

**NEW BERLIN PLAN COMMISSION
JUNE 7, 2010
MINUTES**

The Plan Commission Meeting was called to order by Mayor Chiovaturo at 5:32 P.M.

In attendance were Mayor Chiovaturo, Mr. Sisson, 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; and Mark Blum, City Attorney. Mr. Christel was excused.

CLOSED SESSION

Motion by Alderman Ament for the Plan Commission to go into Closed Session. Seconded by Ms. Broge. Motion carried unanimously.

RECONVENE TO OPEN SESSION

Motion by Ms. Groeschel for the Plan Commission to go into Open Session at 5:59 P.M. Seconded by Mr. Felda. Motion carried unanimously.

PRIVILEGE OF THE FLOOR

RECONSIDERATION FROM PREVIOUS MEETING

1. (5)NJ UA-10-13 New Berlin II – MSP Real Estate – 14901 Library Ln. – Request to reconsider parking. (P.C. 5/3/10)

Motion by Ms. Groeschel to reconsider the Plan Commission approval of May 3, 2010 for New Berlin II- MSP Real Estate located at 14901 Library Lane. Seconded by Ms. Broge.

Background information on the New Berlin II – MSP Real Estate project and the reason and process for reconsideration was given by Mayor Chiovaturo. Mayor Chiovaturo wishes to remove Waiver Request #3 from the approval and ask that the Developer look into accomodating all residential tenant parking for both senior and multi-family on-site without shared or street parking.

Motion to reconsider carried unanimously.

Mayor Chiovaturo addressed some of the concerns of the citizens by presenting scenerios and a future tax analysis.

Motion by Alderman Ament to remove Waiver Request #3 from the approval for New Berlin II – MSP Real Estate located at 14901 Library Lane given by the Plan Commission at their May 3, 2010 meeting.

Seconded by Mr. Sisson. Motion passes unanimously.

Motion by Mr. Sisson to remove Waiver Request #2 from the approval for New Berlin II – MSP Real Estate located at 14901 Library Lane given by the Plan Commission at their May 3, 2010 meeting.

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

Motion by Alderman Ament to table the request by New Berlin II – MSP Real Estate for development at 14901 Library Lane to allow the Developer to submit revised plans for review.

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

APPROVAL OF MINUTES

Motion by Mr. Felda to approve the Plan Commission minutes of May 3, 2010. Seconded by Ms. Broge. Motion carried unanimously.

REFERRAL FROM COMMON COUNCIL

- Referral from the Common Council directing the Plan Commission and staff to provide an update on the current status of the Overall City Center PUD and its relationship to the original PUD approved by Council as noted in the Common Council minutes from May 25, 2010. (PG-830(15))

A special Plan Commission meeting at City Hall will be held to deal with the topics of the historical perspective of the City Center, what was adopted in the 1999 plan, what was adopted as part of the original PUD, and track the last ten years as to what has taken place, discuss the pros and cons, and talk about what has hurt us and what has helped us. Plan Commissioners will be contacted on their availability for selected dates in June.

PLAN COMMISSION SECRETARY'S REPORT – No Report

SPECIAL PRESENTATION

2. Dave Cappon, Executive Director – Waukesha Housing Authority

Mr. Dave Cappon, Executive Director for Waukesha Housing Authority reported on Section 42 Housing and other affordable housing programs provided by Waukesha Housing Authority. For the past 23 years New Berlin has had their own Housing Authority administered by the Waukesha Housing Authority by which affordable housing has been provided in New Berlin in the form of Section 8 Tenant Voucher Program. The Section 8 Tenant Voucher Program is a tenant based program and goes to people who are disabled,

elderly, and people who have minor age children. It is available for renters to rent from a private property owner anywhere in the City of New Berlin. There have been as many as 110 households on the program. Mr. Cappon said the rents in the proposed MSP development are too expensive for the program. People on the rent voucher program will not be able to afford to live in this project. There is no subsidy attached to these apartments.

Mr. Cappon reported on other programs located in New Berlin. A Section 202 Project located at High Ridge Manor on National Avenue is 100% subsidized senior project. This program has lower income tenants than those for this project proposed by the developer. There is no funding to build subsidized housing projects. There is bond financing and tax credit incentive which is available in New Berlin already. There are three bonded projects in New Berlin; Appleglen on 124th Street and National Avenue, Pinewood Creek off of Moorland Road, and Steeplechase Apartments on the border of Hales Corners.

Tax credit housing is provided by WHEDA. Mr. Cappon explained the difference between tax credit and bond finance and how they allow the setting of a rent structure that is less than other projects. The projects are built at market quality. Mr. Cappon explained the requirements needed to receive assistance. Section 42 tax credit housing projects in New Berlin are Deer Creek Apartments, Parkland Highlands, and the proposed project by MSP would be a tax credit project.

Mr. Cappon concluded that he hoped he has given helpful information to inform everyone about the housing that is presently in New Berlin and the type of housing involved with workforce housing.

CONTINUED BUSINESS

3. (2)AB LD-10-04 ProHealth Care/National Regency – 13750-13900 W. National Ave. – Two 1-Lot Land Division. (P.C. 4/14/10)

Motion by Alderman Ament to table the request for a two 1-lot land division located at 13750 – 13900 W. National Avenue per the request of the applicant.

Seconded by Ms. Broge. Motion carried unanimously.

4. (2)JT SG-10-01 Sendik's New Berlin Plaza – 3600 S. Moorland Rd. – Sign Package Amendment. (P.C. 2/1/10)

Motion by Alderman Ament to approve an amendment to the existing approval for the Sendik's New Berlin Plaza monument signs located at 3600 S. Moorland Road subject to the application, plans on file, and the following reasons below:

- 1) The applicant is proposing to add 3 additional tenants to the monument sign face for a total of 10 tenants.

- 2) In exchange for the 3 additional tenant spaces on the monument signs, the applicant has reduced the sign face size from 37.5 square feet to 36 square feet and has upgraded the sign materials by adding a block base, which matches the base of the shopping center. Please see the attached rendering.
- 3) The applicant is looking to fairly represent each tenant on the monument signs. There are currently multiple tenants at Sendik's New Berlin Plaza. Each tenant would like their business name added to the monument signs along either National Avenue or Moorland Road to increase their visibility.

Seconded by Ms. Broge. Motion carried unanimously.

PUBLIC HEARING

(3)AB CU-10-03 Westward Manor Lift Station – 18100 W. Rogers Dr. –
Lift Station Upgrade.

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The Public Hearing relative to the request by Diane Thoune c/o Crispell-Snyder, Inc for a Conditional Use Permit for Westward Manor Lift Station upgrade located at 18100 W. Rogers Drive was called to order by Mayor Chiovaturo at 8:15 P.M.

In attendance were Mayor Chiovaturo, Mr. Sisson, 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; and Mark Blum, City Attorney. Mr. Christel 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.

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

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

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

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

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

Alderman Ament – On the first waiver it talks about replacement of significant trees. Are any of those in the picture? How many trees are we talking about?

Ms. Bennett – In the findings of the staff report on Page 4, No. 4 it states there are eight trees to be removed.

Alderman Ament – On Page 7 it references when the new equipment is under operation, the old equipment will be removed and the original structure will be abandoned. I assume that ties in with what is on the page that says the existing generator building to be removed from site and stored at a location in a City location chosen by Utility. Will that all be removed and be restored?

Alderman Ament – OK.

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

Mayor Chiovaturo closed the public hearing at 8:18 P.M.

NEW BUSINESS

5. (3)AB CU-10-03 Westward Manor Lift Station – 18100 W. Rogers Dr. – Lift Station Upgrade.

Motion by Mr. Sisson to approve the Conditional Use permit for the relocation of Westward Manor Lift Station, subject to the application, plans on file and the following conditions:

Waiver Request: Applicant is requesting a waiver from Sec. 275-54B(6) Replacement of Significant Trees and Sec. 275-56, Landscaping and Buffering of the Zoning Code that requires replacement of significant trees on the lot and that all non-residential development shall be landscaped in accordance with this section and shall submit a landscaping plan as part of the required site plan.

Waiver Request: Applicant is requesting a waiver from Sec. 275-60I that requires lighting for all on-site parking, circulation and pedestrian areas.

- 1) Architectural Review Committee (ARC) shall review and approve building elevations.
- 2) Applicant shall follow any applicable WDNR requirements and apply for any required permits.
- 3) Building plans shall be signed and stamped by a licensed architect or

professional engineer per the Wisconsin Enrolled Commercial Building Code (Comm.61.31).

- 4) The State of Wisconsin Commerce review can be done locally as per (Comm.61.60).
- 5) Apply and obtain appropriate building, and electric permits from the City of New Berlin Building Inspection Division.
- 6) Temporary seeding prior to October 15, 2010 shall be required.

Seconded by Mr. Felda. Motion carried unanimously.

6. (7)JT CU-10-02 Elaine M. Kraut – 4041 S. Racine Ave. – Filling and grading permit. (Public Hearing 5/3/10)

Motion by Alderman Ament to approve the Conditional Use Permit for filling and grading on the property located at 4041 S. Racine Avenue subject to the application, plans on file and the following conditions:

- 1) General:
 - a) Plan of Operation:
 - i) The applicant shall adhere to the submitted Plan of Operation.
 - ii) Hours: 7:00 AM to 6:00 PM Monday – Friday, 8:00 AM to 3:00 PM Saturday. Extended hours may be necessary from time to time. The applicant will notify the City (see submitted Plan of Operation) for exceptions to the hours of operation and when large volume activities are anticipated.
 - iii) Number of Employees: 1 to 8 employees.
 - iv) Applicant estimates an average of 15 – 20 loads per hour during full operation. The maximum load count may be 40 loads per hour.
 - b) Only equipment and trucks used to grade, transport and compact material shall be parked and stored on-site.
 - 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 be consistent with those on the submitted grading plans. Minor topography changes that deviate from the approved conceptual grading plan can be staff approved.
 - e) Employee parking shall be contained on-site and outside the Racine Avenue right-of-way.
 - f) Grading and/or filling shall not extend beyond the limits of disturbance shown on submitted plans. Perimeter vegetation shall be maintained to the maximum extent practicable.
 - g) Applicant shall notify the City prior to the start of a large volume job.

- h) Applicant shall accommodate an annual inspection by the City upon request by Staff. Staff shall review the site and the Annual Report every year for compliance with this Conditional Use permit and refer any unresolved issues to the Plan Commission for review.
 - i) Applicant shall provide staff with an Annual Report in the following format:
 - i) Site Plan showing locations of fill placed during the previous year.
 - ii) The approximate quantity of fill brought in during the previous year.
 - iii) An aerial photo to be included at a minimum of every third year.
 - iv) Advanced discussions presenting potential modifications to the site plan, the grades, or methods of operations and the reasons for those requests.
 - v) Any other relevant project data or information from the previous year or anticipated for the following year.
- 2) Engineering:
- a) 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.”
 - b) 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.”
 - c) 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.
 - d) 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.
- 3) Transportation:
- a) Signage shall be placed along Racine Avenue to alert drivers to the truck traffic entering and leaving the project site. Signage shall be approved by Waukesha County.

- b) If fill operations and trucks entering and exiting the site cause traffic safety or operational problems on Racine Avenue as determined by the City Engineer, the City of New Berlin can enforce a stop work order until acceptable traffic improvements can be made to the site and the surrounding roadways if needed. Depending on the amount of truck traffic generated and the time frame, additional approvals may be needed from the City and /or Waukesha County.
- c) Proper driveway sight distance shall be maintained at all times.
- 4) Stormwater:
 - a) Applicant shall provide a copy of the expanded WDNR WPDES permit that will be issued to Racine Avenue LLC and adhere to all conditions.
 - b) All disturbed areas shall be stabilized as soon as possible after completion of work in accordance with applicable WDNR and City requirements. Areas that are completed and/or planned to be inactive for greater than 30 days shall be stabilized.
 - c) The tracking pad shall be at least one hundred feet (100') in length and shall be refreshed as needed to prevent tracking onto Racine Avenue. Tracking pad width shall extend across the entire driveway width (24').
 - d) 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.

Seconded by Ms. Broge. Motion carried unanimously.

7. (4)JT UA-10-17 Matty's Catering Kitchen – 14460 W. College Ave. – Catering.

Motion by Mr. Felda to approve the Use, Site and Architectural to convert an existing home into a catering kitchen for Matty's Bar, Grille and Catering located at 14460 W. College Avenue subject to the application, plans on file and the following conditions:

- 1) Plan of Operation
 - a) Applicant shall adhere to the submitted Plan of Operation.
 - b) Number of Employees: 1 – 3 employees will use this facility. These are existing employees of Matty's Bar, Grille and Catering.
 - c) An existing home on the property is proposed to be converted into a catering kitchen. The building will be used for the storage of frozen, refrigerated and non-perishable items along with catering equipment. The facility will also be used for prepping catering jobs and will also include an office.
- 2) All roof mounted mechanicals shall be screened per Section 275-56G of the Zoning Code.

- 3) Proposed dumpster enclosure is located within the 15' bufferyard. Applicant shall remove or relocate the dumpster enclosure. Dumpsters shall be properly screened from the street and public view in accordance with Article VIII Section 275-56 of the New Berlin Municipal Ordinance.
- 4) All mechanical equipment shall adhere to the noise restrictions in Zoning Code Section 275-60E and shall not exceed those levels at any time.
- 5) Applicant shall obtain any necessary permits from Waukesha County Department of Health for the food service/preparation.
- 6) Building plans shall be signed and stamped by a licensed architect or professional engineer per the Wisconsin Enrolled Commercial Building Code (Comm.61.31).
- 7) The State of Wisconsin Commerce review can be done locally as per (Comm.61.60).
- 8) Apply and obtain appropriate building, electric and plumbing permits from the City of New Berlin Building Inspection Division.
- 9) The building shall be fully accessible from the parking lot to the interior elements (Comm. 63.1101 and ICC/ANSI A117.1)
- 10) Water usage Calculations required at time of building permit application.
- 11) Connection to the sanitary sewer has both City of New Berlin and City of Muskego approval. This will require abandonment of the existing septic system currently used for the home in accordance with Waukesha County requirements. Once connected to the sanitary sewer, the applicant will be a customer of the Muskego Sanitary Utility.
- 12) Fire:
 - a) Applicant shall fully sprinkler the building and will need to obtain a variance to allow well to supply system with FDC on building. The applicant has been working closely with the Fire Department regarding this project.
 - b) Monitor fire flow.
 - c) Use existing Knox box at the bar/restaurant.
 - d) Commercial hood system requires separate plan review.

Seconded by Mr. Sisson. Motion carried unanimously.

8. (5)JT UA-10-19 Elizabeth Residence – 4461 S. Sunny Slope Rd. – 24-Unit CBRF.

Motion by Alderman Ament to table the Use, Site and Architectural request for the construction of the Elizabeth Residence, a 24-unit Community Based Residential Facility for the elderly, located at 4461 S. Sunny Slope Road to allow the applicant to submit revised plans.

Seconded by Ms. Groeschel. Motion carried unanimously.

9. (4)JT LD-10-05 Matty's – 14460 W. College Ave. – Se ¼ Sec. 35 – One-Lot Land Division.

Motion by Alderman Ament to recommend to Common Council approval of a one-lot Certified Survey Map located at 14460 W. College Avenue 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 shall show the entire paved parking lot area on the survey, including the recently completed parking lot addition.
- 4) Ultimate right-of-way for College Avenue is 100-feet (50-feet on each side of the centerline centered on the section line). The property owner shall dedicate the north 50-feet along College Avenue for public right-of-way purposes prior to the City signing the CSM.

Seconded by Ms. Broge. Motion carried unanimously.

10. (7)AB UA-10-20 Joe Wieneke – 18200 W. Lynette Ln. – Grading and Filling.

Motion by Mr. Felda to table the request to fill and grade on the vacant property located at 18200 W. Lynette Lane per the applicants request.

Seconded by Mr. Sisson. Motion carried unanimously.

11. (7)AB SG-10-15 New Berlin West High School – 18695 W. Cleveland Ave. – Ground Sign for the Soccer/Baseball Complex.

Motion by Mr. Sisson to approve the monument sign, along with Waiver Request #1, for New Berlin West to identify the athletic field entrance at 18695 W. Cleveland 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 Cleveland Avenue at the entrance to the athletic fields. The proposed monument sign will exceed the maximum square footage and height (40 sq. ft. for sign area and 9' for height) requirements allowed in the Zoning Code. There are an existing monument sign at the school entrance on Cleveland Avenue and wall sign on the gymnasium.

Due to existing site conditions such as the speed of traffic, size of the site, scale of the buildings and location of athletic field entrance, staff supports and recommends approval of the waiver.

- 2) 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.
- 3) Monument sign shall be located outside of the right-of-way of W.Cleveland Avenue.

Seconded by Mr. Felda. Motion carried unanimously.

12. ()AB PG-227 Extraterritorial Plat – Deerfield Estates, Town of Waukesha

Motion by Mr. Sisson to recommend to Common Council No Objection of the Deerfield Estates Extraterritorial Preliminary Plat, with the following comments:

- 1) The 6 lots in this subdivision are proposed to be 1.39 – 3.34 acre each. The City of New Berlin requires a minimum of 5-acre lots in the un-sewered areas.
- 2) Per the City’s 2020 Comprehensive Plan – Chapter 21, Intergovernmental Cooperation states, “The City of New Berlin does not currently exercise extraterritorial platting authority over another municipality.” As mentioned in the section on extraterritorial zoning authority, the City will continue to review land use and infrastructure and lands in contiguous jurisdictions as the City of New Berlin continues to develop. The City expects that in the spirit of intergovernmental cooperation, other jurisdictions would do the same.

Seconded by Ms. Broge. Motion carried unanimously.

COMMUNICATIONS

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

Plan Commissioners acknowledged receipt of this communication.

14. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: "Housing for the People" by Leslie A. Braunstein, Land Developer, Spring
2010.

Plan Commissioners acknowledged receipt of this communication.

ADJOURN

Motion by Mr. Sisson to adjourn the Plan Commission meeting at 8:47 P.M.
Seconded by Alderman Ament. Motion carried unanimously.