

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

PUBLIC HEARING

6:00 P.M. (2)NJ RZ-10-11 Applewood II – 2860 S. Moorland Rd. - Rezone from R-5 to R-5 and C-2 to Field Delineate the wetlands.
and
(2)NJ CU-10-09 Applewood II - 2860 S Moorland Rd - Senior Housing.

**NEW BERLIN PLAN COMMISSION
DECEMBER 6, 2010
MINUTES**

The public hearing relative to the request by Greg Petruski c/o Applewood Senior Living for a Conditional Use for a new Senior building for Applewood II and to rezone the property located at 2860 S. Moorland Road from R-5 to R-5 and C-2 to Field Delineate the wetlands to accommodate the proposed building was called to order by Mayor Chiovero at 6:04 P.M.

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

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

Ms. Jones read the public hearing notice and stated there was proof of publication.

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

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

Daniel Migacz, 2901 S. Acredale Road – I own the property that is south of this proposal. I think Applewood is a very nice place, and I think what they are doing with their property is great. I have seen the inside of the establishment, and I think it is very nice and could be a benefit to all of us in our neighborhood. The only concerns that I have is where my driveway accesses is a hammerhead. I have talked with Greg, and I think we will be able to work something out. I am just making it noted that I do have some issues with what is going on and I don't think it is anything that cannot be worked out. The other thing is the landscaping. Nikki Jones has told me that some of the landscaping, such as the bigger trees for buffering can't be put in because of the sewer line. Just remember that I live to the south, and I want to maintain my privacy. I just want to make it noted that when a decision is made about landscaping, that you think of all of us. I was concerned about the detention pond that is planned. As far as I know, there is nothing I can do about that. If that is what they have to have, then that is what they have to have. I

would like to see this happen for them, but I would also like to see me maintain what I have.

Mayor Chiovaturo – Is this a detention or retention pond?

Ms. Jones – It is a bio-retention swale. It will hold water during a storm event and slowly percolate down. No matter who develops there, that is the low area where the drainage goes to and that is why it is necessary. Rather than having a pond that always holds water like some you see in the City, they have designed it with all three amenities; two bio-swales and the rain garden so it disburse all of the water throughout the site. It will be planted and maintained. The City has an agreement with the applicant that they are required to maintain it.

Mr. Migacz – My concern with that detention pond is that it is close to my driveway. It is close to where I may be playing with my grandchildren, etc. It is not supposed to be a breeding ground for mosquitoes, but I think I can work something out as long as my driveway access is maintained. I just want to be sure that the value of my property is not lost because of this proposal, including the landscaping.

Ms. Jones – There is a sanitary sewer easement along the southern parcel. (Ms. Jones indicated the area on the map.) All along there the City has a 40' wide easement for sanitary sewer and water that will now be looped to serve this parcel. We would like to see some of the heavy duty landscaping pushed out of that area so those roots don't grow down.

Mr. Migacz – Will you push it to the north or to the south?

Ms. Jones – We will accommodate.

Mr. Migacz – I am worried about where it is going to end up. I am worried about losing the trees at the end of my driveway when the main water line goes in.

Ms. Jones – We already have an easement where the City can do work and typically there should be nothing in there. There may be old tree growth in there, but if the City needs to come in and work in that easement, we have the right to do that. As far as your driveway, it encroaches over the property line. When you and I met, we measured it out. Through the City Right-of-Way we have no issues with you crossing over that. When it gets to your property it is approximately 12', so you have a normal length of driveway from the property line to the edge of your driveway. If you want to have a side agreement with Mr. Petruski in order to keep what you have graveled on to the other property, that is between the two of you. We have checked to be sure that you can still access your driveway on your site the way it exists now. Any part of your driveway that encroaches across the property line, you would need to coordinate with Mr. Petruski.

Mr. Migacz – I know that is something I have to work out.

Ms. Jones – As for the landscaping, I would be more than happy to sit down with you

between now and the January meeting and work out how some of the landscaping can be pulled out of the easement and tucked around the berm to serve you better.

Mr. Migacz- As I come up my driveway, I am worried that everyone will be buffered from the buildings but me.

Ms. Jones – Your home is right here and your two garages are here, so your home will be screened because the toe of the berm comes way over here close to their building and the 11 ft. part is probably about here. (Ms. Jones referred to drawings).

Mr. Migacz – It was to my understanding that it stopped at the corner.

Ms. Jones – It will start decreasing, so yes if you are in your backyard you will be able to see that facility, that is why we will try to work on some landscaping.

Mr. Migacz – That is fine.

Bill Koenig, 2821 S. Acredale Road – Did you say that there is an 11’ berm on Acredale Road?

Ms. Jones – All the heavy lines that you see up on the screen is a berm that starts up here, go up, plateau on the top, and then slowly decrease down. (Ms. Jones referred to drawings).

Mr. Koenig – Is that an 11’ berm with trees on top of it?

Ms. Jones – It will be landscaped. All the little dots represent landscaping. (Ms. Jones referred to drawings).

Mr. Koenig – Will it be 11’ to the treetops?

Ms. Jones – To the base of the dirt. There will be plantings on top of that area. The City would prefer that it be a little shorter because of the standards, but I understand that there are the three residences across the street to provide screening for.

Mr. Koenig – You mentioned that the north building would have office space in the upper area and be approximately 25’ tall.

Ms. Jones – Yes, that is for both sides. They are using a dormer.

Mr. Koenig – Will the roof lines be the same?

Ms. Jones – Yes. There will be a dormer to allow for storage. It is residentially scaled and should fit it with the existing Applewood facility.

Mr. Koenig – I just wanted to make sure that the roof lines were the same.

Joe Russ, 16800 W. Shadow Drive – How many residents will be living in here?

Ms. Jones – The facility is a 45 unit facility.

Mr. Russ – Has the Fire Dept. signed off on this? In order to get access to this, they will have to go through a parking lot.

Ms. Jones – Yes, they have met with the Fire Dept. That is why they have built the turn-around.

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

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

Bill Koenig, 2821 S. Acredale Road – I like this. I stood up here when the original Applewood went in, and I was opposed to it. I thought about “not in my backyard”. Here we are ten years later, and I can’t say anything negative about Applewood. I think this is a good use for that property.

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 to this application, seeing none.

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

Alderman Ament – On the map it looks like there is an access drive. Will that be removed?

Ms. Jones – Yes, we will be adding a condition that there will be no access to Acredale Road.

Alderman Ament – Will they be dedicating an additional 3’ according to the Staff Report?

Ms. Jones – Yes, as part of the one-lot CSM, it allows the City to acquire any additional Right-Of-Way. The Ultimate Right-Of-Way of Acredale Road is 66’, so there CSM showed 60’. We will be looking for the additional 3’ for a total of 33’ on their side.

Alderman Ament – Do the residential lots also have 33’ or are they still at 30’?

Ms. Jones – They are still at 30’.

Alderman Ament – Looking at the preserve at the end which it means it is not ever going

to go through anywhere, and I assume there will never be a desire to put a cul-de-sac there since there is the hammerhead. Do we need to have that additional 3'?

Ms. Jones – Tammy Simonson, our Transportation Engineer looked at this, and the Comprehensive Plan lists that street as 66' so that is why we were looking for that additional dedication.

Alderman Ament – The reason I ask if we need that is because if that is the existing and we went 3' onto every lot beyond that.

Ms. Jones – We don't have the right to do that unless they are doing development.

Alderman Ament – For instance, if they just sold their home it would not impact them?

Ms. Jones – No, I wouldn't have a right at that point to ask them for that.

Alderman Ament – The Staff Report says the lighting plan does not follow City standards.

Ms. Jones – They need to make some corrections to it. They will be making those changes.

Alderman Ament – The Staff Report says the parking lot lights will be turned down in designated areas after hours. Is that what they are currently doing at the existing Applewood?

Ms. Jones – I am not sure what they are doing there right now, but we have talked about this to be neighbor friendly.

Alderman Ament – I would suggest that you keep the Alderman for the District informed about that.

Mr. Wick – Will there be any roof equipment that will be mounted on the building?

Ms. Jones – I asked the applicant during Architectural Review and it will be all ground mounted.

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

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

PUBLIC HEARING

6:01 P.M. (4)AB CU-10-07 Little Muskego Lake Protection & Rehabilitation District - 5230 S Calhoun Rd. - Disposal of Harvested Plant Matter for Composting Nursery Stock.

**NEW BERLIN PLAN COMMISSION
DECEMBER 6, 2010
MINUTES**

The public hearing relative to the request by Steven Schmuki c/o Little Muskego Lake Protection & Rehabilitation District for a Conditional Use to dispose of harvested plant matter for composting of nursery stock located at 5230 S. Calhoun Road was called to order by Mayor Chiovarero at 6:28 P.M.

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

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.

Jeff Thorton, SEWRPC provided additional information concerning the technical aspects of this proposal

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

Steve Schmuki- - I am the Attorney for the Little Muskego Lake Protection & Rehabilitation District as well as the other two entities that have joined together to acquire the Horner Sod Farm property which, while we are only talking about the area outlined in yellow tonight, does include everything to the east. By way of an update for everyone, I want to bring everyone up to speed as to what these three entities are attempting to do. They are ultimately looking to acquire this larger parcel contingent on the Conditional Use that is a specific and expressed contingency in their offer to purchase with the sellers. They are purchasing this property for a multitude of different reasons, a number of which are a win-win for both the entities as well as the City of New Berlin. Not the least of which are open space preservation, watershed management issues protecting Little Muskego Lake watershed, protecting the stream corridor that traverses the middle of the property, providing numerous passive recreational uses to all of the communities including the citizens of New Berlin, and ultimately creating general open space preservation. These groups got together in March of this year and entered into a memorandum of understanding that basically established how they were going to go about doing this, and have ended up with significant partnership from the three groups, private entities, as well as the State of Wisconsin of Natural Resources who is funding a significant portion of the purchase price. As an expressed condition of the deal, in order

to protect this property the Lake District which is charged with managing the weeds in Little Muskego Lake would like to see the Conditional Use Permit approved. I would also mention that we asked for an early answer from the Plan Commission knowing full well that you may choose not to do that and we understand that, but respectfully request that if you can take it up, you would do that. Thank you.

Joe Russ, 16800 W. Shadow Drive - It is a great idea. What route will the trucks be taking to deposit this material? I would like to see them come off Beloit Road. What are they going to do with this stuff when it is decomposed? Are they going to sell it?

Ms. Bennett – The driveway will be located on Calhoun Road. (Ms. Bennett showed the diagram).

Larry Lefebure – I am a Commissioner on the Little Muskego Lake District. We have typically spread the weeds as they decompose and use them as fertilizer. We would be using most of that right on the property. It is 40 acres and we are only using one acre for the weeds. We would come down Calhoun Road from the lake.

Fay Amerson, Little Muskego Protection & Rehab. District – The harvesting equipment is stored at their property on Martin Road just south of Shady Acres. The equipment comes out of that facility in May and is put onto the lake. It stays on the lake until September. There is little activity on Martin Road. The route that they would be taking is harvesting at Idle Isle, come up Martin Drive over Bares Road, then up Calhoun Road or going down to Calhoun Road where it hooks up with Small Road and north on Calhoun Road.

Mayor Chiovaturo – The truck is the only equipment we will see?

Ms. Amerson - That truck is the only equipment that is going to be on the property.

Jodi Arndt, 15180 S. Calhoun – I am wondering why the driveway is being located right next to my property?

Ms. Amerson – I thought the view for safety was good there from both directions. This is a depression area and this area is level, and we wanted to dispose of the weeds on the higher rather than the lower area. (Ms. Amerson referred to the map).

Ms. Arndt – Can the driveway be moved away from my property?

Ms. Bennett – It will be five feet from the property line. We don't allow driveways right at the property line, so there will be a minimum setback.

Ms. Arndt – You are saying seven trucks of this stuff is coming through every day right next to my property?

Ms. Bennett – That is what they are proposing.

Ms. Arndt – Why is Muskego’s waste being dumped in New Berlin?

Ms. Bennett – I would ask the applicant to explain why this location was chosen.

Ms. Amerson – It is harvested weeds so it is not considered waste. The reason that they chose this location is because it is also in the plan for watershed protection. They are always looking for lands within their watershed to acquire. This happened to be a sizeable parcel with a stream that is a tributary to Little Muskego Lake. There was a willing seller, and they looked into purchasing it. I think the reason they are purchasing it is more because of the environmental features and open space that they want to protect, but still there is a need to dispose of the weeds that they harvest in their lake.

Ms. Arndt – I strongly oppose this.

Cindi Wright Kau, 5160 S. Calhoun Road – Is this going to contaminate our wells?

Ms. Jones – This application has been reviewed by the DNR. These materials are natural, they are coming from the lake and are turned and dried. We have an existing facility in the City on Martin Drive that we receive no complaints on.

Ms. Kau – Would you drink the water out of Little Muskego Lake? We are talking about all the gas and oil from all the boats on that lake.

Mr. Thorton – Most surface waters are subject to that level of contamination. The material that gets into the aquatic plant themselves are primarily nutrient materials similar to what you would find in any fruits and vegetables that we typically eat. The plant material is 90% water so there is very little actual cellulose residue left after the plant decomposes. What leeches out of the cells of the plant will be primarily water with phosphorus and nitrogen.

Ms. Kau – I am talking about the gas and oil that come with it.

Mr. Thorton – No, you are not going to get much of that with it. There might be some that is adhered to the external structure of the plant, but it is not going to be in dangerous quantities. The State typically has recommended composting of these plants, and to date we have had no negative feedback from any of the communities statewide that have composted these. I have been working in this field for 20 years here in Wisconsin and have a lot of experience with composting aquatic plant material. To date, there have been no negatives associated with that. It is not the same type of material that you may have read about in the paper like the blue-green algae or bacteria that have led to toxicity. This is not the same type of material, these are rooted aquatic plants that are being harvested. The risk of contamination of soil or underground drinking supply or any other aspect of the environment is very low. Generally, this is a positive additive that one would be placing on the soil. What is left after the plant decays is going to be a little bit of cellulose type material, sort of like celery.

Ms. Kau – I just know when we go fishing, we have to clean the boat off really good

before we can leave that lake.

Mr. Thorton – Right, the reason you do that is you don't want to carry these plants from lake to lake.

Ms. Kau – There is a creek that runs right behind where you are bringing it.

Mr. Thorton – There is sufficient space between the land surface and that creek that it is unlikely that those plants are going to get into that creek.

Ms. Kau – You are putting it on the high end. To me, it runs down. Running down will run into our wells and the creek.

Mr. Thorton – You know the topography better than I do. I am not familiar with the actual landscape, but it appears there is a fairly large depression just down slope from where they are planning to deposit that material, so it is unlikely that any liquid coming off there is going to get into the creek. Whatever gets into your ground water is going to be little different than rain water percolating through the soil and leaf litter that is typically on the land surface.

Ms. Kau – How is this going to affect our land values? What if I want to sell my land? Do I have to do it on a Sunday when the smell isn't so bad?

Mr. Thorton – Our experience statewide has been there is very little odor that comes off of these plants.

Ms. Kau – Did you bring anybody to the meeting tonight that already has this?

Ms. Jones – The City already has this same facility located on Martin Road. We haven't received any comments about smell. If they are doing their job right, we shouldn't have smells. The reason why we are doing a Conditional Use is if there are things that come up, we can address them with the applicants. In reviewing the report again, they coordinate with the DNR. They are receiving is a Stewardship Grant. The DNR monitors those types of sensitive areas, so I don't think they would provide a grant to an organization like this one if they thought it would be detrimental.

Ms. Kau – I just know when the property was purchased, the owner said he was going to clean out the bad stuff, fix up the creek, put in a nice path. He still hasn't done any of that stuff.

Ms. Bennett – The property is being sold from that current owner to this District.

Ms. Kau – You can see why we would be concerned because at that time we were told this was going to be a maintained tree farm. We were told the creek was going to be kept up and nice. We were told that the big pond they put in was not going to be a mosquito, goose infected area. Now we are being told, let's bring in all this sludge, and it is going to be compost. We don't want to get stuck again with more of some idiot's leftovers that

he didn't feel like finishing up and following the rules with. None of you guys bothered to follow with them and make him follow the rules. The thing is, why should we believe you guys again?

Ms. Jones – We act on people who call and make a complaint. Then we go out and investigate. If an official complaint has not been made to the City, we would not go out and investigate those types of issues.

Ms. Kau – I am officially complaining. There are so many geese and mosquitoes in that pond, you can't ride your bike past there. I feel bad for the people with the kids across the street. I was told that pond was only there while they were building.

Ms. Jones – Which pond are you referring to?

Ms. Kau – This pond. (Ms. Kau referred to the map)

Ms. Bennett – That is part of the Industrial Park. It is not part of his property.

Ms. Kau – I am just saying, you guys told us that it was going to be part of the creek once all the building was done. The creek is still kind of empty and the water never went back, it just sits in that hole collecting geese crap and mosquitoes.

Ms. Jones – Typically, groups like you see here tonight that are looking to purchase this property are groups that are going to look to preserve the natural resources on this site.

Ms. Kau – The Industrial Park was too.

Ms. Jones – I am reserving my comments for this property because that is what we have researched and that is what we have experts here for. If you would like to contact us and go over the other issue, I'd be happy to research it.

Ms. Kau – I would like to know if you are actually going to stand behind this.

Ms. Jones – It is an existing storm water detention pond that is there for the Industrial Park. We will have to contact the storm water person and sit down and talk about it. I am not sure what can be done there.

Ms. Kau – They said they were going to put it into the creek. It was only a temporary fix.

Ms. Jones – Again, I am not ready to comment on that night. You would have to contact us tomorrow and we will set up some time.

Mr. Thorton – One of the assurances that you do have that this will be maintained is the fact that it is being purchased with state grant funds. The Wisconsin Department of Natural Resources maintains over site to ensure that the management plan for the property is executed as it was stated in the grant application. There must be a management plan for the property that shows how the property is going to be developed

and how any aquatic plants or any other material being placed on this property would be dealt with. The other point the last person mentioned was the fact, she used the term “sludge”. This is not sludge, it is aquatic plant material. If you looked at it, it would appear like any other type of plant material. They do decompose very thoroughly and rapidly during the course of a summer month. What you will be left with is very little particulate residue at the end of a summer. However, what it does bring with it is a lot of moisture and a lot of water that would be beneficial to any landscape restoration process that would be going on on that property.

Al Salentine – I represent the property on the northwest corner of Calhoun Road and Beloit. You talk about 700 truck loads of this coming in. Looking at the truck, I would guess about five yards, that is 95,000 cubic feet of material in a given season. If you divide that among the acre they plan on putting this on, that is 43,000 sq. ft. That means it is going to raise the elevation two feet. Using the 75-80% that is talks about, that is 7-8 inches of material a year. In the proposal it talks about the material being crusted over before the smell goes away. If you are dumping 7-8 loads everyday, it is not going to have an opportunity to crust over. If any of you have ever been in a boat out on the lake and then brought it back home and parked it in your garage with water in the live well and seaweed hanging on the boat on a hot day, and went back out and smelled what that boat smelled like in your garage, you would have an appreciation for what this potentially would have an opportunity to smell like. What happens when we get a wet period? This material is not going to crust over I a continuous wet period of time. Dumping 7-8 loads a day when there is wet cycles in the spring and fall, it is going to maintain the odor. Again, I hear you talking about the DNR. I can appreciate the DNR issuing a permit, but I give little creditability to the DNR. When it becomes a facility for dumping, the DNR has already proven in many of the landfill facilities around here, which one I grew up next to, becomes an evil necessity. So I give little creditability to the DNR regulating this. In the long term standings, we know that every lake in southeastern Wisconsin has a little contamination, whether it is nitrites, fertilizers, herbicides, pesticides, insecticides, or whatever you want to call it, there is a level of concentration of it in every lake. If you are continually dumping this on one acre of property, what is the concentration of that contamination going to become? At the point where it becomes condemned because of the concentration of waste, who is going to pay for the clean up? Who is going to be responsible? Who is going to hold that responsibility? If it drains into the well water, who is going to pay for the end result of that? There is talk of a site on Martin Road where they are already dumping it and they say there are no problems. Why do you have to have another new site? If you already have a site that is approved and it is working, why move it to this location? What is the real benefit of putting this into a different neighborhood?

I heard you mention earlier about spreading this material across the 40 acre parcel. In the proposal that was on the City website, it talks about as long as the material remains crusted over, it won't have an odor. If you are going to spread it across 40 acres, you will have 40 acres of smell. What happens to that?

Ms. Jones – I would need to ask the applicant to address some of the questions as far as why you are choosing an additional site. It sounds like it has been identified on some of

the DNR plans for a sensitive area that should be preserved.

Ms. Amerson – It is another site for disposal. I think it is a better site for access and we would be using the materials. There is not a tree nursery on Martin Road, so it is piled up and not reused. Things need to be recycled. Just like leaves and grass clippings. They need to be composted and reused. This was a perfect site where there is a nursery where it can be used between the rows. We thought it was an ideal location for an addition site to dispose and reuse the weeds.

Dave Arndt, 5180 S. Calhoun Road – They said the material would have 80-90% water. It would be good for the land. There is a swale just south of where they want to dump that holds water constantly. No matter what, there is always water in there. My sump runs continually. I don't think we need any more water there. There is blue clay in that area. I strongly oppose this. Like the last gentleman said, are they going to test our well quarterly for us? If the smell continues because we have a wet, rainy season, are they going to stop dumping or will they keep dumping? How much is going to be there? How are they going to spread it out with the huge trees? Most of the pines are six feet tall already. Are they going to be spreading it by hand with pitchforks? I don't see it as a good idea. There are too many trees. It is said to be compost for nursery stock. The property hasn't been maintained. Who knows if those trees are going to make it anyway. Half the trees die every year. They are brown. I don't see this as a good idea at all.

Ms. Amerson – It is going to be spread by hand. They have a crew that works on their harvesting program from May 15 – September 15. The crew will be available to spread the weeds with wheelbarrows and hand tools.

Lee Berg, 5160 S. Calhoun Road – The moisture content in the ground is very high by us. Even this time of the year, the sump pump runs every 40 minutes. If they are going to be dumping a lot of moisture into that ground and raising the levels of the area, that is going to wash into our yards and we will have more moisture content in the ground. How are they propose to compensate for that? How are they going to redirect all that moisture from the ground and our basements? If you add moisture to the ground, obviously it is going to get into the wall systems. It is definitely going to happen.

Mayor Chiovero – Mr. Salentine brought up the issue of the cubic volume. You said the 7-8 inches of material will be spread out throughout the 40 acres? By hand? Do the plants decompose by evaporation or by just the drainage of the plants into the ground?

Ms. Amerson – There is a lot of evaporation that occurs from the stored weeds and there is also percolation into the ground. The location that we selected is the higher ground and it drains down. It was selected because there is good drainage.

Mayor Chiovero – I don't know what the elevation is between the land you are using and the Arndt's house, I don't have an elevation map in front of me. Will most of the drainage go toward the creek?

Ms. Amerson – Correct.

Mayor Chiovero – Is your property lower than the Arndt property?

Ms. Amerson – This would be lower than these two properties. (Ms. Amerson referred to the map).

Mayor Chiovero – I don't have a topographical map here right now.

Ms. Bennett – One of the conditions on the staff report is a grading plan. Staff will review it before the permit is issued.

Cindi Wright Kau, 5160 S. Calhoun Road – You still didn't answer Dave's question. Who is going to be testing our wells? If this goes through, I want my well tested quarterly because we have all said where they are putting this stuff is higher than our properties. With all the junk that they are putting in there and for how ever many years they will be doing this, it is going to end up in our yards. We already have sump pumps that run non-stop. I know if they are going to seriously going to come with pitch forks and spread this stuff, is this a daily thing?

Ms. Amerson – Maybe.

Ms. Kau – The tree nursery that you are talking about buying hasn't been there forever. You see them once in a blue moon. We just don't want to be told we are going to get this stuff and then be abandoned.

Mayor Chiovero – From what I am told this is an ongoing operation and they need to maintain it if they want to continue to keep using this area. Listening to the City Attorney, one of the things we can do is get a letter from the DNR explaining the issues about how far away from a wellhead it should be and what kind of residual testing may or may not be deemed necessary by the DNR. The DNR controls the ground water in Wisconsin. We can see what the proximity is to your wells and if there is a regulation or standard of this operation having an affect on wells. We can make that one of the conditions of the approval is that they obtain such a letter and follow the guidelines that the DNR set up.

Ms. Kau – Can we have some say so as to what guidelines they have to follow, not just DNR?

Mayor Chiovero – I don't know if we have any right to obligate anything besides what the regulatory agency is doing. This is being bought with DNR money. The DNR and the state is going to want to make sure that the regulations are met and that the operation is going to run as they said it is going to run.

Ms. Kau – Did I understand this correctly when you said you want to take this over, the other part of it would have pathways?

Mr. Schmuki – There is a plan to work with the City in extending whatever bike trails or

pathways you already have in Calhoun Park to the north through this part of the property. That is not part of what the Conditional Use is about tonight.

Ms. Kau – I know that. I just want to see what we are looking at here. I don't want to say yes to something and then have it end up another pig sty like we have now.

Mayor Chiovero – That is why we have the public hearing so we can bring concerns like yours to the front and see if there are any issues that need to be addressed. We are listening to your comments and will be looking into them.

Mr. Schmuki – If I could respond briefly to some of those comments. I would with all due respect, appreciate the fact that these homeowners may have felt as though the current owner has not done whatever it was that they were going to do, but these are different owners. We are purchasing the property. The three entities that I am representing are looking to better that property in terms of its natural attributes, protect the stream bed, protect the natural and conservation values of the property which probably will only heighten the value of your property long term. That is their goal and I just want the Commission to know that part of that process, however, was to include their ability to at least land spread some of this weed harvest. Dr. Thorton has pointed out that it a pretty benign process. There are some good questions here, but I think we can work through that with the City and with the neighbors. We are willing to do that. Obviously, staff has already looked at this and already imposed certain conditions that have to met and my clients are more than happy to make every effort to do that.

Ms. Kau – What is this going to be zoned as?

Ms. Bennett – This is zoned Agriculture. They are not proposing to change the zoning.

Ms. Kau – Can we move the driveway a little further away because there are little kids that run all over the place over there. The other thing I would have with that is the trucks. You are looking at a lot of trucks going through that area. That is a park. Calhoun Road and Beloit Road are huge traffic hazards for these kids. If you are going to do something like this, get that bike trail in there ASAP. I already have three kids that have been hit by cars. There is no way you can ride on the side of any of these roads. It's bad enough and now with all these trucks. Your goofy ten ton limit is useless. Ambulances are not cool, so I would like the truck issue addressed.

Mayor Chiovero – It sounds like when they picked the location for the driveway, they picked for the safest spot where the drive could see both north and south. Location of the driveway can be further discussed.

Al Salentine - If they turn this into part of the park and maintain it, how much is it going to cost the City of New Berlin to take this on and what implications does it have to the recent budget discussions to had?

Mayor Chiovero – It is private property. The City of New Berlin would not be paying anything on top of this property.

Mr. Salentine – Would the whole 42 acres remain a taxable parcel?

Mayor Chiovatero – Yes.

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

Mayor Chiovatero asked if there anyone wishing to speak in favor of this application?

Joe Russ, 16800 W. Shadow Drive – I have lived in this area all of my 43 years. I bicycled on these roads when I was a kid and I still do. I bicycle to Idle Isle and see them harvest this material. I have been down there on a Sunday next to the equipment that still has weeds draped on it and I didn't smell any odor. I would be more worried about what is coming out of the Industrial Park into that retention pond before I would be concerned about ground water contamination from weeds. I'm sure that retention pond has a whole lot more in it then we care to think about. Some may not be happy with this plan. The worst case, I can see the Industrial Park moving further west which would create another whole set of problems. This is also to protect the water shed, Little Muskego Lake. Six years I was fighting Wildwood Preserve where Trees On The Move is located. I brought up storm water retention. It is nice to see that someone is finally starting to realize that the water shed in Little Muskego Lake does start in New Berlin and this is part of it. Their might be a lot of moisture content but it is going to be out in bright sunlight and a lot of it is going to evaporate very quickly. My concern is the driveway location. I would like to see it off Beloit Road. It would be behind a commercial building. As far as more trucks, this truck will probably we well under the ten ton limit. It is more like an expanded pick-up truck, it is not like a semi or dump truck. Some of us will be seeing that when they start expanding BuySeasons. With a few minor tweaks, I would be in favor of this.

Don Ruediger, 16980 W. Beloit Road – I have lived here for 56 years and I know this stretch of land because I worked with the farmer that used to own all of that land and the apple orchard. The land at that time rarely perked. The farmhouse and the house that is next to Calhoun Park were the only houses that were there. Then the newer homes came in and they found out that none of the land perked. If you want to talk about traffic. You have semi trucks on Calhoun Road way over the limit of ten ton, and then you say that one little truck coming in there is going to endanger children playing soccer in the park. What about all those big semis coming down that road. Nobody stops them. I don't think one little truck coming down the road with compost is going to make any difference. If compost is put in piles and spread out, it does not smell. Look at the compost pile right at City Hall. That has everything in it and does not smell. Seaweed does not smell like they said. It is 90% water. The water and the sun decomposes that without any odor.

Mayor Chiovatero asked three times for further comments in favor of this application, seeing none.

Mayor Chiovero asked for comment in opposition of this application.

Al Salentine – I would like to speak for the Salentine property on the northwest corner in opposition for the potential long term smell, odor, that could be generated, and also the potential for long term contamination that may arise from this. This is Muskego's waste, why not keep it in Muskego.

Dave Arndt, 5180 S. Calhoun Road – I strongly oppose for the reasons mentioned by the previous gentleman. It is Muskego's waste. I know about the run off from New Berlin into Little Muskego Lake. The previous gentleman said nothing ever perked. It has always been wet. You are just bringing in more water then was ever there. If we do have a wet rainy season in the spring, how quickly is that going to decompose. It is not going to be quick. It is not going to crust over, they will keep dumping on it, it will take twice as long. I strongly oppose.

Jodi Arndt, 5180 S. Calhoun Road – I also strongly oppose because of everything everybody else has said. I also worry about the trucks. We already worry about Beloit Road. Now I have to worry about to the south of my property. There would be great visibility anywhere there. There are no trees on that whole section. There is no reason for it to be right on top of me.

Sandy Heida, 5280 S. Calhoun Road – I also strongly oppose.

Cindi Wright Kau, 5160 S. Calhoun Road – I oppose them putting it up there. They have plenty on the other side that they don't have to do it right up by our properties. We really don't need to smell that because we would like to sit outside on weekends. Not to mention sitting there and seeing it all coming in and going into our basement and water supply. I would love to believe that it ain't going to affect us, but seriously I grew up across the street that was supposed to be like that and it didn't end up like that. I don't want to see my kids going through that.

Mayor Chiovero asked three times for further comments in opposition of this application, seeing none.

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

Alderman Ament – We had a neighborhood meeting. Fay along with myself and Alderman Harenda were there. We heard some of these comments but not to this degree. I was fully prepared to approve this. My concern is about the questions that were asked were not answered. I would like to hear a little more detail about the run off, how much is actually going to be expected percentage wise to be absorbed vs. how much is going to evaporate. I would have liked to hear a little bit more about the drive, whether it could be moved five, ten, twenty feet or what ever. I don't live there, but I don't know how I cannot take into consideration the concerns of the people that were there when I was not satisfied with the answers that I heard. Hopefully, I will hear some better answers from the experts. When we get to talking about approving this, I would like to see some subject to's similar to what we had on Martin Road on March 1, 2002. One of the

conditions was that the approval be on a temporary basis for one year. The applicant could reapply for composting on the site on a permanent basis after that first year. I would like to see some kind of time limit on the initial approval, assuming it got approved. The other subject to is unresolved complaints due to odor may cause the Plan Commission to revoke temporary approval. I would like to see that in there as well. Based on the minutes of the Plan Commission meeting in 2004, there must have been similar concerns. I would like to see them addressed in the conditions. I don't know if the well testing can be a condition based on this. I would have liked to have more information from the DNR. Perhaps the gentleman from SEWRPC can address that. I see in the packet they provided the contour of the land for Little Muskego Lake. I would have liked to have seen that on this parcel so we could have seen what is there and how the run-off will affect it. I am a disappointed we didn't hear more of this at the neighborhood meeting.

Mr. Christel – Is there a possibility, if it was mandated, to move that driveway a good number of feet further south? As I look at that property, I don't see anything that would prevent you from bringing that a long way south to get it away from the neighbors.

Ms. Amerson – I agree, we could move the road. The reason is we wanted to get access back into here. (Ms. Amerson referred to the map). This is a volunteer organization that gets money from donations so a straight line is the cheapest way to do it. It certainly could be moved, but we would have more road.

Mr. Christel – It seems to me if you moved the area for actually placing the compost further to the east, it would insure drainage back to the creek and eliminate any possibility of drainage back to the neighbors who are here tonight speaking out.

Ms. Amerson – I wanted to keep it all on this parcel, but the lake community is purchasing both parcels, we could come back here further. (Ms. Amerson referred to the map). It is the cost of the additional length of road. We try to keep the expense down.

Mr. Christel – Without seeing a topography map, I don't know where “here” is but I just want to be sure the drainage would go to the east. I want to eliminate the concerns that I have heard regarding drainage back into their basement from whatever water may be there. I am in favor of putting this land into this conservancy because it would be a wonderful thing for the City and the environment, however we do have neighbors with concerns. We have an opportunity here to do the right thing to allow you to go ahead with putting this property into safe haven. We can allow and find ways to do the Conditional Use to get that compost dumped in an area that doesn't affect the neighbors. If it is the cost of another two truck loads of gravel, I think we have to do that. If we get to the level tonight of creating stipulations or additional requirements, I will be very strongly suggesting that we have those as conditions for approval if we act on it this evening.

Ms. Groeschel – I have concerns about acting on this tonight because of the concerns brought up by the residents. Also, the fact that we are talking about moving it. One of the things you mentioned earlier is that there is invasive species in the material that is

going to be dumped. I don't necessarily want to move it closer to the stream that goes through the parcel either. I think there are things that need to be discussed further with the grading plan. I think it is naïve to think that a volunteer organization will be able to spread the compost by hand through a 40 acre site. There is a detailed plan of use for how the reclamation of Muskego Lake happens, but I would like to see a more detailed plan of how you are going to reclaim this property as well. It sounds like there was a tenant in place to have a tree farm. I don't know if there is an intent to keep a tenant there. I'd like to see what the intent is after it is dumped. We know seven trucks a day, but is it spread every week? I'd like to see a plan for that. I would be in favor of spending another month getting a grading plan and more of the information I mentioned. I think there are a lot of logical arguments about the smells vs. what else this land could possibly be used for. It is zoned Agricultural. If the owner wanted to sell it to continue with agriculture, would there be just as much concern about smells from manure being placed on the land, or as many people mentioned it is right next to an Industrial Park and it is quite possible that the Industrial Park could be extended. I think there are a lot of benefits for the residents to keeping as a natural preserve. This is a good thing that the Muskego Lake District is trying to keep this as nature, but I think it needs to be planned a little bit more.

Mr. Felda – Obviously, the concern is the driveway and the safety issue. I don't see any reason why that couldn't be moved. The year to year operation should definitely be looked at on a temporary use permit. Is it always going to be seven loads a day or will it be more? From past history, are there days you won't be delivering any weeds at all?

Mr. Lefebure – We have one truck that would make approximately seven trips a day, not more. If you have seen the big week harvesters out on the lake, two harvester loads is one truck load. The piles might be this high wet and in a matter of days or week it goes down as it dries out. We certainly would look at moving the driveway to the south. Where ever the crest is of the land, we could put the weeds back more so they drain back toward the creek. The whole idea is that it is lake water coming with the weeds. By invasive species, we mean the weeds. The reason for the attraction of this land in New Berlin is because of the creek. We would like to protect what goes into the lake. We are concerned about it. We are talking about weeds coming out of our lake that are mostly water and the water going back in. As someone had mentioned, the alternative is another industrial park, and we don't want that because that would mean more oil and anti-freeze going into the creek and therefore into the lake. We all have the same objective here as far as protecting land. Since we can't build on it or do anything, the DNR is a partner in this, we said what about a riding or walking path that we would put in. That is where we were working with your Park & Rec Department.

Mr. Thorton – Staff had invited us to attend the meeting this evening, not necessarily to speak for or against the proposal but to provide information to the Commissioners in response to some of the issues that have been raised. I think there are two points that I would like to speak to. Firstly, the level of contamination that is perhaps present in these plants. To that regard, the plants are primarily comprised of water and they have amounts of nitrogen and phosphorus which are the two growth nutrients that cause plant growth to occur. There are a number of other micronutrients, small amounts of iron,

magnesium, calcium that go into the composition of these plants. Upon death, the first thing that happens to these cells, is the cells tend to rupture and the liquid is released. Together with the liquid goes most of the nutrients. Those will be available to terrestrial plants for growth, and what is left of the aquatic plant is a bit of cellulose that will eventually dry out and add to the organic material that we need in our soil in order to support terrestrial plant growth. The likelihood of large amounts of water being transported is very small. We are primarily talking about what we would call moisture. Very rarely would we see any liquid water running off of these disposed plants. Typically any moisture in the plants would either evaporate or kept at the soil surface. The moisture that is there is primarily the moisture that is provided by rainfall onto the land surface. The plants minimize the amount of evaporative loss from the soil surface that we would be receiving. They are effectively a moisture barrier that would keep moisture at the soil surface and available to the root systems of terrestrial plants. Any contaminants that are in there would not be of a nature that would threaten human or livestock or the health of pets. There would not be any toxins associated with this particular plant material. Composting these plants is something that is recommended not only by our agency when we produce the aquatic plant management plans for communities that request that service from us, but also by University of Wisconsin Extension and by the Wisconsin Department of Natural Resources. From that perspective, the application being made by the Little Muskego District is wholly consistent with all of the recommendations by these various agencies and certainly something that has not created issues in other communities.

The issue of smell is one that has come up frequently when we talk about using aquatic plants for composting. I have had only one complaint in 20 years, and that was a couple that used the plants to compost around the plant beds outside their bedroom window. They said in the absence of air conditioning, we don't recommend you putting these plants under your bedroom window because there can be just a bit of an odor. That is the only issue that I have ever come across. The couple in question has used those plants extensively in subsequent years in their vegetable gardens and flower beds and there has been no issues subsequently. From the point of view of being consistent with our recommendations as an agency, this is wholly consistent with that. It is consistent with maintaining this area as open space. In terms of reclaiming former agricultural land and enriching it with this organic material, that would be wholly consistent. Thank you for your attention.

Ms. Broge – Most of the question have been asked. Certainly the driveway would be an issue. I think there is some agreement that the driveway can be moved. I think from the homeowner's perspective, looking at that as a buffer for the industrial park is an advantage for you. Would you rather have an industrial park in your back yard or open land? I think open land would be best as long as your issues are addressed. Will this be taxable property if it is owned by the DNR?

Mr. Schmuki – It is not owned by the DNR. They are providing a grant to assist in the acquisition of the property by this private group.

Ms. Broge – I think it can be a win-win for all parties as long as the resident's issues are

addressed and it sounds like they will be.

Alderman Ament – I heard the group’s representative say that there is no other materials in there and it says on the application on Page 10 that harvesters operators are trained to return captured fish, turtles, and other aquatic species to the lake with the exception is zebra mussels and invasive aquatic species which cling to the plant material and found attached to harvested plant fragments. What do they do? Would they die when they are out of the water or are they something that could creep around and cause problems in Calhoun Park lagoon or anything?

Mr. Thorton – The zebra mussels are fairly immobile and when they reach the stage of being mussels, they look like tiny clams. They are about ¼” to ½” in size and they would die when they are out of water for a sufficiently long time, typically about 72 hours. The mussels would not create a significant impact based on the experience we have had in other communities.

Alderman Ament – Even if this is moved to the ease, it is not likely to be an issue?

Mr. Thorton – It is not likely to be an issue. Once the zebra mussels are removed from the water don’t have a capacity to be mobile on the land surface. They would just compost with the rest of the plant material. It would add magnesium carbonate and calcium to the mix. The risk of doing anything other than being a positive soil amendment would be null.

Mr. Wick – I would also like the driveway issue addressed. As someone who owns a house who’s sump pump runs constantly as well, I would not want to make that worse by doing this, so we should have a look at the topography and how the plant material and water would affect that. I understand the creek bed runs back into Little Muskego Lake, so anything that ends up in the creek, ends up in the lake. It would be fool hardy to truck something up there that is going to come back and contaminating the lake. I would trust that you have taken a real close look as well.

Ms. Broge – Is there any ongoing soil sampling that takes place at these composting sites by the DNR?

Mr. Thorton – No.

Alderman Ament – Does the area include the area to the east?

Ms. Bennett – There are two separate parcels. The one acre that they applied is just this parcel. They are purchasing both parcels. This is the outline of it. (Ms. Bennett referred to the map).

Alderman Ament – The parcel to the east would be restored back to native vegetation?

Ms. Bennett – There is a bit of information in the Plan of Operation but the focus was on the one acre.

Mr. Wick – You had mentioned that this was previously looked at at another site and they had a term that they had to fulfill before they were granted full use. Was there any feedback at that time from that site? I would assume they went through the trial period, didn't have any complaints, and were granted full use.

Ms. Bennett – They applied for a temporary use permit back in 2004. It was not a Conditional Use like this evening. One of the conditions was if it became permanent use, a Conditional Use would be necessary. That is why they have asked for one tonight for this site. I am not aware of any complaints.

Mayor Chiovero – Moving the driveway and having a look at the topography to minimize the drainage would greatly help to satisfy both the neighbors and the Lake District.

Mayor Chiovero asked for further comments from the Plan Commission, seeing none.

Mayor Chiovero closed the public hearing at 7:55 P.M.

PUBLIC HEARING

6:02 P.M. (4)JT CU-10-08 Countryside Stable - 17455 W. Small Rd - Riding Stable/Increase Number of Horses.

**NEW BERLIN PLAN COMMISSION
DECEMBER 6, 2010
MINUTES**

The public hearing relative to the request by Jeff Marohl, c/o Countryside Stable for a Conditional Use for a riding stable and to increase the number of horses at 17455 W. Small Road was called to order by Mayor Chiovatero at 7:55 P.M.

In attendance were Mayor Chiovatero, Mr. Wick, Mr. Christel, Alderman Ament, Ms. Broge, Mr. Felda, and Ms. Groeschel. Also present were Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; Tammy Simonson, Transportation Engineer, 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 for questions or comments for the purpose of clarification.

Howard Schneider, Muskego – What do they do with all the manure? Do they control it so it doesn't wash into Little Muskego Lake?

Mayor Chiovatero – They currently have a stable there so I am sure they already have a way of disposing of the manure.

Jeff Marohl, applicant – I live on College Avenue about two blocks east of this property. The horse manure is spread next to my property over on 165th & College Avenue. We have 67 acres of farmland there.

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

Mayor Chiovatero asked if there was anyone wishing to speak in favor of this application?

Joe Russ, 16800 W. Shadow Drive – I bicycle past here everyday and I don't see any trouble with smell or traffic out of there. I think this is great. It helps preserve this side of New Berlin as rural, farmland, and recreational use. It is a good use for this land and I support it.

Dann O'Connell, 17000 W. College Avenue – They tell me the economy is bad, it sounds like their business is booming. God Bless them! I am in favor of this application.

Mr. Marohl – As the applicant, we are in favor of it also. We are not really booming, we are doing this so that we can survive. Across the street is a competitor, but in Muskego they have a 22-1/3 acre sister property, and they have between 45-65 horses. It is managed well and they don't seem to have any problems.

Mayor Chiovero asked three 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, seeing none.

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

Mayor Chiovero closed the public hearing at 8:05 P.M.

**NEW BERLIN PLAN COMMISSION
DECEMBER 6, 2010
MINUTES**

The Plan Commission Meeting was called to order by Mayor Chiovaturo at 8:07 P.M.

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

Motion by Alderman Ament to approve the Plan Commission Minutes from November 10, 2010. Seconded by Ms. Broge. Motion passes with Mr. Wick voting present.

PLAN COMMISSION SECRETARY'S REPORT - None

NEW BUSINESS

1. (4)AB CU-10-07 Little Muskego Lake Protection & Rehabilitation District - 5230 S Calhoun Rd. - Disposal of Harvested Plant Matter for Composting Nursery Stock.

Motion by Mr. Christel to approve the Conditional Use Permit Request for Disposal and Composting of Harvested Aquatic Invasive Plants on the property located at 5230 S. Calhoun Road subject to the application, plans on file and the following conditions:

- 1) One acre of the property (tax key#1259997003 and #1259998) shall be used for the disposal of harvested plant matter.
- 2) The harvesting season operates May 15 to September 15, Monday thru Friday, 8AM to 6PM and Saturday 8AM to 12PM.
- 3) Harvested plant material is transported to the disposal site using a small single-axel truck, fitted with a water-tight box. Approximately 7 truck-loads are anticipated per day.
- 4) Driveway shall exit out onto Calhoun Road and be located a minimum of 5' from side lot lines. For Agricultural zoning, the minimum driveway width is 12'.
- 5) Per Zoning Code Section 275.55.(2), "Everyone who erects, alters, or moves a building or proposes to alter existing topography shall submit a grading plan to the Director for review and approval." See the same chapter for plan requirements.
- 6) An erosion and sediment control plan shall be prepared and submitted to the City of New Berlin.
- 7) Upon Plan Commission approval, the property owner will need to pull a Culvert Permit and follow the information packet for installation. Cost of this permit is \$150.

- 8) Driveway moved as far to the south as possible, no further then midpoint between neighboring homes.
- 9) Placement of composting be to the eastern point over the crest to allow drainage to go to the east.
- 10) Review after one year. If there are no unresolved issues, Conditional Use may become permanent.

Seconded by Alderman Ament. Motion carried unanimously.

2. (5)AB UA-10-58 Verizon Wireless – 12660 W. Beloit Rd. – Add antennas and new building.

Motion by Mr. Christel to approve the request for Use, Site and Architecture for a co-location of a wireless telecommunication facility and related ground equipment located at 12660 W. Beloit Road subject to the application, plans on file and following conditions:

- 1) Architecture Review Committee (ARC) shall review and approve equipment structure.
- 2) Apply and obtain appropriate building and electric permits.
- 3) Plans for array shall be stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31)
- 4) Plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per (Comm. 61.70)
- 5) Plans and design shall comply with the Wisconsin Enrolled Commercial Building Code Section 3108.

Seconded by Mr. Felda. Motion carried unanimously.

3. (2)NJ RZ-10-11 Applewood II – 2860 S. Moorland Rd. - Rezone from R-5 to R-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 2860 S. Moorland Road (2879 S. Acredale Road) from R-5 to R-5 and C-2.

Seconded by Ms. Broge. Motion carried unanimously.

4. (7)AB LD-10-15 Derek Boyce - 16445 W. Observatory - Two-Lot Land Division – Ne ¼ Sec. 21.

Motion by Christel to recommend to Commrion Council approval of the 2-lot Certified Survey Map for the property located at approximately 17445 W. Observatory Road 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) Payment of \$1,937.60 for Lot #2 in Public Site & Open Space fees is required before the City shall sign the CSM.
 - 3) Development Code Chapter 235-23.K states, "Permanent dead-end streets shall be prohibited." As is the case with the current Horizon Drive. Therefore, either a Cul-du-sac would need to be constructed on proposed Lot #2 or at the existing termini of Horizon Dr. Both options would require a dedication of ROW. To dedicate land from proposed Lot 2 would drop the lot acreage below the required 5.0 Acres. To build the Cul-du-sac at the existing termini would require land be purchased from the residents located at 17330 and 17331 Horizon Dr.
 - 4) Permanent driveway location for Lot #1, shall fall either within the ROW extend of Elm Drive or Johns Drive, or be located roughly at the halfway point of the two public road intersections. Show access restrictions on the CSM. Applicant shall receive a driveway permit from Engineering Services at the time of permanent driveway construction.
 - 5) A 30' drainage easement shall be required along the new East/West property line from the terminus of Horizon Drive to the creek. Applicant shall show the location on the CSM.
 - 6) At the time of building permit, a drainage swale shall be constructed by the property owner, within the 30' drainage easement, to provide drainage from the terminus of Horizon Drive to the creek.
 - 7) Applicant shall coordinate with City staff to execute and record a conservation easement over the entire C-1 area to encompass the Secondary Environmental Corridor and the wetland area. This will further strengthen the development requirement guidelines outlined in Section 275-37.B(3). No buildings are allowed in the conservation easement area.
 - 8) All easements shall be shown on the face of the CSM.
 - 9) A plan to provide storm water conveyance from Lot #2 to Observatory Road shall be submitted and approved by City Staff prior to issuance of the building permit.

Seconded by Ms. Groeschel.

Motion by Alderman Ament to table the request for a 2-lot Certified Survey Map for the property located at approximately 17445 W. Observatory Road to allow applicant and staff to resolve the issue of snow storage on Horizon Road.

Seconded by Mr. Felda. Motion carried unanimously.

5. (2)NJ LD-10-16 Applewood II - 2860 S. Moorland Rd. - One-Lot Land Division - Nw 1/4 Sec. 11.

Motion by Alderman Ament to recommend approval of the one (1) lot Certified Survey Map for the property located at approximately 2860 S. Moorland Road (2879 S. Acredale Road) subject to the application, plans on file and the following conditions:

- 1) Plan Commission and Common Council will need to act on the Rezoning (File #: RZ-10-11) prior to the City signing the CSM.
- 2) Applicant shall correct all drafting errors and requested changes identified by Staff on the final CSM prior to the City signing. Please see attached letter outlining each issue. All easements shall be corrected and part of the final CSM package.
- 3) Final signed and recorded copy of the “Grant of Easement” between Olson Investments, LLP and Applwood Real Estate Partnership, LLP shall be on file with the City prior to the City signing the CSM or issuing the Conditional Use Permit.
- 4) Applicant shall provide a recorded copy of a Hold Harmless Agreement with the City of New Berlin for the 25’ easement area since there are public utilities within this area.
- 5) 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.
- 6) Ultimate right-of-way for Acredale Road is 66 feet (33-feet on each side of the centerline). Existing right-of-way is 60 feet, with the existing property line going to the center of the road. The developer shall dedicate the easterly 33 feet (not 30-feet or 3-feet additional) along Acredale Road to the City of New Berlin for public right-of-way purposes.
- 7) A letter from Waukesha County approving the plan of proposed improvements within the County ROW shall be on file with the City of New Berlin prior to any permits being issued by the City.

Seconded by Ms. Broge. Motion carried unanimously.

6. (2)JT SG-10-42 Paws & Purrs Pet Grooming – 15136 W. National Avenue – Wall and Monument Sign.

Motion by Alderman Ament to approve the request, along with Waiver Requests #1 and #2, for a sign face change to an existing legal non-conforming monument sign and the installation of a new panel wall sign located at 15136 W. National Avenue subject to the application, plans on file and the following reasons:

WAIVER REQUEST #1: Applicant is requesting a waiver from Section 275-61.E(1) which states that any alteration to a legal nonconforming sign, including changing the sign face, requires that the sign shall be brought into compliance with the current zoning code. The applicant is proposing to add their name to the existing non-conforming ground sign.

WAIVER REQUEST #2: Applicant is requesting a waiver from Section 275-61.I(1)(a) and 275-61.I(2)(c) which states that individual channel lettering is required and that box signs/cabinet signs are prohibited. Applicant is proposing a new panel sign that will match the existing panel sign.

- 1) The applicant is proposing a partial face change of an existing monument sign. The applicant will add “Paws and Purrs Pet Grooming” to the sign.
- 2) The existing ground sign is nonconforming because monument signs, with a minimum 18” base, are required along National Avenue.
- 3) The applicant is also proposing to install a new panel sign above their tenant space. the other tenant in the building has an existing panel sign. The proposed sign will complement the existing sign. Placing channel letters on the building next to the panel sign would look out-of-place.
- 4) Since the ground sign is legal non-conforming and the sign is not being brought into compliance with the existing code and the applicant is not proposing channel lettering for the wall sign, Staff cannot administratively grant approval of the face change.
- 5) 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. Christel. Motion carried unanimously.

7. (7)JT SG-10-39 Evans Chiropractic – 15720 W. National Avenue – Wall and Monument Sign.

Motion by Mr. Felda to approve the request, along with Waiver Requests #1 and #2, for two panel wall signs and new monument sign within the right-of-way located at 15720 W. National Avenue subject to the application, plans on file, the following reasons and Conditions #4, #5 & #6:

WAIVER REQUEST #1: Applicant is requesting a waiver from Section 275-61.E(4)(b) which states that signs are not allowed within the right-of-way. The applicant is proposing a new monument sign within the frontage road right-of-way.

WAIVER REQUEST #2: Applicant is requesting a waiver from Section 275-61.I(1)(a) and 275-61.I(2)(c) which states that individual channel lettering is required and that box signs/cabinet signs are prohibited. Applicant is proposing two new panel wall signs that will match the signage on the adjacent building.

- 1) The applicant is proposing to install two new panel wall signs. These signs are similar to the existing signs on the adjacent building with similar architecture. The signs will complement the building.
- 2) The applicant is also proposing to install a new monument sign within the right-of-way of the frontage road. The Zoning Code requires monument signs along National Avenue. The frontage road and the right-of-way associated with it make it difficult to find a place for the monument sign.
- 3) The Plan Commission has the authority to grant this waiver pursuant to Section 275-52(C), which states “The Plan Commission may waive or modify any or all of the other requirements of this article if it determines that:
 - a) The site or activity in question will have no appreciable off-site impact;
 - b) Compliance with the requirement(s) is impractical or impossible due to site conditions or other circumstances beyond the control of the applicant; or
 - c) The specific requirement is not necessary for a particular site to ensure compliance with the requirement of this chapter.”
- 4) A Hold Harmless Agreement shall be required and recorded with Waukesha County Register of Deeds for the monument sign.
- 5) Monument sign shall not interfere with site distances at the intersection. Applicant shall work with the Transportation Engineer to determine final location.
- 6) Apply for and obtain any necessary electrical permits.

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

8. ()NJ PG-830(15), PG-516(f), PG-374 – Plan Commission review and recommendation to extend 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.

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 (~May 5, 2011).

Seconded by Mr. Christel. Motion carried unanimously.

9. (4)JT CU-10-08 Countryside Stable - 17455 W. Small Rd - Riding Stable/Increase Number of Horses.

Motion by Alderman Ament to approve the Conditional Use Permit for an indoor riding arena and 10 additional horses located at 17455 W. Small Road subject to the application, plans on file, informational letters submitted by the applicant and the following conditions:

- 1) Planning:
 - a) Plan of Operation:
 - i. Applicant shall adhere to the submitted plan of operation.
 - ii. Applicant is proposing to construct a new 10,080 sq. ft. indoor riding arena at Countryside Stables. The applicant is also approved to add 10 additional horses to the maximum capacity allowed for this site. Total number of large animals (horses) shall not exceed 32.
 - b) Applicant shall apply for and receive appropriate permits if additional parking area is added in the future.
 - c) If the property to the east (Tax Key: 1284-987001) that is owned by the applicant is ever sold or reduced in size, the maximum number of animals allowed shall be adjusted accordingly. Section 275-41A(2)(f)[1] of the Zoning code allows acreage on adjacent land, under the same ownership, to be used to calculate the maximum number of animals allowed.
- 2) Stormwater/Engineering:
 - a) Applicant shall identify if there are downspouts on the roof. If there are downspouts, Applicant shall keep all discharge locations a minimum of 10 feet from the property line and dispersed. Applicant shall provide planting/bioretenion area to allow roof runoff to be infiltrated.
 - b) Applicant shall provide a shallow swale to convey runoff around the new building so as to not block drainage.
 - c) Grading along property lines shall be a minimum of 5' from the property line. Per Developer Handbook Section 3.VIII.B.2: A "no-touch zone" shall be created with final grades established within 5 feet of side and rear lot lines. The "no-touch zone" shall be adhered to throughout the building construction and landscaping process.
 - d) Applicant shall provide a more complete and detailed grading plan for the lot. Drainage plan shall include one-foot contours and spot grades. The grading plan is needed to show how drainage is affected.
- 3) 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) Waukesha County Environmental Health approval required prior to permit issuance.
- 4) Fire:
- a) Building shall be sprinklered if heated. Applicant has submitted a letter to the Fire Department stating this acknowledgement.
 - b) Only basic electrical (lighting and power) allowed.

Seconded by Mr. Wick. Motion carried unanimously.

COMMUNICATIONS

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

Plan Commissioners acknowledged receipt of this communication.

ADJOURN

Motion by Mr. Christel to adjourn the Plan Commission Meeting at 9:19 P.M. Seconded by Mr. Felda. Motion carried unanimously.