

Please note: Minutes are unofficial until approved by the Plan Commission at the next regularly scheduled meeting

PUBLIC HEARING

6:00 P.M. ()GK PG-516(f) Comprehensive Plan – Amendments
Park Plan – Carolyn Esswein
Storm Water Plan – Nicole Hewitt

**NEW BERLIN PLAN COMMISSION
MARCH 1, 2010
MINUTES**

The public hearing relative to receiving comments from all interested persons with respect to the City of New Berlin’s Park & Open Space Plan and Addendum #1 to the Storm Water Management Master Plan was called to order by Mayor Chiovatero at 6:07 P.M.

In attendance were Mayor Chiovatero, Mr. Christel, Alderman Ament, Mr. Felda, Mr. Sisson, and Ms. Groeschel. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; JP Walker, City Engineer; Cathy Schwalbach, Storm Water Engineer; Mark Schroeder, Director Parks, Recreation & Forestry; and Mark Blum, City Attorney. Ms. Broge was excused.

Mayor Chiovatero explained the procedure for a public hearing saying that he would ask for questions for clarification and then ask three times for anyone wishing to speak in favor of the application and then three times for anyone wishing to speak in opposition of the application.

Mr. Kessler read the public hearing notice and stated there was proof of publication.

Mr. Kessler explained that both the Park & Open Space Plan and Addendum #1 to the Storm Water Management Plan are intended to be incorporated into the City’s adopted 2020 Comprehensive Plan. The Resolution shall be forwarded onto the Common Council for final approval. A complete copy of the proposed amendments are on file and open for public inspection during normal business hours in the office of the City Clerk, Public Library, the Dept. of Parks, Recreation, & Forestry, and the Dept. of Community Development for the City of New Berlin. The draft documents are also available on the City’s website at www.newberlin.org.

Mayor Chiovatero asked for comments or questions for the purpose of clarification.

Vernon Bentley, 3450 S. Johnson Road – On Page 34 all the parks are listed. Some are in black and some of them are in gray. Rustic Ridge Park and Milham Park are in black. Nothing is happening in either one of those parks, but yet they are in the same type of print as Calhoun Park, Malone Park, and Lions Park. Why is that?

Ms. Esswein – The main difference is to look at how they are outlined. If they are outlined in purple, they are developed. If they are outlined in yellow, they are undeveloped. The colors are differentiated in the legend. That is the way to differentiate the parks.

Mr. Bentley – Rustic Ridge Park has been under the jurisdiction of Waukesha County for ten years. 2010 is the sunset for that agreement. Is the City working to reclaim that parcel?

Mr. Schroeder – We haven't had any discussions in the last year with the County. That is something we are certainly going to do. We have anticipated it being under City ownership and that is how it is indicated in the Plan. Are you telling us is that the County had plans for running a road through there?

Mr. Bentley – Yes, in the year 2000 Jim Gatzke was the Mayor and there was an agreement to leave that parcel as a Right-Of-Way for Johnson Road if it was to be widened. It had a ten year sunset date which is up this year. That is why I was wondering if the City or Park & Rec. is going to pursue getting that parcel back?

Mr. Schroeder – I would say definitely, yes. That is City parkland for the future, and I think it is important that we clarify that. I see value in preserving that land as a future park site. It behooves us to follow up on it again.

Mr. Bentley – I noticed in the five-year plan to update trails there is nothing in there for Rustic Ridge. Does that mean there are no plans for Rustic Ridge at this time?

Mr. Schroeder – There are plans in the document, but they are in the long term, six to twenty year vision. We divided long and short term action. It is not listed in the next five years at this time.

Ms. Esswein – Vern is looking on Page 60 of the document. That is the long term. After 2015 the recommendation for Rustic Ridge is to review potential facilities needed for local residents.

Mr. Bentley – When this 20 acres was donated by Pat Nelson before mandatory storm water, there were two ponds for the storm water coming off of Rustic Ridge. Are you aware of that?

Mr. Schroeder – I am aware of that from previous discussions. I know that there is a low area in the farm field toward Coffee Road. This is more of a comprehensive type plan. When the time comes to move forward with some type of development, review would be more site specific.

Mr. Bentley – There was suppose to be a retention pond in there and there wasn't one. Am I right that Park & Rec. has been renting this land out to a farmer for several years now?

Mr. Schroeder – The only land we have been renting out is the Milham property. We do not have a rental agreement on this property.

Mr. Bentley – Somebody is planting on that field.

Mr. Schroeder – I don't know anything about it.

Mr. Bentley – The City Storm Water Engineers have been working with the neighbors to the east which is just across the road. They have storm water problems in there also that are moving into the park land site. I wanted you to be aware of that. The main thing about all this is the fact that there are flooding problems within the area. Are you aware that Coffee Road may be redone in 2012?

Mr. Schroeder – Yes, I am. I am not aware of the details.

Mr. Bentley – The other reason I brought all this up is that my understanding is that the storm water concerns in the area may include the park property. I am just mentioning all this so that maybe we can get this property back.

Mr. Schroeder – Thank you.

Brian Teclaw, 18300 Lawnsdale Road – Could someone give me the latest on Quarry Park? Is there a timeline for completing it in the new Plan?

Mr. Schroeder – Quarry Park is listed in the short term actions, one to five years. It has been identified also in the five year City Capital Improvements Program which is subject to Council review on an annual basis. As far as moving forward, we have had discussions for the last couple of months at the Park Commission level about moving forward with some passive use development there. It has been something we have heard on and off through the years that people would like to see something happen at Quarry Park. We are having dialogue right now about looking into a DNR Grant Application. It wouldn't mean any development this year, but it would be potentially in the next couple of years. Some of the focus has been talking about trail use within the site, fishing opportunities, picnic opportunities, etc.

Mr. Teclaw – I appreciate that. I know there was a lot of fanfare when it was brought forward some years ago. A lot of people had an anticipation of at least components of that coming on-line a little bit sooner. I was just looking for an update. I was aware of the Park & Open Space Plan having an actual Plan. I had corresponded with Mark on that. Is there a final printed version? What about the Storm Water Plan? Is there a chance of getting an overview on that this evening? Is there also a written plan that is available?

Mr. Kessler – It is an Addendum to the City's original Storm Water Master Plan. It is not a very large document. It has 40 pages, double-sided. We did a presentation at the last Plan Commission meeting. Primarily, it just updates the original 2000 Plan based upon

subsequent regulation changes by the DNR. We look at changes that were made to Chapter 13, MMSD, NR151, and NR216 and how they impacted water resource management or storm water utility operations. There are other things in there that have been going on as part of the Water Resources Utility Committee work in terms of the structure of the Utility and how they are financing future capital projects to deal with flooding. That is not something that the Plan Commission deals with, but in summary that is what the addendum has been dealing with.

Mr. Teclaw – Is that document available for review?

Mr. Kessler – It is available at the Public Library, Department of Community Development and on the City’s website.

Mr. Teclaw – There is not going to be a presentation this evening?

Mr. Kessler – We did the presentation at the last meeting. It was a seven slide power point presentation. What I just said paraphrased the slides that I would show you right now.

Mr. Teclaw – Thank you.

Mayor Chiovaturo asked three times for further comments or questions for the purpose of clarification, seeing none.

Mayor Chiovaturo asked three times if there was anyone who wished to speak in favor of the Comprehensive Plan 2020 Amendments, seeing none.

Mayor Chiovaturo asked three times if there was anyone who wished to speak in opposition of the Comprehensive Plan 2020 Amendments, seeing none.

Mayor Chiovaturo asked for comments or questions from the Plan Commissioners.

Alderman Ament – The only thing I think I have a serious issue with is the survey that was done in 2008 because of the way the questions are phrased. When I look at the questions, they seem to be geared to come up with answers that I could have told you. I could have told you what the majority of the answers would be on any one of these questions based on how they were asked. Whether it was intentional or not, there is no way of knowing. The questions are asked in a format of “would you like to see”? I would like to see a new Cadillac in my driveway, but if someone put a price tag on that question maybe I wouldn’t like to see it there. I don’t see the relationship in some of these questions as to how they were asked and how they are relevant to what is realistic. I will bring this up again. It seems to be the base line used for this Plan. It is approximately 78 pages long. When I read some of the things that are in there, a lot of it is based on the survey in 2008. I am concerned that flawed data was used.

Mr. Christel – Just to follow up on what Dave brought up. The content of the survey was really a work session where we handed ideas to the professionals who do this for a living.

The phraseology was prepared by them. There was no influence, to my belief, by the people who participated in that discussion. It would be helpful if you could point out some individual questions that you felt were misleading so we could go back and look at them.

Alderman Ament – One of them is on Page 23, Question #5. “How important do you think it is to preserve the following types of features in New Berlin: wetlands, ponds, streams, high-quality woodlands, restored prairie areas, natural habitats for native plants and animal species?” I don’t know many people who would be the other way so I can see where that result comes from, but then some of the aspects of the Plan are based on those results and imply that funding needs to be there for those issues. First of all, it’s a loaded question, but the other thing is that those questions are, specifically that one, addressing areas, other than the historic areas including buildings which is legitimate here, that are pretty much handled through our Codes as far as what is in State Statutes and things of that nature that we have no control over to begin with. High quality woods and restored prairies are things that through development are already addressed. Would we want to use City resources for those when we can use the other means to preserve those areas? Again, it is not just the question, but the way it was asked. I think most people, and you can tell by the survey results, would agree that those are worth saving.

Mr. Christel – I think, Dave, in this particular case it was really a matter of saying, does the community really feel that way? Now we have evidence that supports that the community does.

Alderman Ament – I agree with that. It is just that when it gets down to the funding, I think it steers where our resources should go. I think that particular issue, for example, is covered in other areas. We can get into that at the meeting.

Mayor Chiovaturo asked for further comments or questions from the Plan Commissioners, seeing none.

Mayor Chiovaturo closed the public hearing at 6:28 P.M.

PUBLIC HEARING

6:01 P.M. ()JT PG-384 Domestic Livestock – Section 275-41(a)(2) Zoning Code Change – Keeping and Raising of Animals.

NEW BERLIN PLAN COMMISSION

MARCH 1, 2010

MINUTES

The public hearing relative to receiving comments from all interested persons with respect to Section 275-41.A(2) (Keeping and Raising of Animals) and Section 275-70 (Definitions) of the City's Zoning Code was called to order by Mayor Chiovaturo at 6:28 P.M.

In attendance were Mayor Chiovaturo, Mr. Christel, Alderman Ament, Mr. Felda, Mr. Sisson, and Ms. Groeschel. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; and Mark Blum, City Attorney. Ms. Broge was excused.

Mayor Chiovaturo explained the procedure for a public hearing saying that he would ask for questions for clarification and then ask three times for anyone wishing to speak in favor of the application and then three times for anyone wishing to speak in opposition of the application.

Ms. Jones read the public hearing notice and stated there was proof of publication. A complete copy of the proposed amendments are available on the City's webpage and are on file and open for inspection during normal business hours in the office of the City Clerk and the Department of Community Development for the City of New Berlin.

Ms. Titel explained that this is a referral from The Keeping and Raising of Animals Ad Hoc Committee and the Common Council suggestion that Plan Commission review, discuss and amend Section 275-41.A(2) and 275-70 of the City's Zoning Code and that Plan Commission hold a public hearing regarding the adoption of these amendments.

Mayor Chiovaturo asked for comments or questions for the purpose of clarification.

Ray Salzmman, 15920 W. College Avenue – The majority of the revisions are fine, but the one that we take issue with is under Definition of Livestock – Small. There have been variations that got changed, and were reviewed and tweaked by DCD and the City Attorney and unfortunately, we feel some of that changed the content of the definitions. Most of these categories were based on weight. The intention of this was any animals under 500 lbs. The later portion of the definition, as you have it here, says all other domestic small livestock not to exceed two kept and housed within the dwelling are not included and considered household pets. It got kicked around at Common Council and changed a few times, and unfortunately it changed this definition under domestic livestock. In reality, you could keep calves or not mature adults of other livestock within

the dwelling of the house. That was not the intention of the later portion of the definition. The original wording said all other domestic animals. I think we should return that to animals. This portion was aimed at the pets that were normally kept in the house. What we are really objecting to are the words, not to exceed two. The Committee felt that we shouldn't be going into that territory and the reason being, what can you tell people that want a parakeet, a hamster, and a cat. Under your definition, by including the words, not to exceed two, you are invading the private residences and it would be illegal to have those under your definition. The definition we were looking for was that all other small animals, that is why we would rather have the word, animals instead of livestock, which would be considered more or less as household pets, but we didn't want to regulate or go to the area where you are determining how many pets the people can have where they lie within the residence and are not considered outside.

Ms. Titel – Animals like cats and dogs are regulated in other sections of the Municipal Code. These definitions are definitions that we did talk about at the Committee and I worked to amend it to say, all other domestic livestock. There was an example in an adjacent community about someone keeping a goat in their house. They had to get rid of the goat because they weren't supposed to have a goat in that Zoning District. This basically says that you can keep two goats in your house if you choose and that doesn't count against the number of animals that are in your home. The City is not going to investigate to see what kind of animals you are keeping in your house. Cats and dogs are regulated by a separate section of the Municipal Code.

Mayor Chiovero – We are only talking about livestock. The livestock is defined in another area of the Code?

Ms. Titel – This is talking about small livestock which you see the definition for. Yes, this is not talking about your domestic animals like household pets, like cats, dogs, birds, etc.

Mayor Chiovero – Are Pot Bellied Pigs considered livestock or domestic animals?

Ms. Titel – They would be under pigs, non-commercial, small breed under 300 lbs.

Susan Larson, 18065 W. Observatory Road – As a member of the Committee, the pages that I am passing out right now were also passed out at the City Council meeting. They addressed what Ray just talked about and the signatures at the bottom, at the City Council I had the pages substantiated, the e-mailed response, we had four signatures on there. None of us on the Committee recall, not to exceed two. If you go through the minutes, there was a lot of discussion as to the fact that we shouldn't invade people's privacy in their houses if they want to have the Pigmy Goat that Jessica mentioned or the Pot Bellied Pig that in the past few years have been so popular, not quite as much now. As a Committee we strongly objected to putting a number on what people are able to keep in the house. Another reason, from my own aspect, is if somebody wants a rabbit and a Pigmy Goat, which isn't as big as my own dogs, and wanted to keep it as a household pet suddenly you've got two. Let's say they had three kids and two rabbits and a Pigmy Goat, so we would like to see that struck. The other thing in going through the final

copy, there is some wording in the Conditional Use that says applicable to Zoning District regulations. That was not that wording, after going through all of the minutes several times and conferring with everyone on the Committee. We were trying to make this a stand alone document so that someone coming into City Hall wouldn't have to refer from one thing to another. I think Zoning Code regulations are what they are. I think that people, when they buy a property for an example, are going to have that knowledge, but for the purpose of what we were doing with the Animal Code, that was something we would prefer not to see in there. Thank you.

Alderman Moore – Changing the word from animals to livestock takes care of Rays concern. The not to exceed is in there so that if someone is concerned that they are exceeding their number of animals, they can't then say those animals belong in my home. If there is no limit to the animals in their home, then they could say that anything that is in excess in relation to the other numerical maximums could be animals that were in their homes so there needs to be a not to exceed two in order to take care of that problem.

Mayor Chiovero asked three times for further comments or questions for the purpose of clarification, seeing none.

Mayor Chiovero asked if there was anyone who wished to speak in favor of this Zoning Code change.

Susan Larson, 18065 W. Observatory Road – The intent of the Committee was to try to make this new revision of the Code user friendly both from the standpoint of the staff at City Hall so it could be interpreted easily, and by charting and that sort of thing to make it easy for the average person to understand. Part of the thing that we did was to lower the required minimum acreage for people to have animals. When I moved out here it was three acres in order to have your first horse. Our current surrounding communities still have a similar code. Some how along the line I believe that when they changed the minimum acreage to five, this code was changed to reflect the minimum acreage that was now required, however, particularly on the west side of the City, although there are other properties on the east side, in the time when three acres, as an example, to have a horse or a head of livestock was the requirement, people were buying three acres and suddenly they would not be in compliance if they tried to have an animal like that today. The other thing we did based on weights was a head of livestock, again going back to a Pigmy Goat or a baby lamb, certainly doesn't take as much room or weight as a 1,000 lb. horse and doesn't have the requirements that a larger animal would have as far as space goes. What we tried to do is make this more friendly to the point where people could have smaller livestock on a smaller amount of acreage. We also put wording in there regarding domestic fowl, namely chickens and ducks to try to keep up with the times. I understand from staff that they have had quite a few inquiries as to raising a few chickens for eggs. New York City, some of the major cities in Connecticut, as well as Madison, recently passed codes allowing this and we took into consideration what these cities had and also the negatives as a cock crowing at 4 o'clock in the morning and waking all the neighbors up, so we eliminated having roosters. We think in talking to various friends, neighbors, and acquaintances, that the other thing that will do to people who aren't interested in having small animals or keeping livestock on their property, it will enhance the

saleability, I'm not saying the cost of the property, but it will enhance the fact that people looking for a place to keep a couple of ponies, a couple of goats, sheep, whatever it happens to be, will have the opportunity to shop New Berlin as well as the surrounding communities. This past year one of my neighbors properties went up for sale and I thought, it's on Observatory Road, it's a nicer house than I have and maybe I should look into it. I called the City to ask how much acreage was with it. There was 3.2 acres. I thought that takes care of that. I couldn't even have one of my horses there. So, it does open the door to have a larger buying audience for the smaller properties. Thank you very much and if you have any questions, we are here.

Brian Teclaw, 18300 Lawnsdale Road – I also was on the Ad Hoc Committee. A lot of time and research went into this which I hope everybody can appreciate. As Susan was saying, we tried to set some better levels, levels that are more consistent with other communities and that made more sense as far as people being able to raise different types of animals. It was essentially setting more appropriate lot sizes and densities for different types of animals and all that was based on animal weights or animal equivalent units and some good sound knowledge and actual research. We also wanted to become a little innovative and I think that where we ended up should set New Berlin apart. I think we have created a model ordinance that other communities could end up using as they are looking to set some guidelines for having animals. New Berlin's claim to fame is still it's rural half. I think most, whether they live on the east or west side would like to see that. For me, what I would envision as a result of these changes is the opportunity for many more residents to enjoy raising animals on a hobbyist level. Right now many people with lots ranging from 0-4.99 acres can't have a single chicken or goat. I think that is unreasonable. I see boy scouts and girl scouts participating to a greater extent in raising farm animals on a small scale, possibly even rekindling and encouraging the involvement with the Waukesha County 4-H, which still does exist. The raising of animals constitutes a healthy activity, teaching respect and responsibility to children. I would like to see the New Berlin Farmer's Market potentially having a greater number of people from New Berlin with more locally produced products participating vs. just drawing people from outside. I also believe that these changes in the Code will facilitate and encourage the raising of animals in conjunction with conservation style developments. I know that our Codes talk about it, but if someone is doing a conservation style development, I think this Code change will allow them to better incorporate animals or agriculture into that theme. I also envision roadside signs coming back where maybe there is a sign for farm fresh eggs and neighbors sharing eggs as part of a more sustainable life style with one another. I think that would be a positive thing. Most importantly, I envision the Touch of Country in New Berlin being a bit more visible on the country side and also enduring the hallmark of our community. I am very much in favor of the changes that we have put together and I hope people will support it.

Terry Cable, 18820 W. Lawnsdale Road – I have 1-1/3 acres of land. In past years when we first moved here and bought our house in 1978, we did have chickens. It is a fun thing to do. The egg shells are harder and the yolks are solidier then the ones you get in the stores. With 1-1/3 acres we would be able to do that again if we wanted to. That is all I wanted to say. Thank you.

Mary Hiebl, 20160 W. National Avenue - I also endorse these changes. Currently I live next to acreage where they have three goats and a horse and a donkey, so this is very good. Perhaps, we are on the same way as Walworth County were they encourage this and foster this and it has so developed that right now Walworth County has a Country with Character month long extravaganza every fall. Last year it was from September 13 – October 31 culminating activities where people can enjoy the touch of country. Hopefully, New Berlin will get to that. Thank you.

Mayor Chiovero asked three times if there was anyone else who wished to speak in favor of this Zoning Code change, seeing none.

Mayor Chiovero asked three times if there was anyone who wished to speak in opposition of this Zoning Code change, seeing none.

Mayor Chiovero asked for comments or questions from the Plan Commissioners.

Alderman Ament – Going back to the definition of small livestock, the last sentence and the intent of that to not restrict small animals or livestock or pets within the dwelling is not clear. I think I know what the intent of the sentence is, but the sentence is still hard to decipher.

Ms. Titel – The intent is to not allow people to keep more than two small livestock that are defined in small livestock here. It is not the intent to regulate any of the household pets that are already regulated by the Municipal Codes, gerbils, cats, dogs, parakeets, those types of standard household pets. The intent is to only limit any animal that falls under the definition of small livestock in your home.

Alderman Ament – If you read it one way, it does restrict household pets. Somehow it just doesn't flow when you read it.

Ms. Titel – That is one reason we used the same wording for domestic small livestock as in the definition, rather than saying animals or livestock but to revert back to the small livestock definition. I hate to change it too much and have another public hearing.

Alderman Ament – I don't want to change the intent. I know you especially, along with the Committee and staff have spent a lot of time and did a lot of work on this, but that sentence, when I read all other domestic small livestock not to exceed two kept in or housed within a dwelling are not included and are considered household pets, I could read it either way. That was the concern I heard from the people on the Committee as well. I am not saying we need to change the intent, it just needs a little wordsmithing to make it more clear.

Ms. Titel – I'll take a look at it.

Alderman Ament – When we get it back next time, I'm sure it will be consistent with what your intent is.

Ms. Groeschel – What is the next step? Are you taking the changes from the members that spoke or are you keeping this document?

Ms. Titel – What you have in your packet is what we are proposing tonight. If I make any changes to that definition, you will see it in your packet next month. What you see in your packet and the Ordinance starting on Page 6 are the final proposed changes.

Mayor Chiovaturo asked for further comments or questions from the Plan Commissioners, seeing none.

Mayor Chiovaturo closed the public hearing at 6:55 P.M.

**NEW BERLIN PLAN COMMISSION
MARCH 1, 2010
MINUTES**

The Plan Commission Meeting was called to order by Mayor Chiovaturo at 6:55 P.M.

In attendance were Mayor Chiovaturo, Mr. Christel, Alderman Ament, Mr. Felda, Mr. Sisson, and Ms. Groeschel. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; and Mark Blum, City Attorney. Ms. Broge was excused.

Motion by Mr. Christel to approve the Plan Commission minutes of February 1, 2010. Seconded by Alderman Ament. Motion carried unanimously.

PLAN COMMISSION SECRETARY'S REPORT - The City is working with UWM students regarding the east National Avenue Project. It is a scope of their work. They will be here for an open house at a to be determined date. Their final presentation will be at our May 3, 2010 Plan Commission meeting. They have a problem statement, and if there are any issues the Plan Commissioners wished to have clarified, please report them to Greg Kessler so they can be relayed to the students. They have a project scope outline just like a consultant.

NEW BUSINESS

1. (4)JT CU-09-09 Waters Wood Recycling Services, LLC – 6600 Crowbar Rd. – Operate a Green Initiative Processing Site for Clean Wood Waste.(Public Hearing 2/1/10)

Motion by Alderman Ament to table the request for a Conditional Use Permit for a clean wood processing facility located at 6600 S. Crowbar Road while Staff and the applicant work to gather information to respond to questions from the public hearing.

Seconded by Mr. Felda. Motion carried unanimously.

2. (5)NJ UA-10-03 New Berlin II – MSP Real Estate – 14901 Library Ln. – Conceptual Plan Review for an Apartment Project.

This is a concept review of three multi-family workforce housing buildings and one senior housing building. The workforce housing portion proposes one, 12-unit (two-story) and two 34-unit (three-story) buildings. The senior housing portion proposes one, 102-unit (four-story) building. All to be located within the City Center development located at 14901 Library Lane.

The applicant has been working on a revised site plan, however it has not been reviewed in full. The applicant has not filed a formal permit application. This is the second conceptual review that is before the Plan Commission. Mr. Kessler asked the applicant to address the Plan Commission as to what their expectations may be.

Mayor Chiovero commented that this is the second conceptual review and I am hoping there won't be a third. I hope you will move forward with a formal application. Besides myself who has spent hours looking at the plans and driving to see things, as well as the staff has given our due diligence on our side, and I hope you are serious about a project like this and come in with an application so we can give you some solid feedback. Is that understood?

Jacob Klein, MSP Real Estate, Inc., Representative for the project – Since the last time we met, we have worked with New Berlin Staff and Mark at Graef to try to make our project fit into what City Center is looking for. We can appreciate the amount of time Staff has put in to help us get to where we are today. We did submit full landscape plans, lighting plans, grading, and paving plans which is more than what people normally do for a conceptual review, but hopefully we will have a lot of the work done up front to move the project along if we do go for a full submittal. Since the last time we met we have had a neighborhood meeting. I think the outcome of that meeting was favorable. I can see some of those same people in attendance here tonight. I was pleasantly surprised at the number of people in support of affordable housing at this site and in New Berlin. Other things that I have submitted pursuant to your request in January were income demographics related to disposable income for people ages 18-25. The demographics include income and what they spend money on. In addition to that we have been contacting local businesses. I have a list of all the businesses that are currently in City Center as well as the adjacent shopping mall at Moorland Road and National Avenue. I have been getting letters of support from those businesses as well as identifying approximately how many of their employees would qualify to live in our project. Between Pick 'n Save, Walmart, and Regency Heritage Assistant Living alone there is 500 age and income qualified to indicate a strong demand for a workforce housing project in New Berlin. I understand there are questions everyone would like to ask tonight related to the management. When asking what we are looking to get out of tonight, we are at a crossroad where we feel comfortable with the design aspects of the building and we feel like we understand Staff's wants and needs and we are willing to work with them. We have gone a long ways in making compromises in doing exactly what they are looking for. The other half of this equation is the use. We have an application to WEDA that is due March 26, 2010. We are looking for some comfort in the support level that we would get from Planning Staff. We would like the sense of some feedback as to if there is the support there that makes it worth it for us to continue down this path. On that note, our Architect will talk about the architectural changes we have made.

Don Schroeder, Knothe & Bruce Architects - We have been working on the workforce housing portion of this project. We are trying to tie the architecture in with the library and the existing buildings out there. We are using prairie style with pitched roofs and combinations of bricks, two siding colors, and some bay windows. The twelve unit building has 1:1 underground parking and are townhouse style units. The three story building is flats and has elevator service and underground parking with a total of 2:1 for parking on the site.

Jerry Bourquin, Dimension IV Architects – We are the Architectis working on the senior aspect of this project. One of the concerns about the original concept presented on January 4 was that it was not working with the City Center which is to create more activity along the streets and bringing buildings out toward the street rather than being off the corners. We have designed a presence along the street by bringing out the building adjacent to the street. We focused our main entrance right off the corner. The common area is in the center of the building so there are activitie areas for the residents in the middle as well as a patio area toward the back. Deliveries can be from the front or back side and there would be one main entrance to the building itself. Parking is behind the building so all you see is building along the street. Access to the lower parking is also on the back side. It has created more green area as the pond goes up towards the northwest corner of the building. Those are the major things we have done to get a building to sit on the corner and meet the criteria of the City Center Plan to bring the buildings out toward the street and get activity at those levels. The units themselves all have balconies so residents can sit out and see the activity on the street. Since it is senior housing, for security reasons we try to make sure the residents come in and out of the main doors of the building. The other portion we have worked on is the character of the building. We are incorporating more masonry. On the bump outs we have brought the masonry up three stories. At the main entrance as well as the main ends of the buildings, we have popped out some bay windows in those areas and brought in some masonry as well as stone accents on those. The corner will be a major feature for us as well as the community. We are incorporating a water fountain in that area as well as landscaping. It will create a major draw to that portion itself. We understand what you are trying to do with the City Center.

Tom Klein, Oak Brook Corp. – I am one of the owners of the company. We formed the company in 1987. We have been in the management business primarily and manage about 7,000 apartments in Wisconsin of which 24 are in the general Milwaukee area. We manage senior housing, high-end market rate housing, workforce housing, moderate housing, anything from a 24 unit to a 300 unit. Some of the larger complexes we manage are Deer Creek here in New Berlin, Yankee Hill Apartments downtown, Coventry in Glendale, Monteray Apartments in Waukesha, and numerous other apartment communities throughout the area. It is our business. We are headquartered in Madison. Our area manager has been with us for fifteen years. We have a lot of long term employees.

The management business is a people business. It is a business that we work hard on every day. We make homes for people and it is their living environment. It is up to us to make sure the maintenance is done, that the accounting is done, the bills are paid, and our relationship with each community is very special to us. If there ever are issues, and there always are in any business that you run, we are very accessible and we will work with the community in every way possible. The senior housing market has been strong here. Deer Creek has averaged in excess of 95% occupancy since the day it opened. We did the original rent up of the property and continue to manage the property today. The 80 units of one, two, and three bedroom apartments for moderate income workforce housing is really developed for people who currently work in the community and who work in a lot of the retail jobs and also some of the administrative assistant jobs. I have done some research. I have looked at four other properties of this type to give you some idea where people work. My analysis is that 30% of our residents come out of the retail food service industries, 13% come out of medical, 11% are administrative, 11% are education, and 11% are retired. The 80 units will be an across the board mix of the community. The average rent is about \$800.00. The average income is \$27,000.00. This is an average. It could be anywhere from \$17,000.00 to \$45,000.00. Typically, people are moving from apartments, so maybe 70% are going to move from apartments, and 28-30 will be moving out of their parents house. Our average age in this particular development will be in the mid 20's, however 10% of the residents will be retired. It will be people who live in an apartment, pay rent, and expect the kind of services we provide at that rent level. They have a lot of options at an average of \$800.00 rent. That is close to the community average. You have some apartments that have higher rent, and you have some apartments that have lower rent. We have worked with MSP on a number of properties over the years and they build high quality property. We establish our reputation by managing our buildings to the highest standard. We have to keep our reputation. We are under constant scrutiny because we have inspections by investors and lenders, much more than four, six, or eight units that can be built without the scrutiny that we undergo. We welcome it and do well with it. This is our business. We have about 200 employees. Everything we do is audited and inspected and reinspected. We are a professional firm, have been in business a long time, and are here to stay. Thank you.

Mayor Chiovaturo asked the Plan Commissioners for any questions regarding the project, seeing none. Mayor Chioovatero was glad for the information provided and suggested the applicant continue to work with staff and their concerns.

City Attorney Blum – I count fourteen items where staff is asking for additional information. Would it be fair to say that until you got a completed application with all the elements that are required for that by the City, that you will not be able to answer all these?

Ms. Jones – That is correct. I believe after tonight’s meeting we will no longer continue to review this project. I believe they have received a concept discussion here presenting you with additional information that you were looking for since the last meeting. The next step would be a formal application with all the items that are required for Use, Site, and Architecture. These would be pointers in addition to any applications that they need to address upon submitting a formal application.

City Attorney Blum – Is this what we would require of any other applicant?

Ms. Jones – That is correct.

Mayor Chiovatero – I attended the neighborhood meeting and many people in attendance asked some good questions. I appreciate you holding that meeting and answering those questions there. It was an encouraging meeting, but I caution you that we are at a point where we have done a lot. We have a lot of resources, but they are limited. Please submit an application so we can give you some constructive help in the areas of concern.

3. (4)AB UA-10-07 Westridge East Building A – 5800 S. Moorland Rd. –
Amendment to Original Use Approval – Revised Building Size.

Motion by Mr. Christel to approve the Modification to the Use, Site, and Architecte to Zoning Permit #U-13-08 to increase the size of a multi-tenant office and industrial warehouse Building “A” from 106,102 square feet to a footprint of 126,556 square feet south of the creek located at approximately 5800 South Moorland Road subject to the application, plans on file and the following conditions:

- 1) Plan of Operation
 - a) Per Article VIII, §275-24 All future tenants shall be required to apply for and receive a Zoning Permit from the Department of Community Development prior to leasing or occupying space within this development. All future tenants will be reviewed on a case-by-case basis for adequacy of parking and may be denied for lack of parking.
 - b) Signage for this development will require a separate application, review and Permit from the Department of Community Development (Planning) prior to installation. An Overall Coordinated Sign Standard shall be established and approved by the City of New Berlin as outlined in Article VIII Section 275-61.
 - c) Exterior architecture must be approved by the Architectural Review Committee prior to issuance of Zoning Permit.
 - d) All mechanicals including air-conditioning units and other rooftop mechanical units must be properly labeled and screened from public view.
 - e) All parking and circulation shall meet the criteria outlined in Section 275-57.

- f) Building shall meet all requirements for the M-1 Zoning District under Section 275-35B(4) and associated tables.
 - g) See applicant Plan of Operation letter.
- 2) Site Plan/ Engineering
- a) Applicant shall amend the infrastructure surety and coordinate with the City Engineer to determine the amended amount of the surety.
 - b) First Floor elevation of (853.0) shall remain the same.
 - c) The limits of Disturbance (L.O.D.) for construction shall not change from the 2006 proposal to the South.
 - d) The forty foot (40.0') distance between both buildings "A" and "B" shall be approved by the Fire Department.
 - e) The future parking shown on the plan sheets shall be approved separately under a separate application at the time of construction.
- 3) Storm water
- a) Applicant is required to meet all storm water requirements as previously approved.
 - b) Erosion control shall be approved, permitted, installed and inspected prior to any commencement of site work or issuance of any Building Permits.
 - c) Applicant shall show a tracking pad and inlet protection on revised plans.
- 4) Transportation
- a) Lighting plan appears to meet most of the requirement of the Zoning Code §275-60 I. However, no property lines are shown, and light levels cannot be higher than 0.5 foot-candles at the property line and beyond. Show illumination values at the property line on the plan sheet.
 - b) Parking stall width shall not use gutter pan in width dimension around landscaped islands, bump-outs, etc. Applicant shall revise plans.
- 5) Landscaping Plan
- a) Any revisions to the overall landscaping plan must be approved by the Department of Community Development (Planning) prior to installation. All landscaping sureties shall be provided prior to issuance of Building Permit. Landscaping sureties shall be coordinated with staff during overall approval and tied to each individual Building Permit.
- 6) Building Inspection/ Fire:
- a) Building must meet all applicable building and fire codes. D) Building must be fully sprinklered. Monitor fire flow.
 - b) Knox box required.
 - c) Applicant shall submit revised hydrant site plan.
 - d) Apply and obtain appropriate building, plumbing and electrical permits.
 - e) Building plans shall be stamped and signed by a licensed architect or engineer per Wisconsin Enrolled Commercial Building Code.

- f) Building plans shall be approved by the Wisconsin Department of Commerce Safety and Buildings Division.
 - g) Applicant shall remove mud, dirt and stone from all paved areas daily. Entire site must be kept free and clear of all trash and construction debris daily.
 - h) More detail is required for the dedicated meter room for water utility. Direct access from outside is required.
 - i) Tenant spaces will not receive certificates of occupancy until building shell receives passing final inspections.
- 7) Utilities:
- a) Gate valves for hydrants and service shall be mounted directly to the tee.
 - b) All changes in the manhole and main lengths shall be recorded and the information given to the New Berlin Community Development Department as well as to the Utility Department for as built recording changes.
 - c) The new manhole and existing main will be tested in accordance with the SWS and New Berlin specs.

Seconded by Mr. Sisson. Motion carried unanimously.

4. (3)JT UA-10-08 Quik Trip Pantry – 16401 W. Greenfield Ave. – Car Wash Addition.

Motion by Mr. Christel to table the Use, Site and Architectural request for the construction of a car wash addition located at 16401 W. Greenfield Avenue per the applicants request.

Seconded by Mr. Felda. Motion carried unanimously.

5. (7)JT UA-09-08 Edgerton Contractors (Elaine Kraut Property) – 4041 Racine Avenue- Filling and Grading Permit – Amendment to Plan of Operation.

Motion by Alderman Ament to approve the request to amend the original Use Approval for filling and grading on the property owned by Elaine Kraut located at 4041 S. Racine Avenue subject to the application, plans on file, the satisfaction of the original conditions of approval and two amendments shown in red (underlined):

- 1) General:
 - a) Plan of Operation:
 - i) Applicant shall adhere to submitted Plan of Operation.
 - ii) Hours: 7:00 AM – 5:30 PM Monday through Saturday.
 - iii) Project Duration: Date of the issuance of Zoning Permit through August 1, 2010.
 - b) Fill material shall not contain any asphalt or concrete pieces that exceed 2-feet by 2-feet in size.

- c) Any future buildings placed on this site shall require a soils engineering report at the time of building permit application.
 - d) Final grades shall match those on the final grading plans approved by DCD Staff.
 - e) No additional time extensions shall be granted to this permit. A separate application shall be filed if the applicant chooses to continue filling at this site.
- 2) Engineering:
- a) A letter or permit from Waukesha County approving the site, operation, signing and access locations shall be on file with the City of New Berlin prior to any permits being issued by the City.
 - b) Signage shall be placed along Racine Avenue to alert drivers to the truck traffic entering and leaving the project site.
 - c) Per Section 275-55.A(4)(a) of the Zoning Code, “In all cases, fill shall consist of clean earth containing no more than 25%, by volume, of building stone and concrete, and no more than 5%, by volume, of incidental asphalt. Fill operations which exceed these limits or operations that require more than one year for completion are considered a landfill and will be regulated as such.”
 - d) Per Section 275-55.A(4)(b) of the Zoning Code, “Fill shall consist of satisfactory soil or a mixture of satisfactory soil, stone, gravel or other acceptable materials which is of a character and quality satisfactory for the purpose intended. The material shall be free from sod, stumps, logs or other organic matter, all types of refuse including construction refuse, fragments of concrete larger than two feet in any dimension and such other material that in the judgment of the Director is unsuitable.”
 - e) The tracking pad shall be at least one hundred feet (100’) in length.
 - f) Any deficiencies in the erosion control measures or any tracking onto public roads shall be corrected and cleaned up at the time of the infraction.
 - g) The slopes for the fill site shall not exceed the maximum slope of (4:1, 25%) change in gradient up to the maximum fill height for the site.
 - h) A stoned area shall be provided for the staging of the construction equipment, job trailers, parking for the contractors/sub-contractors, inspectors and visitors to the site.
 - i) Applicant shall provide a written description to provide the details of the compaction process prior to the issuance of the Zoning Permit.
- 3) Stormwater:
- a) Applicant shall provide final grading plan.
 - b) Applicant shall provide cross-sections of the fill area.
 - c) Applicant shall provide a copy of the WDNR NOI and adhere to all conditions.
 - d) Applicant shall verify construction sequence is in line with what the WDNR is requiring.

- e) Applicant shall provide soil description for fill such that the sediment trap sizing can be verified.
- f) Applicant shall provide a cover crop seeding to minimize erosion.
- g) Applicant shall adhere to max sideslope of 4:1 and minimum swale/ditch slope of 1.5% for final grading plan.

Seconded by Mr. Sisson. Motion carried unanimously.

6. (5)JT UA-10-06 Clear Wire Wireless – 4333 Sunny Slope Road – Co-location and new equipment shelter.

Motion by Alderman Ament to approve the request for Use, Site and Architectural approval for co-location on an existing monopole tower and construction of a 10' x 10' equipment shelter, along with Waiver Request #1, located at 4333 S. Sunny Slope Road subject to the application, plans on file and the following conditions:

WAIVER REQUEST #1: Applicant is requesting the Plan Commission waive the landscaping required around the proposed equipment shelter. Per Section 275-41C(16)(j)[4], the Plan Commission may waive the landscaping requirements. The proposed shelter is located behind the bleachers that are screened by existing vegetation and is not directly adjacent to any residential areas.

- 1) Proposed equipment shelter shall match the material of the existing shelter on site. The shelter shall accommodate additional wireless companies or be designed in a way to allow expansion.
- 2) Plans for array shall be signed and stamped by a registered architect or engineer per Wisconsin Enrolled Commercial Building Code (Comm. 61.31 responsibilities).
- 3) Building plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per State of Wisconsin Dept. of Commerce Safety and Buildings Division and the Wisconsin Enrolled Commercial Building Code (Comm. 61.70 Certified municipalities and counties).
- 4) Apply and obtain appropriate building and electric permits.
- 5) Plans and design shall comply with the Wisconsin Enrolled Commercial Building Code Section 3108.

Seconded by Mr. Christel. Motion carried unanimously.

COMMUNICATIONS

7. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: Planning Commissioners Journal, Winter 2010

Plan Commissioners acknowledged receipt of this communication.

ADJOURN

Motion by Mr. Sisson to adjourn the Plan Commission meeting at 7:50 P.M. Seconded by Mr. Christel. Motion carried unanimously.