

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

**NEW BERLIN PLAN COMMISSION
JULY 12, 2010
MINUTES**

The Plan Commission was called to order by Mayor Chiovaturo at 5:37 P.M.

In attendance were Mayor Chiovaturo, Mr. Christel, Alderman Ament, Mr. Felda, Mr. Sisson, Ms. Broge, 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.

CLOSED SESSION

Motion by Mr. Sisson for the Plan Commission to go into Closed Session at 5:38 P.M. Seconded by Ms. Broge. Motion carried unanimously.

RECONVENE TO OPEN SESSION

Motion by Mr. Sisson for the Plan Commission to go into Open Session at 6:26 P.M. Seconded by Mr. Christel. Motion carried unanimously.

PRIVILEGE OF THE FLOOR

APPROVAL OF MINUTES

Motion by Ms. Broge to approve the Plan Commission minutes of June 7, 2010. Seconded by Mr. Felda. Motion passes with Mr. Christel voting present.

PLAN COMMISSION SECRETARY'S REPORT - None

PUBLIC HEARING

- (3)JT RZ-10-02 Dean Magner – 19470 W. Lincoln Ave. – Rezone from M-1, C-1, and C-2 to M-1, C-1, and C-2 to Field Delineate the Wetlands.

**NEW BERLIN PLAN COMMISSION
JULY 12, 2010
MINUTES**

The public hearing relative to the request by Dean Magner to rezone the property located at 19470 W. Lincoln Avenue from M-1, C-1, and C-2 to M-1, C-1, and C-2 to Field Delineate the Wetlands was called to order by Mayor Chiovaturo at 7:10 P.M.

In attendance were Mayor Chiovaturo, Mr. Christel, Alderman Ament, Mr. Felda, Mr. Sisson, Ms. Broge, 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.

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

Mayor Chiovaturo asked 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 – No. 5 under “Findings” in the Staff Report. Were those the reasons that the C-1 existed? Did soils have any bearing on that? In the end, is this something where it should be going the other way, where the soils are not adequate to support the M-1 District?

Ms. Titel – It is hard for us to tell why C-1 was placed on the maps on all areas in the City. If you look at the description of C-1 in the Zoning Code, soil conditions can be one of the determining factors, but may not be the only determining factor. I am not exactly sure why the C-1 was placed there, but we have asked the applicant to field verify it for the corridor. The floodplain isn't there, there is no wetland there, so C-1 is an area to conserve environmental features or sensitive areas. It doesn't appear that the area they are proposing to rezone is a sensitive area or has significant environment features. That area that is currently zoned M-1, they are saying the soils are similar and they support a septic system also in each of those areas, so that is why we asked for the soils report. I don't have a full structural report of the soils saying yes or no or how they are structurally able to support buildings, but that is something the applicant will do to be sure that it can support buildings. As far as any environmental features in that area, there doesn't appear to be anything significant that we would be preserving in that C-1.

Alderman Ament – I understand that. I was looking at the soils part of it. I read that a zillion times over the nine years I have been doing this, but until this hit where they made that comparison, I assumed that there was some process of checking the soils. We need to check what we mean by that specific thing in our C-1 District because it applies to this particular parcel. I am not necessarily against this, my issue is that C-1 could be for poor soils, but yet the M-1 that is already there may already have that if they are comparable soils. If that soils report could somehow identify that or clear that up, I'd really like to know how they gauge that. We are going to M-1, so we are going significantly different

than the residential use it is now.

Ms. Titel – You want to be sure that the soils in the C-1 are capable of supporting various uses within the M-1 District?

Alderman Ament – Yes, especially the M-1 District. There are a couple other issues. It says the proposed C-1 Zoning to remain on this property encompasses the primary environmental corridor. It does not include the secondary?

Ms. Titel – I don't believe there is secondary corridor on this site. It is all primary environmental corridor and the primary environmental corridor does encompass the C-2 area also and the C-1 area remaining.

Alderman Ament – All of that will be in the Conservation Easement?

Ms. Titel – Yes.

Alderman Ament – Going back to that soils thing, when I look under the Zoning Code the C-1 Districts are identified as upland resources, but it does go on to point out floodlands. Has that been eliminated from this?

Ms. Titel – These are the new floodplain maps that we adopted in 2008.

Alderman Ament – There is none of that in the proposed M-1 District?

Ms. Titel – I don't believe so. I don't have that layer put on here. Regardless if it is or isn't, that wouldn't be a buildable site just like any other site if the whole site was M-1 and contained Floodplain, it is not an area that is buildable. I can have our GIS Dept. add the floodplain layer to this zoning comparison map if you'd like to see the comparison.

Alderman Ament – Would you e-mail that to me or put a copy in my box? Again, going back to the significant reasons to not rezone out of the C-1 says areas with poor soils or high ground water. Have we checked that as well? That is an issue that comes up a lot as well.

Ms. Titel – High ground water?

Alderman Ament – Yes.

Ms. Titel – I am not aware if they have or not. I can check with the applicant who is here. Nod if you have looked for high ground water. He said the area has been farmed for 45 years.

Alderman Ament – I will have to talk with staff on this to be clear. Why do we have that in the code, but yet we don't check to see if it has high ground water to see if it should come out of C-1 or not. I'm not saying it shouldn't. It is something I would like to look into a little deeper. The last thing is about natural scientific areas. What does that mean?

Ms. Titel – Are you reading from the definition?

Alderman Ament – I am reading from Page 3 under Zoning Code. It is the fourth line, the last four words.

Ms. Titel – I am not sure what a natural scientific area is.

Alderman Ament – Can you see what you can find out for me?

Ms. Titel – It may be a DNR designation, I will find out.

Alderman Ament – Thank you.

Mr. Christel asked for further comments or questions from the Plan Commissioners.

Ms. Broge – Go back to the map showing current and proposed zoning. A large portion of that property is now eliminating the C-1? Are you comfortable with that? That changes the uses for that property drastically. Can you please explain what Business Condominiums are under the proposed land use?

Ms. Titel – Removing the C-1 Zoning District from our maps is something that is not necessarily laid out step by step in our Zoning Code like it is for the C-2 Zoning District, so what we have done is we have looked at the definition of C-1 and it is the applicant's job to show us that there are none of those features or challenges or concerns in the area that they are proposing to remove the C-1. This applicant has done the Primary Environmental Corridor report to show us that there is no corridor in this area. They have done the wetland delineation to show us where that boundary is. They have done the soils test to show that there are similar soils. Alderman Ament has some additional concerns that I will follow up with the applicant on. The job of the applicant is to show us that the area doesn't necessarily meet the definition of C-1. That is the process that we follow. They have asked to rezone to M-1. I will follow up with Alderman Ament's questions to get those clarified. That is the process that we have been following on a staff level. We are working on clarifying that in our Zoning Code updates to make it more clear and have more set steps. The applicant can come up to speak about Business Condominiums. It is a rather new concept.

Dean Magner, 6520 W. Layton, Greenfield – Business Condominiums basically are going to be essentially about 3,000 sq. ft. overall and if you separate them, they would be 1,500 sq. ft. The front portion of it will be offices and the back portion will be storage or manufacturing. We would control all the streets and the grass cutting as a condominium would be. Each individual business could go in there, whether it was a hobby, a plumbing business, electric business, or if someone who collected cars wanted to store them. They would all be individual throughout the whole unit. There will be no basements.

Mayor Chiovaturo asked for further comments or questions from the Commissioners,

seeing none.

Mayor Chiovero closed the public hearing at 7:32 P.M.

PUBLIC HEARING

- (4)NJ RZ-10-03 John Lorino – 13210 W. Hawthorne Ln. – Rezone from C-1 and C-2 to C-1 and C-2 to Field Delineate the Wetlands.

NEW BERLIN PLAN COMMISSION JULY 12, 2010 MINUTES

The public hearing relative to the request by John Lorino to rezone the property located at 13210 W. Hawthorn Lane from C-1 and C-2 to C-1 and C-2 to Field Delineate the Wetlands was called to order by Mayor Chiovero at 7:32 P.M.

In attendance were Mayor Chiovero, Mr. Christel, Alderman Ament, Mr. Felda, Mr. Sisson, Ms. Broge, and Ms. Groeschel. Also present were Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; 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. Jones gave a brief presentation describing the request and indicated the location.

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

Mayor Chiovero asked three times for anyone wishing to speak in favor of this application, seeing none.

Mayor Chiovero asked three times for anyone wishing to speak in opposition of this application, seeing none.

Mayor Chiovero asked three times for comments or questions from the Plan Commissioners?

Alderman Ament – Apparently the entire area that they would need to use will be in the C-1 District?

Ms. Jones – That is correct.

Alderman Ament – This is a little over an acre. How big of an area of disturbance is that?

Ms. Jones – This is a very unique circumstance. Jessica and I did some extensive research on this. As you recall in my previous presentation, I mentioned that there are three existing homes that fall within that same C-1 category. When we went back and looked, there was a time period when the City of New Berlin looked at uplands, the C-1 category that I talked about, as an overlay district. The intent could be that you think there is the R-3 which is the base zoning for the remainder of the homes within that area. We are taking the more conservative stance that they are C-1 today. The Code looks at being able to disturb approximately 20,000 sq. ft. on a C-1 lot. We would require a Conditional Use be applied for as set forth in the Code Sections that I have called out in your staff report and then taking it one step further, by putting a conservation easement over the lot that would actually state when they come through for the Conditional Use what areas could be disturbed. I did a lot of research. That is what I found. It is not a perfect situation. It is a lot of record. We went back and looked at the Assessor's data hoping to find more information. The lot is a little over an acre so I don't know if they could disturb even 20,000 sq. ft. Greg and I would work with them at the time of a Conditional Use application to look at a conservation easement, look at drip lines of trees, and do the best job we could to protect what resources are there.

Alderman Ament – I know that our C-1 does allow 20,000 sq. ft. with additional square footage if it does not have sewer and water, but does that 20,000 sq. ft. count no matter how big the lot is because there is no residential zoning district assigned to this?

Ms. Jones – Typically, the Zoning Code has a couple of different sections that look at C-1 and Conditional Uses for homes. For new lots we would look at a five acre lot and look at a disturbance of 20,000 sq. ft. Since this is an existing lot of record, the Zoning Code doesn't do a very good job at addressing that. I've made a note in our Code Updates to have Catey, our GIS person, find out how many lots there are out there like this because I think there are probably a handful of them. We are trying to do the best job we can to protect the resources. I did a site visit there. I noticed that the others have done a really nice job in putting the homes up to the cul-du-sac while preserving the resources. We have seen other people do a very nice job with conservation easements and utilize that tool.

Alderman Ament – That will be dealt with more in detail when they come in for Conditional Use.

Ms. Jones – Right, I didn't spend a lot of time on it this evening because all they are requesting tonight is the wetland delineation. I did put some information in your staff reports about that next step so that you and the homeowner would understand that it would be forthcoming.

Ms. Broge – You had mentioned that the wetlands have receded. Have they receded since those three homes have been built in that cul-de-sac area? This house could not be built if this C-1 District was not rezoned, is that correct?

Ms. Jones – I don't know the answer to your first question. Jess and I looked at all the plats for High Grove. We looked through the files of information that we have. I don't know if they receded because of homes or because of weather or climate. It is hard to say. To answer your second question, before they would pull a building permit on this lot, since there are wetlands on it they are required to do a wetland delineation. That is why it is here tonight. It is step #1.

Ms. Broge – You cannot answer the question if the wetland has receded because of the homes that have been built or if it is just a natural occurrence?

Ms. Jones – No, I don't have an answer to your question.

Mayor Chiovaturo asked for further comments or questions, seeing none.

Mayor Chiovaturo closed the public hearing at 7:42 P.M.

PUBLIC HEARING

- (6)JT RZ-10-04 Nels Jacobson – 13855 W. Foxwood Dr. – Rezone from R-4.5 and C-2 to R-4.5 and C-2 to Field Delineate the Wetlands.

NEW BERLIN PLAN COMMISSION JULY 12, 2010 MINUTES

The public hearing relative to the request by Nels Jacobson to rezone the property located at 13855 W. Foxwood Drive from R-4.5 and C-2 to R-4.5 and C-2 to Field Delineate the Wetlands was called to order by Mayor Chiovaturo at 7:42 P.M.

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

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. Titel 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 Chiovatero asked three times for anyone wishing to speak in favor of this application, seeing none.

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

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

Alderman Ament – I need to go back to my C-1 issue. When I look on Page #3 of the Staff Report under unique site characteristics it says topography, site is relatively flat near the road and then steeply slopes to the south down to the creek. Shouldn't that area be considered for C-1 based on C-1 being identified as upland resource areas where the intent is to preserve and prevent the destruction of valuable natural or manmade resources, and one of the things listed is areas of steep slopes? I realize that it is in the C-2, but because it is C-2 we don't normally give it a conservation easement. Is that correct?

Ms. Titel – Right. Not in this case. This subdivision was platted in 2005 and the C-1 areas were placed on the maps in the City-Wide Rezoning in 1993-94. Our Zoning Code says that no new lands are to be placed within the C-1 District. If we want to preserve anything, we use the Conservation Easement. This area is already preserved because it is wetlands, it is part of floodplain also, it is also part of a wetland preservation area on the subdivision plat so there are already measures in place to protect that area. I am not sure what the description is of a steep slope. This particular lot definitely has enough protection measures in place that the area will not be disturbed.

Alderman Ament – We will probably be talking about this when we get to the Code issues. I am having trouble tripping over this C-1 thing over and over again. I am not clear that we are not paying close enough attention to the definitions in C-1. In this particular case I see it is covered with other protections, but I think we need to take a look at this.

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

Mayor Chiovatero closed the public hearing at 7:50 P.M.

PUBLIC HEARING

- (4)JT CU-10-05 Kwik Trip – 15700 W. Small Rd. – Diesel Canopy and Tanks.

NEW BERLIN PLAN COMMISSION

JULY 12, 2010

MINUTES

The public hearing relative to the request by Bradford Fry for a Conditional Use Permit for a Diesel Canopy and Tanks located at 15700 W. Small Road was called to order by Mayor Chiovatero at 7:50 P.M.

In attendance were Mayor Chiovatero, Mr. Christel, Alderman Ament, Mr. Felda, Mr. Sisson, Ms. Broge, and Ms. Groeschel. Also present were Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; and Mark Blum, City Attorney.

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

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

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

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

Alderman Ament – On Page 4 of the Staff Report, under Findings #5, it doesn't meet the current setbacks which I am not necessarily concerned with for this application given what is around it, but when this finally does come for approval, is this going to require a waiver?

Ms. Titel – No. The current code says that in M-1 the parking lot should be set back 50'. The new parking lot will be set back a couple feet further. This is a similar situation as the single-family homes that do additions. They don't encroach any further. This is something that the Plan Commission can approve.

Alderman Ament – My mistake. I was thinking it was a side setback.

Ms. Broge – I have a question on the traffic impact where it says the applicant is estimating weekly traffic volumes of approximately 200 trucks for the diesel pumps. Is

that additional traffic?

Ms. Titel – I am assuming that there are not trucks that access the site currently because the canopies are not tall enough.

Troy Mleziva, 1626 Oak Street – I'm a Real Estate Manager with Kwik Trip Inc. There is an inline diesel underneath the canopy but it does not currently allow for maneuvers for trucks with trailers and larger vehicles. There is one pump, but it is mixed in with the regular gas traffic.

Ms. Titel – The estimated 200 trucks is based on their other sites. That will be the volume that they will serve weekly.

Ms. Broge – That is additional trucks?

Ms. Titel – Yes.

Mr. Mleziva – About 25 or 30 UPS, Contractor, and Semi Trucks.

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

Mayor Chiovero closed the public hearing at 7:56 P.M.

CONTINUED BUSINESS

1. (5)NJ UA-10-13 New Berlin II – MSP Real Estate – 14901 Library Ln. (P.C. 5/3/10, Tabled 6/7/10)

Motion by Mr. Sisson to remove this item from the table. Seconded by Ms. Broge. Motion carried unanimously.

Motion brought forward from the May 3, 2010 Plan Commission Meeting to approve the New Berlin II – MSP Real Estate project at 14901 Library Lane with the Waiver for parking stall size.

Mayor Chiovero asked for comments on the Motion, seeing none. Upon voting Motion fails with Mr. Christel, Alderman Ament, Mr. Sisson, Mr. Felda, Ms. Broge, Ms. Groeschel, and Mayor Chiovero voting No.

Motion by Alderman Ament to deny the use, site, and architecture for construction of three multi-family workforce housing buildings (one 12-unit, two-story and two 34-unit, three-story) and one senior housing building (100-unit, four-story) to be located within the City Center development at 14901 W. Library Lane based on the following staff recommended reasons below along with adding Condition #10: The tax assessment issues that were raised by Mayor Chiovero at the last meeting. In addition to Condition #1 a note added that we have been

advised by the Resident's Legal Council that the original signed consent letters will not be forwarded to the bank. The CSM issue will not be resolved in my opinion.

- 1) Failure to record the approved CSM (File application #: LD-9-04). See City Attorney Mark Blum's letter dated June 25, 2010. As a result of the applicant's failure to record the CSM, the City would be, in essence, issuing two zoning permits for the same property. In the absence of the recorded CSM, the lot upon which the development is to occur would not exist. Applicant would be required to request the City of New Berlin Plan Commission to vacate the original zoning permit File #: U-19-04.
- 2) Plans show a carport being used to address a portion of their parking needs for the senior building. The use of a carport violates the City's Zoning Code Section 275-42F(2)(a)[6][a] and is not allowed per the City Center PUD Ordinance number 2122 Section B-2/PUD, (2) Accessory Uses (b) and (c). The City's Zoning Code permits the use of a carport, but solely as a supplement to the required attached or underground garage.
- 3) PUD parking requirements:
 - a) Multi-Family Housing: Per City Center PUD Ordinance Number 2122 Section B-2/PUD, (2) Accessory Uses (b), "Covered (attached or underground garage) parking for residential units in an exclusive multi-family development, high-medium density. Two spaces per dwelling unit plus 1/10 of a space for guest parking. A minimum of one parking space per dwelling unit shall be in an attached or underground garage."
 - i) For the 80 units of workforce housing apartments the applicant is proposing 107 underground spaces plus 57 surface lot spaces for a total of 164 spaces. Based on the Zoning Code and PUD requirements this building would require 170 spaces including 2 employee spaces.
 1. The parking counts in their submitted site plans are inconsistent with the counts set forth in their narrative. Applicant states in their narrative that they are providing 170 spaces total, when in fact, they are providing 164 spaces. Applicant states they are providing 63 surface spaces, when in fact, they are providing 57 spaces.
 - b) Senior Housing: Per City Center PUD Ordinance Number 2122 Section B-2/PUD, (2) Accessory Uses (c) "Covered (attached or underground garage) parking for residential units in an exclusive elderly multi-family development. One space per dwelling unit, plus 1/10 of a space for guest parking."

- i) For the 100-unit senior apartment project the applicant proposes 76 underground spaces, plus 44 surface lot spaces (Phase I – 24 spaces; Phase II - 20 spaces) for a total of 120 spaces. Based on the Zoning Code and PUD requirements this building would require 112 spaces including 2 employee spaces.
 1. The parking counts in their submitted site plans are inconsistent with the counts set forth in their narrative.
 - a. In Phase I - Applicant states in their narrative that they are providing 94 spaces total when in fact they are providing 100 spaces per their plans.
 - b. Phase II – Applicant states in their narrative that they are providing 114 spaces total (an additional 20 along pond edge), when in fact, they are providing 120 spaces per their plans. However, the amount of attached or underground garage parking spaces in Phase II are not in sufficient numbers to meet the City’s Zoning Code or PUD requirements – As proposed the applicant’s proposal would require 100 underground or attached garage parking spaces and the applicant is only providing 76 parking spaces.
- 4) The following concerns were expressed to the applicant by Staff and the City’s consultant during informal meetings and phone conversations. In addition, the applicant received further direction from the Architectural Review Committee at its May 3, 2010 meeting. The applicant’s plans still do not reflect those concerns. Some of the changes shown on the plans are in direct conflict with comments identified in the May 3, 2010 Architectural Review Committee meeting minutes attached and incorporated herein.
- 5) The Phase I south elevation of the senior building is not acceptable to the City. There is no guarantee that the façade will ever be finished.
 - a) End / tower elevations of the building need additional refinement and treatments and if Phase II is not built, additional entryway treatments would be necessary along the Phase I south elevation.
 - b) The base of the building, as shown in all and brick, needs more discussion with the Architecture Review Committee. The Architecture Review Committee and Staff have continually discussed the desire to have a different base material such as lighter color renaissance block.

- 6) Staff has a desire that additional brick and /or stone be added, in an architecturally compatible manner, to both the senior building and workforce buildings to ensure better long term maintenance of the buildings.
- 7) On-site landscaping is not adequate based upon the following:
 - a) Foundations plantings need to be layered;
 - b) Accent plantings and seating areas along the trail and entrance besides the trees including planting beds, benches, special treatments, etc. ;
 - c) Lack of any special treatment or feature at the trailhead along Library Lane, some special feature is needed in this area. This gateway treatment was discussed at the Architecture Review Committee meetings.
 - d) Parking lot islands should have planting beds;
 - e) Additional full season (evergreen) screening is needed to screen transformers and any other utilities and/or HVAC units;
 - f) Patio areas need to be redesigned to create more meaningful space to reflect design concepts as reflected in GRAEF's concepts.
 - g) The design of the tree plantings along the street and the trail should be coordinated with the City's plans.
- 8) No real defined public spaces are identified on plans. Plans do not meet the intent of the Design Guidelines.
- 9) Based on the significant increase in impervious surface, the Applicant is required to submit an updated storm water management plan analysis for full build out calculation. This was not done. Applicant shall submit revised storm water analysis including further breakdown of land use areas per pond:
 - a) For example north side of site (pond 4)
 - i) Total Drainage Area (MSP Site and Roadway)
 - ii) Total MSP Site Drainage Area
 1. Building Area
 2. Paving Area
 - 3) Sidepath Area
 - 4) Landscaped Areas
 - 5) Pervious Pavement Area

Seconded by Mr. Sisson.

Mr. Christel – Just to be clear Dave, you added one to the staff original deny which is No. 10 - Tax Assessment Issues. You then went on with a discussion about the CSM. That is not a separate condition or is that just clarification of No. 1?

Alderman Ament – Correct.

Mayor Chiovatero – Any other discussion? The only thing I have to say about this is that I am very concerned about Item #1 – Failure to record the CSM. I know the City Attorney has sent several letters to the applicant and the applicant has yet to produce that. We have been advised by the Condo Association's Attorney that they will not be bringing that agreement forthcoming. I also have a problem with the parking requirements. The Developer has known that the parking requirements are an issue. They had stated to me last time that we have resolved it at the June 7, 2010 meeting and not put it on the agenda. I felt we had to put it on the agenda in order to remove that waiver. The plans came in and they have still not met the requirement and knowing that it was the reason for setting us back, I am very concerned about it.

Also, as far as the tax base goes, I brought that up last time. The Developer has tried to address that, but I am very concerned about at the end when we have a development worth \$11,000,000.00 vs. a development worth \$27,000,000.00. Right now in today's government we are looking for the best use of land for tax base reasons, but I am concerned about the value of this at this time and in the future. I have talked to Council members and have a statement from the Council President that at this time he is willing to wait longer for the economy to turn to hope for a better development to come along for economic stability of the City. As you know, our revenue is dwindling daily by the State, Local, and by the Feds. I am really concerned about that. As I look at this more and more, that is one of my concerns. Any other comments?

Ms. Broge – I would like to thank staff, first of all for all the hard work they put into this. As Alderman Ament and the Mayor have mentioned, to me the tax issue is a big reason and also the parking. Those are my comments.

Mayor Chiovatero asked for further comments, seeing none.

Upon voting, motion to Deny carried unanimously.

2. (2)AB LD-10-04 ProHealth Care/National Regency – 13750-13900 W. National Ave. – Two 1-Lot Land Division. (P.C. 4/14/10, Tabled 6/7/10)

Motion by Alderman Ament to remove this item from the table. Seconded by Mr. Christel. Motion passes unanimously with Ms. Groeschel absent.

Motion by Alderman Ament to recommend to the Common Council approval of the Two (2), One-lot Certified Survey Maps for the properties located at 13750 – 13900 W. National Avenue subject to the application, plans on file and the following conditions:

- 1) General:
 - a) Applicant shall correct all drafting errors and requested changes identified by Staff on the final CSM prior to the City signing.

- b) 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.
- 2) All easements shall be shown on the face of the CSM.

Seconded by Mr. Christel. Motion passes unanimously with Ms. Groeschel absent.

- 3. (5)JT UA-10-19 Elizabeth Residence – 4461 S. Sunny Slope Rd. – 24-Unit CBRF. (Tabled 6/7/10)

Motion by Alderman Ament to remove this item from the table. Seconded by Ms. Broge. Motion passes unanimously with Ms. Groeschel absent.

Motion by Mr. Christel to approve the Use, Site and Architecture for the construction of the Elizabeth Residence, a 24-unit Community Based Residential Facility for the elderly, located at 4461 S. Sunny Slope Road subject to the application, plans on file and the following conditions:

- 1) Planning:
 - a) Plan of Operation:
 - i) Applicant shall adhere to the submitted plan of operation.
 - ii) Hours of Operation: 24-hour care for residents.
 - iii) Number of employees: approximately 20, 1st shift – 9 to 10 employees, 2nd shift – 6 to 7 employees, 3rd shift – 2 to 3 employees.
 - iv) Applicant is proposing a 24 unit Community Based Residential Facility intended to house and care for up to 30 elderly residents. Each resident has a private or semi-private bedroom and bath. Residents share common living spaces.
 - b) Approval of the Landscaping Plan and payment of all installation and maintenance sureties 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 City's Zoning Code. 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.
 - c) No on-site parking of resident's cars permitted. Section 275-41B(1)(d) of the Zoning Code states: "*Visitor and staff parking shall be provided. Underground or attached parking for residents shall be provided at a ratio consistent with expected automobile usage rates.*" Applicant has not provided underground or covered parking for residents because the residents do not drive. Residents will not be allowed to have cars at this facility. Only employee and guest parking allowed.

- d) Section 275-41B(1)(a) of the Zoning Code permits a density of 14 units per acre for elderly housing developments. Applicant shall adhere to the definition of “Elderly Housing” in Section 275-70:”A dwelling unit or units designed and constructed to be occupied by elderly persons. An elderly person is a person who is 62 years of age or older on the date such person intends to occupy the premises or a family, the head of which or his spouse, is an elderly person as defined herein.”
 - e) The applicant will be required to adhere to the City Tree Replacement Schedule listed in Section 275-54.B of the Zoning Code. The applicant is proposing to remove 119 trees over 4 inches in diameter. Applicant shall provide the City with the Landscape Fee of \$300 per tree for the replacement trees they are not able to plant or replace on their site.
 - f) Applicant shall apply for and receive individual Sign Permits for any signage prior to installation or modification, even if signage is temporary.
 - g) Dumpsters and mechanical equipment shall be properly screened from the street and public view in accordance with Section 275-56.G of the Zoning Code. Applicant shall provide details on the dumpster enclosure materials.
 - h) Parking lot lighting shall be turned down in designated areas after hours to reduce the impact on surrounding residential properties. Applicant shall submit plan showing designated areas where lighting will be reduced after hours prior to issuance of Zoning Permit.
- 2) Stormwater:
- a) Stormwater Management Plan Maintenance Agreement is required and shall be recorded with Waukesha County. Applicant shall provide exhibits for review.
 - b) Applicant shall address all technical comments in the letter dated July 2, 2010.
 - c) Grading Recertification required prior to occupancy.
Chapter 13 submittal documents required(checklist, funding letter)
- 3) Engineering:
- a) Applicant shall address all technical comments in the letter dated July 2, 2010.
 - b) Add this note to each project plan sheet as follows: “All Site Improvements and Construction shown on these plans shall conform to City of New Berlin Developer Handbook, Infrastructure Design Standards and Infrastructure Specifications, and where the plans do not comply, it shall be the sole responsibility and cost of the Developer to make revisions to plans and/or construction infrastructure to comply at the Developer’s sole expense.”
 - c) The site shall be ADA compliant as per American National Standards: ICC/ANSI A117.1-2003.

- d) Per the Developer's Handbook; VIII. Lot Grading, Lot Drainage and Erosion Control Standards, (B) Grading Slope Standards. (3) Maximum actual slope anywhere on the lot shall not exceed: 4H: IV.
 - e) Silt fencing shall remain a minimum of five feet (5.0') off of all property lines.
 - f) A Plat of Survey shall be required with the building permit submittal.
- 4) Utilities:
- a) Please provide the proposed sizes of both lateral pipes (sanitary & water).
 - b) Developer shall provide 48 hours advance notice to the Utility Department prior to making lateral connections for both sanitary and water. A Utility Department representative must observe the actual connections.
 - c) The sanitary sewer lateral shall be located and inspected by CCTV camera and recorded. A copy of the video shall be reviewed by the Utility Division for defects.
 - d) Applicant shall provide a dedicated water meter room with exterior entrance for Utility Division personnel to gain access to the meters.
- 5) Transportation:
- a) Applicant shall construct 100 foot deceleration and acceleration tapers (10-feet wide) to the proposed driveway.
 - b) Signing and pavement marking plan is required.
 - c) Driveway width from Sunny Slope Road to the circulating one-way roadway shall be a minimum of 24-feet wide to allow for two-way traffic. See §275-57 E (4) and Table 275-57-7.
 - d) When widening the driveway, per above, consider tapering drive aisle to widen from front drop-off back towards Sunny Slope. This will allow a safer and provide positive guidance to entering motorists.
 - e) Maximum driveway width (at roadway tapers) must be ≤ 55 -feet. Use of 15-foot radii where the 24-foot driveway meets the roadways tapers would work. See §275-57 E (4) and Table 275-57-7.
 - f) Consider decreasing the outside radii in the NW and NE corners of the circulating drive. While a single-unit design vehicle can negotiate the site, the extra space in the turns will allow extra maneuvering room for motorists.
- 6) Inspection:
- a) Building plans shall be signed and stamped by a licensed architect or professional engineer per the Wisconsin Enrolled Commercial Building Code (Comm.61.31).
 - b) Apply and obtain appropriate building, plumbing and electric permits from the City of New Berlin Inspection Division.

- c) The building shall be fully accessible per (Comm. 63.1101 and ICC/ANSI A117.1).
 - d) Building plans shall be approved by the State of Wisconsin Dept. of Commerce Safety and Buildings Division.
 - e) Erosion control shall be approved, permitted, installed and inspected prior to the commencement of any site work or issuance of building permits.
- 7) Fire:
- a) Applicant shall sprinkler the building in accordance with NFPA13-13R.
 - b) Building shall be monitored per NFPA 72.
 - c) Full fire alarm required per New Berlin Fire Code.

Seconded by Mr. Felda.

Mr. Christel asked the applicant if none of the applicants are expected to ever have a car? The applicant indicated that none of the residents will have cars.

Mr. Felda asked how 30 residents worked out with 24 rooms. The applicant said there are often husband and wives or two male or two female residents together.

Alderman Ament questioned the three reasons for tabling that were listed on the Staff Report dated June 7, 2010. Ms. Titel said the applicant has taken care of all three. The applicant has been asked to adhere to the tree replacement policy and has submitted a landscape plan.

Motion by Mr. Sisson to amend the motion by adding an 8th Condition to read, Architectural Review Committee approval required. Seconded by Ms. Groeschel. Motion carried unanimously.

Upon voting the motion to Approve as amended passes with Mayor Chiovatero, Mr. Christel, Mr. Sisson, Mr. Felda, Ms. Broge, Ms. Groeschel voting Yes and Alderman Ament voting No.

4. (7)AB UA-10-20 Joe Wieneke – 18200 W. Lynette Ln. – Grading and Filling.
(Tabled 6/7/10)

Item remains Tabled per applicants request.

NEW BUSINESS

5. (4)NJ RZ-10-03 John Lorino – 13210 W. Hawthorne Ln. – Rezone from C-1 and C-2 to C-1 and C-2 to Field Delineate the Wetlands.

Motion by Mr. Christel to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 12310 W. Hawthorne Drive from C-1 and C-2 to C-1 and C-2 to field delineate the wetlands.

Seconded by Ms. Groeschel. Motion carried unanimously.

6. (6)JT RZ-10-04 Nels Jacobson – 13855 W. Foxwood Dr. – Rezone from R-4.5 and C-2 to R-4.5 and C-2 to Field Delineate the Wetlands.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 13855 W. Foxwood Drive from R-4.5 and C-2 to R-4.5 and C-2 to field delineate the wetlands.

Seconded by Ms. Groeschel. Motion carried unanimously.

7. (6)AB UA-10-23 Deluca Management Inc. – 12775 W. National Avenue - Insurance Office.

Motion by Alderman Ament to approve the Use, Site and Architecture to convert an existing home into an insurance office located at 12775 W. National 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.
- 2) Applicant shall submit a certified survey map to combine the two parcels on the property prior to issuance of the Building Permit.
- 3) 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) Building plans shall be signed and stamped by a licensed architect or professional engineer per the Wisconsin Enrolled Commercial Building Code (Comm.61.31).
- 5) The State of Wisconsin Commerce review can be done locally as per (Comm.61.60).
- 6) Apply and obtain appropriate building, electric and plumbing permits from the City of New Berlin Building Inspection Division.
- 7) The building shall be fully accessible from the parking lot to the interior elements (Comm. 63.1101 and ICC/ANSI A117.1)
- 8) Fire:
 - a) Applicant shall submit variance application to the Fire Department for sprinkler system requirement.
 - b) Knox box shall be required.
 - c) No storage in basement or attic shall be allowed.

Seconded by Ms. Broge.

Motion by Ms. Groeschel to amend the motion to exclude Condition #2 and add a Condition requiring the applicant to remove accessory buildings prior to occupancy, but keep the two parcels.

Seconded by Mr. Felda.

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

Upon voting original motion to Approve as amended passes with Mayor Chiovatero, Mr. Christel, Mr. Sisson, Mr. Felda, Ms. Broge, Ms. Groeschel voting Yes and Alderman Ament voting No.

COMMUNICATIONS

8. Communication To: Plan Commission
Communication From: Amy Bennett, Associate Planner
RE: UWM National Avenue Corridor Plan

Plan Commissioners acknowledged receipt of this communication.

9. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: "Marshall & Illsley Corp.'s MiPlanet Program", The Business Journal, June 11, 2010.

Plan Commissioners acknowledged receipt of this communication.

ADJOURN

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 8:45 P.M. Seconded by Ms. Broge. Motion carried unanimously.