c)(3). Under Wisconsin Statute Section 70.11(4),
37 religious and benevolent institutions can be exempted property taxes for up to 10 acres of land.
38 Our intention here tonight is to apply to the City of Onalaska to allow us to split our property
39 into three separate lots so we can apply for the property tax exemption for both of our existing
40 organizations: First Free Church, and The Chapel at First Free. To be clear, our intention is to
41 have Parcel [No.] 18-2096-61, [which is] the house, which would be a taxable entity at 0.38
42 acres; Parcel [No.] 18-2096-60, [which is] The Chapel at First Free, consist of 8.63 acres; and

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43 have Parcel [No.] 18-2096-32, [which is] First Free Church, Inc., consist of 11.31 acres. Just to
44 say a little bit more, we love being part of this community as a church. We have about 2,000
45 adults and about 500 children/youth that are attending our services every weekend, and these are
46 people who are coming from all over the Coulee Region, and even different states, and they're
47 coming into the community. Not only are they benefitting us as a church, but they're also being
48 a blessing to this community in so many different ways. They're buying gas. They're eating at
49 restaurants. They're doing all kinds of service and good within the community, and as a church
50 we do the same. We invite people from all over the community. Many different organizations
51 host a lot of different events. We even host a food pantry for over 1,400 families in a year's
52 time. We've provided groceries and help and all kinds of different things. What I'm saying is,
53 in the midst of this, we still are wanting to be a valuable part of this community."

54

55 Ald. T. Smith called three times for anyone else wishing to provide public input and closed that
56 portion of the meeting.

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58

Consideration and possible action on the following items:

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**Item 4 – Review and Recommendation for a Concept Plan to Reconfigure Lots at First
Free Church, 123 Mason Street, Onalaska, WI 54650**

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City Administrator Rindfleisch noted commission members' packets include copies of two lot
line adjustment maps: "Existing Lot Boundaries/Zoning," and "Proposed Lot
Boundaries/Zoning." City Administrator Rindfleisch said, "In listening to the public input, I
think there is one change that needs to be reviewed and made. Quickly doing the math, it
appears Lot 2, which is the chapel, and Lot 4 are to remain as one lot. It's listed as an outlot
right now; Outlot No. 4 is a separate one on our current map. I think we need some clarification
as to exactly what that intent is there, but with the proposal it's a separate outlot. Lot 1 is the
existing First Free Church and most of the existing parking. Lot 2 consists of the newly
purchased building and, as stated, that is now the chapel and the new addition to the parking lot,
the pavement that was paved recently. Up in the upper northwest corner is the house, Lot No. 3.
That is, according to the proposal, slated to actually expand. That would actually include, from
what I can see on the map, the driveway as it accesses State Highway 35.

Lot 1 under the subdivision would still consist of the main entryway and the driveway. Lot 2,
under review, would not have any access, as designed at this point in time because the driveway
to the house that is shared with the house and the chapel would move to, on the concept plan as
proposed, to the house, so it would need to have some kind of cross-access agreement. Likewise,
what would be slated to be the parking lot that's currently constructed, that would be in Lot 2,
and it would also need a cross-access agreement. Kylawn Court, [which is] on the north, is a
cul-de-sac. There were requirements that were part of allowing the expansion of the First Free
Church to put in fire access from that road there, but only fire access and not to be used as an
ingress/egress from the property that way. Likewise, there also would need to be an access

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85 agreement for public safety from that parcel to Lot 1, the church, as well. As currently designed,
86 Outlot 4, I think we need some clarification if that's to be combined or not. That is strictly the
87 stormwater. If that is to be a separate outlot, that parcel would need some cross-access
88 agreement because that is the current parcel's stormwater retention area for all the pieces there.
89 What's currently in just the one parcel where the church is would be for all the parcels there,
90 excluding Lot 3 with the house. The stormwater would go in a different direction, so you would
91 also need access agreements there.”

92
93 City Administrator Rindfleisch noted he had distributed copies of a memo from City Attorney
94 Amanda Jackson in which she addressed Section 70.11 of the State of Wisconsin Statutes.
95 Section 70.11(4), property owned and used exclusively by churches or religious associations,
96 including property owned and used for housing pastors and members of religious orders and
97 communities, but not exceeding 10 acres of land, shall be exempt. Any property owned above
98 the 10-acre threshold would be taxable. City Administrator Rindfleisch noted the purpose of
99 First Free's request is to avoid those taxes and said city staff must decide whether or not this is a
100 good idea. City Administrator Rindfleisch said, “The legal opinion is what is on the memo in
101 front of you. My review of this is, I do not lead to a positive recommendation to approve this for
102 the following reasons. What the plan would allow, and what the map does show, is increasing a
103 large amount of irregular parcels, which historically is something the Plan Commission has tried
104 to avoid. [The goal is] to create developable parcels that are regular and can be divided. While
105 the intention, as you've heard, is that, while there are two separate 501(c)(3)s, if you have two
106 divided lots you're always planning for the future. A lot gets sold, there's a new developer, you
107 want lots that are relatively easy to then be developed or transacted, sold, or purchased. Looking
108 at the map, we have substantially irregular parcels. You also have access issues – in Lot 3, in
109 particular. In effect, Lot 3, without a new driveway on [State Highway] 35, could become an
110 island, depending on future uses.

111
112 [Regarding] fire safety, the access on Kylawn Court was put in there specifically for the church.
113 The access for public fire safety would belong to a different parcel, so you would need to have
114 an access agreement for that. I mentioned you would need cross-access agreements for the new
115 chapel. Again, to be clear, Outlot 4 would be developing an undevelopable outlot because it's
116 always going to be stormwater. It could never be used for anything else, so we need to clarify
117 that. That also requires cross-access. If it becomes part of Lot 2, Lot 1 would need an access
118 agreement for that as well for the stormwater use. Therefore, the proposal does not create
119 uniform and developable lots; the proposal does not improve safety; and it does not improve
120 access – all of which are I think the Plan Commission has historically reviewed and been
121 favorable for looking at unique divisions of parcels. This does not do any of that. It does create,
122 as we know in Commercial areas with these, an increase in the use of access agreements. In
123 reviewing this with [Planning Manager] Katie [Aspenson], I think the staff would probably be
124 unanimous, but staff does not recommend approval of the concept plan, as proposed.”

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126 Motion by Skip, second by Steven, to approve a Concept Plan to Reconfigure Lots at First Free
127 Church, 123 Mason Street, Onalaska, WI 54650.

128

129 Skip asked, "Is the chapel a legal entity that will own Lot 2 different from the legal entity of Lot
130 1?"

131

132 City Administrator Rindfleisch said it would be a separate 501(c)(3) and told Skip it is, in theory,
133 a different entity. City Administrator Rindfleisch also said a subdivided lot means the current
134 entity could be sold or transferred to someone else.

135

136 Jarrod noted the sewer and water enters on the driveway that will be included with Lot 1, and he
137 said with the exception of the chapel, the area in Lot 2 does not have anything that is developed
138 at this time, and there is no sewer and water up to that area. Jarrod noted all the sewer and water
139 wraps around the building, and it is all consumed within Lot 1. Jarrod referred to Outlot 4,
140 which is the stormwater holding area for the entire parcel, and said it would require cross-lot
141 easements pertaining to drainage. Jarrod also reiterated City Administrator Rindfleisch's point
142 that Kylawn Court serves as the fire access for the back side of the proposed Lot 1. Jarrod said,
143 "From the traffic standpoint, this really doesn't have any bearing on the traffic out there. It's all
144 the same with or without the subdivision. If Lot 2 would get sold to a different entity, it would
145 be hard to develop it to maximize the development of it with just the frontage along Highway 35.
146 The Township [of Onalaska] has stated that they don't want any more traffic on Kylawn Court,
147 so that would be something if it ever did develop. Utility-wise, other than the fact the
148 stormwater holding area having to have a shared access or shared easement, there really isn't
149 anything too out of the ...The subdivision would not require any investment and infrastructure at
150 this time. If someone did develop Lot 2, we would have to look at more so part of a site plan
151 review, [including] traffic and where does the access come from and the cross-lot access. It
152 would be just a like a Planned Unit Development or a PCID where you would have to look at the
153 entire development and not just the lot that it's in."

154

155 Steven asked if the fire access on Kylawn Court to Lot 1 would be at risk with the division of the
156 lots, adding it is his understanding there no longer could be fire access into Lot 1 if Lot 2 ever
157 were to be sold.

158

159 Jarrod said, "Correct. This is conceptual at this point; this is not a Certified Survey Map. They
160 haven't incurred the cost of giving us a fully developed Certified Survey Map. At this point,
161 we're trying to get input on whether they should go forward with that. ... If this was to move
162 forward, in my opinion we would have to secure a cross-lot easement where their access would
163 be maintained from Kylawn Court to Lot 1. That is one of the issues tonight."

164

165 Steven asked, "But that is still doable to where that access still could guaranteed to be there if
166 that second lot were to be sold?"

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168 Jarrod said, "I wouldn't call it orderly, but it could be done," and he cited Target, Kohl's, and
169 Hobby Lobby as examples of being individual parcels that have cross-lot easements. Jarrod said
170 it is typical to find more cross-lot easements in Commercial developments than a parcel such as
171 this, adding, "We have seen it in the city, but it's not the norm."

172
173 Skip asked if Lot 2 would be removed from tax rolls, per Section 70.11 of the State of Wisconsin
174 Statutes, but Lot 1 still would be on the tax rolls.

175
176 City Administrator Rindfleisch told Skip no.

177
178 Skip said that according to the map, Lot 1 would be 11.31 acres and noted it would exceed 10
179 acres.

180
181 City Administrator Rindfleisch said the reason First Free Church representatives are before the
182 Plan Commission this evening is the full entity is more than 10 acres, and he told Skip only the
183 portion greater than 10 acres is taxed. City Administrator Rindfleisch further explained the
184 zoning would not dictate the tax, noting the house could be zoned R-1, and he said if it is owned
185 and still falls under the 10 acres, the house also could be tax-exempt if it utilized for benevolent
186 purposes.

187
188 Ald. T. Smith asked, "So our zoning wouldn't change on this?"

189
190 Steven and Craig both noted it will change. Steven noted the zoning will not matter and said,
191 "As far as the taxes, they're certainly qualified for the exemption, from what I've seen from
192 [Amanda's memo]. But on top of that, when you have these not-for-profit organizations, they're
193 providing other benefits to the city, in my mind. In [First Free's] case, they mentioned a food
194 pantry. I'm sure that your church provides far more volunteerism and organizations that support
195 outside your own parish, actually involving the whole community as well. Would that be
196 correct? That's the whole point of a not-for-profit: They're providing value to a community.
197 I'm not worried about the taxes. I'm only worried about public safety, ultimately. It sounds like
198 the cross-lot easement is doable, and that you can make it to where it would be permanent if they
199 were to sell that second lot."

200
201 City Administrator Rindfleisch said neither the Plan Commission nor the City of Onalaska
202 necessarily dictates the tax status; rather, it would be the assessor, who would utilize State of
203 Wisconsin Statutes. City Administrator Rindfleisch told the commission that even if First Free's
204 request is approved, it still would need to survive any potential challenges someone may make if
205 he/she notes there are two 501(c)(3)s operated by the same individuals. City Administrator
206 Rindfleisch said it is not the city's purview to decide that and stated, "We don't answer that
207 question if it serves a purpose or not. It is strictly, if this is a blank slate and someone made this
208 proposal, would you approve it as is? That's where I think staff is looking at this and [saying]
209 this is a very difficult concept that if we looked at this as developable land, to develop it and

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210 make a concept as such up front, we probably would not allow it anywhere else except for the
211 fact that it's a church that exists right now asking for this."

212

213 Jarrod said, "I think if this was a development coming in with a subdivision coming in and this
214 was vacant land – raw land that you saw today – would I approve the subdivision request you see
215 in front of you today? That's what I put myself into. It would probably have to have some sort
216 of public right-of-way coming in so there's proper access for all these lots. They don't need that
217 right now because that's not their requirement. They don't need that for what their uses are right
218 now. But if we're going to subdivide it, to me that would be orderly development, and that
219 would be if we had someone coming in who was looking at parceling off lots like, say, 30 years
220 ago when they developed along Midwest Drive. Would you have allowed this on Midwest
221 Drive? That's where I come back to the orderly development – not looking at the current use,
222 but looking at what would be developed on that land."

223

224 City Administrator Rindfleisch told the commission the staff decision regarding this has nothing
225 to do with the owners or their status, but rather, if this would be something that staff would
226 recommend on its face.

227

228 Craig said, "I have several concerns. Number one, plans for emergency access are not in place.
229 Cross-access agreements are not in place, or details for those are being provided. I'm very
230 concerned about emergency access to any of the properties, which I've gone on record many
231 times about. This really does fly in the face of a lot of the priorities that we've observed over the
232 years, such as the creation of irregular lots, which Eric alluded to, and the fact that when we look
233 at orderly development, which Jarrod just alluded to, this would not fly. One of the other things
234 – and although I don't place a premium on this – serving on BOZA [Board of Zoning Appeals],
235 one of the criteria that we use to evaluate variances – in other words, to grant exceptions to rules,
236 which this almost appears we're doing here – one of the criteria that is laid down by the state is
237 that this is not solely for financial gain. This is solely for financial gain. I won't let that weigh
238 into my decision here tonight, but I have enough other concerns that I'm not in favor of this."

239

240 Jarrod said that in defense of tonight's submittal, many of the details that would come forward as
241 part of the final submittal have not yet been completed because city staff told First Free
242 representatives not to do so. Jarrod said, "This is what staff recommended. That was enough to
243 get it out in front of us so there would be details that would have to be taken care of."

244

245 Craig told Jarrod he understands and said, "The thing I can't get past is, this flies in the face of a
246 lot of the priorities that we've observed in the past."

247

248 Jan asked if the First Free representatives are seeking a vote on this proposal this evening, or if
249 this item will come back before the Plan Commission with some of the concerns having been
250 addressed.

251

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252 Ald. T. Smith noted the motion on the floor is to approve the concept plan and said the
253 commission could vote to deny it and then make another motion for First Free to return before
254 the Plan Commission with more answers.

255
256 Jan asked if there would be a problem with delaying this so that the concerns raised this evening
257 could be addressed.

258
259 Jarrod told Jan the Plan Commission is acting upon a concept plan and not a final plan, and he
260 explained that First Free would submit a Certified Survey Map as part of the final plan. The
261 CSM would need to come before the Plan Commission so that the lots could be subdivided.

262
263 City Administrator Rindfleisch told commission members this is the time to take action if they
264 are not in favor of the concept plan so that First Free is not utilizing funds for a concept plan.
265 City Administrator Rindfleisch also told commission members if this is something they
266 potentially could be in favor of, there are costs to be borne by the owner if he is given permission
267 to move on from the concept plan.

268
269 Ald. T. Smith asked commission members if they want to call the question.

270
271 Craig called the question.

272
273 City Administrator Rindfleisch stated as a point of order that once the question is called, the
274 motion becomes the vote to take the vote, "so the vote right now is, are you voting? Otherwise,
275 don't call the question. Just move on to the vote."

276
277 Ald. T. Smith removed his motion.

278
279 On voice vote, motion failed, 3-2 (Jarrod, Craig, and Steven voted nay; Ald. T. Smith and Jan
280 voted aye; Skip abstained from voting).

281
282 **Adjournment**

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284 Motion by Ald. T. Smith, second by Jarrod, to adjourn 7:28 p.m.

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286 On voice vote, motion carried.

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288
289 Recorded by:

290
291 Kirk Bey