

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

**NEW BERLIN PLAN COMMISSION  
NOVEMBER 2, 2009  
MINUTES**

The Plan Commission Meeting was called to order by Mayor Chiovatero at 6:55 P.M.

In attendance were Mayor Chiovatero, Mr. Christel, Alderman Ament, Ms. Groeschel, and Mr. Sisson. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; J P Walker, City Engineer; Ron Schildt, Transportation Engineer; and Mark Blum, City Attorney. Ms. Broge and Mr. Felda were excused.

Motion by Mr. Christel to approve the Plan Commission Minutes from October 5, 2009. Seconded by Alderman Ament. Motion passes with Mr. Sisson voting present.

Motion by Alderman Ament to approve the Plan Commission Minutes from October 7, 2009. Seconded by Mr. Christel. Motion passes with Mr. Sisson voting present.

**PLAN COMMISSION SECRETARY'S REPORT – No Report**

**CONTINUED BUSINESS**

1. ( ) GK PG-516 Comprehensive Plan - Discussion and possible action on Comprehensive Plan.
  - Referral back to Plan Commission from Alternative Transportation Committee (PG-293).

Shana Mosensen and Carolyn Esswein from PDI presented the Alternative Transportation Plan modifications. Mr. Kessler showed the updates to the Alternative Transportation Map. The Transportation Chapter will be updated to reflect the City's Resolution regarding SEWRPC 2035 Plan. Mr. Kessler said in doing this we are making sure that the Comprehensive Plan is consistent with the Transportation Plan that the Common Council adopted in 2004 and also mirrors language that is in the Resolution that endorsed the 2035 SEWRPC Transportation Plan.

Alderman Ament noted that Page 6:13 of the draft Plan talks about Calhoun Road and should be changed from reconstructed in 2011 to rehabilitated in 2010 with intersection improvements.

Alderman Ament noted on Page 6:17 under Bicycle and Pedestrian Facilities, On-Road Facilities, Bicycle Lanes, the last sentence says “Bicycle lanes are typically a minimum of 5 ft. wide”. Alderman Ament said that Ron Schildt had pointed out that there is a standard for urban and a standard for rural. The urban is 5 ft., but the rural is 4 ft.

Mr. Schildt said they allow the gutter pan width which is typically 2 feet. It is actually 3 ft. of asphalt pavement with 2 ft. of curb and gutter. In a rural condition, a 4 ft. paved shoulder is required before it comes to the gravel. Alderman Ament agreed we should identify bicycle lane widths to be consistent with AASHTO requirements.

Follow-up action will also be required for the truck routes indicated on the Alternative Transportation Map to make them enforceable. Coffee Road should be removed from the text and map as a truck or restricted route.

Alderman Ament referred to Page 6:30 under Regional Transportation Plans to the third bullet point which says “Widen Calhoun Road to allow four lanes from Greenfield Avenue to National Avenue.” He would like to see in addition to that, that that section from Greenfield Avenue to National Avenue be widened when the County takes over that road when the interchange goes in on I-94 and Calhoun Road. Alderman Ament felt that expense should be left for the County.

Alderman Ament referred to Page 6:40, the second bullet point talks about Calhoun Road, and mentions “reconstruction”, which should be “rehabilitation” with intersection improvements in “2010”, not “2011”.

Alderman Ament referred to Page 6:13 the very bottom paragraph that starts, “Cleveland Avenue intersection with Calhoun Road...” The last sentence that says “This should provide the opportunity for exclusive turn lanes and traffic control improvements,” and then it goes into recommended to plan for widening. It doesn't make sense the way it is written.

**Motion by Alderman Ament to approve and incorporate the comments and amendments that were recited during the course of this discussion into the ultimate Plan document.**

**Seconded by Ms. Groeschel. Motion carried unanimously.**

**Motion by Mr. Sisson to move forward on the Alternative Transportation Plan as commented on at the Sub-Committee level.**

**Seconded by Alderman Ament.**

**Friendly amendment by Alderman Ament to add an amendment across Sunny Slope to 124<sup>th</sup> connecting through Park Avenue. Friendly amendment withdrawn with the understanding that this map can be changed at a later date.**

**Motion carried unanimously.**

Mr. Kessler reviewed the two density options relative to Neighborhood "G" referring to his memo that summarized the statistics relative to both density options for the Plan Commissions discussion.

Mr. Sisson felt that the density revision that was proposed for Section 35 or Neighborhood "G" was not reasonable. His preference is to return to the existing density of 1:2, not 1:4.

**Motion by Mr. Sisson to change the density for Section 35 or Neighborhood "G" back to 1:2. Seconded by Mr. Christel.**

**Amendment to the motion by Alderman Ament to require 65% open space. Seconded by Ms. Groeschel. Amendment passes with Alderman Ament, Ms. Groeschel, Mr. Christel voting Yes, and Mayor Chiovatero, Mr. Sisson voting No.**

**Upon voting motion as amended carried unanimously.**

Mr. Kessler and Ms. Titel introduced the individual property owner requests for future land use changes that have been received since the Steering Committee ended its work.

**Motion by Mr. Christel to change the Future Land Use of the properties located at 16555 W. Small Road, 16515 W. Small Road, and 16505 W. Small Road to Business Park/Industrial. Seconded by Ms. Groeschel. Motion passes with Mayor Chiovatero, Mr. Sisson, Mr. Christel, Ms. Groeschel voting Yes, and Alderman Ament voting No.**

**Motion by Alderman Ament to change the Future Land Use of the properties located at 16390, 16380, 16370, and 16210 W. Small Road to Residential Estate. Seconded by Mr. Christel. Motion carried unanimously.**

**Motion by Alderman Ament not to accept the recommendation to change the Future Land Use of the property located at 5570 S. Calhoun Road identified as the section east of I-43 to Residential Estate, but remain as Country Residential as it is now. Motion fails for lack of second.**

**Motion by Mr. Christel to change the Future Land Use of the property located at 5570 S. Calhoun Road identified as the section east of I-43 to Residential Estate. Seconded by Mr. Sisson. Motion passes with Mayor Chiovatero, Mr. Sisson, Mr. Christel, Ms. Groeschel voting Yes, and Alderman Ament voting No.**

**Motion by Alderman Ament to deny the property owner's request to change the Future Land Use of the property located at tax key #1235 992 003 on Lawnsdale Road to Rural Commercial. Seconded by Ms. Groeschel. Motion carried unanimously.**

**Motion by Mr. Sisson to adopt a resolution approving the proposed City's Comprehensive Plan Update to comply with the State's Smart Growth Law by 2010 and forward to the Common Council for their review and approval by Ordinance. Seconded by Mr. Christel. Motion carried unanimously.**

## **NEW BUSINESS**

2. (3)AB UA-09-48 Kwik Fuel – 17145 W. Greenfield Ave. – Renovate Building.

Motion by Alderman Ament to approve the request, including Waiver, for Use, Site and Architecture to renovate the site and expand convenience store sales space within the existing building at 17145 W. Greenfield Avenue subject to the application, plans on file and the following conditions:

Waiver Request : Applicant is requesting a waiver from Section 275-57A(7)(f)[3], that requires parking areas, including aisles, to be set back a minimum of 10 feet from the base setback line and a minimum of 5 feet from other lot lines. Applicant is requesting a 5' setback.

- 1) Plan of Operation:
  - a) Architecture Review Committee shall review and approve changes to the façade of the building.
  - b) Dumpsters shall be properly screened from the street and public view in accordance with Article VIII Section 275-56 of the New Berlin Municipal Ordinance.
  - c) Applicant shall review the existing pavement surfaces for both replacement of broken or cracked pavement and/or new striping for delineating parking on site.
  - d) Any landscaping, filling and/or grading on site shall meet the Developer's Handbook for grading and landscaping criterion, "WDNR" Technical Standards. Erosion control methods shall be installed prior to and throughout the construction process.
  - e) Applicant shall show the truck/semi turning radii through the site. Label the radius as each turn is shown/proposed to scale. Show how a semi will be able to make deliveries and leave the site without having to backup onto the public ROW of S. Calhoun Road and W. Greenfield Avenue.
  - f) The Ultimate Right-of-Way for W. Greenfield Avenue and S. Calhoun Road shall be shown and used on any plan sets presented to the City for review.
  - g) Applicant shall locate and label the vision triangle/corner on the plan sets.

- h) Any work to be done in the City of New Berlin or State of Wisconsin Right-of-Way shall be presented to and approved by the governing agency prior to any site disruption for approval of the project.
- 2) Storm Water:
  - a) Applicant shall provide area values to quantify the reduction in impervious surfaces.
    - 1) Existing Impervious areas:
      - i) Roofs
      - ii) Pavement/Sidewalk
    - 2) Proposed Impervious areas:
      - i) Roofs
      - ii) Pavement/Sidewalk
  - b) Applicant shall provide locations of any proposed grade changes.
- 3) Building Inspections:
  - a) Apply and obtain appropriate building, plumbing and electric permits.
  - b) Plans shall be stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31)
  - c) Plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per (Comm. 61.70)
  - d) The building shall be fully accessible from the parking lot to the interior elements. (Comm. 63.1101 and ICC/ANSI A117.1)

Seconded by Mr. Christel. Motion carried unanimously.

- 3. (4)CT UA-09-50 Dr. Philip G. Conrardy M.D.,S.C. – 19550 W. College Ave. – Grading Plan for Fill.

Motion by Mr. Christel to table the Use and Site Approval for an after-the-fact grading plan for fill for the property located at 19550 W. College Avenue, subject to the application, plans on file and the following reason for tabling:

- 1) Staff has concerns about the fill areas and has set up a meeting to discuss the after-the-fact grading plan for fill and the wetland delineation report with the WDNR. This meeting has been set for Monday, October 26, 2009.

Seconded by Ms. Groeschel. Motion carried unanimously.

- 4. (1)AB UA-09-51 Carlton Point Condominiums – 13050 W. Cleveland Ave. – Conceptual Plan for Condominiums.

Ms. Bennett outlined the history, and displayed the location and proposed site plan for this project, and explained that no action will be taken tonight by Plan Commission, it is for discussion purposes only. Timothy Timmerman, the applicant gave a brief presentation along with a slide show. Mr. Timmerman

asked for feedback from the members of the Plan Commission as to how they perceive this project as it moves through the process.

Alderman Ament - What is the allowable density for this parcel?

Ms. Bennett – Seven units per acre. They have over five acres and are requesting 7.23 units per acre. I calculated it to be 38.7.

Alderman Ament - I assume the underground parking will give them the additional incentive so they should be within our Code.

Ms. Bennett – That is correct. The applicant will be requesting a PUD for this site as well.

Alderman Ament – Why are we looking at a PUD?. Other than one or two things, we don't have any Code issues.

Ms. Bennett – There is a requirement under the Rm-1 District that lands adjacent to, let me give you the exact language in No. 2 in the Findings.

Alderman Ament – Is that the main reason?

Ms. Bennett – Yes. Rm-1 District within in 120 ft. of any single-family zoning district is prohibited. The building they are proposing will be 120 ft. from the east residential property.

Alderman Ament – The improvements to traffic is better than what previously was there, namely the semi-industrial or manufacturing use. Improvements to the site are obvious, both by the previous use and what it currently looks like. It looks like major improvements to storm water. I don't have any issues with the density, but I want to ask the City Attorney a question. The Code says “New lands to be placed in the Rm-1 District by rezoning petition shall be located not closer than 120' to an existing single-family residential subdivision”. There is residential zoning to the east and also to the south across Cleveland Avenue. Are they better off looking for a different kind of district, or does a PUD resolve this issue?

City Attorney Blum – I am assuming the reason they are going to a PUD is to request the Commission give relief from the 120' setback requirement and to create its own district given the conditions and circumstances of the site that you would deem it appropriate to allow for a lesser amount. I am assuming that is the reason they are proposing it, and I don't have a problem with that from a conceptual standpoint.

Alderman Ament - Even though the PUD calls for Rm-1/C-2 PUD? Does the Rm-1 pose a problem?

City Attorney Blum – In essence, it is a Rm-1 District with a PUD overlay. It is the PUD overlay that is going to give relief from that particular setback requirement. I am assuming that would be the way they would proceed with this.

Alderman Ament – If they do and everybody is comfortable with the rest of it, that is not an obstacle then?

City Attorney Blum – On its face, without seeing the details, at this stage I don't have a problem with it conceptually. The devil is in the detail, as you well know, so we will wait to see what we get.

Mr. Sisson – The devil is in the details, and the thing we need to recognize is that they are asking us to change the zoning on this land use, and this is a residential area. You showed us the illustrations of the other developments. They are not plopped down in the middle of a residential area. I went through this with you people before when you came to us and wanted to put the same building, but now you have changed some dimensions. The concern I would have going forward is that you are very careful in terms of the elevation facing Cleveland Avenue. You show 12 parking spots, six in the front, and six in the back. Screen those parking spots in the front because we don't want to see a parking lot in the middle of a residential section. When you come back, if you don't have that permeable surface, I'm going to ask you why. You had problems before with the watershed management, but it was the water running off the golf course and running through the property. The neighbors had significant heartburn over what was happening, so you need to straighten that out. The neighbor opposition was the other thing. Frankly, when I look at this property, I don't know what we would do with it the way it is sitting there with that Institutional zoning. Everything having been said, this is probably a good development for it, but you are going to have to get your ducks lined up. I don't mean it as a pun in terms of watershed management, but you will need to get your act together when you come back

Mayor Chiovero – My comments mimic Mr. Sisson. There have been a lot of challenges on this site and a lot of neighbor opposition. From what I am hearing tonight, I think you have calmed a lot of nerves, but it is in the middle of a residential neighborhood so it is going to be very pertinent that we make sure we cover all the concerns and make sure that we take care of the storm water. I think the traffic has been explained by the TIA. I agree that the previous use when it was active was probably more of a burden. One comment that you made that I should caution you on is when you said that because it is a senior development you feel you won't get as active traffic. A lot of seniors I work with on a daily basis are quite active. I appreciate you coming back with some new and fresh ideas. We had a stand still for a long time, and I am glad to see you come back and bring something that is possibly viable for the site. I am not getting any indication from the rest of the Plan Commission that you are far off base. Let's hope through working with staff, you can move this forward.

5. (7)JT UA-09-53 Settler's Ridge –3275 Wehr Rd. – Barn.

Motion by Mr. Sisson to approve Use and Site Approval for the construction of an accessory building prior to the construction of the principle structure on the property located at 3275 S. Wehr Road subject to the application, plans on file and the following conditions:

- 1) Accessory building shall be constructed as depicted in the submitted plans.
- 2) Accessory building shall be used for personal use by the applicant and shall not be used for home occupations, commercial storage or business operations, except for the storage of equipment for the maintenance of Settler's Ridge Subdivision.
- 3) Section 275-42.F(2)(a)[5] of the Zoning Code states that garages located within the front yard require Plan Commission approval. If the principal structure will not be located in front of the accessory building, the applicant shall apply for Plan Commission approval.
- 4) Applicant shall address all technical engineering comments in the letter dated 10/23/09.
- 5) Only one (1) access per lot/parcel is allowed in the City of New Berlin. The maximum slope for private driveways is ten percent (10%) from the garage slab to the right-of-way line along Wehr Road.
- 6) Applicant shall apply for an erosion control permit and install erosion control measures.
- 7) Apply and obtain appropriate building and electric permits.
- 8) Building shall meet all requirements of the Southeastern Building Code and the 2009 State of Wisconsin Uniform Dwelling Code Comm. 21 thru 23.
- 9) Waukesha County preliminary site evaluation required prior to building permit issuance.

Seconded by Alderman Ament. Motion carried unanimously

6. (1)JT UA-09-58 Barbara Schaeren – 1605 S. Triangle Avenue – Legal non-conforming Deck.

Motion by Alderman Ament to approve Use and Site for the construction of a porch addition onto a legal non-conforming single-family home located at 1605 S. Triangle Avenue subject to the application, plans on file and the following conditions:

- 1) The addition shall be constructed in the location depicted on the plans on file.
- 2) Applicant shall apply for and obtain appropriate building permits.
- 3) The deck shall meet all requirements of the South Eastern Building Code Section 30.30 and the State of Wisconsin Uniform Dwelling Code Comm. 21.
- 4) Plans shall be approved by the City of New Berlin Department of Community Development Inspection Division.
- 5) Applicant shall apply for an erosion control permit and install erosion control measures if deemed necessary by Inspection Services.

Seconded by Mr. Sisson. Motion carried unanimously.

7. (3)JT UA-09-59 Richard Marek – 2330 S. Johnson Road – Addition to Legal non-conforming Home.

Motion by Mr. Christel to approve Use and Site for the construction of an addition onto a legal non-conforming single-family home located at 2330 S. Johnson Road subject to the application, plans on file and the following conditions:

- 1) The addition shall be constructed in the location depicted on the plans on file.
- 2) Slopes are not to exceed 4:1, 25%, anywhere on the lot.
- 3) Maintain all existing grading and drainage patterns throughout both the rear yard & side yard areas. Do not block any drainage through the rear yard or side yard areas.
- 4) Drainage from this lot shall not adversely impact any adjoining-neighboring lots.
- 5) Match the existing yard grade, elevation, around the base of the attached garage +/- 6", +/- (858.5').
- 6) Applicant shall stay a minimum of 10' from any lot line with spoil piles and building materials.
- 7) Applicant shall apply for and obtain appropriate building permits.
- 8) Building addition shall meet all requirements of the Southeastern Building Code and the 2009 State of Wisconsin Uniform Dwelling Code Comm. 21 thru 23.
- 9) Plans shall be approved by the City of New Berlin Department of Community Development Inspection Division.
- 10) Waukesha County preliminary site evaluation required prior to building permit issuance.
- 11) Applicant shall apply for an erosion control permit and install erosion control measures if deemed necessary by Inspection Services.

Seconded by Alderman Ament. Motion carried unanimously.

## COMMUNICATION

8. Communication To: Plan Commission  
Communication From: Greg Kessler, Director of Community Development  
RE: 2010 Meeting Dates

Mayor Chiovaturo asked Plan Commissioners to refer questions and concerns regarding the 2010 meeting calendar to Mr. Kessler. Mr. Kessler made special note that Park & Recreation Commission should advise of conflicts. Alderman Ament mentioned January 4 as a possible conflict with the holidays depending on the number of items on the agenda. Mr. Kessler reminded the Plan Commissioners that modifications to the schedule should be identified within the

next few weeks because there is a 45 day processing cycle and applicants need adequate notice.

**ADJOURN**

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 9:26 P.M.  
Seconded by Mr. Christel. Motion carried unanimously.