

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

**PUBLIC HEARING**

6:00 P.M. (7)JT CU-10-02 Elaine M. Kraut – 4041 S. Racine Ave. – Filling and grading permit.

**NEW BERLIN PLAN COMMISSION  
MAY 3, 2010  
MINUTES**

The public hearing relative to the request by Elaine M. Kraut for a Conditional Use Permit for filling and grading located at 4041 S. Racine Avenue was called to order by Mayor Chiovero at 6:05 P.M.

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

Mayor Chiovero 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.

Ms. Titel gave a brief presentation describing the request and indicated the location.

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

Greg Smith, 4115 S. Swartz Road – Off of Swartz Road there is a 100 ft. drop into the big basin of land, and this is going to be filled over the next 10-25 years. Is there only going to be one access into this area?

Ms. Titel – During the filling process there will be only one access, the access point that they are currently using along Racine Avenue. In the future it will be up to whoever chooses to develop it, how they will want to lay out the site. That is something that staff reviews at that time, if there will be any access off of Swartz Road or only access off of Racine Avenue. That will all come with the conceptual plans. At this time, the only thing we are approving tonight is the filling and grading on the site, and that includes the one access point off of Racine Avenue.

Mr. Smith – Is it going to be regulated fill? Is there going to be concrete coming in there so there is concrete machines or something like that?

Ms. Titel – There will be no crushing of asphalt or concrete on the site. It will be all clean fill as defined by our Zoning Code. It will be regulated. They will have a contractor on site that will be making sure that the fill is clean.

Mr. Smith – I've lived here for 25 years and I've seen a cemetery off of Racine Avenue. Is that going to be affected?

Ms. Titel – There is a small cemetery which is a separate Institutionally Zoned parcel of land. The property owner, Mrs. Kraut, is providing access to that site through her property. She has installed a gravel parking area so that the Historic Society can have access to the cemetery. This filling will not have any impact on that cemetery.

Mr. Smith – Will it be a continuous filling. Will we hear trucks all day long and that type of thing?

Ms. Titel – It will be ongoing, like the same type of filling that was going on with the Racine Avenue and National Avenue reconstruction.

Mr. Smith – It is going to be a short time?

Ms. Titel – This is ongoing.

Mr. Smith – All day long?

Ms. Titel – They have hours of operation listed in their Plan of Operation. Monday – Friday from 6:30 A.M to 6:00 P.M. Saturday from 7:00 A.M. to 2:00 P.M. is what they have submitted to us.

Mr. Smith – At 6:30 in the morning we will be hearing trucks coming in and beeping, etc.

Ms. Titel – That is what they have submitted in their Plan of Operation.

Mr. Smith – Can't they start at 8:00 or 8:30 in the morning?

Ms. Titel – That is definitely something that Staff can consider as we move forward.

Mr. Smith – Would you please? I appreciate that. Thank you.

Ms. Titel – You're welcome.

Mary Hiebl, 20160 W. National Avenue - This is long range, but I see two areas for septics for eventually what is planned to be a residential conservation style subdivision. Are those two areas for septics going to be cluster septics or shared septics?

Ms. Titel – There are five areas. They are labeled SS. (Ms. Titel indicated the locations on the map.) The septic systems, to my understanding will be individual septic systems.

This is very much down the road. When an application would come into play, that is all permitted through Waukesha County, but it is my understanding that the lots will be clustered around these areas and the septic systems. They are preserving these areas that would allow for suitable soils for septic systems. It is something they need to consider if they want to develop in the future. If they filled in the whole site without leaving areas for septic systems, they wouldn't be able to come back in the future and have areas that would perc for the septic systems.

Ms. Heibl – I don't have information on the well assurance program. Within what radius is that?

Ms. Titel – These are the properties that are directly adjacent to the subject property.

Ms. Heibl – Would it be in a mile radius, a half mile radius?

Ms. Titel – Any property that shares a property line.

Ms. Heibl – When was this last used as a quarry? Was it a quarry at one time?

Ms. Titel – It was a sand and gravel quarry I believe in the 1980's. I would like Mrs. Kraut to tell us when the quarry was last mined.

Elaine Kraut, 1505 N. Golden Lake Road, Oconomowoc – I was not the person who was responsible for mining the property. I believe we had some historical aerials that showed that it was mined from the mid 1950's to the end of the 1960's. It was not mined for that long a period. I might be off by a few years, but that is the range.

Ms. Titel – We can take a look in our files more closely, Mary, to see if I can find more information about that, but it has been quite some time since it was active.

Ms. Heibl – Since it has been such a long time, this quarry did not fall under a 2001 Reclamation Plan?

Ms. Titel – That is correct. It was not an active mine in 2001 when that Statute came into place.

Ms. Heibl – How long will this filling and grading Conditional Use Permit extend?

Ms. Titel – This permit will be good until they reach their final conceptual grades that they are proposing.

Ms. Heibl – That could be years.

Ms. Titel – Yes, 10-25 years, but that depends on the market and how much fill is available to them at this location.

Ms. Kraut – I am going to correct myself. Our aerial photos show that it started in the

mid 1960's and went through the early 1980's.

Ms. Heibl – Even in the '80's it did not apply.

Ms. Titel – That is correct.

Ms. Heibl – The filling and grading can go on for years as long as it is needed, right?

Ms. Titel – Yes.

Gary Heyel, 4135 S. Racine Avenue – I can confirm as far as when the pit was used. I have lived there since 1979, and the pit had not been used. My sister owned the home from 1975 through 1979 and it was not worked at that time either.

Ms. Titel – Thank you.

Joe Zizzo, 41550 S. Swartz Road – I am new to the area, although I have built three houses in the City of New Berlin. I have spent some time developing in this area. I knew what it was like and I liked the area a lot. When I found this property, I was given a chance to purchase it which I did about 13 or 14 years ago. At the time, nobody ever mentioned to me that the land across the street ever had to be filled. I planned on retiring here. I have some experience about what you are trying to do because of last year with this Conditional Use that went on. I was not aware of it until it started to happening and saw all the trucks. I could view the property from my windows. None of you people live next door to this site. I heard Elaine Kraut lives many, many miles away from it. In fact, I don't think she is even a citizen of New Berlin. I am, so I have some concerns about this. My neighbors do too. There are some issues that are obvious. It was very loud the whole time last summer listening to the trucks come roaring in and dumping their load with their alarm going as they backed up. It is very annoying. It goes beep, beep, beep. Then it will stop, the load will go up, and then the truck will rattle and vibrate and make more loud sounds before pulling forward when the tailgate will slam against the back of the truck about three times. Then the box would lower and the truck would proceed up the hill, in the mean time there would be a bulldozer going beep, beep, beep and then he would be plowing over all the dirt that the truck just unloaded. I know I might sound a little childish with all of this, even though Elaine offered me a solution. The solution was earplugs. She also told me buyer beware, and that I should have know about this when I bought the property. When I pulled the permit, nobody said they would be filling in this land across the street from me for the next 20 years. The noise is one thing, but we also have the fumes from the diesel. It the winds are out of the east, it really smells. It actually leaves a taste in your mouth, so you end up closing the windows. You also get the dirt. You can just see the dirt in the wind, which ever way the wind is blowing that day. If it is from the east, the dirt heads right for the house. It's tough to keep your place looking good. Having your windows open is not an option at that time just because of all the dust. I am sure my neighbors feel the same way. You also hear the trucks as they come down Racine Avenue. That was a practical thing to do, to bring the dirt and the fill from National Avenue right to this point. I thought that was practical, and I didn't object to it. It made sense, but now they are talking about bringing land from the airport. That

is not environmentally friendly to travel that far with dirt. I don't know if the State is paying them by the truck load when you get to these highway projects, but somehow I have a funny feeling that there are cost issues here that we don't really know about. Twenty years is a long time for an ugly, noisy, dirty, smelly mess across the street from where you just put in your whole life savings.

I also wanted to mention that there is a lot of wild life there. I don't know if you care about owls, falcons, deer, turkey, snakes, frogs, and 39 different species of birds. I don't think that is the best use of the land when it is being used so well as a nature preserve. We probably have more nature than at a Nature Center. I don't know if what will be destroyed has all been taken into consideration.

By digging this hole in the ground, which you really just leveled it from one side of its area, it created a different kind of atmosphere in there. I actually walked in there while they were doing it last year, I hope it was Ok. I look for places to build houses sometimes, and when I walked in there I thought it was just beautiful and could imagine houses right in there. Now that they're filling it up and are going to take down all those trees and make a dirt hill out of it, I scratch my head. I would think with all these sites to do mound systems, plus they have some other type of container systems that can be pumped out periodically. You don't have to just typically go to the mound system. I would think there would be another way to accomplish this. Maybe it needs some fill, somewhere, but maybe not destroy everything that was created in the past 50 years. It's beautiful there. I saw some of the pictures that you put up and they really didn't depict once you get past that little dirty mountain. There is a creek down there with all kinds of nature living down there. I think you should rethink this. I am not trying to stop her from developing her land, she has a right to, but maybe not in a way that affects the people around her for the next 20 years. It is not going to affect her, she is going to make the money. She is not paying taxes on it as if it was residential land, it's a quarry. I am paying more taxes than all five people on my block together, and I don't believe you should ignore what I am saying. I don't want a dirt dump across the street from me. It was OK temporarily, but don't make it for the rest of my life. Thank you.

Ms. Kraut – I would like to start by responding to Mr. Smith by letting you know that, yes, this is an ongoing process but the jobs will run intermittently. They won't run continuously day after day. There will be a job, we will bring the fill in, then there won't be a job for awhile, then we will reopen it and there will be another job. While I am explaining that, (Ms. Kraut referred to the map) these areas are going to be filled in an order so filling will be coming in this area, then it will go down over here, and not everybody will be affected at the exact same time. You will not have the impact of the filling immediately close to your property during the entire years of the filling process. We do have in our application, a notice that we will communicate with the City Staff when there are large jobs going. We are very proactive in the neighborhoods. If we think it would be a job that would run an unusual amount of time or have any unusual circumstances, we would let our neighbors know in advance.

As far as Mr. Zizzo's comments, I barely know where to begin. I do feel I have to defend myself a little bit on this subject. My family has paid taxes on this property, zoned as it

was then and is zoned now for 60 years. Q-1, Quarry, same as the property across the road, same as the adjacent gravel pit next to it and there is another gravel pit behind it. I have a second gravel pit over on Coffee Road. Q-1 is the heaviest form of industrial zoning that you can have. When I said to Mr. Zizzo at the public meeting when he told me how he felt, I said it is called buyer beware for a reason. When you invest in the largest asset of your life, you should feel a responsibility to look at what is next to you. If you were building next to an airport and you didn't like airplanes, it would make you reconsider your site.

What I am trying to do here, in our defense is trying to restore the property to what I feel it should and can be. I am doing it in a responsible way. I heard tonight that it was going to be a dirt hill. It is not going to be a dirt hill. I am sacrificing income on this property from putting fill in, in order to prepare it with engineered fill so there will be stable ground to build the future product on. I am using Residential as a Use because that is what New Berlin's Master Plan calls for. Basically, I am just doing what the City has handed out to me. The DNR, State of Wisconsin is, as I understand it, the governmental body that encourages filling these depleted gravel pits with ground and bringing them back to their natural state. They do that because they feel that it is a win-win. It gives contractors a place to go with dirt from road and construction sites. Where this dirt comes from, I can assure you it will be clean dirt, which is pledged in the Conditional Use document. I want it to be clean dirt more than anyone because I would be the person held liable if it wasn't. I feel very strongly that we are doing the right thing. To create a case that the property is beautiful and should be left just as it is, it is hard for me to respond to because this is a personal decision of a land owner just like Mr. Zizzo's decision was to build his home where he built it. It is our decision as a family to raise the topography of that land and recreate another opportunity for another part of the community to grown in the future. We are actually, by doing this, adding value to the tax roles of this community in the future. It is just a disagreement. I believe that the land should be changed before it is built upon. I think seeing the small amount of filling that we put in already has shown how beautiful you can change this topography.

Wildlife, what can I say. The trees there are secondary. Those are scrub trees. There is probably not one tree of great value on that property. Those trees all grew up after the mining stopped. I remember driving through there when it was just a bare gravel bottom. Those trees will, as this land redevelops, be replaced with other trees because the objective is to bring value to this property. We are responsible people. I don't plan on changing the quality of people's lives. It is not my intention. I have tried to be sensitive to my neighbors, and I really think that we have given them the best of all the options probably better then coming in and saying we want to mine it. I am not asking for that, I am asking for a compromise. Thank you.

Dean Schemel, 4230 S. Swartz Road – I would like to clarify the hours of operation. Are those typical hours of operation for an establishment like this?

Mayor Chiovero – Yes, it is.

Mr. Schemel – Does Waukesha County have any concerns with the traffic in that area?

During the National Avenue and Prospect Hill process it became quite dangerous.

Mayor Chiovero – When the area was opened up with the initial Conditional Use Permit for the dumping from National Avenue, the County had a lot to say about where the access would be and how it would be marked. Right now they have the approvals from the County to use the access that was used and it will probably remain the same.

Mr. Schemel – I don't know what is on the Master Plan, but Elaine mentioned it is Residential. Ten years ago they had something called a Planned Unit Development. Is that what is there now?

Ms. Titel – No, it is currently zoned Quarry.

Mr. Schemel – I know, but for the future there was something that was changed and they were adding a Planned Unit Development which covered a lot of different options.

Ms. Titel – That does not apply to this area. The Future Land Use is Quarry, but in the narrative of our Comprehensive Plan these areas are seen to transition to Country Residential, which is a low density single-family residential.

Gary Heyel, 4135 S. Racine Avenue – Is there any possibility to get the County involved with the speed limits to bring it down to 40 m.p.h. which is what it is just north of Swartz Road. When you are entering north of "T" it is 40 m.p.h. also, so there is about a mile area of 50 m.p.h. If we could slow the traffic down, it might be safer for everyone to enter and leave Swartz Road.

Mayor Chiovero – The County was involved with the speed limits there when we were doing it for the initial. The County is very hesitant to adjust speeds. I am not saying no, it is something that can be looked at. As Elaine noted, you might get a month with two or three jobs and then you might not see any action for two months, who knows. That goes with the hours too. It doesn't mean that at 6:30 A.M. trucks will be starting.

Mr. Heyel - It's not just because of the trucks. They do create a safety hazard when they pull out in traffic. The traffic does flow very fast on that highway.

Mayor Chiovero – It was a County project that did National Avenue, and we had issues with some of the speeds. We were able to control that contractor at that time. The County never interfered with the speed limit at that time.

Ms. Titel – The County is aware of this project, but Staff can contact the County to see if they have any concerns.

Mr. Heyel – Thank you.

Ms. Titel – You're welcome.

Mayor Chiovero asked three times for further questions or comments for the purpose of

clarification, seeing none.

Mayor Chiovatero asked three times if there was anyone wishing to speak in favor of this application, seeing none.

Mayor Chiovatero asked three times if there was anyone wishing to speak in opposition of this application, seeing none.

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

Alderman Ament – As of recently we have had a lot of Conditional Uses, operations, and questions for quarries. In all honesty, I have not dealt with anyone that has been easier to deal with and more open with the neighbors and residents in the area than Elaine Kraut. I think if you have any questions, either direct them to her or me or Staff. Whatever issues you have, if there is something they can do about it, they will. As the Mayor has pointed out, the contractors are very easy to work with and were very responsive when they did the other project on National Avenue and Racine Avenue. Someone has mentioned issues with dust, etc. but on Page 5, No. 9 it specifically says that City Staff has received no complaints regarding filling approved with Zoning Permit No. UA-09-08, which was the last fill. There would be no way to address whatever issues were there if they weren't brought to our attention. The traffic issue is a concern and as the Mayor said, we had some concerns with the last project and the County was not willing to do anything. It is very difficult to get them to do anything with the speeds. The only issue I have which I will take up with Staff and Elaine at some other time, is the word "ongoing". The problem I have with that is that it is open ended and I will need to discuss it with them to be comfortable with it. Everything else that I see here I have been involved with. I have been on some tours, and I have met with Elaine and Mary Claire several times. We have had a lot of meetings with people there and can't think of one time when they didn't try to resolve or address an issue including the water issue. From what I see right now, I don't see any particular problems.

Mayor Chiovatero – Mrs. Kraut has been very easy to work with. She has been very understanding. If she doesn't have the answers, she will work to resolve the issue. If you have any questions or concerns or things come up after you leave tonight in the future, please contact the Staff and they will contact Elaine, or contact Elaine directly. She will listen to you and explain what she is trying to do and if she can work with you, she will. There have been a lot of open meetings, they did a door to door campaign to try to address concerns people might have, and gone over and above what many other people would do to try to develop her property. In 25 years she wants this to be a beautiful addition to New Berlin.

Mayor Chiovatero closed the public hearing at 6:57 P.M.

**NEW BERLIN PLAN COMMISSION  
MAY 3, 2010  
MINUTES**

**PRIVILEGE OF THE FLOOR**

The Plan Commission Meeting was called to order by Mayor Chiovero at 6:57 P.M.

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

Motion by Mr. Christel to approve the Plan Commission minutes of March 29, 2010. Seconded by Alderman Ament. Motion passes with Mayor Chiovero voting present.

Motion by Mr. Felda to approve the Plan Commission minutes of April 14, 2010. Seconded by Mr. Christel. Motion passes with Mr. Sisson voting present.

**PLAN COMMISSION SECRETARY'S REPORT - None**

**SPECIAL PRESENTATION**

1. ( )GK PG-143(7) – National Avenue Corridor Plan – UWM/APW Class –

UWM Urban Planning Students provided a conceptual plan for National Avenue Corridor. Their final presentation will be on May 11, 2010 at 6:00 P.M. at UWM. Final copies of the East National Avenue Plan will be available on May 18, 2010.

**NEW BUSINESS**

2. ( )CT PG-280 Sign Ordinance Revision – Sign Code Amendment  
Regarding Residential Signs. (Deferred 1/4/10, Public Hearing 3/29/10)

Motion by Mr. Sisson to recommend to Common Council the adoption of an ordinance that approves the amendments to Section 275-42 G (3) (c), Fence Maintenance, 275-61 G, Signs permitted in all zoning districts without a permit, and 275-70, Definitions, of the City's Zoning Code.

Seconded by Mr. Christel. Motion passes with Mayor Chiovero, Mr. Christel, Mr. Sisson, Mr. Felda, Ms. Groeschel voting Yes and Alderman Ament, Ms. Broge voting No.

3. (5)JT LD-10-02 Warren & Diane Krohn – 13301 W. Cold Spring Rd. - Sw ¼

Sec. 24 - Two-Lot Land Division.

Motion by Christel to recommend to Common Council approval of the 2-lot Certified Survey Map (CSM) for the property located at 13301 W. Cold Spring Road subject to the application, plans on file and the following conditions:

- 1) Applicant shall correct all drafting errors and requested changes identified by Staff on the final CSM prior to the City signing.
- 2) A final copy of the CSM shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- 3) Applicant has started demolition of the existing pool and accessory building that are located along the proposed property line. These structures shall be completely removed prior to the City signing the CSM.
- 4) Ultimate right-of-way for Cold Spring Road is 66-feet (33-feet on each side of the centerline centered on the section line). The property owner shall dedicate the south 33-feet along Cold Spring Road to the City of New Berlin for public right-of-way purposes prior to the City signing the CSM.
- 5) The proposed connections for sanitary and water laterals should be located between the manhole near the south property line and the location where the water main crosses the sanitary sewer.
- 6) Applicant and/or new property owners shall apply for and obtain appropriate building, plumbing and electrical permits prior to any construction.
- 7) All lot corners shall be piped in the field as noted prior to the City signing the CSM.

Seconded by Mr. Felda. Motion carried unanimously.

4. (2)AB SG-10-08 M & I Bank – 15450 W. National Ave. – Second Monument Sign at National Avenue Entrance.

Motion by Alderman Ament to recommend approval of the monument sign, along with Waiver Request #1, for M&I Bank located at 15450 W. National Avenue subject to the application, plans on file and based on the information below:

Waiver Request #1: The applicant is requesting a waiver from the City's Sign Requirements under Section 275-61 for monument sign height, square footage and the number of signs.

- 1) Pursuant to Section 275-61.I(2), "Only two signs may be permitted per business. Businesses with multiple street frontages and buildings exceeding 10,000 square feet may submit an application to DCD for a possible third sign combination."

The applicant is proposing a second monument sign along National Avenue. The proposed monument sign will not exceed maximum height and square footage requirements allowed in the Zoning Code. There is an existing monument and wall sign on Moorland Road. However, the new M&I Bank building is under 10,000 sq. ft.

- 2) Due to existing site conditions such as the speed of traffic, size of the site, scale of the buildings, staff supports and recommends approval of the waiver.
- 3) The Plan Commission has the authority to grant this waiver pursuant to Section 275-52(C), which states “The Plan Commission may waive or modify any or all of the other requirements of this article if it determines that:
  - a) The site or activity in question will have no appreciable off-site impact;
  - b) Compliance with the requirement(s) is impractical or impossible due to site conditions or other circumstances beyond the control of the applicant; or
  - c) The specific requirement is not necessary for a particular site to ensure compliance with the requirement of this chapter.

Seconded by Mr. Sisson. Motion carried unanimously.

5. (5)NJ UA-10-13 New Berlin II – MSP Real Estate – 14901 Library Ln. – Senior Multi-Family Development.

Motion by Mr. Christel to approve the Use, Site and Architecture for construction of three multi-family workforce housing buildings and one senior housing building along with the three waiver requests. The workforce housing portion proposes one, 12-unit (two-story) and two 34-unit (three-story) buildings. The senior housing portion proposes one, 100-unit (four-story) building. All to be located within the City Center development located at 14901 Library Lane subject to the application, plans on file and the following conditions:

Waiver Request #1: Applicant is requesting a waiver from Section 275-A(6), Minimum Area, that requires parking stalls shall be nine feet wide and 19 feet long. The applicant is proposing an 18 feet long stall.

Waiver Request #2: Per Zoning Code §275-57 F (3), the proposed driveway, per code, should be 100-feet away from the intersection of Library Lane and Deer Creek Parkway. Applicant is requesting a Plan Commission waiver to deviate from this requirement.

Waiver Request #3: Applicant is requesting a waiver from Section 275-57 and City Center PUD Section B-2/PUD, (2) Accessory Uses (b) and (c) which requires two spaces per dwelling unit, with one space being underground or covered plus 1/10 visitor space per unit for the workforce housing. For the senior housing 1 space per dwelling unit, with one space being underground or covered plus 1/10 visitor space per unit. Plus any employee parking necessary. Staff supports the following waiver request based on applicant's submittal. (See attached request.)

- a) For the 100-unit senior apartment project the applicant proposes 65 underground spaces, plus 17 surface lot spaces and approximately 13 on-street spaces in front of the building for a total of 95 spaces. Based on PUD requirements this building would require 112 spaces including 2 employee spaces.
  - b) For the 80 units of workforce housing apartments the applicant is proposing 94 underground spaces plus 22 surface lot spaces and approximately 19 on-street spaces for a total of 135 spaces. Based on PUD requirements this building would require 170 spaces including 2 employee spaces.
- 1) Applicant shall obtain all WDNR permits to accomplish necessary filling and grading within the road right-of-way. Prior to issuance of the zoning permit applicant shall address the following issues to the satisfaction of DCD Staff:
    - a) Applicant shall apply for and coordinate with the WDNR on any necessary Waterway and Wetland permits that will be required for the Bridge Crossing to connect this development to the Deer Creek Village development located on 147<sup>th</sup> Street.
    - B) Applicant shall apply and coordinate with the WDNR on any necessary Waterway and Wetland / Wetland Fill permits that will be required for the Deer Creek Parkway and Library Lane road work, grading and necessary retaining walls.
  - 2) Applicant shall continue to work with DCD staff on refining the architectural, landscape, site details and the 3-D model. GRAEF shall continue to oversee the architectural elements of this project, in conjunction with staff, throughout construction.
  - 3) By virtue of past recorded CSM's for this property, Deer Creek Parkway and Library Lane have been dedicated to the City of New Berlin and shall be constructed to City standards by the developer.
  - 4) Applicant shall record the recently approved CSM (File application #: LD-9-04) prior to the issuance of the Zoning Permit.
  - 5) Plan of Operation
    - a) Dumpsters, if used externally, shall be properly screened from the street and public view in accordance with Article VIII Section 275-56 of the New Berlin Municipal Ordinance.
    - b) All permanent and temporary signs shall also require an application to be filed prior to installation.

- c) No outside storage of vehicles, items or materials shall be permitted on the property without a plan for screening.
  - d) Applicant shall verify the location of any roof-top or ground mounted units (such as HVAC) that might be planned for this building to ensure they are screened from the right-of-way. They shall not be clustered in large banks of units.
  - e) Applicant shall adhere to the setbacks identified in the City Center PUD Ordinance #2122 Section (6)(a).
  - f) Bike stands, benches, and trash receptacles shall be architecturally integrated. The plaza area shall incorporate coordinated planters. This would also serve as an outdoor gathering space.
- 6) Engineering Comments
- a) Developer's Agreement will be required with appropriate sureties.
    - i) The City of New Berlin is putting this Applicant on notice that any future development/expansions in this area, including the following situations, at the time that the issuance of a Use Approval for the property to the north or when Deer Creek Parkway is extended beyond Library Lane, whichever happens first, will require this Applicant to coordinate with the adjacent property owner to the north to cost share the installation of a traffic signal at National Avenue and Deer Creek Parkway.
    - ii) As a result of the findings of the TIA, the level of service at National Avenue and Acredale/Deer Creek Parkway (extended) for northbound traffic with a stop sign only, the level of service would be as low as an "E" or "F". By installing the traffic signals at this same intersection, the level of service would increase to "C" for those maneuvers, which per the City's adopted Comprehensive Plan, Chapter 6, Transportation Policies, Objective Number 2, the level of service rating should not fall below.
    - iii) In 2010, the City estimates based on WisDOT construction and design costs, that the traffic signal design and installation will be approximately \$200,000. This value may be adjusted by the City based on inflation. In addition, the actual dollar amount will vary based on requirements of the City and Waukesha County at the time the intersection is constructed.

- iv) Subject to a final review and recommendation for traffic signal lights at the intersection of Deer Creek Parkway (extended beyond Library Lane to meet up with Acredale Drive) and National Avenue, the PROPERTY OWNER, prior to the City's issuance of the Zoning Permit, shall submit to the CITY a \$100,000 Irrevocable Letter of Credit in a form acceptable to the CITY for their estimated fair share of the anticipated costs of the design and construction of traffic signals and other improvements determined by the CITY and Waukesha County to be necessary for the signalization of said intersection, including but not limited to, roadway improvements on Deer Creek Parkway extended and National Avenue. In the event that construction of said traffic signal has not commenced by July 1, 2020 the Applicant may request that the City of New Berlin Board of Public Works and Common Council re-evaluate the need for said traffic signal and intersection improvements. The City shall review the LOC amount periodically and adjust based on inflation.
- b) Applicant shall provide more detailed construction and building plans prior to any Developer Agreement approval.
  - i) Applicant shall submit plan and profile plans for road, storm sewer and water main with the construction plan set prior to any Developer Agreement approval.
  - ii) Detailed road plans showing cross-sections of Deer Creek Parkway, the bank of Deer Creek and any required retaining walls are needed.
  - iii) Building plans should show stairways in the townhouses, doors, water meter rooms, elevation differences between first floor and basement.
- c) Detailed road plans shall be submitted showing vertical curve information. There are many high points and low points proposed along Deer Creek Parkway. Applicant shall verify that plans meet the New Berlin development standards for minimum vertical curve lengths and "K" values. Applicant shall show light poles on the east side of Deer Creek Parkway on the grading plan. Show proposed cross-sections. Keep 4' – 6' flat area behind the curb before sloping down at 4H:1V.
- d) New Berlin development standards require double inlets at low points. Developer Handbook Section 3.III.O.
- e) Proposed storm sewer running along under the curb and gutter is not allowed. Developer Handbook Section 3.III.J.1. Applicant shall revise plan accordingly.
- f) Minimum storm sewer slope in New Berlin is 0.2%. Proposed storms pipes 18 – 19 and 19 – 21 are too flat. Developer Handbook Section 3.III.H.

- g) Show proposed sump discharges for the 12-unit and the two 34-unit apartment buildings (direct connect to pond).
  - h) Detailed, larger scale plans are required showing the 10' wide access trail along the edge of the pond to show grading and slopes. Applicant shall provide detail for the retaining wall behind the Commons providing materials types and if there will be a guard rail.
  - i) More detail is required on the grading plan for the area between Pond 4 water edge elevation 873' and the sidewalk of Library Lane at elevation 880'. The trail should connect to Library Lane closer to the proposed senior building rather than in its current location because of steep slopes.
  - j) Applicant shall show the 25-year storm pond elevations on the grading and utility plans.
  - k) Applicant shall add pervious pavement to this development. Potential areas include the parking spaces adjacent to the pond and pavers on patios to assist with storm water. Applicant shall also consider the use of alternative storm water techniques such as bioswales, rain gardens, etc. in this development to assist with storm water management. If any of these items are integrated into the development, a Storm Water Management Maintenance Agreement would be required. Applicant would register it with Waukesha County Register of Deeds and a copy provided to the City. City boilerplate agreement would be used.
- 7) Transportation
- a) On-street parking shall be relocated from the east side of Deer Creek Parkway and relocated to the north side of Library Lane to accommodate parking on both sides of this street. As it stands now, parking cannot be achieved on both sides of Deer Creek Parkway due to the location of the drainage easement.
  - b) On-street bike lanes need to be included in all roadway cross-sections. In areas with on-street parking, the dimensions will be 25' from the roadway centerline to the face-of-curb (foc). In areas without on-street parking it will be 17' from the roadway centerline to the foc. Detailed plans for this area should be at a 20 scale. A sample detail shall be used and incorporated into revised construction plans.
  - c) Cross-sections and plan and profile sheets are required for all roadways.
  - d) Signing and marking plan is required.
  - e) Add standard details for curb and gutter, roadway typical section, sidewalk, driveways, lighting, etc. These are needed to complete the plan set for construction.
  - f) In addition to the photometric plan, an electrical plan is required showing all poles, pull boxes (if needed), wiring, conduit, lighting control center, etc.

- g) Applicant shall revise lighting plan to follow city standards. See Zoning Code §275-60 I. The development light levels can be higher than the requirements for average footcandles and equal to or lower than the average-to-minimum and maximum-to-minimum ratios in the zoning code.
  - h) Individual point light levels can not be less than 0.4 footcandles.
  - i) Curb ramps shall use an ADAAG recommended tactile surface (truncated domes).
  - j) Trash pick-up pad cannot encroach into drive aisle.
  - k) Drive aisle widths are to be 24-feet wide from edge of pavement to edge of pavement (i.e. do not include curb & gutter in required width). Includes ramps to underground parking.
  - l) Garage door width for underground parking shall be at least 18' for the 34 unit buildings and 15' for the 12 unit building.
  - m) Right-of-Way widths shall be a minimum of 66 feet for public streets.
  - n) A 30-foot vision triangle is required at all intersections. Applicant shall submit a detail of the fountain showing that it meets the vision triangle requirements or request a Plan Commission waiver.
  - o) Per Zoning Code §275-57 F (3), the proposed driveway should be 100-feet away from the intersection of Library Lane and Deer Creek Parkway. Applicant requested a Plan Commission waiver to deviate from this requirement. (See waiver request.)
  - p) A single unit design vehicle (box truck), is required to be able to navigate the entire site, per §275-58 G (5).
  - q) Parking stalls on Deer Creek Parkway shall be kept 30-40 feet away from the north side of each driveway.
  - r) Applicant shall show the 100 foot wide drainage easement along Deer Creek on all applicable plan sheets as indicated on CSM # 10129.
  - s) Traffic calming measures required on Deer Creek Parkway and Library Lane as approved by Staff.
- 8) Utility
- a) Applicant shall add the note and leader to the location where connection will be made to the existing 10 inch sanitary sewer.
  - b) Applicant shall identify how the water main will be stubbed off at the north property line.
  - c) The direction of the 21 inch & 18 inch connections to the second storm sewer manhole from the east end of Library Lane are reversed. The 21 inch should be West and the 18 inch should be East.
  - d) The manhole data for the storm sewer manhole in the intersection of Library Lane and what used to be called Deer Creek Parkway needs to be shown.
  - e) Following are some new revisions to the City's Water Main Specifications:

- i) Hydrant leads shall be six (6) inch, Class 52 ductile iron pipe. Hydrants shall be connected to watermain with a Clow F1217 Anchoring Tee or pre-approved equal, a branch RW Gate Valve at main, a valve box and adaptor base. All joints shall be restrained by Mega-lugs or pre-approved equal from the main to the hydrant.
  - ii) Engineer shall provide for a 7 feet burial depth for all hydrant leads shown on plans. If a water main burial depth is greater than 7 feet, Contractor shall install fitting(s) to raise the hydrant lead to meet the required burial depth.
  - f) Any further reviews require vertical information for the water main to be provided on the Utility Plan Sheet.
  - g) Applicant shall verify why the sanitary sewer lateral for building #1 is an 8 inch when the other two are 6 inch.
  - h) The sanitary sewer lateral for building #1 is directly connected to manhole #4; this is discouraged and requires special approval from the City Engineer.
  - i) Applicant shall verify if sanitary will be private or public.
  - j) Each water lateral should have its own private “Water Meter k) Room” to be accessed by the New Berlin Utility Department.
  - k) Mainline valves in the intersection must be located.
  - l) The building #1 lateral valve must be located.
  - m) For roadways, applicant shall verify that water main and hydrants will be public.
  - n) All hydrant valves must be connected to a tee.
  - o) Applicant shall verify if each building will have its own meter for each apartment.
- 9) Fire
- a) A revised site plan shall be submitted showing existing and proposed new hydrants along with an additional hydrant added on southwest corner of four story building.
  - b) Verify if the Fire Department will have any additional requirements.
- 10) Architecture Comments – Comments below pertain to the Senior Housing Building:
- a) A 3-dimensional computer rendered model is required to be submitted and reviewed by the Architectural Review Committee prior to the issuance of a Zoning Permit.
  - b) Applicant shall explore options to add additional siding colors to the color pallet similar to the workforce housing buildings.
  - c) Applicant shall explore lowering the overall roofline to maintain the traditional “prairie-style” treatment that is reflected in the overall building design throughout City Center. Typically, the roofline of a “prairie-style” building starts at the top of the window lintels rather than a few feet above the top of the windows.

- d) Applicant shall add additional depth to flat building walls through the use of building elements such as reveals, water tables, lintels, sills, corner piers, similar to the workforce housing buildings (See GRAEF Conceptual Elevation Illustration). The City Center design guidelines recommend that there should be defined changes in wall planes where two different materials meet (See Conceptual Elevation Illustrations for examples).
  - e) Applicant shall explore options to add a more distinct tower/roof element above the special feature at the corner of Library Lane and Deer Creek Parkway to help create additional visual interest along the street.
  - f) Applicant shall explore increasing window sizes and/or adding additional windows and use greater variety in window groupings, treatments and sizes to help create more visual interest along the building facades, similar to the workforce housing buildings. (See Conceptual Elevation Illustrations for examples).
  - g) Applicant shall explore the use of alternate treatments for the porch and balcony posts to be similar in style with the workforce housing buildings. The thick vertical posts, as shown, give the appearance of heavy columns designed to support a substantial load. The columns seem a little out of place directly adjacent to the supporting walls of the projecting building bays and without any heavy load to support.
  - h) Applicant shall explore other building materials for the base of this building. Possibly a renaissance block or some other material with a higher level of detail and finish. The proposed block seems flat and seems to have a bit unrefined character; somewhat like a material that might be used for retaining walls, landscaping, storage or institutional buildings. Applicant shall also propose a way to eliminate the strip pattern around the base of the building. Possibly looking again at what is being proposed at the workforce housing building and simplifying this base area.
  - i) Applicant shall remove the railings from as many of the first floor unit porches as practicable (i.e. where grading allows) to make it feel more like front entryways similar to the workforce housing units. In order to meet the City Center Design Guidelines, these units should feel inviting and like you can walk up to them, even if functionally the door is locked. If these units are being leased to people that are 55 and older, they will be able to enjoy these patios and walk to and from areas in City Center without having to use the front entryway. We have discussed this in meetings.
- 11) Site Landscape
- a) Applicant shall work with City staff to refine the proposed plant palette to be complimentary to the recommended plants outlined in the City Center guidelines.
    - i) The Whitespire Birch clump should be switched to River Birch or Crimson Cross which do better in these soil types.

- b) Approval of the landscaping plan and payment of all sureties and any tree replacement fees are required prior to issuance of the Zoning Permit. Landscape plans shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. This includes a tree inventory and replacement schedule or fee in lieu of planting additional trees. A registered landscape architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to installation of any materials. Credits to the tree replacement fee shall be coordinated with the Director prior to the issuance of the Zoning Permit.
  - c) Applicant shall work with City staff and reviewers to refine the design of the site, buildings, and landscape treatment of the proposed development.
  - d) Applicant shall, at minimum, meet the landscape planting requirements of the City Zoning Ordinance and City Center guidelines in terms of plant quantities, sizes and types.
  - e) Applicant shall provide additional foundation plantings around building perimeters to cover at minimum 50% of the building foundation's length.
  - f) Applicant shall provide parking lot perimeter and interior landscaping to meet or exceed City requirements.
  - g) Applicant shall work with City staff and reviewers to provide acceptable landscape treatment along the edge of the stormwater trail.
  - h) Applicant shall provide appropriately sized trees for at least 50% of provided shade trees as identified in the Zoning Code.
  - i) Applicant shall effectively screen all ground-mounted utility boxes and equipment from the view of residents and the general public through the use of dense plantings and/or decorative fencing.
  - j) Applicant shall select site benches, receptacles, bike racks, paving, lighting etc. to be consistent with the City Center guidelines.
  - k) Applicant shall provide design concepts for the proposed playground area for review.
  - l) Applicant shall explore alternate designs for the outdoor patio areas that help create more usable outdoor spaces for building residents and guests. See Conceptual Landscape Plans prepared by GRAEF.
- 12) Applicant is required to follow any issues identified in the settlement agreement for this property.
  - 13) Property Maintenance requirements shall be met. Applicant shall identify, in the tenant manual, their expectations for where vehicles would be stored and make tenants aware of the City's outside parking regulations.
  - 14) Homeowner's Association and/or proof of tenant manual and/or rental guidelines shall be provided.

- 15) Applicant shall strive for a diverse mix of housing types within City Center including market rate, workforce, senior, developmental disabled apartment and/or condominium to ensure that all housing needs are met per Chapter 7 (Housing) of the City's Comprehensive Plan.
- 16) The Developer would be responsible to complete the construction testing, preparation of as-builts, and dedication to the City of all existing public improvements as set forth in the Developer's Agreement between the City and Deer Creek Apartments, which include but are not limited to the bulleted list below, unless specifically waived in writing by the City in the Developer's Agreement between this applicant and the City. The Developer shall be required to provide financial sureties to the City to guarantee the performance of this work.
  - An inspection and preparation of a final punch list needs to be completed by the City's contracted inspector for sanitary sewer, water main and storm sewer per the Development Agreement. A part of the punch list work is the testing of the sanitary sewer and water main. The punch list work is to be completed by AnchorBank and verified by the Utility Department. As soon as any required repairs are completed and accepted by the Utility Department, then as-built drawings need to be prepared by AnchorBank.
  - The as-built drawings will be reviewed by Staff in accordance with the Developers Handbook. When Staff is satisfied that the as-built drawings are complete, Staff will accept them and notify AnchorBank that they need to submit both electronic and mylar copies of the as-built drawings per the previous Development Agreement.
  - Paving of the Final Lift of Asphalt in Phase I.
  - When this work is completed, the infrastructure covered by the existing surety with AnchorBank will be completed.

Seconded by Mr. Felda. Motion passes with Mayor Chiovatero, Mr. Christel, Mr. Felda, Ms. Groeschel voting Yes and Alderman Ament, Mr. Sisson, Ms. Broge voting No.

6. (7 )AB LD-10-03 Richard W. Guse – 19100 W. Hillcrest Dr. – Ne ¼ Sec. 29 - Two-Lot Land Division.

Motion by Alderman Ament to recommend to Common Council denial of the 2-lot Certified Survey Map for the property located at 19100 W. Hillcrest Drive for the following reasons:

- 1) Section 235-26(G) New lots within existing residential subdivisions may be prohibited under any of the following criteria:

- (1) When the new lot area is less than the average area of the existing lots within the subdivision excluding unbuildable lots. (Both proposed lots would be below average of subdivision); or
- (2) When the new lot width is less than the average width of the existing lots within the subdivision excluding unbuildable lots. (Both proposed lots would be less than one subdivision lot); or
- (3) The subdivision was platted over 25 years ago. (Subdivision was platted in 1969).

Seconded by Mr. Sisson. Motion passes with Mayor Chiovatero, Alderman Ament, Mr. Sisson, Mr. Felda, Ms. Broge, Ms. Groeschel voting Yes and Mr. Christel voting No.

### **COMMUNICATIONS**

7. Communication To: Plan Commission  
Communication From: Jessica Titel, Associate Planner  
RE: National APA Conference

Ms. Titel showed photos and reported on the National APA Conference held in New Orleans from April 10-13, 2010.

### **ADJOURN**

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 8:57 P.M.  
Seconded by Ms. Broge. Motion carried unanimously.