

Minutes

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

JUNE 10, 2002

PUBLIC HEARINGS

6:00 P. M. PG-293 - Bike and Pedestrian Facilities Plan Revision

The public hearing relative to the Bike and Pedestrian Facilities Plan Revision was called to order by Mayor Wysocki at 6:40 P.M.

In attendance was Mayor Wysocki, Mr. Barnes, Mr. Teclaw, Alderman Ament, Mr. Felda, and Mr. Graber. Also present was Mark C. Lake, Director of Planning, Greg Kessler, Director of Community Development, and David Haines, Associate Planner/Mapping Coordinator. Excused was Mr. Gihring.

Mr. Lake read the public hearing notice and stated there was proof of publication.

Mr. Haines stated this is an amendment to the Bike and Pedestrian Facilities Plan which was adopted in November, 1999. The purpose of the Plan is to provide for a safe, convenient, and pleasant alternative mode of transportation for bicycle and pedestrians within the City of New Berlin. Mr. Haines referred to the Park and Recreation survey that was done in 2000 as part of the Park and Recreation Plan Update. Some of the questions had to do with bicycle and walking paths. 61% responded that buying land was important for bicycle and pedestrian systems. 77% responded that there is a need to add to the bike trail system. 75% stated there was a need for hiking or jogging trails. 69% said that construction of these paths should be pursued. 74% preferred paths should follow environmental corridors. 70% preferred paths that were off-road and paved. 66% said they liked all styles. 63% preferred paved shoulders along roadways, and 39% preferred concrete sidewalks along streets. 72% thought the paths should connect neighborhood and community parks. 67% said they should connect to the County recreational trail. 61% thought they should connect to schools and the Library, and 54% thought they should connect to senior living areas.

Mr. Haines pointed out several off-road, shoulder, and side path facilities from the map. One of the things that we did when we wanted to look at the amendments was to expand the list of crossings that were identified in the Plan. Whenever a path crosses an arterial, that should be a crossing (something as simple as a sign that says "crossing", there might be actual markings on the pavement, it might be a signalized crossing, or flashing beacons). The type of crossing will be determined by the Engineering Staff based on the amount of traffic and other Engineering concerns.

Mr. Haines stated that when he talks about arterials, one of the ideas in the Plan is that side paths and bike lanes should be built whenever a road is reconstructed. There is no list of arterials that were designated in the Plan. Mr. Haines referred to the list and which ones should be considered. This will be up to Staff, based on public input when a road is reconstructed, and Engineering standards and what system is best.

As far as other revisions, the Plan identified paths going to the old Elmwood School. Since this school is moving, we wanted to identify paths that would lead to the new Elmwood School. There was a proposal for a pathway along Deer Creek through the Business Park.

The implementation schedule was changed. Mr. Haines stated we wanted to link to existing facilities. Cost was looked at and when development would be likely to happen. The naming of the segments were also changed to make more sense. Land acquisition and design costs were also included. There was a proposal for a pathway

along Deer Creek through the Business Park.

Mr. Haines presented the map to the Commissioners and explained where all the types of trails were located. He went into what types of functions the trails would serve. There is one regional trail and City trails that would be used for longer bike trips or would be used for jogging for a longer period of time. The neighborhood trails are for more short-distant trips and would be on-road facilities. The neighborhood links would be trails going from neighborhood to neighborhood. There would also be trails in parks, not necessarily part of the recreational trail system.

The implementation schedule was presented to the Commissioners. Mr. Haines explained the different colors designate the years. The purple on the schedule says 2008, but should say 2008 or when the area is developed. Mr. Haines stated this plan would be implemented when a development comes through and a trail is designated on that property; we would either require the developer to build the trail, or we would require the developer to give the City the land to do that through an easement. The rest of the trails would correspond with either the road CIP plan or based on trying to get a system of trails together in a reasonable orderly pattern without going over the CIP funds.

Mayor Wysocki questioned how long the public has had access to this Pedestrian Facility Plan other than the minor revisions since February? Mr. Haines responded, the plan presented this evening has been on the WEB for about one week. The Transportation Sub-Committee did a final review on May 29, 2002, with a few changes made.

Mayor Wysocki asked if there was anyone present with any questions for purposes of clarification either in favor of or opposed to?

Paul Stieff - 19985 W. National Ave. – Mr. Stieff looked at the drafts early on, but did not look at the final draft and stated he would appreciate an additional public hearing on this. He wondered if there was a calculation of what percentages would be asphalt or concrete and what percentage would be crushed limestone or gravel. Mr. Haines stated he does not have that calculation and there is no percentage because the surfaces have not been determined as of yet. This would be determined when the facility is designed. The surface would be based on cost and the location.

Mayor Wysocki asked if there was anyone else with any questions for purposes of clarification either in favor of or opposed to?

Mary Heibold – 20160 W. National Ave. – She stated it was unclear to her where the wooded areas would be and where the trails would go through. She wondered if there was a calculation on that? Mr. Haines responded there was no calculation on that and stated as far as where trails would go through wooded areas, any removal of trees would be minimized as much as possible. Ms. Heibold asked how wide the trails would be? Mr. Haines stated it varies on the function and location, but most of them would be 8-10'. Some may be as small as 6' wide or as large as 12' wide. Ms. Heibold asked what a standard is for the width of a bike trail and wondered if we are meeting or exceeding the standard? Mr. Haines responded there are established standards that would be followed. Ms. Heibold questioned if we took advantage of the existing roads that the City has whether there could be a white line on existing City roads for bike paths. Mr. Haines stated they would be, and pointed out the paths on the map that would do so. Ms. Heibold asked if there would be additional expense to do trails on existing roads? Mr. Haines responded, most of the time the shoulders would be wide enough to accommodate a bike lane.

Mayor Wysocki asked if there was anyone else with any questions for purposes of clarification either in favor of or opposed to?

Alderman Ament stated people had asked about snow removal and other maintenance? Are there provisions for cleanup?

Mr. Haines responded, some of the off-road trails (the more natural setting) would typically be done, I would imagine, by Park & Rec. He thought the trails that would tend to look more like sidewalks; and the neighbors would clean up and take care of those.

Mayor Wysocki stated his recommendation would be that Park & Rec. would have the responsibility. One of the best examples would be in our current sanctuaries, which have the more barked pathways; we would have to maintain and clean them.

Alderman Ament mentioned the crossings from a safety standpoint, and stated sidewalks or side paths are a lot safer, but the crossings would become a problem, especially on the western side where the speed limits are higher and the roads are longer with more hills. Alderman Ament thought there was an ordinance that stated if there is reconstruction on any major roads or arterials, sidepaths would have to be incorporated. Mr. Haines responded, what the plan currently says is whenever arterials are constructed, off-road side paths have to be considered. This amendment clarifies what the arterials are. There is a question that came up recently wondering if Coldspring was considered an arterial or not. This amendment would help answer those types of questions. The off-road side paths may not necessarily be built, but engineers would have to look at it to see if there would be a need or a desire for the facility. It might be a combination, some sections may want off-road paths or some might be shouldered.

Mr. Kessler stated that Coldspring Rd. is a good example. A neighborhood meeting was held and the Engineering Staff is taking a look at the design issues in relation to how much right of way needs to be acquired, is it cost effective, where does it go, is it a path to nowhere. The neighbors were there and spoke at this meeting.

Alderman Ament stated if some of these are going through on the west side, they could possibly go through on private areas that may have to be purchased. How flexible would this be; is this something that if the trail would be proposed to go through in a certain direction and the landowner does not want to part with that strip of land, what would the actions be? Mr. Haines responded, generally on the western side, the map is showing the general direction where we would want to go. Mr. Haines referred to the Mill Creek Path, and stated he would have no idea where that would go; it would depend on whether landowners would want it there, it may depend on various environmental issues, it would depend on topography, etc., but generally, we would want a path in that area.

Alderman Ament was in appreciation of all the time and effort this took the Commission, but stated he had a lot of questions and problems with the proposal, some of which would concern the different areas, the rural versus the urban area. The problem he would have with side paths is that it is hard to be opposed to them because they sound so nice, but then when you have the parks and have problems with drunks or with gangs that would end up costing the City money, a little reality comes in as to what the overall cost to the community would be.

Mayor Wysocki questioned 1203 under Previous Actions in the Alternative Transportation Sub-Committee Report, that isn't 2004, is it? Mr. Haines stated that should be 2001. Mayor Wysocki also stated that was also referenced in the plan. This should be noticed and flagged.

Mayor Wysocki pointed out that this is an amendment, and it talks about some of the things like changing the title; we will now be making reference to a Bicycle and Pedestrian Facility Plan. Mr. Haines stated the title would be shortened up. Mayor Wysocki stated there is a State Department of Transportation requirement for alternative means of transportation. Incorporated in Smart Growth there is also a component of transportation that the State says you should have some consideration for. Mr. Kessler stated there are nine elements in the Master Plan, and the transportation element is one of them; the DOT is heavily involved in working with all kinds of groups. Mayor Wysocki said that it is not cheap to put these paths in, although it does help when, at the time of platting of a development, we incorporate these

Mr. Lake said that fees are collected whenever a Building Permit comes through and every time a land division gets filed. For every land division that gets filed in the City of New Berlin, \$200.00 gets put into the trail fund.

Every Building Permit that gets filed within the City of New Berlin, and every unit that gets Building Permits, \$142.00, in addition to the \$200.00 in Public Sites and Open Space and Trail Fees gets put into the fund. Essentially, for every Building Permit that comes into the Inspection Dept., \$122.00 gets put into the Bike and Pedestrian Facilities account, and for every land division or unit that is developed within a subdivision or developed within a multi-family building, \$200.00 is put into the Bike and Pedestrian Facilities account. \$50,000 to \$200,000 a year is generated through development for these funds.

Mr. Felda questioned if this money is allowed to be accumulated or used up because there is more of a need than supply. Mr. Lake responded, the money is allowed to be accumulated. There are two different accounts, one is the Trail Account, which is what we would use for site acquisition, and the other one is the Construction Account, which is the Bike and Pedestrian and Facilities Account.

Mr. Barnes stated the Sub-Committee has worked very hard on this Plan. When we met recently and we saw that the Council did not want to go forward with some of these ideas, and that the cost of the paths was expensive, we readjusted our priorities. We have been concentrating on paths that could fall within the accumulated monies that we have. It makes sense; tie routes together to make it safer to go to school from neighborhoods, etc. Mr. Barnes felt this is a very fluid Plan. The Sub-Committee understands that the City is faced with some pretty enormous budget considerations in the next two years. We would like to have something; we do believe there are some paths that merit our attention. Let us continue to do some funding for the ones that make sense.

Mr. Teclaw questioned, can we proceed? The most important segments are the ones that connect neighborhoods that are not going to have significant costs or effect on neighborhood properties. Could we go ahead with these? Mr. Haines responded, we could go ahead with some of them. Some are very easy to do, and some more complicated. We have done more of the simpler ones.

Mr. Teclaw referred to some needing to be revised, stating there still needs to be some final changes that need to come forward. Mr. Haines responded all the tables and charts are in the Plan. This plan is a very specific amendment to the existing Plan. If this Plan is adopted, and someone asks for the plan, they will get the two documents together.

Mr. Teclaw questioned the referral to the funding sources in the Plan. Mr. Haines responded, the funding source is either from a CIP account, the Platting Fees, or regular operating funds. This referral in the Plan is to help to know what funding source the fees come from

Mr. Teclaw felt it might be worthwhile to get direction from the City Attorney. As an example, if a path gets built on someone's land, would the landowner need to shovel that? Also, where is the City's liability going to be if there is an accident on one of the Paths given the fact that it would most likely going to be a City-owned easement. Will these be actual land acquisitions or would they be easements of property owners? Mr. Haines responded, they would be both. The Paths would be maintained by what type of maintenance is required in a reasonable manner, then the City would not be liable. Mr. Teclaw stated one of his greatest concerns would be with the off-road paths with maintenance and acts of vandalism that may occur on a City-owned path through someone else's property. It would be worthwhile to know what kind of verbage should be included. Mr. Teclaw further stated, if a segment was decided to be built and it was part of a linkage, would that get installed, or would this be more like sewer extension, where if it is decided that it is part of the given development, that if there were properties between, if they need to link. This would be a high-level significance as it relates to the cost.

Mr. Haines responded, if there is a development coming in, and they build the path, if the City says it requires a signalized intersection, and there is nothing on the other side of the road yet, he felt he could not imagine asking them to build one half of it. He does not know if it would be fair to build both sides. What could be done, is they just put the money toward the City so when the other side is developed, both can be built. It is going to be on a case-by-case basis.

Mr. Teclaw stated if there were five or ten different property owners that were required to make a usable

connection from a point of development, would the property owners be contacted to ask to help out. Mr. Haines responded they would want to make the developer pay. Mr. Lake cited an example in Section 36 behind High Grove, Karrington Woods, and then over to Kelly Point. Each one of these developments created 25' wide bike and pedestrian easements, and in addition to the easements, gave \$25,000 or so to put in the fund.

Mr. Teclaw referred to notification of property owners whose properties might be encumbered by these extensions. Mr. Teclaw would like to give this some further consideration. He felt what we are adopting would be something like a land use map. We are proposing it on certain individual's properties. Mr. Teclaw would not like to see a situation with disputes with property owners and would like to be proactive. Would the estimated construction costs be true estimates based on what someone would be willing to receive in exchange for a path with the traffic going across their land? Are any of the landowners being inventoried to find out whether these types of projected costs might be acceptable to them to give up their land?

Mr. Haines responded, as far as the construction cost estimates, these are based on various estimates put out by the State. The design estimates are 20% of the construction cost, which is a standard Engineering estimate. As far as the land acquisition cost, Mr. Haines assumed a 20' wide easement, looked at the assessed value of the land of the property it was going across, and from that, figured out the square footage the City would have to buy and how much it would be currently assessed at per square foot, and came up with a value. The numbers are very rough and will change.

Mr. Teclaw felt that out of respect to the people, if landowners knew if these paths were going to be coming across their properties, would they be in favor? This needs to be considered.

Mayor Wysocki asked if there were any other comments?

Public Hearing closed at 8:09 P.M.

PUBLIC HEARINGS

6:01 P.M. PG-516 (2of11) - Economic Development Plan

The public hearing relative to the Economic Development Plan was called to order by Mayor Wysocki at 8:10 P.M.

In attendance was Mayor Wysocki, Mr. Barnes, Mr. Teclaw, Alderman Ament, Mr. Felda, and Mr. Graber. Also present was Mark C. Lake, Director of Planning, Greg Kessler, Director of Community Development, and David Haines, Associate Planner/Mapping Coordinator. Excused was Mr. Gihring.

Mr. Lake read the public hearing notice and stated there was proof of publication.

Mr. Kessler stated there has been about 1-1/2 years of work involved in this revitalization plan. Under Smart Growth this is one of the elements identified to be one of the nine elements of the municipality's Master Plan. As defined by the State, it is a compilation of objectives, policies, and programs to promote the stabilization, retention, or expansion of the economic base and employment opportunities of a local governmental unit. Smart Growth is very specific in what the plan needs to contain. We hired Ruekert & Mielke to participate. The Economic Development Goals are as follows:

Goal 1: Diversify the local economic base by encouraging and facilitating

the retention and expansion of the existing firms in the community

while attracting new manufacturing firms and retail businesses.

Goal 2: Increase employment opportunities for a more diversified workforce, especially in terms of skill levels, and to raise local incomes.

Goal 3: Maintain a local property tax base to ensure efficient services and to protect economic health.

Goal 4: Utilize the GDMP, and current zoning regulations to locate manufacturing firms and retail businesses in appropriate sites.

Goal 5: Seek ways to improve New Berlin's overall quality of life in order to improve the overall economic health of the City.

Goal 6: Improve the image of the business/industrial parks within the City.

Mr. Kessler stated pages 18-23 are the relevant pieces of the Plan. The majority of the Plan is demographic data. The major focus of the Plan is on redevelopment and revitalization of existing commercial and industrial land uses that we have in the City. One of the other activities that has been put in the Plan also encourages the Community Development Authority to oversee some of the redevelopment/revitalization efforts.

One of the other policies was to improve the governing bodies by adequately staffing a separate Economic Development division within the Department of Community Development. We do currently have a planner in the department that does do economic development related activities and participates in the workplace visitation program with the Mayor. Mr. Kessler stated Policy 6 suggests a City-based Economic Development Committee or Commission and dissolves the NBEDC. In general, what you have is a Plan that focuses on redevelopment and revitalization. We took the future Land Use Plan and identified the commercial and industrial spaces and created a chart within the Plan. Based upon that, we identified some goals and policies that we would like to implement. We did hold three workshops; one with the Plan Commission, one with the NBEDC, and the other with FOCUS New Berlin. Out of these workshops these goals and policies were generated. This plan mirrors the GDMP Plan.

Mayor Wysocki questioned if this Plan has been available to the public. Mr. Kessler responded the Plan has been available on the City's Web Site for over a year. The recent amendments that the Commission made were also put on the Web Site.

Mayor Wysocki asked if there was anyone with questions for purposes of clarification either in favor of or opposed to?

Herb Eggie, Bagpipe Ct. – There have been two reports or drafts, both by R & M; one was in July of 2001 and the latest one is May of 2002. Both of the drafts are virtually the same, but with one exception. In both of the drafts, there is a recommendation that the Community Development Authority be a branch or section of the Department of Community Development of the City. The last draft of May of 2002 goes a bit further and states that if it is considered by the authorities, a separate New Berlin Economic Development Corp. can be formed or created possibly; that variation in the latest report is what concerns me and other people. A New Berlin Economic Development Corp. is a quasi governmental authority, and, as such, will have powers of bonding under the law, the power to have eminent domain or condemnation of property, and many other things that it can do, but we do not know what those restrictions are. Before this plan is adopted whereby a new authority is created, we would like some information about those things so that we know what is being proposed. Mr. Eggie would recommend that the observations in both of the plans be adhered

to or considered, and that would be creating an authority within the Department of Community Development, and not to create a separate governmental authority.

There was a newspaper article on June 4, 2002, in which Michael Crowley, President of NBEDC, was quoted. He said that he supports a Community Development Authority which would oversee a variety of projects. These would include land and building purchases, demolition and site clearing, cleaning of contaminated land, railroad track removal, and improvements to electrical service and storm water retention ponds. There are a lot of things that could be done to clean up properties that will benefit the City. Mr. Eggie said there are a lot of generalities which should be cleared up. In this draft there is a weakness of the economic development pointed out, and that is that the lack of sewer west of Calhoun as far as business development is concerned. It's fine to talk about the rehabilitation of the factories, business establishments, improving the landscaping, and improving the general appearance of businesses in the community; it is another thing to talk about re-evaluating every year the possibility of sewer extensions/sewer development. That is a different ball game altogether than to rehabilitate the business area.

Mayor Wysocki stated then we need to look at more detail with regard to one facet of the proposal which deals with the issue of a Community Development Board.

Mayor Wysocki asked if there were questions for purposes of clarification either in favor of or opposed to.

Paul Stieff - This City has for a long time put together in Westridge infrastructure, special financing districts, and special tax breaks, etc., in order to attract businesses. He wondered if there were any calculations done on the return we have gotten on our dollars in terms of tax revenues brought in versus infrastructure cost and adjusting for inflation.

Mr. Kessler responded the City did do a TIF District for the City Hall Complex many years ago. The only calculations in relation to the Westridge TIF District in terms of return in terms of tax base, that number is all over the place; I have heard \$200,000,000 or \$300,000,000.

Is there any consideration as to why the New Berlin Industrial Park has taken a dive in terms of occupancy? I have lived here long enough to know what the deals were initially in regard to infrastructure. What concerns me is did the infrastructure over there get old? The tax benefits, if there were any, to the occupants there kind of fizzle out, and it became an expensive place to do business, in which case, we are stuck with a ghost town, and we are stuck with having to revitalize it again. What I'm concerned about is pouring City budget money into a project, inviting people in, giving them tax incentives and special financing, and then when those things run out, would these businesses jump ship when it just starts getting lucrative to the City. We would then start revitalizing again, putting out tax incentives again to get more businesses in again. Are we taking this into account?

Mr. Kessler stated this was a legitimate concern. I don't know if we talked about doing any kinds of incentives, but with the UWM presentation, that is the tip of the iceberg as far as what is going on in the original Industrial Park. There are many reasons why businesses leave, in fact, many of them stayed in New Berlin and relocated at Westridge because they wanted to expand. Mr. Kessler stated one of the biggest things that he heard was the roads needed to be upgraded, the landscaping, and just the general beautification of the park was a big issue.

Mayor Wysocki stated the Park is not in jeopardy. The biggest thing we have got going for us is location. Whenever someone moves out, we find a tenant rather quickly because of the fact of location. We don't give tax incentives and never have for people who come in, other than the original City when it was put together did have some options of purchasing land on a first right of refusal. The aging of the park is taking place more because of technology. When the park was built in the 1960's, one of the most favored transportation methods for industrialized companies was the railroad, and there were spurs going into the buildings. If you go there now, they do not use railroad traffic anymore. The rail lines that come into buildings have been taken out. The road design that was installed in the 1960's is now outdated because

the tractor trailers are larger so the turns at the intersections have to be larger. Mayor Wysocki stated he would like the value to go up so the business owners would be paying a property tax that is based on an increased value in their land.

In the very near future, the fiscal relationships that we are going to have with State government will be leaving us to our own local economy to support us; we have to remember that they have needs that legitimately are there. We never gave them tax breaks or incentives, but the State did. When the people who developed that industrial base for us in this community, at that time, there was a different tax base there that was believed to continue on into the future. When the State in the mid 70's went with the machinery exemption and the personal properties Line A exemption, all the inventories in the warehouses went off the City's tax rolls, now the computerization equipment is going off, the reverse effect is we are getting hurt by tax law changes that are under control of the State and not by local municipalities.

Mr. Stieff stated his concern was spending tax dollars for infrastructure costs with the uncertainty of who owned that land. We have seen that before, and it is because the State incentives have dried up. It seems to be possible that the incentives that someone gave to locate there have gone away, and Mr. Stieff would like to see some numbers to say that is not what happened, and he would also like to see some numbers that say this is a very reasonable thing to do and we are protected against that happening. He would not like to be spending more money on doing the infrastructure costs then we are going to realize that is the reverse from taxes, etc.

Mayor Wysocki asked if there were any further questions for purposes of clarification either in favor of or opposed to?

Vernon Bentley – 3450 S. Johnson Rd. – Mr. Haines did mention at the Alternative Transportation Meeting that the business owners were calling from the Industrial Park saying that they were afraid their employees were going to get hit by 18 wheelers while they are walking down the road. It would be nice to have sidewalks and get a grant from the DNR for the waterway. The group felt it was not worth spending their money on the Industrial Park, and yet the Industrial Park supports a lot of the tax money we do not have to pay.

Mr. Bentley questioned what the difference is between the Economic Development and the New Berlin Economic Development?

Mr. Kessler responded the Community Development Authority would be a City Committee created by the Common Council, and it would be very specific as to what they could do under State law. The New Berlin Economic Development Corp. is a separate non-profit entity that is outside of City government. The people on the board are business representatives from all over the City and they have participated in the workplace visitation program, have put on workshops on international trade, etc.

Mr. Bentley questioned if we would be getting into the same situation with the same people that we would go for more development and create more problems when we are trying to settle our problems?

Mr. Kessler stated that when we read in the Plan under "strengths and weaknesses", those are comments out of the Visioning Workshops, they are not Staff's ideas or the Commission's; it is collectively what came out of the workshops when we met with FOCUS New Berlin, the New Berlin Economic Development Corp., and the Plan Commission. The focus on this Plan is not on development, but redevelopment.

Mr. Bentley had an issue regarding the Industrial Park. He referred to a section in the Plan that stated we need money to improve and fix up the Industrial Park. When it comes to the City Budget, we also want a new library, new schools, road repair, and storm water management; how far do you spread the dollar? What is this going to cost the City annually to have the Community Development Authority?

Mr. Kessler responded that would be up to Common Council. The State law does say it has to be a

minimum of seven members who live in the community. It could be made up of members of the Council, Plan Commission, or business people.

Mr. Bentley questioned where the meetings would be held, would they be held in City Hall, would City Staff be used, would City equipment be used, and could this be broken down to dollars and cents?

Mr. Kessler stated it would be very similar to the Plan Commission. Staff would support the Committee and the Mayor would chair it.

Mayor Wysocki asked if there was anyone else that had questions for purpose of clarification either in favor of or opposed to?

Paul Stieff – He has heard a couple of times the Commission would be composed of City officials and business people. It would seem that in order to have a broad representation on the citizenry, and to make sure of that, his worst fear does not occur that the business people would be giving themselves a break, and taking the non-business people's money through whatever means, infrastructure reduction that they would not have to do. It would seem that you would want a significant balance of people on such a Commission that were not business people to represent all of the people. To have business people should be a minority rule and would be an opportunity for abuse. Have you ever given any consideration in expanding this and having people other than business people and politicians on the Committee.

Mr. Kessler felt there should be some citizen representation on the Committee.

Mr. Stieff questioned, by re-evaluating the need for sewers west of Calhoun on an annual basis, that would be in contradiction to your statement earlier that it was consistent with the current Land Use Plan. There are a couple of areas west of Calhoun that have sewer on them on the Current Land Use Plan. He is worried about the possibility of this creeping into sewers on the west side of Calhoun and circumventing the current Land Use Plan. He wondered if this would be a possibility.

Mr. Kessler responded that the City is abiding by what the approved sanitary sewer area is for the City. Mr. Kessler did not know where the Plan says that sanitary sewer is re-evaluated every year in the western side of the City. We would take it out if it were in there. This was found in the Plan, but it did not refer to the western side of the City, and it is not the intent.

Mr. Stieff questioned no areas that are not on the Land Use Map would be considered for extension of sewer? Mayor Wysocki referred to Page 28 under Sewer:

"The lack of sewer service in certain areas of New Berlin, in particular the area West of Calhoun Road, limits the potential for economic development."

Mr. Stieff stated there are identified sites west of Calhoun that are business sites. What is of concern is that if we play connect the dots down National Ave. from 6A, 6B, 6C to 8 and then 9, we have sewer out past Racine. By re-evaluating on an annual basis, if we connected one of those sites each year on an annual basis, we will have sewer west of Racine down National Ave. within five years. This concerns me, and it seems to me to be one of those little things that is not clearly written that turns into a whole big enough for a cat to jump through. This is what should be avoided. Would, under any circumstances, sewer be allowed under this Plan to extend beyond the currently identified plans on the MMSD Plan or on the current Land Use Plan? Mr. Kessler responded, no.

Mayor Wysocki asked if there were any other questions for purposes of clarification either in favor of or opposed to?

Jean Crotty – 5354 S. Majors Dr. – In the current sewer plan area west of Calhoun, is the southwest

included in that now? Mr. Kessler responded, no. Our approved Sanitary Sewer Service area runs down Calhoun to south of Westridge and circles around Section 35. Ms. Crotty questioned, under this Plan it wouldn't be something that would be included that you wanted economic development and possibly bring in water and sewer to the southwest area? Mr. Kessler stated this Plan would not be used to do that. We took the future Land Use Plan and identified it for future commercial sites. If, at some point, 20, 30, or 40 years down the road, if that proved to be necessary and the Common Council made the decision, then those sites could potentially develop.

Ms. Crotty referred to Policy 6 where you talk about improving the governing bodies and government receptivity toward economic development by adequately staffing a separate Economic Development Division within the DCD, is anything being done to revitalize Kohl's and Walgreen's? Are you including in the Plan to revitalize areas like that? Mr. Kessler, responded yes. Staff has met a few times with the property manager of Kohl's Plaza, and potential development ideas are starting to be discussed.

Mayor Wysocki asked if there are any other questions for purposes of clarification either in favor of or opposed to?

Mary Heibold – 20160 W. National Ave. – Ms. Heibold stated she was on the Visioning Workshop on this. Why is it necessary that this become a quasi government body? Mr. Kessler responded, the Community Development Authority would not be a quasi government body, it would be created by the Common Council, and would be a City Commission that reports to the Common Council. New Berlin Economic Development Corp. would no longer exist if a Community Development Authority were created.

Ms. Heibold questioned if the CDA would take the NBEDC in place, would it have somewhat of the same function? Mr. Kessler stated he did not believe so. As a representative for businesses, the Chamber could handle this, or maybe a business park association, and work with the Community Development Authority to meet their needs. Ms. Heibold echoed the same concerns that Mr. Steib had.

Mayor Wysocki asked if there was anyone else wishing to speak for purposes of clarification either in favor of or opposed to? Seeing none, is there anyone wishing to speak in support of the proposed Economic Development and Revitalization Plan?

Michael Crowley, President of New Berlin Economic Development Corp. - Mr. Crowley works at Midland Plastics where he has been for the past 5-1/2 years. He got involved with NBEDC almost four years ago and was Vice President. He became President about 3-1/2 years ago. Mr. Crowley has learned over the past 3-4 years that development is a difficult issue for anyone to deal with in the City because it is viewed as negative. He said NBEDC has not been involved in any development issues as far as attracting a box-type facility. Their resources are very limited as far as staffing and dollars. How they exist is through fund raising efforts.

NBEDC was formed nearly 10 years ago for the purpose of furthering economic development initiatives within the City of New Berlin. It has been a non-profit corporation unlike a Chamber of Commerce, which is run by businesses supporting them by paying a membership fee. We promote the City to attract quality business (creating a Business Directory and a Welcome to New Berlin Disc) while working with City officials and businesses to retain the existing businesses. NBEDC has received grants from WCEDC seven of the past nine years to complete several specific business retention assistance and City promotional activities and products. Last year NBEDC's Board of Directors began discussions and activities to develop for the City of New Berlin an Economic Development and Revitalization Plan. Part of the reason was the Smart Growth legislation. The draft Plan for Commission review has been distributed, and within that Plan are activities that will sustain and enhance positive economic health within the City of New Berlin. However, it requires special effort by the City to manage and implement this. NBEDC feels it cannot effectively do this with very limited funds and resources, the time of the volunteer board members, and NBEDC is very limited on what can be done for fund raising efforts. NBEDC has voted in favor of dissolving the corporation on the

intention the City adopting this Comprehensive Economic Development and Revitalization Plan.

Mr. Crowley referred to the luncheon given by NBEDC that featured a presentation by Mr. Richard Maslowski, City Administrator of the City of Glendale, and the Community Development Authority and the positive impact it has made on the City's economic health and revitalization efforts using zero City dollars. Mr. Crowley would like the Plan Commission to consider forming a Community Development Authority Commission/ Committee that the City can use as a mechanism to improve the City's economic base. Revitalization of the Industrial Parks is critical in retaining the existing businesses. It is important to have an entity that oversees those activities, obtain funding through grants and industrial revenue bonds, TIF Districts, which will continue to provide the City of New Berlin a healthy tax base for the community by improving the Business and Industrial Parks. Allowing the infrastructure to deteriorate, is not acceptable to the City that holds the largest Industrial Park in the State. Mr. Crowley would like the Plan Commission to consider the adoption of the draft Economic and Development Revitalization Plan; also please consider forming a Community Development Authority within the City Community Development Department to implement and manage this plan.

Mayor Wysocki asked if there was anyone else wishing to speak in support of the Economic Development and Revitalization Plan?

Mayor Wysocki asked if there was anyone wishing to speak in opposition to the Economic Development and Revitalization Plan?

Paul Stieff, National Avenue – Mr. Stieff stated this Plan will circumvent some of the current protections in place and allow for a fast track for the businesses for developers. People who are not the classic business people will come out on the raw end of this deal like they have too often in this City.

Mayor Wysocki asked if there was anyone else wishing to speak in opposition?

Are there any questions from the Commissioners?

Public Hearing is closed at 8:56.

NEW BERLIN PLAN COMMISSION

The Plan Commission Meeting of June 10, 2002, was called to order by Mayor Wysocki at 5:03 P.M.

In attendance was Mayor Wysocki, Mr. Barnes, Mr. Teclaw, Alderman Ament, Mr. Felda, and Mr. Graber. Also present was Greg Kessler, Director of the Department of Community Development, Mark C. Lake, Director of Planning, and David Haines, Associate Planner/Mapping Coordinator. Mr. Gihring was excused.

There was no Secretary's Report.

CONTINUED BUSINESS

4. Executive Summary/Staff Report Format

It was the consensus of the Plan Commission to use Mr. Teclaw's version

and bold the items that apply to the application being worked on until further notice.

5. (4) CU-4-02 Larry Meyer – 20665 Barton Rd. (Stormy Acres Lot #17) Conditional Use Approval for a Single-Family Residential Home within the C-1, Upland Conservancy District. (Deferred

6/3/02)

Motion by Mr. Teclaw to allow Mary Heibold to address the Plan

Commission. Seconded by Mr. Ament. Motion passes, with Mr. Felda in opposition.

Motion by Mr. Ament to defer the request for Conditional Use Approval for a Single-Family Residential Home within the C-1 Upland Conservancy District for Larry Meyer, located at 20665 Barton Rd. (Stormy Acres Lot #17). Seconded by Mr. Teclaw. Motion to defer tied, with Mayor Wysocki, Mr. Ament, and Mr. Teclaw voting "yes", and Mr. Graber, Mr. Felda, and Mr. Barnes voting "no". Motion to defer fails.

Motion by Mr. Felda to recommend to Council approval of the request for Conditional Use Approval for a Single-Family Residential Home within the C-1 Upland Conservancy District for Larry Meyer, located at 20665 Barton Rd. (Stormy Acres Lot #17), subject to the following:

1. Applicant shall be required to submit a CSM showing the 20,000 square foot Maximum area allowed for clearing. The rest of the C-1 property shall be deed restricted and recorded with the Waukesha County Register of Deeds to protect the Upland Resource Conservancy District prior to issuance of Building Permit.
2. Applicant shall be required to work with the Engineering Department regarding Driveway slope, culvert necessity and other site conditions. Driveway egress traffic shall be allowed uninterrupted view of approximately 400' to the West and to the top of the hill on the East before entering Barton Road pavement area. Applicant will be required to clear some trees and modify the slopes within Barton Road right-of-way. Trees removed for ingress/egress purpose shall not count towards the 20,000 square foot maximum disturbance.
3. A T-turn around shall be provided for internal maneuvering on site close to the residence. Backing onto Barton Road for maneuvering is not permitted.
4. Plan Commission shall approve the driveway retaining walls subject to the plans Being designed or stamped by a professional engineer. This shall be submitted for review and approved prior to issuance of Building Permit

Seconded by Mr. Barnes. Motion passes, with Mr. Felda, Mr. Barnes, Mayor Wysocki, and Mr. Graber voting "yes", and Mr. Teclaw and Mr. Ament voting "no".

NEW BUSINESS

5. PG-293 - Bike and Pedestrian Facilities Plan Revision - Resolution __ -02

Motion by Mr. Barnes to table the Bike and Pedestrian Facilities Plan Revision for further

review. Seconded by Alderman Ament. Motion carried unanimously.

6. PG-516 (2of11) - Economic Development Plan - Resolution __ -02

No motion was made regarding adoption of the Economic Development Plan and Resolution. The Plan and Resolution is to be forwarded on to the July 8, 2002 Plan Commission meeting for possible discussion and final adoption.

COMMUNICATION

8. Communication To: Plan Commission

Communication From: Mark C. Lake, Director of Planning

RE: Letter dated June 3, 2002 to Anthony Goedheer re: "New" Elmwood School

Plan Commission acknowledged receipt of this Communication and recommended Staff pursue resolution outlined in letter.

Motion by Mr. Ament to adjourn the June 10, 2002 Plan Commission Meeting at 8:15 P. M. Seconded by Mr. Graber. Motion carried unanimously.

PUBLIC HEARINGS

6:00 P.M. (3) R-5-02 Robert Raineck and Jeanne Welsch – 21040 W. Lincoln Ave. – Rezone from B-2 to A-2, C-1, and C-2.

The public hearing relative to the request by Jeanne Welsch to rezone the property known as 21040 W. Lincoln Avenue from B-2 (General Retail Sales and Service District) to A-2 (Agricultural and Rural Holding District), C-1 (Upland Resource Conservancy District, C-2 (Shoreland Wetland District) was called to order by Mayor Wysocki at 6:07 P.M.

In attendance were Mayor Wysocki, Mr. Barnes, Mr. Teclaw, Alderman Ament, Mr. Felda, Mr. Graber. Also present were Mark C. Lake, Director of Planning, Olofu Agbaji, Associate Planner, Nikki Jones, Associate Planner. Mr. Gihring was excused.

Mr. Lake read the public hearing notice and stated there was proof of publication.

Mayor Wysocki explained the procedure for a public hearing saying that he would ask for questions of 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.

Mr. Lake gave a brief presentation describing the request and showing maps indicating the location.

Mayor Wysocki asked three times for questions for clarification, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in favor.

David Greenwald, 21115 W. Lincoln Avenue - I welcome this to the western end of the City of New Berlin.

Mayor Wysocki asked three times if there was anyone else wishing to speak in favor, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in opposition.

Mary Hiebl, 20160 W. National Avenue - The concern that I have about changing this from a B-2 to agricultural is looking down the road and wondering whether this agricultural zoning will allow for modification of the property such as fill, possible trenching, grading on this property which then in the future would potentially allow this property to be sold. The property would then be ready for residential zoning without the city having to approve the alterations.

Mayor Wysocki asked three times if anyone else wished to speak in opposition, seeing none.

Mayor Wysocki asked Plan Commissioners for questions for the purpose of clarification.

Mr. Graber - Do they have the legal description of the conservancy area on file? Mr. Lake said that it is being field verified by SEWRPC and should be coming soon. Any action will be postponed until this ordinance is ready.

Mr. Teclaw - I think that it is important that the City institute appropriate action to revise the zoning map in accordance with the rezoning along with any legal descriptions.

Mayor Wysocki asked Plan Commissioners for any further questions for the purpose of clarification, seeing none.

Mayor Wysocki closed the public hearing at 6:12 P.M.

PUBLIC HEARINGS

6:01 P.M. (6) CU-3-02 AAT Communications – 13825 W. National Ave. – 170'
Telecommunications Monopole.

The public hearing relative to the request by Gordon Nichols (AAT Communications) for a Conditional Use Permit to install a 170' communications monopole located at 13825 W. National Avenue was called to order by Mayor Wysocki at 6:12 P.M.

In attendance were Mayor Wysocki, Mr. Barnes, Mr. Teclaw, Alderman Ament, Mr. Felda, Mr. Graber. Also present were Mark C. Lake, Director of Planning, Olofu Agbaji, Associate Planner, Nikki Jones, Associate Planner. Mr. Gihring was excused.

Mr. Lake read the public hearing notice and stated there was proof of publication.

Mayor Wysocki explained the procedure for a public hearing saying that he would ask for questions of 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.

Mr. Lake gave a brief presentation describing the request and showing maps indicating the location.

Mayor Wysocki asked three times for questions for clarification, seeing none.

Mayor Wysocki asked three times if there was anyone wishing to speak in favor, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in opposition?

Lawrence Schwabe - Representing residents at National Highland Senior Apartments at 13705 W. National Avenue. I have letters expressing our concerns for each of the commissioners and I would like to read the letter to you and I have a petition signed by 67 residents that are concerned about the 170 ft. monopole. (Letter and petition on file)

Mayor Wysocki asked three times if there was anyone else wishing to speak in opposition, seeing none.

Mayor Wysocki asked Plan Commissioners for questions for the purpose of clarification.

Mayor Wysocki asked about the fall zone space on the property? Mr. Lake said yes, the tower requires a 43 ft. fall zone and the setback in that area is 45 ft. It is directly centered on the property where there is 45 - 50 ft. on either side so that it wouldn't fall on a neighbors property.

Mr. Teclaw questioned the relation to the Citywide rezoning effort. Mr. Lake said there a number of initiatives which could potentially come forward in the future dealing with towers. One of these things would be a possible telecommunications district.

Mayor Wysocki asked Plan Commissioners for further questions for the purpose of clarification, seeing none.

Mayor Wysocki closed the public hearing at 6:19 P.M.

PUBLIC HEARINGS

6:02 P.M. (4) CU-4-02 Larry Meyer – 20665 Barton Rd. – Current Code requires C-1 Residential Use as a Conditional Use.

The public hearing relative to the request by Larry Meyer for a Conditional Use Permit to build a residential home in a C-1 zone on the property known as 20665 Barton Road was called to order by Mayor Wysocki at 6:19 P.M.

In attendance were Mayor Wysocki, Mr. Barnes, Mr. Teclaw, Alderman Ament, Mr. Felda, Mr. Graber. Also present were Mark C. Lake, Director of Planning, Olofu Agbaji, Associate Planner, Nikki Jones, Associate Planner. Mr. Gihring was excused.

Mr. Lake read the public hearing notice and stated there was proof of publication.

Mayor Wysocki explained the procedure for a public hearing saying that he would ask for questions of 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.

Mr. Lake gave a brief presentation describing the request and showing maps indicating the location.

Herb Eggie, 21430 W. Bagpipe Ct. - For years I have used Barton Road to and from my home. I have

noticed recently that in regard to this particular piece of property, that a large wide swath of woods has already been cut through and apparently is a proposed driveway. I have not observed, but others have, that to the rear of the property this party has apparently cleared some of the woods and the land and staked out a place for the proposed dwelling. By what authority, prior to the granting of a conditional use permit, has he undertaken these actions? Chapter 275.24 of the Zoning Code has said very clearly that no site or premise shall be altered, used, changed, modified, or occupied and no grading undertaken until after the owner has applied for from the Community Development staff and the Plan Commission has reviewed and approved an application for a Zoning Permit. It is very clear that nothing is to be done on this land until a permit is granted. That has not been granted as far as I know. I understand there may be other projects in the city from time to time where the owners have assumed that they can go ahead with the clearing of land without first getting the proper permits. If that is the case here, this matter might need to be referred to the City Attorney for proper action.

Larry Meyer, 4950 Heritage Drive - I did jump the gun, that was my mistake. I had originally planned my driveway some other place. The City said I couldn't put my driveway there so I was under the impression that what we ended up deciding on was the only place I could put the driveway. I did jump the gun because I had someone to clear the trees and had I not had him do it when he had the opportunity, it probably would have cost me twice what it did. I was not aware that I needed permission to clear the trees otherwise I would have done that.

Mayor Wysocki asked for further questions for clarifications, seeing none.

Mayor Wysocki asked three times if there was anyone wishing to speak in favor, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in opposition.

Mary Hiebl, 20160 W. National Avenue - I am here to address major concerns over the proposed conditional use approval for the property at 20665 Barton Road. I have many concerns over this proposal, all of which rank equally. This parcel known as Lot 17 in Stormy Acres was approved by the Common Council as C-1 Upland Resource Conservancy District which delineation was based upon the primary environmental corridor or a secondary environmental corridor and as an isolated natural area. When the preliminary lot subdivision came forward to the city, it was already then noted by Assistant Planner Schuler that the northern portion of the site is zoned C-1 Conservancy. Additionally, the City's future land use map has this area designated as both C-1 and as an environmental corridor. The staff report which was prepared for tonight's meeting calls this a heavily wooded property within the C-1 Conservation District. How then can there even be consideration of siting a building on this parcel. SEWRPC in its study of this area recommended that this isolated natural resource area be preserved in a natural open space to be used for wildlife habitat, growth of special plant communities, and development of quality upland woods. This SEWRPC recommendation is further supported by New Berlin's very own code which covers woodland, trees, and vegetation protection. I quote Chapter 278, Article 8 Protection of existing woodland, trees, and vegetation cover is intended to preserve the visual and aesthetic qualities of New Berlin, to encourage site design techniques that preserve the natural environment and enhance the developed environment to control the erosion slippage and runoff into streams and waterways and to protect wildlife habitat and migration corridors.

The designation of this parcel from the beginning was C-1 District. C-1 is Conservancy. Why then would the City consider a conditional use permit on this parcel when the intent of this land and the intent of the zoning district designation are for conservation. Once again I question, is the Master Plan being tampered

with? Is someone second guessing the wisdom of its design or is someone taking liberties with the application of the code? This is a C-1 District, not a R-1 or R-2. In order to even consider building within a C-1 District, part of that parcel must be within the R-1 or R-2 District. This parcel is exclusively C-1. The staff report that I read for this development quotes the site development standards in the C-1 District as saying, where new platted areas are proposed, building lot area should be located entirely outside of the C-1 District and as a separate lot.

Another concern that I have, is the concern that Herb Eggie mentioned, and that is the amount of site preparation that has already been completed on this parcel. As I daily walk on Barton, it is clearly evident that a driveway is staked, that an area is cleared for the footprint of the home, that many trees have been cut and stacked in piles and that there is obvious disturbance to the site. Once again, the City code clearly states that no clearing, alterations, or modification is to be done to the site until a permit has been granted. How then is this allowable? Has the City not only checked out this clearing but also the dangerous placement of the driveway. Now I find out the City wanted the driveway where it is presently staked out. Where is the traffic study, the visual study of the hill or ingress and egress to determine the appropriateness of this drive. If this extensive site preparation has already gone on undetected, what assurance do I have that other infractions into a sensitive valuable area like this won't become advanced. If there is an infraction of the city code, what recompense is there. Whatever the recompense, how can that equate to the damage to a sensitive, valuable conservancy. I ask you Commissioners to abide by the carefully crafted Master Plan and uphold its code in preserving conservancy intact without disturbance.

Joyce Schaefer, 20700 W. Barton Road - For about the past two years I have been fighting for ditches on that side of Barton Road. By putting another driveway in where they are I can guarantee there will be more water running. The gentlemen obviously didn't look where he was putting his driveway because in the wintertime when the driveway proceeds to have at least 3-4 inches of ice in the early spring because of his runoff. We already have an ice patch on the top of this road. Now you're going to put another driveway in right at this ice patch and what you are going to have is numerous accidents because this is also the top of the hill and you have 45-50 mph speed zone. Another blind driveway there is going to create some major problems in traffic. My understanding is that the driveway was actually put there by the city, how stupid of an area could you pick? It is just not a good place, because you are at the top of the road. Right now if you go out there and look you do not see that driveway when you are at the bottom of the hill. You cannot see the top of the hill and the two driveways that will now be there. So, we would ask you to reconsider and think about placing that driveway somewhere else if you are going to use that land for a residence.

James Gatzke, 18590 W. Cleveland Avenue - It is my understanding, based on the comments that Mr. Lake made, that this was a platted lot, not always contemplated for a construction of a home. That being the case, I would wonder what kind of twisted law do we have here where a gentlemen buys a lot with the idea that he can build a home and then is told he can't put in a driveway, he can't cut down trees to clear for his home, he can't stake out the lot. I understand that some of this might be a timing issue, but if his entire lot has been uncharacterized by the City as C-1, what is this man to do? Why is there so much more concern about the trees that he will have to remove to put in a driveway and put up a home, then there is about the fact that this man has apparently made a significant investment in the City of New Berlin, is prepared to make a more significant investment in the City of New Berlin and is now being told that he can't. I guess that is something that I don't understand and I don't anticipate getting the answer to that question this evening. If, in fact this gentlemen thought he had a buildable lot at the time he purchased it in good faith and then the City uncharacterized that lot to make it unbuildable, I would hope the City looks at this closely and is willing to work with this gentlemen and make sure that he does have an opportunity to develop his property as he reasonably contemplated at time he made his purchase. I am in opposition that this gentlemen has had his

property rezoned C-1 and is being made to pay the price.

Mayor Wysocki - I don't think that action has been taken place yet and I would suggest that this is not the appropriate time for you to speak on the opposition unless it is in opposition of the proposal so I assume you are speaking against the conditional use approval.

Mr. Gatzke - I am in opposition of the proposal to create a C-1 burden for this gentlemen. I am not in opposition of this proposal.

Mayor Wysocki - But opposition of the proposal is what this particular time in the hearing is about.

Mayor Wysocki asked three times if there was anyone else wishing to speak in opposition, seeing none.

Mayor Wysocki asked Plan Commissioners for questions for the purpose of clarification.

Mayor Wysocki - This whole Stormy Acres had a preliminary plat approval in 1995 and the Plan Commission in January of 2001 did approve the final Stormy Acre Subdivision, is that correct? Mr. Lake said that over a span of 7 or 8 years it has been approved through several different CSMs. This particular CSM did receive approval January 23, 2001. Mayor Wysocki asked if our code at that time allowed for construction of single family residence as a principal use in C-1. Mark Lake said that is did and actually it still does under 17.0325(1)(I). Mayor Wysocki said suppose for the moment that when the purchase was made, the person was told it was allowed for a home site. Would there still be requirements for that purchaser to come to the city to find out any other details? Mr. Lake said, generally yes.

Alderman Ament - Did this gentlemen own the property before January of last year? Mr. Meyer indicated he purchased the property about this time last summer, probably a little over a year ago, maybe April. Your rezoning was March 21. Alderman Ament said you indicated that you decided to clear the land on your own. Mr. Meyer said I did not realize I needed approval to clear, that was ignorance on my part but I had been to the City two or three times for a proposed driveway and site for the home. They were against where I wanted to put the driveway at the bottom of the hill because they said I would have a longer driveway. The City thought the best spot for the driveway was at the top of the hill. I had to survey five times to address all the cities concerns. I am still well under the amount of trees allowed to be cut. Alderman Ament asked if he was sure since he never got approval to clear. Mr. Meyer said he did not get written approval. Alderman Ament said part of the problem that I am having is that Mr. Meyer purchased the property after the zoning change and apparently has been in contact with the City and still went ahead and cleared land in a C-1. Mayor Wysocki said just for clarification we never changed the zoning. Mr. Lake said the same conditions apply under the old and new code except now it is a conditional use process. Mr. Meyer said something was changed a month before I came to apply to build the house there, I don't understand it but these gentlemen do. I was never told about it and we were going on with everything and I wasn't aware that I had to go to Plan Commission. Mr. Lake said about a month or two before Mr. Meyer came in we knew the process for developing in the C-1 District. A note from the City Attorney said that the conditional use process would apply.

Alderman Ament said I have a problem with the fact that Mr. Meyer was in contact with the staff and he was aware of the apparent problem with the driveway, yet went ahead and assumed. Mr. Meyer said it wasn't a problem anymore when I made the mistake of clearing but I was sure that is was where the driveway would be because everything else was voted out. Alderman Ament said I will wait to argue about this until later at Plan Commission but I'll tell you right now I'm going to have a problem with this having been done before

having permission and permits to do it.

Mr. Felda - Looking at the plan for the house, I take it the slope is East to West so the West side is the low end on the property? Mr. Lake said it does slope down toward Martin Road and showed a picture showing the centerline of the driveway. Mr. Felda said so the driveway comes out on the East which is the high side.

Mr. Teclaw - I want to expand on some of the concern expressed. I guess when I look at this my first question is how did a lot get platted without there being a residential district within it. It indicates in the old code not more than 25% of the lot area requirement may be met by use of C-1 district lands which then, theoretically a lot that contains conservancy should have 75% of a residential district. This is C-1 and environmental corridor, these are the lands that our new code states clearly that platting of new lots entirely within a district should not be allowed. I have never seen a situation where there was not a portion of a lot that was identified as residential, I think this is where the confusion is coming in. The way that things read now is at least 50% of the minimum lot area requirements needs to be provided outside of the C-1 district where public sanitary sewer facilities are available and sufficient land area for Waukesha County requirements is provided outside the C-1 district where public facilities are not available. The question here becomes, how did this lot get platted without there being a residential component to it because that is where it seems not to conform. I did look back and this was approved in October of 1996 and in that report the findings identified this as being zoned R-2 at the time that this was approved as a Certified Survey Map lot. The question is where is the R-2? I am not aware that we are platting five acre lots within conservancy districts and calling them buildable lots.

Mr. Lake said Stormy Acres as a subdivision has been developed over the last 10 years. As a result, in order to guarantee the City of New Berlin a 23 acre park in exchange the developer of the property was allowed to develop a certain number of lots and some of those lots had C-1 on them, some of them had R-1 on them, some of them had A-1 on them or a combination. The key issue is that if you have a lot greater than five acres, they are going to allow you to develop one half acre out of those five acres. That is what the code says set back in 1993 and that is what the new code says today.

Mr. Teclaw - The way the text is written says where a property is proposed to be further subdivided, and a lot is located partially within a C-1 and partially within an adjoining zoning district which would need to be residential. The decision made in 1994 was that we will allow the development of these three or four parcels that have C-1 as long they are over 5 acres and guarantee the city that they will not disturb more than 20,000 sq. ft. and in exchange we will give the city a park.

Mr. Teclaw - I think we are thinking differently. My focus is on something different than yours. I understand that there is verbage allowing disturbance of 20,000 sq. ft., etc. In the old code as well as the new code it discourages new platted areas not being located entirely outside of the C-1 district. Mr. Lake said this is not a new lot, this is a lot that was developed in 1994. Mr. Teclaw said I understand that and that is why I am asking the question about the report that existed at the time it was approved it indicated that the zoning for this lot was R-2 and also under the conservancy districts in the old code it said not more than 25% of the lot area requirement may be met by the use of C-1. My question is how this lot got platted when it wasn't consistent with how we then, in which the lot was platted you would assume that 75% would be residential and 25% could have conservancy and now the way that we have indicated it that any new platted areas, the building lot and septic site shall be entirely outside the C-1.

Mr. Lake - That is not what is says. There was no 75%/25%, its density of the whole development, not individual lots. There is not one item in our code that says every lot specifically cannot be more than 75% C-

1 or R-2.

Mr. Graber - It was an overlay district at the time the lot was created and I think that there has to be some weight given to that. The developer when they initially came in here, had come in to develop a fairly large piece of land and that was at the time when the City was struggling with density on the western side. Some of the submittals had proposed a lot of these parcels as 1-1/2 acre. Through the many revisions, the Council and Plan Commission said the area was identified with a C-1 overlay therefore this lot must be at least 5 acres. They had proposed lots that were significantly smaller than that. Wherever these C-1 areas occurred, they are now 5 acre minimums. The preliminary plat was approved in 1995 according to the staff report and at that point in time it gave the developer a right by an indication on the part of the City that we would allow a final plat to be created with these general lot dimensions. As time went by individual offers to purchase came along, and individual certified survey maps were created either having one, two, or three lots to create each lot. He did not do it as a subdivision, creating the whole thing. It was on an as needed basis. I don't know the exact timing, but it is theoretically possible that the parcel to the South was created before this one and would have left this just as a single parcel with no other real usable space. I would have to go back and look to see when each of these lots in that area were created and it may have been that is was one of the last ones created and there wasn't much else to do with it. The developer relied on the city's action to say that this could be a lot and we approved it because again, at the time it was approved, it was R-2 with a C-1 overlay which would allow residential development on 20,000 sq. ft. or less. All that is happening now, a year and a half later is the subsequent owner is trying to build a home on it.

Mr. Teclaw - Has a proof of perc been provided? Mr. Lake said it is required prior to the building permit. Mr. Meyer said a perc test has been done and a copy is in his building permit file.

Mayor Wysocki asked for any further questions from the Plan Commissioners, seeing none.

Mayor Wysocki closed the public hearing at 7:01 P.M.

PUBLIC HEARINGS

6:03 P.M. (3) R-6-02 Caroline Rosenbaum – 21220 W. Lincoln Ave. – Rezone from R-2 Rural Estate Single-Family Residential to B-5 Rural Commercial District.

The public hearing relative to the request by Caroline Rosenbaum to rezone the property known as 21220 W. Lincoln Avenue from R-2 Rural Estate Single-Family Residential to B-5 Rural Commercial District was called to order by Mayor Wysocki at 7:01 P.M.

In attendance were Mayor Wysocki, Mr. Barnes, Mr. Teclaw, Alderman Ament, Mr. Felda, Mr. Graber. Also present were Mark C. Lake, Director of Planning, Olofu Agbaji, Associate Planner, Nikki Jones, Associate Planner. Mr. Gihring was excused.

Mr. Lake read the public hearing notice and stated there was proof of publication.

Mayor Wysocki explained the procedure for a public hearing saying that he would ask for questions of 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.

Mr. Lake gave a brief presentation describing the request and showing maps indicating the location.

Ms. Rosenbaum presented her proposal.

Mayor Wysocki asked for questions for clarification.

Vicki Petrovich, 2330 S. Johnson Road - I am in one-half mile of this property. Is B-5 commercial? Mr. Lake said Yes. Ms. Petrovich asked if this were rezoned and she decides in a year from now to move, whoever would buy this property could use it for commercial use? Mr. Lake said Correct.

Mayor Wysocki asked three more times for any further questions for clarification, seeing none.

Mayor Wysocki asked if there was anyone wishing to speak in favor.

Fred Mennecke, N94 W16100 Cherokee Drive, Menomonee Falls - I am a volunteer with the Rescue. With this rezoning it gives us an excellent opportunity to use this as our own kennel as opposed to use a commercially owned kennel which is for us, being a non profit organization, is very expensive. This would give us the opportunity to do it all there. This is the best opportunity we have to work with these dogs.

Renee Riedrowski, 1200 Willow Rd, Waukesha - I am a volunteer with Western Great Lakes Rescue. We are fortunate to have Caroline purchase the property. It has a lot of acreage with a lot of farmland around it so we won't bother anybody. We thought that it would work out very well. We are not talking about 20 kennels, we are talking about three or five at the most and basically we take in unwanted dogs and find them good homes. It is a good opportunity for us and I am completely in favor of this rezoning.

Mayor Wysocki asked three times for anyone else wishing to speak in favor, seeing none.

Mayor Wysocki asked for anyone wishing to speak in opposition.

Roxanne Henkel, 21540 W. Lincoln Avenue - I am not opposed to the Rescue, however I am against the rezoning. I have no problem with three or four dogs, but I do not want the property zoned as commercial.

Vicki Petrovich, 2330 S. Johnson Road - I agree also that these dogs need to be rescued and they need a home. She says they bought this home with the sole reason of using it so they wouldn't bother anyone. I'm sorry, but there are homes there that listen to the dogs. Right now I hear her dogs barking. There are a couple of vicious ones. We walk by and they come right to the fence. I am a little concerned about that. I am also concerned about what will happen to this property if you rezone it now and 3-5 kennels turn into 10 kennels and 20 kennels or if the property is sold and it is still zoned commercial, and we all own homes in the area that are residential. It is my understanding that the Master Plan calls for the rural part of New Berlin being kept as residential with large acreage. Commercial zoning would be going against the Master Plan so I would ask you to vote No.

Dave Greenwall, 21015 W. Lincoln Avenue - I am totally against rezoning this property to commercial.

Mayor Wysocki asked three times for anyone else wishing to speak in opposition, seeing none.

Mayor Wysocki asked Plan Commissioners for questions for the purpose of clarifications.

Mr. Teclaw - The proposed rezoning does not provide for dog kennels. That puzzles me. I have a couple questions for the applicant. How long have you been operating? What were you told in your discussions with the City prior to your purchasing the property?

Ms. Rosenbaum - During the process of purchasing the property, I spoke with Mark and several other people at the City numerous times telling them that I would use the property for temporary housing for dogs until they were adopted. At that time they said we did not fall under fanciers license, we did not fall under a kennel license because we are non profit, we are not breeding, we are not selling. There is really no ordinance for rescue dogs. During the process of purchasing my home, what was given to me as an option was to rezone to commercial use so in the future I would be able to have kennels.

Mayor Wysocki - At any time when you came to these sessions, did anyone tell you that there is no allowed zoning for that activity. Ms. Rosenbaum said no, they told me that the route I would have to go would be to purchase a kennel license and the only way I could do that would be to rezone. Why would I waste my money to rezone if it wasn't going to happen.

Alderman Ament - I would assume that when you purchased this property, you were aware that there is no allowance for this in any of our zonings? Ms. Rosenbaum said No, what do you mean, no allowance. Alderman Ament says here that we will not provide for a dog kennel for rescue dogs. It is not allowed in our code. Ms. Rosenbaum said the two allowances listed are for fanciers license or kennel license and rescue dogs do not fall into either of these areas. Alderman Ament asked were you told that you fit no where. Ms. Rosenbaum said yes, we were told that but as an option I could apply for rezoning for a kennel license.

Mr. Teclaw - It indicates that if we deny this, a violation letter will be sent to the applicant. Where you aware that if it is not approved, you will be put in a violation status? Ms. Rosenbaum said No, violation of what? Mr. Lake said that the applicant is operating illegally and violating a number of ordinances.

Mr. Teclaw - What type of permits did you receive to remodel the garage into kennels?

Mr. Rosenbaum said the permit was for remodeling of the garage, I don't know if they knew there would be kennels. Mayor Wysocki said we would need to check on the permits with Inspection Dept.

Mr. Teclaw- If it is not listed anywhere in the Code, and you're thinking of converting it to commercial and it still is not allowed in that district, it doesn't seem to be the solution to the problem. As well, I can share the neighbors concerns as we have seen in other situations in the City, when property gets zoned to business, then anything that is allowed in that zoning is allowed. I think what might be worth considering is to allow this sort of thing as a conditional use within this type of zoning district and perhaps in certain situations, it could be allowed if it were compatible with the area, with the lot size, if the neighbors were not in opposition, etc. It would seem like the best solution, it seems like the best category to use. It may involve changing our code to offer that provision.

Ms. Rosenbaum - That was my initial idea and that is what I submitted and was turned down.

Mayor Wysocki asked for Plan Commissioners for further questions for the purpose of clarification, seeing none.

Mayor Wysocki called the public hearing closed at 7:16 P.M.

