

PUBLIC HEARING

6:00 P.M. (6)AB RZ-10-05 Jerry & Janine Lange – 3435 S. Highpointe 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
AUGUST 30, 2010
MINUTES**

The public hearing relative to the request by Jerry & Janine Lange to rezone the property located at 3435 S. Highpointe 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 Chiovero at 6:14 P.M.

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

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. Bennett 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 if there was anyone wishing to speak in favor of this application, seeing none.

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

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

Mayor Chiovero closed the public hearing at 6:07 P.M.

PUBLIC HEARING

6:01 P.M. (4)NJ RZ-10-07 BuySeasons North – 16385 W. Small Rd. – Rezone from R-1/R2 to M-1.
and
(4)NJ CU-10-06 BuySeasons North – 5915 S. Moorland Rd. – Building Addition.

**NEW BERLIN PLAN COMMISSION
AUGUST 30, 2010
MINUTES**

The public hearing relative to the request by Michael DeMichele c/o Willowtree Development for a Conditional Use for a building addition to the existing Buy Seasons building located at 5915 S. Moorland Road and a Rezoning request from R-1/R2 to M-1 at 16385 W. Small Road to accommodate the proposed building expansion was called to order by Mayor Chiovero at 6:14 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Christel, Mr. Felda, Alderman Ament, and Ms. Broge. Also present were Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; Ron Schildt, Transportation Engineer; Nicole Hewitt, Storm Water Engineer, and Mark Blum, City Attorney. Ms. Groeschel was excused.

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 for questions or comments for the purpose of clarification.

Joe Russ, 16800 W. Shadow Drive – Why was the traffic impact analysis done in July when that is not their peak season? If they bring in 1,300 extra employees in September and October, that is when the analysis should be done, not July. I think you are skewing the traffic impact analysis.

Ms. Jones – They model all of these numbers so it doesn't matter what time of year they do it. Ron Schildt can explain this further.

Mr. Schildt – Actually, if you read in the report when they go into their peak season, they have an earlier start time. When rush hour is on the street network, those people are actually coming into work earlier. If you look at what the peak hour is on Moorland Road, the peak hour does not coincide with their peak time of the year when those extra employees are coming in. There are more employees coming in during the regular time

of year then there are at the peak time of year during the peak hours.

Mr. Russ – I am more concerned about the people leaving, specifically off of Small Road. That is the part that affects me. Right now when the shift lets out, there is a lot of traffic on that road.

Ms. Jones – What time is that?

Mr. Russ – Between 5:00 – 6:00 P.M. there a lot of cars coming out of that parking lot. Most of them filter towards Moorland Road but some go the other way. I am concerned about those going the other way on Small Road. Small Road was not built for that kind of traffic. When this development was originally sold to the area residents, there was to be a buffer between Small Road and BuySeasons. The idea was that BuySeasons was to be built lower and would not be as visible. I live in Sun Shadow West Subdivision and in the winter time I can see the BuySeasons lights from my house and I am a half mile away. What happened to the residential buffer idea?

Ms. Jones – I don't know if you attended any of the Comprehensive Planning Meetings in 2008 and 2009, but you might recall that the Plan Commission and Common Council changed the future land use on this piece along with the other three properties to the west to Business Park Industrial. This is consistent with that. We have looked at the landscaping plan and have asked Mr. DeMichelle to go out and meet with neighbors that had concerns to lessen the impact for them as much as possible. We have been as sensitive as the Zoning Code allows. They are having a greater than 40 ft. buffer to the west from what is required. We do still understand that the zoning to the west is single family so we respect the single family buffer of 40 ft. or more.

Mr. Russ – The thing about landscaping is that what the developer puts on paper and sells you and what you get are actually two different things. A case in point is going to be Westridge. When they first built Westridge, you pulled into it off of Moorland Road and there were nice flowers and everything planted there. Now they are down to just bushes. They slowly cheapen it as it goes along. I am very leery about BuySeason's landscaping plan.

Ms. Jones – I documented a few of the trees that are brown and they need to replace, but the City does take in a letter of credit that ensures that within one year from when it is installed, we get a letter from their landscaper that states that they have done it properly. Staff also goes out there and double checks to make sure that they planted the right amount and types. We do have a three year maintenance. If something dies within those three years, they are required to replace that. If you look at some of the projects since 2001 when the Code was updated, we have tried to stick with it. Corliss, our Code Compliance Specialist is constantly visiting businesses and checking up.

Mr. Russ - I believe this building is already the largest in New Berlin. Now they are adding another 100,000 sq. ft., which is basically going to be full of paper and plastic. Can our Fire Dept. handle this?

Ms. Jones – The Fire Dept. has signed off on approval of this.

Mr. Russ - I know it is on the agenda for later tonight, but you notice right now that they are not on the sewer hook up, so they are still on holding tanks, correct?

Ms. Jones – No, (Ms. Jones displayed a location map on the screen) if you look up at the screen, the sewer service area line borders the triangle east, cuts across the property, and down. Anything north and west of there is not within the sewer service area. The current BuySeasons property has sewer service through MMSD. They made that request shortly after their approvals went through in 2007. They received their approvals and abandoned the holding tanks that they received permits from the County. With this addition, they are requesting the same process. They are hoping that the City will amend the Sewer Service Area Line to include this parcel and only this parcel. That is the request at this time. Should they not, then there is some information in the staff report that they would need to work with Waukesha County to achieve holding tanks or simply not open bathrooms in that facility.

Mr. Russ – I understand that the Mayor’s daughter works at BuySeasons. Would there be a conflict of interest if you voted on this?

Mayor Chiovaturo – I don’t think there would be a conflict of interest.

Vernon Bentley, 3450 S. Johnson Road – You mentioned that they had discussion about this property during the Comprehensive Plan?

Ms. Jones – I believe so.

Mr. Bentley – Are there any waivers?

Ms. Jones – Not at this time.

Mr. Bentley – Any subject to’s?

Ms. Jones – When we have a public hearing, staff reviews and offers comments to the applicant. Next month if this comes over for recommendation from staff, we would list all of the items that this would be subject to. Right now we are basically taking all the comments.

Mr. Bentley – OK, very good. Thank you.

Alicia Jetzer, 16790 W. College Avenue – When you did the comprehensive traffic count, did you also take into account the new Walmart that is going to open on Moorland Road? Small Road is a narrow, two-lane road with no shoulders. We have seen an increase in the last three to four months, especially in the last year in traffic. We have also had an increase in people speeding. I have called the Police Dept. several times. I have talked to Dennis Schook at the Dept. of Transportation. He actually grew up in Muskego area. These roads were never meant to hold the amounts of traffic with the development that has been put in those areas off of Moorland Road. Moorland Road

itself is only two-lane in that area. Traffic is going 50 m.p.h., assuming they are going the speed limit. Same thing on Small Road. I have trailed cars on Small Road. The speed limit there is supposed to be 40 m.p.h. I have found trucks going 60 m.p.h. Same with College Avenue.

Mr. Schildt – The TIA is available on-line. Exhibit 6 shows the generation by the Willow Tree Development with any future expansion they would have. In the peak hour they would have typically somewhere near 200 vehicles. Exhibit 7 shows what the City of New Berlin is planning in Section 35, just north of College Avenue and west of Moorland Road. It also has Muskego development, the southeast quadrant of Moorland Road and College Avenue. That traffic there far outweighs any minimal stuff that BuySeasons is talking about. Yes, we have looked at that and the future recommendations when we are going forward is that in a ten year horizon from now, Moorland Road does have to be four lanes. The County is already looking at that.

Ms. Jetzer – It is also a pretty, rural area in the surrounding property. We have a lot of wildlife and car collisions. There has been development to the east and to the north, and all the animals are getting pushed in. That should also be on your safety list. A lot of times it is a choice of colliding with another vehicle or going off the road down into a ditch. The other thing is noise and light. I live on College Avenue and can see the lights from over by me and hear the deliveries. You can hear beeping when they are backing up. The other thing is people walking through. That is all farm land through there and there are a lot of people during lunch break that go walking through, pick lilacs, take rocks, etc. It is not a parkway, it is private property.

Mayor Chiovatero – I see some of the owners and developers from BuySeasons are here and they can probably pass that on to their employees to keep them from disturbing the neighbors.

Ms. Jetzer – I guess with the expansion, I am just expecting more of that. My biggest concern is the traffic and safety. College Road and Small Road are not set up for it and we see quite an increase in traffic. I have been living here for six years and it is getting more and more difficult to pull out of my driveway.

Ms. Jones – Just one correction. The City of New Berlin does not prepare the traffic impact studies. The applicant actually prepares them following standards. It is posted on the website.

Keith Horvath, 16390 W. Small Road – I live directly across from it. My concern is lights and noise. I already have all the lights shining into my window with the parking lot, now there will be more. Like the previous person said, the trucks are slamming doors, etc. How can we prevent this from happening?

Ms. Jones – The occupant is required to follow the City's lighting policy. All of the fixtures are required to shine down. We are working with some developments that are near residential areas in turning their lighting down after hours. During several times in the year, they run 24 hours a day so that may be something they are not willing to do, but

possibly we can talk to them about turning them down after a certain time as long as it is still secure. Obviously, they want to protect their building and vehicles that are parked there, and people who come out to those vehicles. Part of their report for their last expansion mentioned that they were a LEED Certified Building which means they are trying to conserve energy and be sustainable. As far as noise, it is a business building and they do have trucks. We have worked with them. Originally they wanted to have an access point further south. We have pushed for them to maintain their existing access point on Small Road so that we don't have any further traffic heading west. If you have specific complaints, call us. We have a Code Enforcement Person that would be happy to go out there if you have specific noise concern and she can check into them, but it is a business building and they are allowed to create some general noise. If it is constant or something they can work on, I'm sure they will be happy to do that.

Mr. Schildt – They are not allowed to have more than a half foot candle. By the time you get to the other side of Small Road, it will probably be down to zero. The effect of direct light coming onto the property is one thing. What you are probably seeing is you are looking at their lights and their parking lot is probably a good ten feet below Small Road even with the retaining wall, but with a 25 ft. pole, it is still 15 ft. above. As you are looking up, you will see lights, but the effect of direct lumination on your property is supposed to be zero by the time it gets there. Code Compliance can actually take light meter readings to verify what is out there or in the future.

Mr. Horvath – They are also talking about having rear accesses to the parking lot.

Mr. Schildt – We are looking closely at those now. The current driveway will be tying into that one.

Ms. Jones – They have an existing easement that crosses Mr. Salzman's property right here. (Ms. Jones indicated the area on the location map on the screen) They will be maintaining that ingress/egress point. They did a lot of work during the last phase to make that happen.

Mr. Horvath – How high is the retaining wall?

Mr. Schildt – At the steepest point on the preliminary plans that we saw, it was 10 ft. at the highest point. We are looking at two tiers to make it safer.

Ms. Jones – (Ms. Jones indicated the location on map) If you drove down to where my curser is there is a large retaining wall that goes along the property, then you turn and make your way up and back out to Small Road. They are cutting and filling to flatten it out for the building and parking lot expansion.

Mr. Horvath – Thank you.

Joe Russ, 16800 W. Shadow Drive – I remember at the initial meeting for the original building, they said there would be three trucks a day coming out of there and when I got done counting, they had 40 loading docks which obviously doesn't jive. How many more

loading docks will this new addition have?

Ms. Jones – Approximately eight. The expansion is for what is going on inside, the manufacturing, the fulfillment, the actual scanning of things onto paper plates, and more business like that. I don't think you will see as much of an increase in traffic as you will in just what is going on inside in the building.

Mr. Russ – For clarification then, they will be up to 48 loading docks. About the other comment of cutting the grade so the trucks can make it up the hill, why couldn't they go around the other side of the building and go out on Moorland Road instead of coming out on Small Road?

Ms. Jones – The City granted them two access points to help separate traffic. I believe this was designated for the truck traffic, being able to separate that, and then head back out to Moorland Road. They have a nice parkway. In the staff report we discuss that for any future expansions to the south, we would evaluate this access point. What that means in the future, I'm not sure, but it is something that Mr. Schildt and the rest of our department will take a look at if they expand and have future access points to Moorland Road that are further south in this area.

Mr. Russ – Considering Moorland Road in that section is not residential and is built heavier than Small Road, I feel that the residents on Small Road are being dumped on by BuySeason by taking the truck traffic out that way when there is perfectly good highway off of Moorland Road.

Mayor Chiovero – The County required Right Out Only onto Moorland Road. The County will not allow access for a left turn out of there.

Mr. Russ – Didn't the City also require Right Turn Only for trucks out of Small Road?

Mayor Chiovero – Right. They can then make a left turn at the intersection.

Richard Englehardt, 16430 W. Small Road – When they put up that retaining wall how far from the middle of Small Road will it be if they ever widen it?

Mr. Schildt – No, the retaining wall would be on their property.

Mr. Englehardt – How far south would that be of Small Road? Would it come close to Small Road?

Mr. Schildt – No, we have the ultimate Right-Of-Way for what we need for Small Road which is 100 ft. total, so they have at least 50 ft. on their side of the roadway and that retaining wall will be past the end of the Right-Of-Way.

Mr. Englehardt – So there will not be a gradual incline, there will be a retaining wall?

Mr. Schildt – That is what they have proposed at this point. Because of some changes in

setback and other things, we said we would like to split that wall into two at the highest points and have a terraced area. There maybe, if we allow them to grade into the Small Road Right-Of-Way, they could probably bring a 3:1 or 4:1 grade up to the roadway. That is yet to be seen at this point.

Mr. Englehardt - Is it possible to see a map for what they will put in for trees for a buffer?

Ms. Jones – This is the map.

Mr. Englehardt – The last time they put some trees in, I talked to an City Engineer and he said they didn't put in as many as they were supposed to and he was going to get after them and see that they put more trees there. When I look out of my front door and my kitchen door, all I see is the building. Of course, the trees are too small. He said they would see to it that they put more trees there, but eventually I guess we will just have to get used to looking at the building and there is no scenery for us.

Ms. Jones – I have documentation. I know Mel Corley met with you out in the field along with a gentlemen from Trees On The Move and they especially located some pine trees in the area to help with the screening of your home. I know that was something that happened. I also know I e-mailed the information to Michael DeMichelle, who I believe visited with you in the field last week and talked to you about the landscaping plan and what some options might be to help with screening for those of you who do have a sort of perched view of their building. I know it is something that they are actively working on.

Mr. Englehardt – About the retaining wall, couldn't they put a gradual incline like they have on the other lots from Small Road so anyone going off the street wouldn't drop down off the retaining wall?

Ms. Jones – Any retaining walls are going to meet the City's engineering guidelines so if they can make it tiered like Mr. Schildt was explaining, but if it is not possible then as long as they meet our requirements, they are allowed to put a retaining wall there. They are required to landscape and buffer it like we have been discussing.

Mr. Englehardt - Would my residential property tax be lower by living in a commercial area?

Mayor Chiovero – That would be a question for our Assessor.

Ms. Jones – I have asked the Assessor to put together some information on the value and he is working on that and I will have that information by the next meeting.

Mr. Englehardt – Thank you.

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

Mayor Chiovero asked if there was anyone wishing to speak in favor of this

application?

Jason Radish, 16505 W. Small Road – I am direct neighbors to BuySeasons. My neighbors will probably think I am crazy, but this kind of development makes sense in the City where development is close to the expressways and for the most part away from the big residential subdivisions. I am in favor of this development. I think the 2020 plan is laid out quite well to serve the City's business and industrial needs and expansion in this area.

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

Mayor Chiovero asked if there was anyone wishing to speak in opposition of this application?

Joe Russ, 1600 W. Shadow Drive – I am in opposition for a number of reasons. One, when this was originally shoved down our throats because they didn't go to the City of Milwaukee in the valley, we were told that R-1/R-2 was going to be the buffer, the building was going to be lower, there would be tree landscaping there, and we wouldn't even see the building. That hasn't happened. The trees that they plant there will not block our view for years. Meanwhile, we have to see it, we have to hear it, we have to put up with lights at night. That is not what we were sold on. It would be nice to see you guys stand up for the residents once in awhile. I also have concerns about traffic. If they are going to be adding another 1,000 employees, then how are they getting there? There is no bus service out here. They will be driving. From what I have seen on Small Road, it is not impressive. We probably could use a few cops out there not only because of the trucks, but because of the other cars. I don't think it is fair to the residents who had this sold to them a number of years ago. If they want to get trucks out of there, they can use Moorland Road. If they can't take a left turn out of there on Moorland Road, that is not my problem. That is their problem. They can head down to Muskego, loop around and come back the other way. It is not the resident's problem to have truck issues. I want to see what the storm water issues turn out to be. I also think the property value thing should have been ready for tonight. I think people at this public hearing want to know about their property values tonight and not have to wait until the next meeting.

Ms. Jones – He generated the information on the value that this will have on the tax base but he didn't do an analysis on how it will impact and I'm not even sure what he can do for that so I will talk with him about that.

Mr. Russ – The tax base and what they supposedly bring is one thing and the neighbors that live around there is another. If you have trucks and lights, it doesn't matter. The people that moved there, especially ten, twenty years ago moved there for the character that they had and we are getting this shoved down our throats more and more. Now the buffer is going away and there is going to be a big parking lot. I don't see them as being a good corporate neighbor and I am opposed to this.

Keith Horvath, 16390 W. Small Road – I oppose it unless they plan on having all of

Small Road for companies.

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

Mayor Chiovero asked for questions from the Plan Commissioners.

Alderman Ament – Nikki, do you have anything that shows the future land use for the properties to west to show how far that industrial park will eventually travel out?

Ms. Jones – (Ms. Jones referred to the overhead map on the screen) Here is the property we are talking about tonight that is currently farmed, here is the current BuySeasons property, here are the three properties west as well as south. This is discussed as the Westridge expansion that would follow the Moorland Road corridor to meet up with Muskego.

Alderman Ament – When we were discussing Phase 1 that is already completed, there was already talk of abandoning the drive to Small Road once things are worked out between the County and BuySeasons. One of the reasons is the left turn, you can't turn left out of there and the reason is it is only two lanes, is that correct Ron?

Mr. Schildt – Yes, the reason the County put the restriction of Right Turn Only is they didn't want a semi truck trying to make a left turn out of there and creeping into traffic that is going 50 M.P.H. The long range plan is to have another access point further south from their existing driveway, that would be signalized and line up with Section 35 area on the east side. It would be almost like another Westridge Drive, but it would be further south.

Alderman Ament – That also would be affected by whatever plans they have assuming they develop south of there. All of that would be tied in with the County and that access on Small Road would either have a lot less traffic or be eliminated altogether. The three things that struck me are the same things that came up at the public's opportunity to speak at the public hearing, the noise, the lights, and the traffic. We have been talking about parking lot lights. The lighting fixtures are substantially improved from what they were in the past. I am less concerned about that although I'm sure it will be addressed. I am more concerned about vehicle lights especially for neighbors across the street. We talk about the noise issues and traffic. We have already covered the traffic issues here. I would like to have the developer, by the time this comes back to Plan Commission, specifically address what is on Page 7 of the Staff Report where it says the proposed development has taken into consideration and is basically compliant with impacts on surrounding properties or the natural environment, etc. I would like them to specifically address these things in an official capacity to pass on the residents to reassure them. I would like them to do whatever they can do to reduce noise and specifically the car lights as they swing around to go in and out of there. Is eliminating the wetland between the two parcels being considered?

Ms. Jones – (Ms. Jones referred to maps on the screen) Yes, the request is to fill in these

two areas so the expansion can go over the property line. One of the proposals on the plan is mitigating or doing fill on site to enhance the wetland. They have been meeting with the DNR for evaluation.

Alderman Ament – So the DNR is potentially going to allow them to fill and maybe move it to where they don't need to build something?

Ms. Jones – Right, the idea would be to allow them to fill the wetlands to allow for the building expansion and then to either mitigate on site or to buy into a more high quality wetland in the State if they approve it. The DNR gets to choose that option.

Mr. DeMichelle – They tend to prefer that some of the higher quality wetlands in other regions are enhanced rather than some of these wetlands. The wetland we are talking about is really a farmer's ditch. It is not a high quality wetland. It is a ditch that was dug, and if you let it sit for many years, some wetland plant species will develop, just like any ditch in Wisconsin. That is how it got there. The better wetland on our site is east of our building over by the pond. We have proposed putting it there. It will depend on what the DNR prefers us to do.

Ms. Jones – In the packet, C-1.0 has an area that shows DNR as a possible area for mitigated wetland. These are some of the proposals they have made to the DNR.

Alderman Ament – We don't know what the DNR will decide?

Ms. Jones – They have submitted their application which is included in the packet. The DNR is requesting some additional information from them. They will submit that. The letter says if the expedited process is followed, a reply is made in 30 days.

Alderman Ament – Another thing, the staff report refers to this being R-1/R-2 and being rezoned to M-1. There is no reference in the R-1/R-2 to the C-1/C-2 that was part of this in 2007.

Ms. Jones – The property with the Small Road address is on it's own right now. It does not have the wetland on it. The wetland follows the ditch on this property (Ms. Jones indicated the property on the map) and you are correct, back in 2007 when we rezoned it, it was M-1/C-2. At the end of this process, depending on what happens with the DNR's recommendation, we will most likely have to do a City initiated rezoning to clean that up. If they determine that they are going to allow them to fill it and that is the option they choose, then we would work on a rezoning to eliminate the wetlands that they were allowed to fill. We don't do this very often. Would you agree with that, Mark?

Attorney Blum – I would agree with that.

Alderman Ament – It was originally A-2, and then in 2007 it was rezoned to M-1 but the M-1 included C-1 and C-2.

Ms. Jones - I have a zoning comparison map but it is hard to see. (Ms. Jones displayed

the map on the screen)

Alderman Ament – Look on the staff report because that is where I am getting confused. On the one hand, we are dealing with the rezoning of the parcel that is R-1/R-2.

Ms. Jones – Right, that is the only parcel that is up for rezoning tonight and then the other part of the hearing is because that building crosses both the existing parcel, 5915 S. Moorland Road, as well as the new parcel. I included both of them in the public notice and as part of this presentation.

Alderman Ament – But, in the staff report on Page 5 it specifically says under Previous Action in 2007 that this parcel was rezoned. That is where I was getting confused. Once these are combined, will they all have one address?

Ms. Jones – They will all have the Moorland Road address.

Alderman Ament – I would like to see the applicant address the concerns directly in writing with my biggest concern especially being vehicles with lights coming up toward Small Road and making the turn going east. I am assuming the retaining wall may eliminate some of the concerns with the headlights.

Ms. Jones – One thought is to have the applicant do a line-of-sight drawing. The architect can do drawings with information for different spots at different heights for cars and trucks and provide that information to the Plan Commission.

Alderman Ament – I agree. It would be good if you could have them do that.

Ms. Broge – I have a question on the traffic. Currently, exiting onto Moorland Road, it is only a right turn, correct?

Mr. Schildt – Correct.

Ms. Broge – Until whatever year Moorland Road becomes a four lane, that will still continue, right in, right out. When the new parking lot is added, left and right out on Small Road?

Mr. Schildt - The current exit is trucks can't go left.

Ms. Broge – No trucks can go left, but they can turn right. Where do trucks turn around that want to go north?

Ms. Jones – They take Small Road, head towards Westridge and then back up to that lighted intersection.

Ms. Broge – I'm saying coming out on Moorland Road?

Mr. Schildt – There are no trucks coming out on Moorland Road.

Ms. Broge – No truck traffic on Moorland Road. That will be in the future after the addition?

Mr. Schildt – They cannot make a left turn on Moorland Road. Most likely they would go out on Small Road and then make a right hand turn on Moorland Road. The long range plans is another signalized intersection to the south that would come out to Moorland Road. Long range plans are to have all traffic go out onto Moorland Road with this access being minimized.

Ms. Broge – I can certainly understand the citizens concerns on Small Road with that traffic. It says it will be a 24 hour a day operation August – October with shipping and receiving from 7:00 A.M. – 5:00 P.M. Monday – Friday. Will there be additional deliveries and shipments outside of operating hours during peak times?

Ms. Jones – I would ask the applicant to address that. I can only read to you what is in the Plan of Operation.

Mr. DeMichelle - It is helpful to know that the business is growing and has been growing. Right now a large portion of the building is already in place through leasing space from neighboring places. The truck traffic is in place and the activity is already happening today and creating additional traffic to take products back and forth. It is more than the normal generation of traffic from the expansion because of shuttling warehousing material back and forth. That type of activity creates more traffic then it will with the expansion. We don't use all of the docks, only a small portion is used for shipping and loading.

Ms. Broge – Normally today when you get shipments, they are coming off of Moorland Road into your facility?

Mr. DeMichelle – No, they are coming off of Small Road. The Small Road access point was designed for trucking to try to get the shipping and receiving from the freeway, down Moorland Road, onto Small Road, and into the facility because we can't make left turns onto Moorland Road.

Ms. Broge – The residents were there first and I hope the parties can work together to accommodate both the business and the residents.

Mr. De Michelle - We are doing that and we have always done that. I met with Mr. Engelhardt this week and had a long discussion. When I come back next time I can show you the buffering we are proposing along with what we put there in the last plan. When Mr. Englehardt contacted Mr. Corley over our first building, we added over a dozen additional pine trees in order to try to help his buffering request. Down where we did it we can only plant on our property and it is a significant grade down and does not do as much as what we will do with the expansion because now we will own the property against Small Road and closer to the residents. Buffering will be a vast improvement over what is there today because it is at the correct elevation and it is a lot closer to the

residents. We can demonstrate that with the line-of-sight drawings. The parking lot is ten feet lower. We can demonstrate that graphically also and it will help drive the point home.

Ms. Broge – What will the lots to the west be in the future?

Ms. Jones – Business Park. (Ms. Jones showed the map and described the surrounding zonings)

Alderman Ament – One more request for the next meeting. I think it may help people to understand if they could see an expanded view of the area of Moorland Road where the entrance is now and where it is single lane. I think it will help them see why a left hand turn can't be made and what will potentially happen when it is four lanes and how the expansion to south will affect traffic. Can you get that for the next meeting?

Ms. Jones – Yes, we can do that.

Alderman Ament – Thank you.

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

Mayor Chiovatero closed the public hearing at 7:14 P.M.

PUBLIC HEARING

6:02 P.M. (6)JT RZ-10-06 Joshua Waszak – 13685 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
AUGUST 30, 2010
MINUTES**

The public hearing relative to the request by Joshua Waszak to rezone the property located at 13685 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 7:15 P.M.

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

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

Josh Waszak, Patriot Custom Homes – 806 Aspen Drive, Hartford – My question doesn't pertain to the property, but it is about the letter we received. It will need to get approved here and then go on to Council on September 28th, is that a misprint? Should it be the 14th?

Ms. Titel – The Council meeting has been cancelled for September 14th. The next Council meeting will be the 28th.

Mayor Chiovaturo – It was cancelled because the Council Chambers are being used for election day.

Ms. Titel – Are you asking about your Building Permit?

Mr. Waszak – We had to wait for the delineation, now we are waiting to be approved. I know this is the process. Is there any possible way we can speed things up?

Mayor Chiovaturo – The Common Council is the final authority for approval of rezonings.

Mr. Waszak – I was not notified that the Council meeting was being cancelled.

Mayor Chiovero – It was cancelled because of election day. We are talking about having a Council meeting on Wednesday, but that would be too early for your item to be put on it. We normally don't act on anything that soon because it goes through a process. I don't see any problems that would delay your approval. I don't know of any wetland delineations that have been turned down, there have been some questions in some cases, but I don't see that here.

Ms. Jones – Why don't you contact Ms. Titel in our Department tomorrow and see if there is any possibility for earlier action.

Mr. Waszak – I will do that.

Nick Schultek, 13685 W. Foxwood Drive – I am the owner of the property. How long in advance do the agendas go out? How much time do you have to get the agenda prepared?

Mayor Chiovero – Agendas need to be posted 24 hours in advance.

Mr. Schultek – I understand. I just wanted to know if there is anyway possible to move forward with this. I am living with my parents right now.

Mayor Chiovero – I think that is why Nikki asked your builder to contact us to see if there is anything we can do.

Mr. Schultek – I would really appreciate that. It has really been a long process for us. Anything you can do for us would be appreciated.

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

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

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

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

Mayor Chiovero closed the public hearing at 7:22 P.M.

**NEW BERLIN PLAN COMMISSION
AUGUST 30, 2010
MINUTES**

PRIVILEGE OF THE FLOOR

The Plan Commission Meeting was called to order by Mayor Chiovaturo at 7:23 P.M.

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

Motion by Ms. Broge to approve the Plan Commission minutes of August 2, 2010.
Seconded by Alderman Ament. Motion carried unanimously.

PLAN COMMISSION SECRETARY'S REPORT

NEW BUSINESS

1. (6)AB RZ-10-05 Jerry & Janine Lange – 3435 S. Highpointe Dr. – Rezone from R-4.5 and C-2 to R-4.5 and C-2 to Field Delineate the Wetlands.

Motion by Alderman Ament to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 3435 S. Highpointe Drive from R-4.5 and C-2 to R-4.5 and C-2 to field delineate the wetlands.

Seconded by Ms. Broge. Motion carried unanimously.

2. (6)JT RZ-10-06 Joshua Waszak – 13685 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 Alderman Ament to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 13685 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. Broge. Motion carried unanimously.

3. (4)NJ LD-10-06 BuySeasons North – 16385 W. Small Rd. – Ne ¼ Sec. 34 - One-Lot Land.

Motion by Alderman Ament to table the one (1) lot Certified Survey Map for the properties located at 5915 S. Moorland Road and 16385 W. Small Road subject to the application, plans on file and the following reason for tabling:

- 1) Plan Commission will need to act on the Rezoning (File #: RZ-10-07) and the Conditional Use (File #: CU-10-06) applications prior to any action on this CSM. A full report will be prepared for the October 4, 2010 Plan Commission meeting at which time action is anticipated on both the Rezoning and Conditional Use applications.

Seconded by Ms. Broge. Motion carried unanimously.

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

Motion by Mr. Christel to recommend to Common Council No Objection of the Deerfield Estates Extraterritorial Final 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 Alderman Ament. Motion carried unanimously.

5. (5)JT UA-10-37 Tom & Kim Roberson – 5305 S. Maryknoll Dr. – Replace Above-Ground Permanent Pool in Front Yard, Place a Tool Shed in Front Yard, and Place a 6’ Maintenance Free Fence in Front Yard.

Motion by Mr. Christel to approve the Use and Site for the construction of a tool shed, 6’ fence and to replace a pool within the front yard on the property located at 5305 S. Maryknoll Drive subject to the application, plans on file and the following conditions:

- 1) Deck, tool shed and pool shall be constructed in the respective locations depicted on the submitted plans.
- 2) Apply and obtain appropriate building permits through the City of New Berlin Community Development Department - Inspection Division.
- 3) The pool and shed shall meet the requirements of the State of Wisconsin Uniform Dwelling Code Comm. 21 thru 23 and the South Eastern Building Code sections 30.20 and 30.40.

Seconded by Alderman Ament. Motion carried unanimously.

6. (7)AB UA-10-39 Dwayne Kerlin – 21520 W. Rainbow Dr. – Detached Garage in Front Yard.

Motion by Mr. Christel to approve the Use and Site for the construction of an accessory building within the front yard of the property located at 21520 W. Rainbow Drive subject to the application, plans on file and the following conditions:

- 1) Applicant shall apply for and receive a variance from the Board of Appeals for a reduced front yard setback.
- 2) Accessory building shall be constructed as depicted in the submitted plans.
- 3) Applicant shall show detail of proposed driveway to garage connecting to the existing driveway.
- 4) Slopes shall not exceed 4:1.
- 5) Applicant shall show elevation of garage slab in relation to existing garage slab.
- 6) Applicant shall show roof pitch on plans.
- 7) Waukesha County Preliminary Site Evaluation required prior to building permit issuance.
- 8) Apply and obtain appropriate building and electric permits.
- 9) Building shall meet all requirements of the State of Wisconsin Uniform Dwelling Code Comm. 21 and Sec 30.20 of the Southeastern Building Inspectors Code requirements.
- 10) Applicant shall apply for an Erosion Control Permit and install erosion control measures if deemed necessary by Inspection Services Division.
- 11) Ten foot (10) of separation required from house, wall to wall.
- 12) Plans shall be approved by the City of New Berlin Department of Community Development Inspection Division.

Seconded by Mr. Felda. Motion carried unanimously.

7. (2)JT SG-10-28 Men's Hair House – 3608 S. Moorland Road – Wall Sign.

Motion by Mr. Christel to approve the wall sign, along with Waiver Request #1, for Men's Hair House located at 3608 S. Moorland Road 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 275-61I(1)(a) for wall sign square footage. The applicant is requesting to exceed the maximum square footage allowed.

- 1) Pursuant to Section 275-61.I.(1)(a), "Wall signs or building signs. Wall signs and building signs shall be placed against the exterior walls or buildings and shall not extend more than 12 inches outside of a building's wall surface; shall not exceed one square foot in area for every one linear foot of building face width on which it is mounted."

The applicant is proposing a 40 square foot wall sign that will exceed the maximum square footage requirements allowed in the Zoning Code. The width of the tenant space is approximately 20-feet. Due to existing site conditions such as the distance from Moorland Road, size of the site, scale of the buildings, and location of tenant space, staff supports and recommends approval of this 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.

Seconded by Mr. Felda. Motion carried unanimously.

8. (3)NJ PG-946 Sewer Service Area Amendments (MMSD) – BuySeasons North – 16385 W. Small Rd.

Motion by Alderman Ament to table the request to amend the MMSD Sewer Service Area to include the BuySeasons North expansion property located at 16385 W. Small Road subject to the application, plans on file and the following reason for tabling:

- 1) Staff has forwarded the request to SEWRPC for their review of this sewer service amendment. SEWRPC will prepare a report on this issue and notify the City when it is completed. Once completed Staff will coordinate with SEWRPC to hold a joint public hearing on this issue.

Seconded by Mr. Christel. Motion carried unanimously.

9. (3)NJ PG-976(a) – Urban Service Boundary Amendments – BuySeasons North – 16385 W. Small Rd.

Motion by Mr. Christel to table the request to amend the New Berlin Urban Service Area Boundary to include the BuySeasons North expansion property located at 16385 W. Small Road subject to the application, plans on file and the following reason for tabling:

- 1) This request is consistent with the Future Plan Use Plan and the City’s 2020 Comprehensive Plan however, the Plan Commission shall act on the Rezoning, Conditional Use and Land Division applications pertaining to this site prior to approval of this request.

Seconded by Ms. Broge. Motion carried unanimously.

CONSENT AGENDA (One motion and second will deny all of the following items listed. Any item may be pulled from the list and handled separately)

10. (4)JT CU-09-09 Waters Wood Recycling Services, LLC – 6600 Crowbar Rd. – Operate a Green Initiative Processing Site for Clean Wood Waste.(Public Hearing 2/1/10, Tabled 3/1/10)

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

Motion by Mr. Christel to Deny without Prejudice the proposed Conditional Use Permit located at 6600 S. Crowbar Road based on the following reasons:

- 1) Item has been on the pending list for 6 months and the applicant has not provided the requested information.
- 2) Staff has sent a 30-day notice and the applicant responded indicating they will no longer be pursuing this project at this time.

Seconded by Ms. Broge. Motion carried unanimously.

11. (3)JT UA-10-08 Quik Trip Pantry – 16401 W. Greenfield Ave. – Car Wash Addition. (Tabled 3/1/10)

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

Motion by Mr. Christel to Deny without Prejudice the request for Use, Site and Architectural approval for a car wash addition located at 16401 W. Greenfield Avenue based on the following reasons:

- 1) Item has been on the pending list for 6 months and the applicant has not provided the requested information.
- 2) Staff has sent a 30-day notice and the applicant responded indicating they will no longer be pursuing this project at this time.

Seconded by Ms. Broge. Motion carried unanimously.

COMMUNICATION

12. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: “Prime 34-acre New Berlin site put on the sale block”, Business Journal, July 23, 2010.

Plan Commissioners acknowledged receipt of this communication.

13. Communication To: Plan Commission
Communication From: Amy Bennett, Associate Planner

RE: Adaptive Reuse Plan (PG-982)

Plan Commissioners acknowledged receipt of this communication.

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

Plan Commissioners acknowledged receipt of this communication.

15. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: Letter dated August 12, 2010 from City Attorney Mark G. Blum regarding
City of New Berlin Procedural Rule Change at Planning Commission
Meetings. (PG-10)

Plan Commissioners acknowledged receipt of this communication.

PENDING ITEM

16. () GK PG-293 Alternative Transportation (Tabled 10/2/06)
- Requested Action Statement from Alderman Ken Harenda regarding Suspending Alternative Transportation Facilities Project – Kelly Lake Trail Phase I.
 - Review of Alternative Transportation Plan and Implementation of Priorities.

Motion by Mr. Christel to remove this item from the agenda per the memo dated August 18, 2010 to Common Council from Alderman Ken Harenda.

Seconded by Ms. Broge. Motion carried unanimously.

ADDENDUM ITEM

17. PG-830(15), PG-516(f), PG-374 - Extension of the suspension on land divisions, rezoning requests or development proposals requiring Plan Commission review or approval within the bounds of the City Center Planned Unit Development.

Motion by Alderman Ament to recommend approval to the Common Council of a resolution to extend the City Center suspension on land divisions, rezoning requests or development proposals requiring Plan Commission review or approval within the bounds of the City Center Planned Unit Development for an additional 120 days (~ January 5, 2011).

Seconded by Mr. Christel. Motion carried unanimously.

ADJOURN

Motion by Mr. Sisson to adjourn the Plan Commission meeting at 8:03 P.M. Seconded by

Alderman Ament. Motion carried unanimously.