

Minutes

NEW BERLIN PLAN COMMISSION

August 21, 2000

The Plan Commission meeting of August 21, 2000 was called to order by Mayor Gatzke at 4:30 P.M.

In attendance were Mayor Gatzke, Mr. Chase, Mr. Barnes, Mr. Christel, Mr. Felda Alderman Kaminski. Also present were Steven Hoese, Director of Community Development, Mark Lake, Assistant Director, Olofu Agbaji, Planning Administrator, Greg Kessler, Associate Planner, Nikki Jones, Planning Tech, GDMP members Herb Eggie, Bill Luterbach, John Hopkins, Brian Teclaw, Mary Rogers, Mary Jo Szydel and Mike Lynch. Mr. O'Neil was absent.

3. Secretary's Report - none

NEW BUSINESS

4. GDMP Zoning and Subdivision Code Review

Consultant Presentation - Mr. Chris Duerksen and Ms. Wendy Moeller from Clarion Associates and LLC McBride Dale Clarion summarized the goals for the ordinance revision, project stages, development standards, and the subdivision ordinance changes and subdivision review process.

Discussion was opened up to questions and comments from the Plan Commissioners and then the GDMP Members.

Alderman Kaminski asked if in Chapter 17.08 under Landscaping and Buffering, is it appropriate to look at the types of trees as well as size? Ms. Moeller answered that it will be asked that any trees planted be native to the area. We are preparing a listing of species of trees to include in Chapter 17. To the requirement to replace trees cut down within the building envelope should be added that the new trees would go within the limits of disturbance.

Alderman Kaminski asked how to address architectural design that is not desirable. Mr. Duerksen directed attention to Pages 172-174 (Chapter 17). The section entitled Additional Architectural Standards should cover instances where the existing appearance is not what you desire. Perhaps it should be added that the Commission advises that if the existing pattern or style of development is not desirable, it does not have to be followed and then refer to additional architectural standards.

Mr. Luterbach asked about referencing individual site developments with the DNR. Mr. Duerksen said that the development regulations would apply on a subdivision basis across the board. Infill vs. new development standards were questioned and it was decided that the new regulations take precedence where specific standards have been added such as landscaping or mechanical screening. Mr. Luterbach suggested that infill standards take the neighborhood into consideration and some flexibility should be worked into the code. Mr. Duerksen said there are provisions that allow some administrative modifications of standards to allow the development to fit.

Mr. Eggie had concerns on the definition section being in the back of Chapter 18.

Mr. Teclaw questioned the areas that seem to potentially increase the level of subjectivity where a lot of waivers are introduced. Page 125 Waivers/Modifications (Chapter 17) creates a gray area. Mr. Hoese said the Board of Appeals is limited to what it is allowed to do which has caused significant hardships to

people so the question is what procedure is available for someone with a hardship where the statute as written does not apply. This section was created to provide for this. Mr. Duerksen said you could consider putting a percentage limit on the amount of waiver. Mr. Hoese also indicated that a public body should waive or modify, not staff.

Mr. Teclaw referred to #4 on Page 140 regarding storm water run off saying it seems to loosen standards. Mr. Hoese indicated this section would reference the storm water management plan which the City of New Berlin has already passed.

Mr. Eggie referred to Page 135 where there are three provisions for waivers. Some guidelines need to be established as to how these waivers should be applied. Again, it was indicated that the Director would not be making these modifications or waivers, but rather a public body.

Ms. Szydel asked if Page 135 Section b, applies to wildlife conservation for all development not just major subdivisions. Mr. Hoese said the idea was to have it apply to subdivisions but not individual lots. Mr. Duerksen said we have not made a distinction between major and minor subdivisions as some communities do. These regulations would apply to a commercial development whether there is a subdivision or not. Ms. Szydel felt that (Page 135, Section d) the wildlife conservation plan should apply to all major subdivisions and all commercial/industrial development Mr. Hoese said we need to be clear about when it gets applied. It needs to be applied at the time of rezoning and platting. The Plan Commission, not the Director shall determine whether the applicant must submit a wildlife conservation plan. Mr. Hoese said that further on in Chapter 18 one of the development criteria under impacts is to add natural features as a whole section. Wildlife management would fall into this section. A similar paragraph in the zoning section should apply when the Plan Commission and Common Council look to change zoning on a property so that these issues are part of the criteria.

Mr. Duerksen said wildlife conservation is difficult and may bear more discussion with staff. The way it is written now, it applies whether it is a subdivision or just a plat of land and we need direction whether to apply the wildlife habitat just to subdivisions or to any development.

Mr. Teclaw referred to Page 139 (B) (Chapter 17) that the drainage plan shall include information and supporting materials as specified by the Director and the City Engineer. It should be more than just two of people making this decision. It needs to be further defined what needs to be included in the application. Mr. Hoese said the decisions will be made by City Boards, review of application can be done by staff.

Ms. Szydel - Page 136 and 141 non-native vegetation should refer to Wisconsin, not just New Berlin. Mr. Kessler said that a list is going to be prepared that will list species that will grow in this region. Some species would not do well in northern or central Wisconsin sandy soils, but would do well here.

Page 157 the turn around area applies to single family. Mr. Duerksen replied if you have more than three parking spaces, then it would. This would not apply to most single family.

Page 158, section e, Location - 70% of parking spaces refer to only applies to commercial, industrial and multi-family.

Page 164 (b) (viii) will need to be checked on.

Page 170 (7) Adequate Public Facilities. Ms. Szydel asked if this section will deal with more than just transportation. Mr. Duerksen said this section could be expanded to cover other subjects such as schools, sewer, fire, etc. This is the general framework that allows general requirements for adequate public facilities but as we did for transportation, there would need to be definitions for each subject.

Mr. Eggie - Page 171 Who is to rate the traffic impact analysis? Mr. Duerksen said the project applicant would do the analysis based on direction from the staff. Mr. Eggie suggested the analysis be done by someone else at the applicants expense to insure as much objectivity as possible. Mr. Duerksen said there are several ways to do this, the normal way it's done is the applicant is required to do it at his expense and he hires someone who reports to him. This alternative is the most common. An alternative is to have the applicant hire someone and he reports to the City. A third way is the applicant pays and the City hires someone. Mr. Eggie recommended either the second or third alternative. Mr. Luterbach said the analysis is discussed by staff ahead of time so that when payment is made, it will be done correctly. Mayor Gatzke said we have a traffic engineer on staff who monitors the work done by the independent engineering firm. Mr. Chase said the first alternative is the best way. Mr. Teclaw asked if this traffic analysis is always required, is it on a checklist, will it be mandated? Mr. Hoese said it would be part of the list. There are no permitted uses in the City, all development activity is regulated.

Dick Franz - Chapter 18, Page 16, #4 (b) should clarify that no more than 20 lots may have frontage on the road to the cul-de-sac.

5. Break - 1/2 hour

6. Continued GDMP Zoning and Subdivision Code Review

Ms Szydel - Chapter 17, Page 175 - More requirements from the Infill Development section be put into the Greenfield Development Sites. Mr. Duerksen suggested the standard regarding excessive monotony in development should be carried over into this section. Ms. Szydel also suggested building location, mechanical equipment, additional architectural standards be carried over to this section also. Mr. Duerksen commented on the addition of new standards on landscaping and screening so we have specific standards in other portions of this chapter so that is why some of these things are not carried over.

Discussion about if the General Design Standards section on Page 173 is or is not a separate section and would or would not apply to Greenfield Development Sites on Page 175. Mr. Duerksen said this would be reviewed with staff.

Ms. Szydel - Chapter 17, Page 179, #4 Minimum Lighting Standards - Are we going to look at lightposts in the City? Mr. Hoese said this paragraph applies to development lighting for commercial development to prevent nuisance lighting from leaving the site. This ordinance could regulate a nuisance light on a residential property.

Mr. Teclaw - The western part of New Berlin is what truly separates us from our neighboring communities. What we are doing here is so important to keep that bit of country in the City. I am pleased to see conservation subdivisions. Mr. Teclaw questioned if changes are being made in the language regarding stormwater on Page 140. Mr. Chase explained all the language about stormwater in Chapter 17 could be replaced with "see stormwater ordinance".

Discussion moved on to Chapter 18.

Ms. Szydel - Chapter 18, Page 20, #17 Sidewalks - It needs to be made clear that no sidewalks are required in the districts not mentioned. Exceptions are major arterials and collector streets.

Ms. Szydel wanted to express acceptance of Chapter 18, Page 28, Section 5 Conservation Subdivision. She felt this should definitely stay in the code.

Mr. Eggie - Chapter 18, Page 1, Paragraph B " The regulations are not intended to repeal, abrogate, annul or" This sentence should be omitted since it makes the changes meaningless. Mr. Duerksen

explained that other regulations stay in place unless these restrictions are stronger or more restrictive, then these would apply. Mr. Eggie worried about conflict.

Mr. Eggie - Chapter 18, Page 3 Department of Community Development - What does the Department of Community Development do, is there an overlap with the Plan Commission? Mayor Gatzke explained that the Dept. of Community Development is the former Planning Department and Engineering Department combined.

Mr. Eggie - Chapter 18, Page 15, Section 4B, Paragraph 3b - questioned definition of pedestrian routes. Mr. Duerksen said it could be a sidewalk, a trail, a bikeway, etc. Mr. Eggie asked who makes that decision if it is needed as a sidewalk with curbs or a dirt road and how it is incorporated into a plan. Mr. Duerksen said the staff would analyze it and make a recommendation to the Plan Commission who would in turn make a recommendation to the Common Council. Mr. Chase said this is in conflict with the requirement of what zones sidewalks are going to be required in. Mr. Duerksen said that is why the word pedestrian route is used instead of sidewalks. Mayor Gatzke said that in some residential areas, even the side of the road is fine to walk on and would qualify as a safe pedestrian route. Mr. Chase disagreed saying that anytime you mix pedestrians and motorized vehicles, it is not appropriate. Mr. Duerksen agreed with the Mayor saying that building a stub off a road to the trail system and you have connected a subdivision with a commercial area. The volume of motorized vehicles on a road makes it a case by case decision as to if it is a safe pedestrian route. Mr. Eggie expressed his concern that the type of route is not clearly written. Alderman Kaminski suggested that "pedestrian routes" be added to the definition section. Mr. Duerksen suggested that it read, "All subdivisions shall be designed to provide safe and attractive pedestrian routes from the subdivision to commercial areas".

Mr. Eggie - Chapter 18, Page 20 Curbs, Gutters and Storm Sewers- Are there any of these listed zoning districts in the Western part of the City? Mr. Hoese said yes, if you are going to create a half acre lot anywhere in the City, you need to put curb and gutter in.

Mr. Eggie - Chapter 18, Page 22 at the top of the page where it refers to percolation tests. Septic facilities are subject to County control. If it is found that the septic percolation tests don't comply with the County regulations, the City may require an increase in the minimum lot size. The percolation may still be bad. How can the City get involved with a County regulation? Mr. Hoese explained that if a good percolation cannot be gotten, the lot minimum must be increased giving them a bigger area to test until they get a good percolation. Lots may even have to be combined to accomplish this percolation.

Mr. Eggie - Chapter 18, Page 24 Dedication of Public Sites and Open Spaces, "Whenever a proposed subdivision encompasses all or any part of a planned or needed park, playground, recreational area," What is a "needed park"? This seems to be vague. Mr. Hoese said it would be a park that is shown on the City's adopted Park and Recreation Master Plan. Mr. Duerksen said that the sentence in the code seems long and should be broken up so it is easier to understand. Also the sentence in this section referring to Section 18.00 (5)(M)(3)(b)(l) should be Section 18.00 (4)(M)(3)(b)(l).

Mr. Eggie felt that a developer should not have the option of paying a fee to use land to development but rather the public's need for a public site should be determined by the City itself. The developer should not have the option to buy his way out of giving a public site. Mayor Gatzke said the first option is they must dedicate land and only if Park & Rec says we don't want that land, is a fee paid. Mr. Eggie then understood.

Mr. Eggie - Page 27 Impact Analysis - Applicant vs. independent analysis is still a concern of Mr. Eggie. Mr. Hoese said that the environmental section mentioned by Ms. Szydel earlier needs to be inserted here.

Mr. Eggie - Page 33 Conditions of Variance, Paragraph 1, third from the bottom line "shall be limited to single family residential use...". In New Berlin condominiums are considered equal to one single residential facility, not multi-family. Is it unique to have a condominium defined as one family unit and go

into the 80/20 percentage lowering the amount of ratio between 80 and 20? Mr. Duerksen said townhouses are considered single family but didn't recall the discussion of condominiums. Mayor Gatzke asked what the concern was about the 80/20 percentage? Is the concern about the 20% putting too many people in the City or is the concern of putting too many people in the City who don't have a stake in the property in which they live? The concern seems to lie with owned vs. rented property. Mr. Eggie felt the problem is the appearance of multi family and condominiums should be considered single families. Mayor Gatzke explained the 80/20 ratio indicates a desire to have no more than 20% of the units in this city to be rented. Mr. Eggie asked about redefining condominiums. More discussion followed as to the definition of condominiums.

Mr. Teclaw - Chapter 18, Page 29, (B) Eligibility - Is this to be synonymous with the existing Agricultural, R-1 and R-2. We should encourage, if not mandate it West of Calhoun and potentially encourage it in other areas that would be appropriate.

Mr. Lynch discussed his memo from Focus New Berlin-Resources and Land Use Planning Committee regarding a conservation subdivision ordinance and their desire for it to be enacted as mandatory rather than optional for the western half of the New Berlin.

Pros and cons were discussed regarding conservation subdivisions in the Western portion of the City and under what provisions if it became mandatory.

Mr. Teclaw - Chapter 18, Page 30, #4 Combination with Other Bonuses. Perhaps there is contradictory verbage because on the next page it talks about a minimum of 3 acres. Can this be interpreted to read that 3 goes down to 1-1/2 or are we going down to 3 acres as a minimum lot size. It is reinforced on Page 31 under Lot Size, paragraph a where it reads down to a minimum of 3 acres. Mr. Duerksen said most of the areas we are talking at least in the Western part of the community, there is nothing smaller than one unit per five acres so we are allowing going down to a lot size of three acres in those areas. Incentive of smaller lots and density bonuses are needed.

Mr. Teclaw - Chapter 18, Page 33 Conditions of Variance - Clarification if R-1 and R-2 should be included.

Mr. Franz spoke in favor of the mandatory conservation subdivisions.

Mr. Duerksen spoke about a middle ground or provision that would allow the City to determine clustering would be required or not based on some objective criteria. Wildlife habitat, sensitive environmental areas, wetlands, etc. may be some of the criteria. This is just being mentioned for potential consideration of an alternative.

Ms. Rogers - I think it should be more of an incentive than mandatory. The property owner needs the right to decide what is to be done with their land. Not one person has taken into consideration what the property owner feels or wants. Mayor Gatzke agreed that it is very easy for people to who don't own the land to make decisions and your perspective is critical.

Alderman Scheuble discussed maintaining the 5 acre minimum as an overall average.

Page 34 - Penalties - It was agreed that it is difficult to find the resources to check up or follow up to make sure that provisions are not violated. A grace period was suggested for violators. Mayor Gatzke went through the process of the enforcement system.

7. Communication To: Plan Commission

Communication From: Greg Kessler, Associate Planner

RE: "Tree Canopy Saves Garland Millions of Dollars Annually"

Mr. Kessler reported that American Forests, a conservation group based in Washington DC has developed a methodology to determine environmental and economical benefits of trees and green spaces in the urban environment. Back in September or October of last year we received a DNR Urban Forestry Grant to conduct a similar study here in New Berlin which we are in the process of doing.

Mr. Hoese said the City Engineer wanted to bring attention to the representation in this article that the tree cover canopy in and of itself cannot significantly effect stormwater management and he wanted to correctly point out that it is not the tree cover, but it is what is underneath that has a significant impact on stormwater management as far as runoff. Mr. Hoese contacted American Forests and brought this concern to their attention and they did verify what the City Engineer said.

8. Adjourn