

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

PUBLIC HEARINGS

6:00 P.M. ()GK PG-741 Zoning Ordinance Revisions – Maximum Height for Hotels And Motels.

NEW BERLIN PLAN COMMISSION

SEPTEMBER 15, 2008

MINUTES

The public hearing relative to the revision of Section 275-34(D)(3) of the Zoning Ordinance was called to order at 8:42 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Gihring, Alderman Ament, Mr. Felda, Ms. Broge, and Ms. Groeschel. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Jessica Titel, Associate Planner; Corliss Tischer, Code Compliance Specialist; Nicole Hewitt, Storm Water Engineer, Cathy Schwalbach, Storm Water Engineer, and Mark Blum, City Attorney.

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

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

Mr. Kessler explained the proposed revisions to the Zoning Ordinance relating to clarification of the hotel and motel height requirements and the allowance for credit for additional floor height. Suggested modification reads "Hotels and motels may exceed the maximum height requirement of five floors if the eligibility for a height credit is satisfied as set forth herein; a credit of one hotel floor may be granted for each level of underground parking and/or for the dedication of permanent open space in an amount of not less than two times the square footage of the floor space added. In no event shall a credit be granted in excess of two floors. Lands which are designated as environmental corridors, isolated natural resource areas, or conservancy land shall not be eligible for purposes of calculating the credits set forth herein".

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

Robert Wernicke, 1445 River Road - According to C-8-08, this particular project at 4905 S. Moorland Road is limited currently to five floors.

Mr. Kessler – Are you referring to Item C-8-08?

Mr. Wernicke – Yes.

Mr. Kessler – We are not on that public hearing right now. We are on the public hearing for PG-741.

Mr. Wernicke - Would this apply to the Deer Creek development?

Mr. Kessler – Correct. This provision applied to that during their Use Approval process.

Mr. Wernicke - How does it affect that particular project?

Mr. Kessler – It does not affect that project. The project has already been approved and they were granted two additional floors.

Mr. Wernicke - So that one will come in at seven?

Mr. Kessler – Right.

Mr. Wernicke– What is the status of the property right now?

Mr. Kessler – We have issued the grading permit and the zoning permit for Use, Site and Architectural approval. The property has under went clearing and grading of the site. They have applied for a LOMA- F thru FEMA to remove a portion of the land from floodplain. We are waiting for that approval to come through.

Mr. Wernicke - If they remove part of that property out of the floodplain, will that also affect the properties on the other side of the floodplain?

Mr. Kessler – No, if you recall when we had the public hearing for the FEMA Floodplain Map Modernization process, the way that the current State DNR regulations are laid out properties are not allowed to increase the floodplain levels so they have to balance the cut and fills on the site with their fill in order to achieve that. They have an approved floodplain model that does not impact the floodplain.

Mr. Wernicke - OK.

Vernon Bentley, 3450 S. Johnson Road – Are we talking about the Ordinance revisions? Does this include Deer Creek Inn and Conference Center?

Mr. Kessler – The Deer Creek Inn and Conference Center is not subject to this revision. That project has already been approved and the permits have been issued. This is for Ordinance revisions should any future hotels or motels come into the City. This will clarify the height credit portion of our Code.

Mr. Bentley - Pertaining to the Deer Creek Inn and Conference Center, they had a public hearing on November 24, 2000 at which everyone was told there was a 55-foot limit. That was it. That was approved in January 2001. In February 2001 the Codes and Ordinances were changed. They were voted on and approved locally here, but actually they were part of the Master Plan and approved in April 2005. In April 2007 is when Plan Commission approved the Deer Creek Inn and Conference Center without a public hearing.

Mayor Chiovaturo – Vern, are your questions based on the hotel or based on the Zoning Ordinance Revision?

Mr. Bentley – I'm trying to figure out how these Codes and Ordinances change. When they came forward with their plans, they were for 55 ft., but they asked to use the new Ordinance that was passed after they were approved because they said it would restrict their building. For the past ten years the Master Plan has been used as a guide and now I'm hearing that once the new Comprehensive Plan is put into place, everything is going to be set in stone. It won't be just a guide any more. What kind of ordinance revisions are we actually talking about?

Mr. Kessler – The way the hotel height credit currently reads in the Code is, “with a maximum of a two floor credit for each level of under ground parking”. There have been some interpretations of that that indicates that for every layer or floor of under ground parking, or under ground structure, an applicant could get two additional floors of above ground hotel. Lets say you had four floors of under ground parking, in theory one interpretation says you could get eight additional floors of hotel height. We need to clarify that. The language that the City Attorney and I are endorsing is clarifying that to say you only get a maximum of a two floor credit above ground, no matter how

much you put below ground. Does that help clarify it?

Mr. Bentley – Yes, we could never get that clarified that you only get two more floors, no matter how far you go down. What are we considering a floor? One floor in the Conference Center is 24 feet tall.

Mr. Kessler – There is no real good definition of what a floor height would be because it depends upon the type of building you are talking about. We have industrial buildings in the City that are one floor with 35 feet clear story height buildings. You have the hotel which has a 24, 26, or 28 foot ceiling because it is for a conference facility, then you have the room floors that are 12 feet high. I would recommend against defining a floor height because of that reason. If you are going to do that, be aware of the differences between the building type and style and use and how it relates back to floor height.

Mr. Bentley – What is the height of the five floors of the actual hotel rooms? How do we describe the two floors? Even if you come up with this revision, the building can still be 100 feet tall.

Mayor Chiovatero – We don't have a set height of what a particular floor would be. It depends on its use and the type of building.

Mr. Bentley – In other words, we could still have 100 foot buildings. You can call them five story, but giving them an extra two doesn't determine if it's going to 55 or 65 or 110 feet tall. Am I right?

Mayor Chiovatero – We are trying to define the maximum number of floors and how it is determined. It does not define the height of a hotel floor.

Mr. Bentley – Ok. Thank you.

? - The last we heard was that there was going to be a water park attached or semi-attached with this. Does this ordinance cover any type of water slides, etc?

Mr. Kessler – The Deer Creek Inn does not apply to this Ordinance revision. It is already approved.

? - This new revision would allow a maximum of two floors. Do we have a Fire Department that can handle those kinds of things?

Mr. Kessler – I don't know specifically how high of a ladder truck the Fire Department has.

Mr. Gihring – The last time we talked about this at a meeting, I asked the Fire Chief if there was still a height problem as there was years ago? He said, no it makes no difference how high the building is because they are trained and have the equipment to go up inside the building now, so it doesn't matter how high the ladders reach.

Mr. Kessler – These buildings have emergency fire command centers in them also.

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

Mayor Chiovatero asked three times if there was anyone wishing to speak in favor of this Code Revision, seeing none.

Mayor Chiovatero asked three times if there was anyone wishing to speak in opposition of this Code Revision, seeing none.

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

Mr. Gihring – This is a necessary change. At the time when we talked about the Deer Creek Inn and Conference Center, we did interpret it this way because that is what we all agreed to, but I think it is good to make the change. The only thing I would like to state for the record is that this doesn't help us with a building where you could have under ground parking that doesn't nearly accommodate enough cars for the size of the floors that you are adding. You could have one level of under ground parking that only holds fifteen cars and add another floor on the hotel that could handle another fifty rooms. This does not account for the difference. I think this will work for now, but maybe sometime in the future we could get a little smarter about this.

Mayor Chiovero – I see what you are saying. You are saying someone could minimize an under ground parking structure and expect to maximize it above ground.

Mr. Gihring – Yes.

Mayor Chiovero – We still would require it to have enough parking to handle enough parking that fifty rooms would require.

Mr. Kessler – It would still be at the discretion of the Plan Commission to review it under the use, site, and architecture to make sure that they have adequate parking plus the cost of under ground parking wouldn't probably be worth it.

Alderman Ament – There is actually two things going on here at the same time. One of the issues is if we even need this credit. What benefit does the City get from this credit other than we will claim that we get more open space? All we are doing is allowing them to put up more stuff on a small parcel because they don't have to account for the parking. There may be some benefits to that, but overall the whole issue that was created with this and all of the gray areas that we talked about were created because of this particular section of the Code. The other parts of the Code are clear. If staff wants to prepare for this for the next meeting, I will be asking why we need this credit and why do we offer it only to hotels. If it is so great, why don't we offer it to everybody in B-1, B-2, B-3, and all the other districts. Why don't we say, if you build a house and put the garage under ground, we will give you some kind of credit? If it is that good of a thing, lets work it out for everyone, not just for hotels and motels.

The gray area came in when we were trying to decide what floors were. In three different sections of the Code it is very clear that no building in the City will exceed 55 feet. Section 275.45 has one section under 4(b) that says no commercial or industrial structure may exceed 55 feet in height. There is no gray area there. I don't see one anyway. The Code also reads that hotels and motels may exceed the district height regulations, meaning if they are less than 55 feet, yet no hotel or motel may exceed 55 feet in height. That sounds pretty clear to me. The table 275.34 (2) says, maximum height in feet 35 except 55 feet for hotels and motels. Then we get to the fun part where we are referring to floors and this is where the Deer Creek Inn and Conference Inn issue came in and where it is going to come in again in my opinion. Why does every part of our height restrictions in every zoning district including the one that this is in, refer to feet? Why, here, are we referring to them as floors? Mr. Kessler made a good point when he said we have industrial buildings that may be considered one floor, but yet they are 35 feet, or even 55 feet. Why don't we tell them if they put under ground parking, they could make the building twenty stories high, or it may be 150 feet high. We are not being consistent within our Code. I like the changes that the City Attorney made, but rather than referring to five floors, I think where it reads, hotels and motels may exceed the maximum height requirement of five floors, it should say, of 55 feet. Later on where it says, a credit of one hotel floor may be granted, again there has to be a way to determine what the floor height is. If we are restricting it to 55' and saying it is five floors, that is pretty easy math, it's eleven feet, so why can't we say instead of one hotel floor, eleven feet? At the other Section where it says, in no event shall a credit be granted be granted to exceed in excess of two floors, why can't it say 21 feet or 20 feet or 22 feet. We do in every other aspect of our Code, I don't know why we can't do it here. That is the part, if this comes to a vote, that I won't be able to accept if it still refers to floors. We need to be consistent and refer to it in how high it is based on the feet of the building.

The other reference that I heard was that this was seven floors, so they got two additional floors. Don't forget that the two additional floors actually were approximately the same height as five additional floors, so the height of this building went up to almost 105 feet, if I remember correctly. The intent of Alderman Harenda to make this request in the first place, was to prevent any future hotels, specifically in his district along I-43, from being 105 feet tall or more depending upon how high their floors are, if we leave it at floors. His intent was to stop that from happening again. He and the residents don't want another 10 foot tall or more building there. They want it restricted. If we are going to leave it as addressing it as floors, it is still not going to solve our problem.

One of the things that Mr. Gihring said we all agreed on, I did not agree. I was positively against that. I thought the definition would come through in feet. I like the changes, but we need to identify the height of a floor. We do the same thing with the industrial zones. We have a foot limit, and that's it. That is what I will be looking for when we come back to this.

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

Mayor Chiovatero closed the public hearing at 9:04 P.M.

6:01 P.M. ()GK/NJ PG-969 FEMA Floodplain Map Modernization 2007.

NEW BERLIN PLAN COMMISSION

SEPTEMBER 15, 2008

MINUTES

The public hearing petitioned by the City of New Berlin at the request by the Federal Emergency Management Agency (FEMA) to adopt the newly established base flood elevations (and associated FIRM Maps) and Flood Insurance Study, for the City of New Berlin, as prepared and approved by the Wisconsin Department of Natural Resources and FEMA, thereby amending the City's Zoning Maps to reflect the changes as a consequence thereof was called to order by Mayor Chiovarero at 6:23 P.M.

In attendance were Mayor Chiovarero, Mr. Sisson, Mr. Gihring, Alderman Ament, Mr. Felda, Ms. Broge, and Ms. Groeschel. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Jessica Titel, Associate Planner; Corliss Tischer, Code Compliance Specialist; Nicole Hewitt, Storm Water Engineer; Cathy Schwalbach, Storm Water Engineer; Mr. Matt Bednarski, Bonestroo; and Mark Blum, City Attorney.

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

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

Ms. Jones further explained the city-wide project to adopt the FEMA approved Base Flood Elevation Maps and the Flood Insurance Study. In addition, this public hearing applies to the update of those maps as well as to rezone the floodplain overlays for the City of New Berlin.

Ms. Jones gave a summary of the process that has been happening concerning the maps during the past two years. The City is required to adopt these maps by November 19, 2008 and they become effective on that date.

Mr. Kessler added that the maps subject to the public hearing tonight cannot be changed until after the effective date of those maps. There is a formal process to amend the maps which will be gone over later. The reason for that is if the City does not adopt the maps by November 19, 2008, the City will be in violation of the National Flood Insurance Program and the Community Rating System Program. That would mean that the people who have floodplain on their property in the City, may not be eligible for federal aid or disaster assistance. We want to make sure we are current with the program. We are not going to make determination for individual property owners this evening. There are forms available to fill out by individual property owners that have specific questions related to their property.

Ms. Hewitt explained that floodplains are classified as areas that have a one percent chance of flooding every year. This is known as the 100-year floodplain. There are several different zones that are delineated. High risk areas are Zone A and AE which correspond with the one percent annual chance. Zone A is determined by approximate engineering methods. Detailed hydraulic analysis is not conducted on those zones and there is no base flood elevation shown. Zone AE has been determined by detailed engineering methods and detailed hydraulic analysis that are performed in those zones. There are base flood elevations shown on the maps on those areas. The moderate risk zones are shaded Zone X areas. Those correspond to the 2 percent annual chance floodplains also referred to as 500-year floodplain. The rest of the unshaded X zones are low risk. Those are outside of the 1 percent chance and the 2 percent chance floodplains. The Federal Emergency Management Agency (FEMA) regulates the flood insurance rate maps which

are referred to as the FIRMS. State and local agencies play an important role in regulating floodplains also. New Berlin participates in the National Flood Insurance Program and the Community Rating System Program. It assists residents with floodplain questions, elevation determinations, and mapping documentation and changes. New Berlin, like individual property owners, has the ability to request floodplain mapping changes if necessary. New Berlin also regulates the floodplains in its Municipal Code in Section 275.65. FEMA firm maps are the official floodplain maps of record. The map modernization process is a nationwide process to update the nation's flood hazard maps and transform the flood maps from paper to digital.

Matt Bednarski from Bonestroo explained the process for changing FEMA's FIRM maps. There are two ways to modify the FIRM maps. The first is a letter of map amendment, otherwise known as a LOMA, which may be filled out by the property owner to remove a structure from the floodplain. Second, the floodplain may be changed for a small section of the whole area of a waterway. A letter of map revision, otherwise known as LOMR, along with a detailed engineering analysis of the floodplain is required for a change to the floodplain base flood elevation (BFE). The two reasons for changing FEMA's FIRM map is if there is more accurate information or revised computations. The vast majority of changes would be due to more accurate information which would go through the LOMA process. LOMA's are determined by doing a survey of the property to find the lowest elevation on the property and compare it to the floodplain. There is no fee to submit those for review by FEMA and can be done with Form MT-EZ found at their website or through a Google search for MT-EZ.

Mayor Chiovatero asked for questions or comments for the purpose of clarification?

Leland Kolberg, 14421 W. Dakota Street – I have had a hard time keeping up with all this information tonight, but it seems that everybody says FEMA did surveys, etc. I have lived where I am for 52 years. I've never seen a surveying team or anything else on my street or anywhere around where I live. I am wondering if all these maps are done in an engineering room with no actual observation made of the problems that they claim are floodplains?

Ms. Hewitt – FEMA does not send out survey teams to survey individual properties. They rely on the most accurate data that they have. Right now the majority of ours were based on flown aerial topography, and then they updated where that base for the elevation landed based on those new lines.

Mr. Kolberg – It seems hard for me to understand how they can do that from the air, especially since I have lived where I am for 52 years and never saw the water above my culvert. Now I'm in a floodplain, and the thing that bothers me is that we are reaching an age where we might want to move. When somebody goes for a loan to buy my property, they will be told it is in a floodplain. How can that be explained? To me that is a big problem. You could put the whole City in a floodplain if it didn't affect how it was going to sell their homes.

Mayor Chiovatero – You have very legitimate concerns. Are there any comments from our staff on that issue?

Ms. Hewitt – There are detailed studies that they do engineering analysis on which is how they determine these base flood elevations, and then where that line lays is where that elevation is on those properties based on topographic information that is available to them. You can have a survey done of your property to determine what elevation it is, and if it does not match the floodplain map, you can apply to FEMA under an application process to have your property pulled out of floodplain. It will show up on the maps as being in, but you will have a letter of map amendment stating that you are not in, if that is the case.

Mr. Kolberg – That seems like a very complex way to get an answer.

Ray Strand, 4033 S. Johns Drive – Quite a few of us are interested in finding out why we never received letters except for this current one. If we had all this time, we would have followed up a

lot sooner. Now, today it is the last minute because this is the first letter I ever received regarding this. I have talked to at least ten neighbors in my subdivision that say the same thing. You have seen a lot of us here quite often so you know we stay on top of things. I would not have purchased out here ten years ago if I was in a floodplain. At that time I wasn't. Two years ago we had a big meeting here, and we weren't in a floodplain. Today we are in a floodplain, and we weren't given notice to appeal ahead of time until we got this letter on the 28th of last month. Can you explain why this has happened?

Ms. Hewitt – We were able to send letters out to all the property owners that had floodplain touching their property because we received the digital information and were able to overlay that onto our mapping system enabling us to find out every property that was affected by the floodplain maps. Previously these maps were paper, so there was no way to do a community wide determination on every single property that touched floodplain.

Mr. Strand – Everyone in our subdivision is in floodplain except for a few homes out of fifty some homes. Now, they are all affected and before there was only a couple. We never got notice until now, after the fact.

Ms. Hewitt – We sent out this notice to inform everyone to check into what the status was on their properties to be able to get flood insurance at the now non-flood zone rate so that it can be carried over. It was intended to make everyone aware of this. As I said originally, prior to this we did not have a way to let everybody know.

Mr. Strand – Obviously not.

Mr. Kessler – I am not aware of any subdivision that wasn't in before that is suddenly in now.

Mr. Strand – We have fifty some homes in our subdivision and there were only a matter of five or six or seven that were affected. Now, we are all affected except for a handful.

Mr. Kessler – I would need to understand where your subdivision is located and look at it specifically. Please fill out the form and we can certainly follow up with a before and after evaluation.

Mr. Strand – My biggest concern is why we never got notice. You say we got notice and none of us have ever received any.

Mayor Chiovatero – Please be aware that the City did not draw the maps. The City is reacting on the maps that were given to us. We are now trying to work with the citizens to try to resolve these issues.

Bill Rodewald, 12440 W. Howard Avenue - To follow up on what Ray is saying, this is a year and a half process and we are just hearing about it now. I don't have cable so I don't see any of the meetings, and I don't get up here too often. It seems like you could have gotten this information out to the community a little better than this.

Mike Backus, 2761 S. 128th Street – Four years ago we bought a house here, and battled to get out of the flood insurance. We got out of the flood insurance and now we are being put back in, if I am understanding this correctly. Where do I get the map information to find out if we have been tossed back in or not?

Ms. Hewitt – We have the maps on file upstairs. Waukesha County's website has the floodplain delineated also.

Mr. Backus – Will Waukesha County's website tell us this?

Ms. Hewitt – Yes, they have a GIS mapping site.

Mr. Kessler – The Department of Parks and Land Use through Waukesha County has an internet map viewer. If you go to the Department of Parks & Recreation Land Use website and launch that map viewer, you can zoom in on New Berlin and find your property. We can also do that for you. I have answered probably a half dozen phone calls per day, and I follow right along with folks right over the phone.

Mr. Backus – If I give you the address, you can check it out?

Mr. Kessler – Right, once again we are more than happy to work with individual property owners.

Mr. Backus – You said FEMA flies overhead and checks out the elevations for updating this map. Do they fly over when it is flooded so they can actually see where the rain water is, like in spring when it flooded like crazy and everybody was under water? The creek goes right through my front yard. It didn't get more than a couple feet higher than normal. It is thirty feet from the structure.

Ms. Hewitt – FEMA does not develop the topographic maps. Those aerial maps I was talking about are developed by SEWRPC.

Mr. Backus – Is that where the information comes from for FEMA?

Ms. Hewitt – That is the information that they are using in some cases. Other communities may not use this information. What is going on is community by community, county by county.

Mr. Backus – You said earlier that the maps changed and nothing can be done because it is stamped, signed, and approved by FEMA already. What we say here tonight can't change anything, right?

Mayor Chiovatero – What Mr. Kessler explained is that these maps cannot be changed until they are officially adopted on November 19, 2008.

Mr. Backus – But you have to adopt them?

Mr. Kessler - These floodplain boundaries per our own municipal code are considered overlays so they sit on top of the zoning of your property. They are subject to modifications based upon what happens to the floodplain boundary. It is very similar to a wetland delineation. Wetlands can get bigger and they can get smaller. They are delineated and then mapped. Our code requires that whenever we modify a zoning district boundary, in this case a floodplain boundary, we have to go through this legislative process, which is the public hearing process. FEMA is not telling us we have to have a public hearing. We have already had the public comment period. We are just required to adopt the maps by November 19, 2008 or we are at risk of being in violation of the National Flood Insurance Program. We were able to send the letters because we had the digital information sent to us. Part of what we wanted to make sure of is that the property owners who already had floodplain insurance or allowed the policy to lapse and for some reason the floodplain had gotten worse on that property, they could be subjected to a higher insurance premium. We wanted to make sure that the property owners were aware of that and had a chance to acquire floodplain insurance should they choose to or if the lender requires it. They would hopefully be grandfathered in at a lower premium. I want to make it clear that it is not the City's requirement that you have floodplain insurance. We get nothing out of it. It has nothing to do with us.

Mr. Backus – I think a lot of people here are thinking that we can change the mind of whoever is deciding that this is going to happen. Just to clarify, no matter what we say or what happens tonight, nothing is changing and it is staying the way it is?

Mr. Kessler – That is correct. What I would point out, when we went through the 90 day open

comment and appeal period, the notice was published to every alderman and asked them to publish it in their newsletters, newspapers, etc. We did not mail out letters for the very reason that Ms. Hewitt stated. The process to amend the maps would have been the same during the open public comment period as they would be after the adoption of the map. FEMA will still require a letter of map amendment or a letter of map revision be submitted as part of the process.

Mr. Backus – No matter what anybody says, they are changing it and you have to go through the process.

Mr. Kessler – If you want to change the map, we would be more than happy to work with you, but they will not accept any documentation for those changes until November 20, the day after the maps go into affect.

Mr. Backus – So, there is a mindset that this is how it is going to be done regardless of any input from the public?

Mayor Chiovero – It is my understanding right now that the letter you received shows that you have floodplain on your property. It may have gone up or down from the last time, or maybe your property is being included where it wasn't before. Mr. Kessler is trying to say that we are trying to make everyone aware of this so we can work with you to give you the proper procedures.

Mr. Backus – This is just information on how to get out of it if you want to get out of it.

Mayor Chiovero – This is a public hearing to try to answer your questions. Everyone is asking why they weren't told before. We have been trying to get the information out. There is no sure way of getting every piece of information out. Fortunately, now we have digital copies of the overlay, and through GIS were able to get the addresses for the letters.

Al Meyer, 3930 S. Elm Drive – As I told Mr. Ament, all of these folks in this room have exceeded the 100, the 500, and the 1,000 year scenario. Now, you are telling us because of the new mapping, you are changing the rules after the game was played? That is exactly what you are doing. When I talked to FEMA before I talked to Mr. Ament, they told me that the City of New Berlin should have tried to lift us out of the floodplain once we exceeded their expectations. I have documentation from the DNR that we have exceeded the 500 and the 1,000 year flood scenario. As Mr. Ament knows, I have lived there for almost 45 years and I have never flooded. The home immediately to the south of me happens to be on an island and is not in a floodplain. The house south of that is in the floodplain. They are now saying that Mr. Gihring's home is a foot lower than he was two years ago. I don't quite believe that. In other words, this meeting as far as I am concerned, is a farce. We have exceeded the 500. The City of Elm Grove threw \$120 million dollars at the City of Elm Grove in 1999. They also flooded in June of 2008. They are also getting more federal aid. You, Mr. Mayor, told me that I didn't talk to the City Manager in Elm Grove, and I certainly did. She gave me people from the County, etc. When we had a meeting here a few years ago, one way to lift us from the floodplain was to put proper sized culverts underneath Cleveland Avenue. The County was supposed to get the word from the City, they never did. It was never done. I have pictures where it was never done. What is your answer? We have exceeded the 500 and the 100. All this mapping is doing is locking the door after the horse is gone. It is documented in every news media that we have exceeded these year determinations. I had Mr. Nitschke tell me that I called the City of New Berlin to tell them that my area flooded. The reason I called the City at that time was about whoever plowed the subdivision at that time, plowed snow so the water had no place to go. It was cosmetic. FEMA has Poplar Creek as a navigable waterway, a two-year old could pee across the thing. Do you have any answers? We have exceeded it. Everyone in this room has exceeded the federal lunacy. It is documented. The DNR also states that we have exceeded it, and I have that in writing. That is not a figment of my imagination.

Mr. Kessler – There were surveys completed on certain properties in Observatory Heights Subdivision. I believe, based upon the survey work that was completed by the City and submitted

to FEMA, the determination was made that some of the homes and properties within that subdivision still fell below FEMA's base flood elevation map. That is the best science engineering survey data that is available to use.

Mr. Meyer – My home is supposedly, a half inch too low. Again, the home immediately to the south that must be an island added an \$80 thousand dollar edition, you get more tax revenue. Does the water run up hill? Mr. Nitschke had told me at one point in time that flood water would go up Observatory Road and come back down. My answer to him was, what engineering school did he go to? It is a voluntary situation from the City's standpoint. You don't have to enter into this lunacy. That was documented when it flooded in Lake Dalton. Is that not true?

Mayor Chiovatero – I have spent hours trying to work with you and your neighbors, and I know that our Engineering Dept. and Alderman Ament have tried also. Some of these things, unfortunately, are not within our control. We are trying to help everyone where we can as Mr. Kessler eluded to.

Mr. Meyer – Is this a voluntary thing for the City or not? You are just talking around it.

Mayor Chiovatero – No, I'm not. I can assure you that you may deem it as a voluntary program that the City has entered into, but I can tell you that there are a lot of people that are glad that they were able to obtain flood insurance that would not have otherwise been able to obtain flood insurance if we were not in that program.

Mr. Meyer – No. Nobody buys that scenario. Not at all. You didn't answer the question. Is it a voluntary thing or not? Yes or No?

Mr. Kessler – Yes, participation of a municipality in the National Flood Insurance Program and the Community Rating System Program, both of which we participate in, is entirely voluntary, but I would add that by our participation in those programs, residents who have to purchase floodplain insurance do receive a premium discount of up to 10 percent. Also, because of our participation residents or property owners who do experience property damage due to flooding are then eligible for disaster or flood aid. Without it, you are not eligible.

Mr. Meyer – In my particular situation, why would I want flood insurance? I have lived here for 45 years. I have never had water on the property.

Mr. Kessler – It is your personal or your lenders choice. That is not the City of New Berlin's choice for you. We do not dictate or mandate that. That is a lender and/or your choice.

Mr. Meyer – I understand that, but from the City's standpoint you don't have to enter into the program. You get federal money.

Mr. Kessler – We do not get any money from FEMA. We get no funding from FEMA for any participation in the National Flood Insurance Program.

Mr. Meyer – Then why would you participate?

Mr. Kessler – I just stated why we participate. Common Councils in the past have chosen that this was a way to aid property owners to be eligible for any type of relief or aid should there be flooding incidences in the City. I was not here when we first entered in the National Flood Insurance Program, but I was here and I did sponsor along with Alderman Ament, the information that went to Council to participate in the Community Rating System Program that got discounts for residents. That is why we participate in those.

Mr. Meyer – The eastern half of the City with sewer, in June of 2008, had a tremendous amount of damage. We had no flooding what-so-ever. Why would I want flood insurance? As the Mayor knows, I took out a home equity loan and I found out that I now am living in a floodplain. And

again, read my lips, 45 years and it has never flooded. FEMA used to do all of their surveying from the air. My wife's cousin was the head engineer for Bucyrus Erie. He said that is the most inaccurate way of surveying anything, and I think he certainly should know. Back to my question. We have exceeded the 500 and the 1,000 year floodplain. Why should we be in a floodplain? Why? Wait for another June to reappear? This makes no sense.

Mayor Chiovatero – Al, you and I have been through this. I fully understand what you are saying. We are trying to help you. I've tried everything. Some of these things are beyond the control of the City. We have worked for hours with you.

Mr. Meyer – To no avail. We exceed the scenario and then you change the rules.

Mayor Chiovatero – We didn't change any rules. There are several residents behind you that would like to speak.

Holly Weissenberger, 4001 S. Elm Drive – I am in the Observatory Heights Subdivision as well. I agree with Al. I find it disturbing that we are relying upon aerial topography to determine who is in and out. That not withstanding, I know a lot of us had surveys done. I opted out of the survey because I had a letter of map amendment. The meeting that I went to on a Saturday, where you had these maps to view, I was not in a floodplain. My neighbor to the south of me was not in a floodplain. Now I am and they are. Why did these maps change?

Ms. Hewitt – I don't know.

Ms. Schwalbach – I would like to ask a question that may apply to all of you. Have you contacted City staff to re-verify where you're at or are you just assuming because you received the letter, that your structure is back in?

Ms. Weissenberger – That is correct, in addition to viewing the map that you have back there.

Ms. Schwalbach – Just so that you are all aware, receiving the letter didn't mean that your structure is in the floodplain. It is really important to fill out a form tonight so that we can talk with each one of you individually and pull up the new mapping and look at each individual property. It is possible that there is a little bit of floodplain just on your land and not on your structure, which is what would affect your insurance. It is possible that it was there before, and it is still there. It is possible it just moved a little. There are all different types of possibilities, so I want to stress how important it is before you make a judgment on this, that you meet with one of us so that we can verify exactly the new status of your property.

Ms. Weissenberger – Were there changes to the preliminary maps that we viewed previously?

Ms. Hewitt – I don't believe so.

Ms. Weissenberger – I looked at that map and like I said, I've got a LOMA so there is an island around my house. I should probably assume that I should meet with somebody from the City again to verify that I am out, and then as far as my neighbors are concerned, they should talk to you as well. I recall looking at those maps and maybe they had a small corner of the lot. They are nine feet higher than I am.

Ms. Hewitt – There were a lot of letter map changes that will be incorporated or re-reviewed by FEMA that will be revalidated. Again, call and check if that is the status of your letter of map change that has been done on your property.

Ms. Weissenberger – Alright.

Brent Baehring, 18320 W. Thornapple Ln. - From what I just heard here, what I am trying to get is what you have is the federal sent you this map from what was existing and you are trying to

balance out the two and it's putting everything partially in the floodplain that has touched everything?

Ms. Hewitt – No, there is base flood elevations that are determined, and the original maps were based off of older topos, so now they have updated topos and in some areas they are actually able to tie that existing base flood elevation into what would be the current topography. It is not changing the level of the floodplain, it is just trying to move it out to where it lines up on the current topography.

Mr. Baehring – Where they wanted it originally, but couldn't do it?

Ms. Hewitt – Streams change their locations. A lot of areas where the streams were over here, the floodplain was shown way over here, not even near the stream. The new topography allows them to get those base flood elevations back overlaying on the correct topography.

Mr. Baehring – I just bought a house a year and a half ago which is the house I'm in now. I wasn't in a floodplain then. Now I got the letter and I know I have to fill out a form. I wasn't flooded during the month of June, but my neighbor was.

Ms. Hewitt – The letter was sent to anybody that had floodplain even touching their property. If it was touching or the entire property, they got a letter.

Mr. Baehring – So with the new FEMA thing coming out, everyone has to fill out a form to try to adjust that as it takes effect to get the proper levels on everything even if you were just close?

Ms. Hewitt – There is no adjusting the levels on there.

Mr. Baehring – Not the levels, but to exclude people who aren't really going to be in the floodplain?

Ms. Hewitt – We can look up and see that your structure is not in the floodplain or whether it is. We would look at your property and look at what the floodplain is being shown as on the new maps and that is overlayed now on the aerial topography so we can see if your structure has got it on it.

Mr. Baehring - Now you are going to have to fine tune that with everybody here?

Ms. Hewitt - Depending on where you are located. If you are in Zone A, there is not going to be a base flood elevation to determine anything by. If you are in a Zone AE, there is a base flood elevation so then if you just recently built the house, you've got a survey for that house, you know what your elevations are around your house and you can compare that to your base flood elevation and fill out a LOMA and get pulled out.

Mr. Baehring – See how well protected you are and then adjust it as is?

Ms. Hewitt – The floodplain will not be adjusted.

Mr. Baehring- Just the property as is.

Ms. Hewitt – Correct.

Mr. Kessler – Unfortunately, the only way to really deal with this parcel by parcel because it is so individualized.

Mr. Baehring – Like she was saying before, rivers change and you have to adjust it, but I was just trying to clarify things. Thank you.

Racquel Schumacher, 1618 S. Arcadian – I just received a LOMA in February 2007 releasing us from being in a floodplain. Now with these new maps that are going into effect, is February 2007 still relevant?

Ms. Hewitt – You will have to call me because we have a list of all the LOMAs that are on file with FEMA with a status of what those are, whether they are incorporated, whether they will be incorporated, so you will need to contact us or fill out the form and write on it you have a LOMA and we will look it up.

Ms. Schumacher – Last year the City came through and they re-did part of the creek. They ran out of money and did not finish it. These maps are going into effect in November of this year. When is this creek project going to be finished? Isn't that going to affect the maps again then? They are talking about moving it.

Ms. Hewitt – Underwood Creek.

Ms. Schumacher – My neighbor gave up her property as an easement for the work that is being done on the creek. According to Eric Nitschke, this was going to take my property even further out of the floodplain.

Ms. Hewitt – I would need to look at your particular situation. It was stream bank stabilization that was going to be taking place.

Bill Wondrachek, 13725 W. Foxwood Drive – I am one of those unfortunate properties that is in Zone A. I am just wondering if the City is going to belly up to finish the study. They did what they used to do on floodplain maps, they drew a line at the bank and now my house looks marginally in the flood plain according to approximate guesses. I know that the study, when I looked at it online, stops at National Avenue, so there is not too far to go the rest of the way upstream in order to get really accurate. On the maps, it looks really marginal, I've had it surveyed but it is approximate, and I'd prefer to get out of it, but without detail flood study, I'm out of luck. I don't know if there are any other Zone A's besides that stretch of the creek that runs up to Sunny Slope. I understand all the study. I am a civil engineer, Monday – Friday. That is not the problem, I just don't like the approximation and paying flood insurance based on a wild guess. I am asking you people to take care of the rest of us which would be High Pointe and Park Central.

Mr. Kessler – We would concur with him that definitely some of these unnumbered A Zones as we would characterize them, do need to be completed so that we can certainly provide more clearer answers to residents and property owners. I am just conferring with Matt who does work for Bonostroo. We would have to remap that watershed. It would cost the City tens of thousands, so it is not something that has been before the Water Resource Management Utility Committee or the Council. This process will help champion something like that. Right now there are no proposals to complete that engineering study.

Mr. Wondrachek – It is studied from National Avenue north so they have the drainage area. We just have to back it up and get some detail cross sections. Maybe it is tens of thousands, but from what I heard flood insurance can cost that much a year.

Mayor Chiovaturo – We would have to do the whole area.

Mr. Kessler – It would not be just that localized area that would be of concern. There are other areas in that watershed that we have to look at.

Mayor Chiovaturo - I have to refer back to the staff because they understand this a lot better than I do. As far as these maps, why you had a small area and now it's a large area, something obviously changed to create that. That is something that staff would be able to look at parcel by parcel and come up with an explanation to satisfy your questions and from there decide what to do. Again, we did not draw the lines. We are trying to allow people to understand their situation,

and the City is willing to work with every parcel owner here to try to explain to you where your parcel sits as far as floodplain goes.

Mr. Wondrachek – There are a lot of exposed basements, especially in the Park Central Addition. FEMA drew the line at the base of the exposures when all those lots were graded out. I am just asking you to figure out a way to do it so that all of the property owners don't have to do this individually.

Mr. Kessler – To follow up on this. The City has objected in the past. Back in the mid 1990's the City objected to past FEMA determinations and financially participated in remapping floodplain areas. I just want Plan Commissioners to be aware of that.

Ronald Weissenberger, 4001 S. Elm Drive - I live in the Observatory Heights Subdivision. I seem to remember that some ten odd years ago, or maybe a little bit more, most of us here all stood together and discussed the same thing before. We had a letter and we had the map that was re-adjusted then. Now we have another map that is adjusted. I would like to know the schedule of events that FEMA has to redo the map again because I am tired of being on this roller coaster all the time. I want to know when the next time will be when they try to pull something like this so we can be better prepared because obviously you are not.

Mr. Kessler – I don't know what the future holds for FEMA and how they plan to update the maps. The last time the maps were updated to my knowledge was roughly 1996, the ten years that you are referring to. It would seem to make logical sense that in another ten years they may want to go through another modernization process, but I am not aware of any specific time line.

Mr. Weissenberger – Just so that everybody here understands that we may be in for this in another ten years again, correct?

Mr. Kessler – Potentially, yes.

Mr. Weissenberger – Why do we not have FEMA here for us to talk to instead of this board. Why can't you bring them here so we can discuss with them and actually get the answers because we keep referring back to FEMA, but yet there is no representative from FEMA here to help us.

Mr. Kessler – I think we can adequately address the questions in terms of their process, their procedures, and their time line. We have Matt Bednarski here, who is more familiar with the actual mapping techniques than we are.

Mr. Weissenberger – Again, that is just process and procedure. That is not a person to talk to try to find out what's going on and why they are doing that. All we have is your guess about what they are doing. Quite frankly, that is not enough for me.

Dennis Eichers, 12410 W. Howard Avenue – If I understand from your previous explanations, the reason the City is entering into this agreement with FEMA and accepting these maps is so that people who feel they need flood insurance have the ability to purchase it. Is that correct?

Mr. Kessler – I am not an insurance expert. I think floodplain insurance is available to anyone regardless if the municipality participates in the National Flood Insurance Program. By participating in the program though, residents or property owners who should need disaster relief aid that comes into the community as we just recently had, are then eligible for that aid. The other program that we participate in is called a Community Rating System Program. By virtue of us participating, residents get a 10 percent discount on their premiums. I'm sorry. I've just been informed that floodplain insurance is not available if the City does not participate in the National Flood Insurance Program.

Mr. Eichers – So you have helped the residents that feel they need the flood insurance for what ever reason, but by doing this you have also devalued the property of 1,200 people that you have

sent these letters out to. What I would like to know is when we are going to get our new assessed values? I would hope that is in your plan.

Mayor Chiovero – I think the Assessor has made some minor adjustments but they are very, very minimal.

Mr. Eichers – They are minimal, and you are saying that we get a 10% discount on our flood insurance. We should get minimal 10% on our assessment. It needs to be looked at. I can't pay property tax on property that's not worth what it was when I bought it.

Mr. Kessler – I think it should be noted that FEMA would have mapped the floodplain regardless if we participated in the Flood Insurance Program or not. Floodplain is out there, it exists, it would have been mapped no matter what. Unincorporated areas in Waukesha County are mapped floodplain as well. Whether we participate in the Flood Insurance Program or the CRS Program, it is still mapped floodplain. Whether the Assessor's office has a method in place to take that into consideration as valuations, is best directed to the Assessor.

Mayor Chiovero – I know from the properties we looked at, the adjustments were very, very minimal.

Bob Wernicke, 1445 S. River Road – We are effected by something called Deer Creek. According to the letter it says that this will go into effect 11/19/08. Can we do a LOMA in the 30 days mentioned in the letter?

Ms. Hewitt – The 30 days is the amount of time from when you sign up for flood insurance to the time that it would be effective.

Mr. Wernicke – So by October 19, I would have to have this LOMA taken care of and if I was found not to be in the floodplain, don't have to get the insurance.

Ms. Hewitt – FEMA will not make any determinations on any map changes until after the November 19th date, so if you are currently not in flood zone and believe that the map shows you in flood zone after the November 19th date, you should get your insurance now at the non-flood zone rate, so that when the maps do become effective, you can go through that process and remove your structure but still not having to pay the flood zone as being in the 100-year flood chance Zone A or AE area.

Mr. Wernicke – Don't get the flood insurance, file the LOMA.

Ms. Hewitt – Get the flood insurance if you are currently not in floodplain.

Mr. Wernicke – Get the flood insurance?

Ms. Hewitt – Yes, that is the grandfather clause of the flood insurance policy so that when your insurance is in effect and you continue to hold your flood insurance, if the maps change, your status in the floodplain as far as your rate does not change as long as you do not let your flood insurance lapse. It can also follow the property through a sale, as long as you do not cancel your flood insurance and you transfer that to the new property owner.

Mr. Wernicke – Does the mortgage company get a notification if you take out flood insurance?

Ms. Hewitt – I don't know.

Mr. Wernicke – My fear is once you admit you are in a flood zone, the savings & loan, or bank or whoever you have your mortgage through can come back and say that was not in the agreement.

Ms. Hewitt – Right now, if you are not in floodplain and you go in to request flood insurance, you

will get a certain rate.

Mr. Wernicke – Correct, at a 10 percent discount.

Ms. Hewitt – Then when the maps become effective on November 19, 2008, if you are then in floodplain, that rate prior to being in floodplain carries through. Say your rate without floodplain is \$200.00 and with floodplain is \$800.00. That \$200.00 rate would carry through even though your flood zone has changed.

Mr. Wernicke – So, I am going to go buy flood insurance even though I may or may not have a house in a flood zone? That is silly.

Mr. Kessler – It really is an individual choice. It is a very individual parcel by parcel situation. There are individuals who have received a letter who I have spoken to that the floodplain just barely touches their property and it's 1,000 feet from their home. Obviously, in that situation they choose not to have floodplain insurance, and that is perfectly fine. That is their choice or the lender's requirement, one of the two. What Ms. Hewitt is trying to say is that we want to make sure that folks understand that there is this grandfathering possibility should you choose to get floodplain insurance. The premium may go up, it may go down based on the before and after of the floodplain, but it is your decision or your lender's requirement. After the FEMA maps go into effect on November 19, 2008, let's say you come in on November 20 and say you want to do a letter of map change, if it is in fact the case, you want to get your structure out of the floodplain. We can advise you and help you with that process. FEMA has a 60 – 90 review process to review the submittal once you get it back to FEMA. I think that was part of your question.

Mr. Wernicke – Right, because if I get the insurance, go through the process, I'm taken out of the flood zone, now I've got six months of flood insurance that I have paid for.

Mr. Bednarski – You can't file for the LOMA (Letter of Map Amendment) until November 20th when the maps become effective, but you can do any of the survey work that is necessary to really know whether or not you should be filing for that or buying insurance. You can do that at any time. You can do that today.

Mr. Wernicke – I already have a survey that was done when I bought the property.

Mr. Bednarski – Then you should get together with someone on the staff and compare that survey with the calculated elevations.

Mr. Wernicke – The problem with that is on the east side of Deer Creek a lot of developments have gone up in the past 15 years, including the Deer Creek Inn which has raised the east side of the bank of the creek by about 8-10 feet, so my survey probably is null and void.

Mr. Kessler – DNR regulations require that development near a floodplain, such as Deer Creek Inn, not be allowed to raise the floodplain level. The floodplain has not risen because of the hotel.

Mr. Wernicke – Have you seen it?

Mr. Kessler – I have seen the study. The study has been approved by both FEMA and DNR.

Mr. Wernicke – I mean have you seen the land?

Mr. Kessler – I have seen the land. There may be other reasons through time and what has happened down stream that may have caused that prior to NR116. When was your survey completed?

Mr. Wernicke – 15 years ago.

Mr. Kessler – I don't think FEMA has a requirement as to the longevity of the survey, but it probably would serve you well to have it redone.

Mr. Wernicke – The only thing that is required is that is certified by state licensed surveyor, or a state licensed engineer?

Mr. Kessler – Yes.

Mark Mattes, 2769 S. 124th Street – We bought our house in 1999 and got flooded out in 2000 and again this year. We have plenty of insurance. Now I am just arguing with my mortgagee to give me my insurance money. On the storm water master plan I found an unnamed tributary in my yard that is a navigable waterway. It comes under 124th Street just south of Cleveland Avenue. I found that on the storm water plan way down at the bottom. When are you going to get around to some stream bank stabilization and clean up the culvert to try to minimize some of the storm water retention I have in my basement?

Mayor Chiovatero – I think that comes under Water Resource Management, right?

Ms. Hewitt – I would have to look into exactly what you are referring to. The Storm Water Management Plan is in the process of being updated and we looking into all of those different facilities and such that were proposed in the original Storm Water Management Plan at this time.

Mr. Mattes – If you are looking at that plan, I believe it is Root River #3.

Ms. Hewitt – OK.

Mr. Kessler – We have brought this to the attention of the Water Resource Management Committee in the past. There are a lot of these existing drainage issues that need to be dealt with. Our drainage list is over three years back logged. Those are the types of issues that we need to have a policy discussion at the Water Resource Management Committee and Council level as to how we are going to catch up.

Mayor Chiovatero – A lot of it has to do also with the financial issues of the Water Resource Management Utility itself. As money comes in, we are taking care of these projects. When it came forth, we were very aggressive in trying to take care of these storm water issues and spent money, and now we are just trying to catch up with the funding so we can start looking at more projects. In the mean time, Nicole and the Water Resource Management Committee is looking at the storm water issues around the city and reprioritizing them and trying to figure how we can manage to get them all done. It is a matter of how much funding we have and when we get to it. We are trying to do it on a priority basis.

Mr. Mattes – For me, June this year was a priority.

Mayor Chiovatero – I agree.

Sue Krause, 12470 W. Howard Avenue – My question concerns the clean up of Wildcat Creek. There hasn't been any clean up in that creek since we have been there. We have been there 21 years. When you said you could obtain flood insurance policy, I thought you said before that, that you couldn't get flood insurance if you weren't in a floodplain, so how you can you get the flood insurance ahead of time if you're not in the floodplain?

Ms. Hewitt – Because we participate in the National Flood Insurance Program any New Berlin resident is eligible for flood insurance regardless of their zone, whether they are in floodplain or not.

Ms. Krause – I don't understand why you couldn't put the notices we didn't get in with the tax bill. Everybody gets the tax bill. Along with the dog and cat license information, you could have

slipped one more piece of paper in there and said this is what's going on, you people be aware. Thank you.

Mayor Chiovatero – Sue, can I ask you a question? I have seen the Rodewalds and the Eichers up here. You have all lived with that creek in your back yard for, like you said, 21 years. None of you have been in the floodplain before?

Ms. Krause – They took us out.

Mayor Chiovatero – They took you out and now you're back in according to the letter?

Ms. Krause – Apparently.

Mr. Kessler – We have to make sure what was taken out. Was it just the structure or was it the property. We need to look at that.

Ms. Krause – We were out of the floodplain altogether.

Mr. Kessler – The whole property?

Ms. Krause – Yes.

Mayor Chiovatero – I just needed to ask that question because I didn't know you had an issue like that before.

Ms. Krause – It would have been nice if our Alderman would have notified us but apparently he is not here either. Thank you.

Helen Kim, 14315 Lenox Drive – I live in a condo where the association pretty much manages everything, and there is a separate company that manages it for you. Now that we are potentially designated as being in floodplain, what rights do I have as an individual condo owner with working with the association? How do we deal with that? What are some things that you can suggest for strategies on how I can work with them to make improvements such as landscaping? I can tell you that my property is very prone to flooding. I literally have water up to my ankles up against the building. That is a concern for me. There is a definite digressing of the ground. I have brought that up to them before in previous years, and they say that it is just part of the grade and there is nothing they can do. I feel that I do have a right, and I just don't know what avenue to go about protecting myself. How do I work with the condo association? Does the City get involved since my guess is that it is right next to City property?

Mr. Kessler – I think the condominium development she is referring to is Lenox Square. From what I recall, I don't believe any of the condo buildings themselves are in the floodplain. Portions of the property are in the floodplain.

Ms. Kim – I can tell you for sure that when there is any heavy amount of rain, there is a significant amount of water coming all the way up to my building. It literally comes above my ankles. Unfortunately, I might be designated as one of those definite floodplains.

Mr. Kessler – I don't have the map in front of me. From my memory, the way it is mapped shows that it doesn't encumber any of the buildings. We need to talk to you outside of this meeting and work with you in terms of what the city code and regulations requires in terms of what you can and cannot do in conservancy. In terms of interacting with your condo association, has your condo association board made a conscience decision not to acquire floodplain insurance, and you are asking should you or can you?

Ms. Kim – I don't know if that has been brought up. Obviously, it has not been designated as a floodplain, so I don't believe the association has flood insurance. This may be different. I don't

think the condo management is here. I don't even know if he is aware of this.

Mr. Kessler – We have talked to a few people in Lenox Square. I seem to recall talking to a couple of the property managers. Definitely come to see us outside of this meeting in terms of what you can and cannot do in the open space in relationship to landscaping. I would need to turn it over to the Mayor or City Attorney as far as legal interaction with the condo association.

Mayor Chiovatero – I don't know the terms of the condo association or their liability. To me, it sounds like an issue you need to take up with the condo association. Normally, any time it lands outside your four walls, it is common area and should be handled with the association. It sounds like they refuse to recognize that you have an issue.

Ms. Kim – I brought it up to them three years ago after a very heavy downpour. This past June was another example. I even took photos of the amount of water I had.

Mayor Chiovatero – I would take that up with your condo management. It may require you to obtain an attorney. Hopefully, they would be more receptive especially when you show them pictures. I am an owner of a condo in the City and I cannot touch a piece of grass without them approving it. In the same case, if there are issues that need to be taken care, they need to take care of it as an association.

Ms. Kim – In terms of whether the floodplain is designated as A or an AE, is there going to be a difference in the insurance premiums based on the different designations?

Ms. Hewitt – I don't believe so, but I can't comment on that.

John Hopkins, 13221 W. Meadow Lane – I am also the first district Alderman. If anyone thinks there is any favoritism in this, my house was not in the floodplain, it is now. I did not have flood insurance, I will have it by this week. I think in hindsight it might have been good for the City to put something in the Leaflet. I think the explanations that were given tonight were as good as could have been done. I have one thing I would like to clear up with Mr. Kessler. You made a comment earlier about the telling the alderman to do things. I know Dave Ament has worked with the flood plains in his area. I ran on flood problems for two terms, and I have worked closely with some people who talked earlier tonight and some people who are still in this room. I don't think we could have done any more. I don't know if you said to put in their website. The Aldermen don't have a web site.

Mr. Kessler – Using the Aldermen was one of the ways to help us. We informed the Aldermen back in February 2007 to the process because we knew there would be a lot of questions in individual districts so it was a way to give the Aldermen themselves a heads up and also ask for their assistance to get the word out in their district.

Mayor Chiovatero – I do want to say that I am feeling a lot of frustrations among everybody here. I wish we had all the answers. One way we can help you is for you to fill out the form so the staff can contact you and talk to you about your particular property. Like Ms. Hewitt said, if gotten a LOMA before, that still may be applicable but she will have the list from FEMA as to what degree the letter will pertain to that particular floodplain.

Roger Hilmer, 1615 S. Arcadian – I came here because I thought they changed the floodplain elevation number, but my understanding is they did not?

Ms. Hewitt – Some locations yes, but again it is on an individual basis as far as the creeks. A lot of the ones that I have looked at have not changed the base flood elevation.

Mr. Hilmer – So they just changed the contour lines to be more accurate, they did not change the height that they expect the water to rise to?

Ms. Hewitt – Correct. In a lot of areas, again you would have to look at your particular area to see if it had changed.

Mr. Hilmer – I live on a creek. I am wondering for those people who also have water sheds coming through their property, are they allowed to go in to clear or fix up or do work on that creek to allow the water to flow through better?

Ms. Hewitt – DNR regulated the navigable waterways. You have to have permits to actually go in and disturb the bed of those creeks. You can do general cutting of brush and such, but nothing that would affect the actual bed and bank of the creek. You can't do any dredging or digging out.

Mr. Hilmer – If there is a fallen dead tree blocking drainage or a willow that is shedding a lot of debris, I can remove that myself or pay someone to do it?

Ms. Hewitt – Yes. You have to remove it by hand. You cannot bring in machinery and disrupt the area.

Mr. Hilmer – Can I bring a cherry picker to get up to limbs?

Ms. Hewitt – I am not positive. We would need to check.

Mr. Hilmer – That's fine. They have that avenue though to take care of it themselves rather than waiting for the City to come and spend tens of thousands of dollars to cut down a dead tree.

Richard M. Krahn, 18385 W. Lincoln Avenue – My Mother lives at this address. She is 80 years old. The first time she knew about this was when she got the letter and, of course, became a little worked up. I was wondering why, like the other woman said, there wasn't some kind of insert in something previous to now to catch our attention.

Going to any computer sites is not an option. Since they joined the New Berlin Citizen with Muskego, a lot of people have cancelled their subscriptions to the papers. I think it is unrealistic to think that the Alderman would notify each person. Everyone talks about a survey. Because of the size of the parcel, a survey would be an expensive burden for her. They were talking about cleaning up Poplar Creek about 15 years ago. That was never done either. It didn't improve itself. I was wondering where that is on the schedule, if it is even on the schedule to be cleaned up. Other than that, I think we learned a lot tonight but would have liked to have previous notice about what was going on.

Mayor Chiovatero – When was the digital overlay given to us?

Ms. Hewitt – I can't remember exactly, but I would say August.

Mr. Kessler – I don't know the exact date, but it was mid-summer when we actually received the digital information that had the parcel lines on it. When we received the original preliminary information from FEMA, it did not have that level of detail to identify which properties were in and which were out. That information was lacking, so we had no way of identifying specifically who was in, who was out, and how it impacted properties. We did not have that information until mid-summer of this year, hence what prompted the letter being sent out. We tried to do the best that we could in a number of ways to try to get the word out in terms of notifying folks of the preliminary maps. We put it on the web site, and we may have done a newsletter article.

Mr. Krahn – There is a vast number of people who do not go to the website.

Mayor Chiovatero – The newsletter was mailed out to everyone though.

Mr. Kessler – We tried various ways. Perhaps no one way is perfect. I understand that this way probably got the biggest impact. We did it immediately when we had the digital information where

we could specifically identify the parcels that were involved and we sent the letter in response to that. I apologize if I did not catch all of your question, in terms of the drainage list, and when someone would get to yours.

Mr. Krahn – Someone had sent letters around years ago about cleaning out Poplar Creek and that has never been done.

Mr. Kessler – I know that we have tried to perform work in that area. We have brought something to the attention of the Water Resources Management Committee regarding some of these old drainage issues related to creeks, like Poplar Creek. Wildcat Creek was another one that we have to look at a policy regarding the clean up of some of these older stretches of stream because of silting, etc.

Mr. Krahn – It is blocked solid with trees. You can't even get to it any more.

Mr. Kessler – We have that in a few places in the City.

Dave Samual, 2314 S. 123rd Street – I have a creek that runs by my property. To my understanding many years ago, before I bought the property, I was told by the previous owners that the creek was actually redirected and now it runs right through my property. The question that I have is what can the City or the DNR do if my property is effected by floodplain by virtue of redirection of the creek? What can be done to redirect the creek back to its original path? From what I understand, it was a habit back then for people just to conveniently redirect creeks.

Mr. Kessler – I am not aware of your situation. I would need to talk to you more about that. To redirect a creek would be a long process dealing with the DNR, FEMA, and the City. There would be a lot involved and I would need to look at the specific situation of what properties are impacted, etc.

Mr. Samual – The second question I have regards this excuse you are conveniently giving about not having the digital overlay. If there was a means to send information out to all the effected people today, I am not sure why something could not be figured out when there was some determination made that there might be a possibility of your property being affected by a flood. This issue of not having detailed information really doesn't stand well with many people and definitely does not sit well with me.

Ms. Hewitt – FEMA sent us paper maps that did not have parcel lines on them. It was just an aerial photograph with the floodplain drawn on there. There were no property lines associated with any of that mapping.

Mr. Samual – In this day and age, I cannot believe it cannot be done. I think it is a matter of putting some extra effort to make it happen. That's where I think you folks fell threw.

Mayor Chiovero – We do have limited resources. When the digital images came out, we were able to pinpoint exactly property lines and that is when we notified everyone.

Mr. Samual – If you did not have the detailed information, why was the 90 day period set? That should have been after you had the detailed information to set up a meeting. That should have been done after all the detailed information was available in terms as which property owners would be affected.

Mayor Chiovero – We had several property owners come in that were concerned about that. Greg can explain what process was taken. We are trying our hardest to do it. We are trying to get everybody involved, as many people as we can, and as soon as we had the exact property addresses, that is when you got the letters.

Mr. Samual – It seems to be after the fact. It doesn't seem to help anyone right now.

Mayor Chiovatero – I don't know if it would have helped them back then either. Would it have?

Mr. Kessler – No, once again the process to remove someone out of the floodplain would have been the same as it is today. You still have to go through the amendment process.

Brian Teclaw, 18300 W. Lawnsdale Road – I have been involved with following this process pretty much from the beginning when FEMA held the open house out at the Waukesha Expo, I believe on March 6, 2007. At that point in time me and my neighbor started to see some things happening on our properties, and we started corresponding with the City and with the DNR. It was primarily with the DNR at that time. The maps that existed at that open house were really crystal clear. They did not show individual property boundaries, but those maps were very, very clear. They are the same maps that were hung up here for an extended period of time and what the meetings that the City were based on. Myself and neighbors had requested, with the assistance of some Council, some of this information. We did have a hard time getting some of the information, but ultimately we did receive DVDs and CDs that provided that rather clearly. Another thing that we had asked for, and I had seen at the open house on March 6, 2007, was what they called a duo overlay map, which would show exactly where their existing floodplain was and where the change would have been. I know at one point in time I was inquiring with the City about getting that duo overlay map, but I did have to actually get that map from the DNR. They had that map. I think if that map would have been made available to people, it would have solved everybody's problem. They would have been a map displayed that people could come to look at that would have showed their existing line and the proposed line. This is serious stuff. You have a situation here where as these lines change, it can relate to property value, land usage, and insurance. I know you are trying to answer the insurance part of the question here tonight, but if I had a choice between getting a 10 percent discount on insurance or not having to have insurance, I think I would choose not to have insurance. So, I know you are saying we have a deadline to meet, but I have some concerns relative to my own property and some of my neighbors, and it sounds like there are dozens, if not hundreds, of people that still have those concerns. I would suggest that we don't have an actual legal requirement to meet by the 19th. I think the people should be given some additional time to explore the issues on their properties.

I want to provide just a little overview on what has occurred with mine and some of my neighbor's properties in trying to get information from the DNR. There was a deadline of July 13, 2007 and we were trying to get information. There are probably ten correspondences in my file. July 13th was the deadline. We had sent correspondences on July 5 saying that we had been requesting information from the DNR since April 16. There were quite a few apologies being provided, but low and behold, here is a letter dated Monday, July 30, which is a little after the 13th, in which they apologize for not getting us some of the information. I'd like to read just a little bit of this because I think it helps people understand that there is not an exact science to this. I think that is the thing that scares me, because on my property the ditches that carry the water are not being taken out of floodway. We hired two engineers. It is common sense that the ditch that carries the water has to be the lowest part of the elevation. Now on my property, they jammed the floodway further up near the residential area and they are showing it sheet flowing across mine and my neighbors land in a way that is physically impossible to occur. Now in trying to get some of the information, the directive we gave to our consultant which is a firm called Yanet Flemming in Madison, which they neglected to follow was to keep the current floodway line from the current FEMA map exactly where it is located now. There appears to be some locations where they could have kept the current floodway line instead of moving it back to the edge of the new floodplain. They were given discretion in this regard. Furthermore, we are trying to get in touch and find out where the data originated to make the terrain changes. We were first told SEWRPC, we were secondly told the County, and then the girl in Madison, Amanda Schwagler, said, Oh, in your map the information was provided by the City of New Berlin itself. So, apparently there are three sources of potential new terrain data. We were trying to get in touch with a consultant. It says here, it is not appropriate to give you names of the individuals involved since the contact was between the department and the consultant. So, we weren't able to actually talk to the people who changed the map. Here it says, I understand your concern has to do with the location of the floodway line

on your property. The only discretion we have for locating that line is based on a request from the City of New Berlin to keep the current location. The DNR told us that that line could have been kept without us providing any actual engineering data. That was the understanding I had. The location of the floodway on the preliminary maps is appropriate for the current hydraulic analysis. We did not revise the analysis. We have only remapped the area with new terrain data. We hired two engineers who both told us that the map that they had, which was done to a tenth of a foot in 1996 was more likely more accurate than this aerial photography that was done, which is kind of scary. Furthermore, it says, we did not revise the analysis. We have only remapped the area with the new terrain. The location of the floodway is a judgment based on the experience of the engineer doing the mapping. There is no one answer. The criteria that we use and have used for over 30 years is that of reasonableness based on the scientific information being used.

I really think that there is a lot of misinformation. I don't think you have to be in a rush to conform to this NFIP and whatever the other program is to have to meet this deadline. These lines affect land use and property values and if people don't have an opportunity to fully address that and make changes, myself included, what we are essentially being told is that we have to prove them wrong. That is the problem that I have. I have a large track of land. To survey that land would literally get into the tens of thousands of dollars to prove them wrong, but my engineers that we hired raised concerns and already had the information to show the City and the DNR, and once we had finished those reports, which was after-the-fact, but Bob Watson indicated he would give us more time, Eric Nitschke was out of town, JP Walker said we'll meet when Eric gets back, Eric came back and sent us a letter and said now it's between us and the DNR. It was puzzling throughout, but the essence of what I am hearing is that if this goes through, everybody is going to have to hire surveyors and engineers to prove the data wrong. I have also heard a lot of people talk tonight about they know their properties. I do know my property and my neighbors. Some of them have been there 30 years. We know the water flows in a particular primary ditch drainage channel. Anybody can come out there and watch it flow. It does not sheet flow in a giant wide band across my property. This is going to affect my property value, potentially the insurability of my land, and land use. I would rather have more time and an opportunity to meet with the City, the DNR, or whoever I need to meet with to show them at least my engineering reports that show there are inconsistencies and inaccuracies to the new mapping.

John Nelis, 14405 W. Dakota Street – Just for an example, I had two houses across from me within a year and a year and a half for sale. The house two houses over to the west on the north side of the street, they went to buy the house, couldn't get a loan because it was in the floodplain. On the topographical map there was a river going down the middle of their driveway. My neighbor lived there for 50 years, I've been there for 33 years, there is no river there. I never had any trouble with my property. The only trouble I have had was the trouble that the City occurred when they built Fieldpointe. Another example, across from me a year ago, this gentleman over here just bought his house, he could not get a loan because they said it was in a floodplain. It was not in a floodplain. He went to three different people. Finally the third one they went to said, No, it's not in a floodplain. He did get a loan. What you are telling me is devaluing my property, by putting me in the floodplain, and this is what all these people are here for because you opened up a can of worms, you put them in a floodplain. You are going by these maps that she is talking about. They are incorrect, just like the gentlemen said that was just up here. We know our property, we know our land.

Mayor Chiovatero – Again, I sense a lot of frustration because I know that there are some individuals here that I worked with to try to help them in the past, and it seems like we coming up to these walls where we don't seem to get the answers. I think Mr. Teclaw had a perfect example of how he is trying to work with people to resolve issues and they don't seem to want to hear it. Like Mr. Kessler said earlier, we didn't draw the maps. You would be in the floodplain whether we are in this program or not. The City is here to try to help everybody. I promise to give you all the resources and personal staff that we can to review each individual property and see what we can do to help you or see what actions have to be done. From what I am hearing, I think a lot of you are making sense that it doesn't make sense. It's frustrating for me to sit here too and listen to all these issues and wonder if we even have control over it or not. I don't know if we do or we

don't. We are trying to present these maps to everyone and make people aware of them. That is what the public hearing is about.

I'm suppose to ask for anyone wishing to speak in favor of this, I'm sure there won't be one person. As far as comments in opposition, I'm sure every single person here is in opposition of this. I'll give you my promise, and I'm sure all the Alderman will give the same promise that the staff will work to try to help resolve these, but some of them we won't be able to resolve. I don't know the answers. I don't know if the staff knows the answers.

Mr. Nelis – On 132nd and Fieldpointe, the City did go through back there and they did clean out that creek in the winter. The year before, if you were at the City, you will know that that intersection by Fieldpointe was three feet under water because of the storm. It was not the storm that we just had. It was the storm the year before that. They cleaned it out and there was never a problem after that. Why can't they send the crews to Poplar Creek to clean it out just like they did over there. That would solve all the problems I am hearing about Poplar Creek.

Dennis Eichers, 12410 W. Howard Avenue – There were two more dates prior to the 11/19 date on there. It said Plan Commission action and another action. What are those actions? What can you do in that time prior to 11/19?

City Attorney Blum – Let me explain the process, just so you understand. All we are talking about tonight is a public hearing to amend our Zoning Code to incorporate the maps that they have been talking about in our Zoning Code so that when you look at the Zoning Code book and look at the maps, it will show the floodplain zones as part of our overall zoning map. That is all we are here about tonight is a public hearing. We have to have one before we make any amendments to our Zoning Code. Right now we are talking about the public hearing to amend the Zoning Code, the Plan Commission then at its next meeting could say they had the public hearing, and we now make a decision to incorporate the FEMA maps in our Zoning Code. That action would recommend to Common Council on October 6, 2008 that that would happen and if the Common Council chose to approve that Zoning Code Amendment on October 14, 2008, that would happen. In order for the City to participate in the flood insurance program, we have to take that action and incorporate their maps as part of our Zoning Code. That is one of the things that they require of us in order to participate. That would be the process. That is why we are here tonight.

Mr. Eichers – But, that 11//19 date is not set in gold?

City Attorney Blum – They have told us that that is the date they will become effective. It is there maps, not the City's maps. They will become effective on November 19, 2007 regardless of whether we do something or not. The only thing that our action does, is incorporate those maps in our Zoning Code so that we can participate in that federal insurance program. That is all it means. We are not approving the maps, we are simply saying that in order, as a condition for participation in that insurance program, we are incorporating those in our Zoning Code which the federal government says we have to do as a condition of participation.

Mr. Eichers – Thank you.

Ray Strand, 4033 S. Johns Drive – I'm trying to get a complete understanding. We can't do anything at all except accept this and go into the program or not go into the program?

City Attorney Blum – That is partially true. We can decide to participate as a City in the program or not. The federal government is not going to come out and survey every square inch in the City of New Berlin to figure out where these lines should go. They don't have the money for that, and we don't have the money, as a City, to be able to have surveyors come out and survey the entire city, so what they is these aerial maps. There are issues that they may or may not show an accurate reading of what is actually happening on the ground, but that is what they use to decide where these lines should go. The process that has been explained tonight is, if you think the conditions on the ground in your particular parcel are different than what is being shown on those

maps, then you have a process of which are the map amendments that they are talking about, whereby you survey the property and send that information in and make a request saying you think that the information in their floodplain map is wrong and here is the evidence that shows that it is wrong. They will then give you this letter to say they agree with you or they don't agree with you. The bottom line is, from the City's standpoint, we are not approving these maps, all we are doing is accepting them and putting them as part of our Zoning Code so that we can participate in the program, so that people can get the flood insurance at the reduced rates, and if there is a disaster, 100 yr. flood, or whatever it might be and people need assistance from the federal government, that they are able to do that. That is the decision the Council will make to say yes we think we should participate or no we should go the route of Lake Delton and when a problem happens you would be asking why we didn't participate.

Mr. Strand – I understand that. You've explained that to us enough times tonight. I am trying to find out is can we, as a municipality object to that map since we have proof that there is other maps and other surveys that prove they are incorrect.

City Attorney Blum – There were some instances where we had data that we submitted to FEMA for purposes of analyzing this. Is that correct, Mr. Kessler?

Mr. Kessler – That is correct. The Observatory Heights Subdivision and Buena Park Subdivision where individual surveys were done because we objected to those areas.

Mr. Strand – Did it change anything?

Mr. Kessler – In some instances it did and some others it did not.

Mr. Strand – So, we have no other avenue except to accept what happens here tonight? We don't have another choice. We have to accept what they do on November 19th.

City Attorney Blum – Your choice is on your individual parcel to do your own survey and then go through that process on November 20th,

Mr. Strand – All hundreds of us pay for surveys and send them in and costs us hundreds of thousands of dollars. We can't do this as a City? As a municipality?

City Attorney Blum – We would have to have evidence ourselves that there is an error. The only way we are going to be able to do that is if we have the survey and you would have to make the decision as a taxpayer whether you want to increase your City budget to pay for a survey of all these areas to decide whether that should be submitted.

Mr. Strand – It sounds kind of hard to do because my property taxes are going up and my property is becoming less valuable because now I'm in a floodplain.

City Attorney Blum – I understand and that is the choice. There is no perfect solution here.

Mr. Strand – There's not a solution?

Mayor Chiovatero – Not a perfect one.

Tom Volkmann, 14406 W. Dakota Street – I am having a difficult time understanding what the City loses or we as residents who own the City lose if we don't approve this and what do we gain other than the 10 percent discount on flood insurance or the possible grandfathering of the insurance? What really is at stake? If we have 1200 people involved with 1200 properties, is the value of that acceptance greater than or less than the value of what we will lose ourselves or pay in additional insurance? Do you understand how I am looking at it?

City Attorney Blum – Whether or not New Berlin does anything, if the map shows your property is

in the floodplain, it's going to be in the floodplain. In terms of your relationship with your lender or your responsibility for insurance, that fact will remain regardless of what New Berlin does or doesn't do. When you say, lets do this cost benefit analysis, from the City's standpoint and from the standpoint of protecting the residents, if you are going to be in the floodplain anyways and the federal government has made the decision that pursuant to their procedure, all these parcels are going to be included, then we might as well be in the program and provide that discount for the insurance for the people that want to participate and second, to make sure that you will be eligible for the federal aid in the event that there is a disaster. The down side to that is, saying we don't participate in the program, we don't agree with the elevation, we object to the parcels that have been included but at the end of the day they are still going to be there anyway unless they receive the evidence to the contrary. Cost benefit analysis is really not loosing much by participating in the program, but gaining the 10 percent and the being eligible for federal aid. You will be in the floodplain regardless.

Mr. Volkmann – If we do look at from a cost benefit, doesn't that allow us an opportunity to say as a group of residents that maybe we can delay getting into that program or maybe we can delay making our decision as a City to really figure it out. Some other people have also said that now we have to run out and get insurance and pay for it for six months before we get an answer vs. 1200 people that pay for it and don't have to get it at all. There could be a huge difference between that 10 percent.

City Attorney Blum – You are assuming that the City deciding not to participate will change the fact that you are in a floodplain. If we could file a suite in federal court and say we think this procedure is in error and we think these properties were included and shouldn't have been, their first question would be, did you administratively go through the process that the federal government set up to decide whether they were or not? If we didn't make the application for the map amendments, we will get tossed out. The point is, from a legal standpoint in terms of pursuing a lawsuit or objecting, at the end of the day they have already made their decision that the comment period has elapsed, they decided where these maps are, they decided where the boundaries are, and the only way to change that is to go through the map amendment process that they have identified. Whether the City participates or not isn't going to change that.

Mr. Volkmann – If it's not going to change that, why do we have to adopt it? Why don't we work at it and check it out first?

City Attorney Blum – The problem is that if we don't participate, those people that clearly are in floodplain and want to participate will be paying more and second, if there is a disaster and we get a situation where we've got flooding and people are displaced from their homes and looking for federal assistance, they are not going to be in the same position that they would be if we participated in the program. You are saying on one hand, we can protest and make a stand on principle which won't change anything as far as those boundaries, and on the other hand we will be providing some protection and some reduced cost for the residents. It doesn't seem like a whole lot of a choice. That is for these people to decide, not me.

Mr. Volkmann – Basically, I am saying give us some more time and take a better look at it. I would think that there is a part of the process that we don't hear about. Sometimes that is why we have a person like yourself as a City Attorney, to say maybe there is a way that we can do it. Maybe that is by sending a letter saying we object and maybe that is the best thing coming out of the whole hearing if at least the hundreds of people that showed up had a letter that says at least we tried. Maybe that letter would mean nothing, but it would mean something to me. It would mean that my city government is working for me.

Mayor Chiovarero – Greg, do we have a data base with all the properties that are in the floodplain before this?

Mr. Kessler – We have an older data base based upon maps that are 15-18 years old.

Mayor Chiovero – Do we officially have that list?

Mr. Kessler – No.

Mayor Chiovero – If we had that, at least we could have sent them out and say there is a change, and we might have had three quarters of these people excited about it. It's hind site. Anyone can be a Monday morning quarterback. As these questions are coming forth, I am trying to think too. I will be working with staff to try to figure out what the City can do as far as making a statement that we do or don't agree that these maps are correct. I don't know where we can go with that. I will need to work with the staff to do that. In the meantime, just like the City Attorney had mentioned, whether we do anything or not, these maps are going to be adopted, and if it comes to a point where somebody buys a home and the mortgage company looks to see that it is on a floodplain, it will be an issue.

Robert Wernicke, 1445 S. River Road – Did you just say you have a data base of all the properties that are not included in the floodplain?

Mayor Chiovero – I asked if we had one before this and we didn't.

Mr. Wernicke – Some of us may or may not be in the floodplain, even though we got a letter?

Ms. Hewitt – No, all the letters went to people that had A or AE Zones touching or across their property.

Mr. Wernicke – OK.

Mayor Chiovero – I was just trying to see if we could have notified people earlier than we just did. That is why I was asking that question.

Mayor Chiovero asked three times if there was anyone else with a comment or question for clarification, seeing none.

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

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

City Attorney Blum – We can indicate for the record that all the comments that have been made thus far were in opposition and will be incorporated into the record as being in opposition without those people having to come back up.

Mayor Chiovero – General public out there, are you in agreement? I appreciate you coming out tonight. I'm sorry you didn't get the resolution you were looking for, but please if you haven't yet, please fill out a form for your individual property and the staff will contact you to talk about your individual property, especially if you have LOMA letters so they can look that up and see if it is still valid. It could be as simple as a small portion of your property is touching floodplain, or it could be as bad as your entire structure is in it. In the meantime, I will try to work with staff to try to come up with a situation to try to oppose it. I might be saying this out of turn, I hope not, that we can at least notify FEMA that there are situations that we don't agree as a city or as a resident.

Alderman Ament – I have been involved with this since I became an Alderman seven and a half years ago. I don't think there has been anything more frustrating in that time than dealing with this issue and how many different agencies that you cannot tell them what to do. It's very difficult. In staff's defense, and in working with them, I know exactly what they are talking about. There are some things though that weren't mentioned. As the staff indicated, we had paper maps. If you were going to overlay these things over paper maps, it would be like taking two pieces of

paper and overlaying them, you don't know how close you are. FEMA does not go by whether you have water on your property, they go by elevation. When somebody says they have never had water in their basement, it doesn't matter, that is not what they are looking at. They are looking at the elevations. That is why the surveys are important. If we go back to FEMA and say these people say they never had water in their basements or their yard, or their ditch hardly fills up, they don't care because that is not what they are basing it on. They are basing it on the elevation. What comes into question, is whether you dispute that elevation. That is why you have to get the survey, because they are going by elevation. Someone asks how this effects you financially. Besides the negative effects on your property value, the worst thing is that if you own a home right now and you want to get a loan, you have to have the insurance to get the loan, or they won't give it to you.

Take that a step further. Someone out there mentioned that they might want to move out in a couple years. You are in that floodplain whether you like it or not. FEMA makes that determination unless you can have a surveyor take you out of it and prove that you should not be in that elevation. If you don't do that and you are in the floodplain, and the city decides to opt out on this, the problem is that you cannot get the insurance, and either can anybody who wants to buy your house which means the lender isn't going to give them the loan. These are some of the issues we went through over the years. If I want to buy your home from you and my lender says I have to have flood insurance because FEMA says you're in the floodplain and the city doesn't participate, the buyer can't get the insurance so the buyer can't get the loan. It's a tough situation to be in. It is not something the City controls. The City did not draw these maps. These maps were given to us. We did not have them digitally where we could identify specific parcels the way we can now until this last summer. Basically, if we don't participate in this by November 19, 2008, anyone who wants flood insurance in New Berlin will not get it, and they will not get any aid from FEMA if there is a flood here. Those are the issues. It's a tough situation. If we don't pass this, it does not mean that you are not in a floodplain. It does not mean that your lender or potential buyer's lender won't tell you that you have to have flood insurance, the only thing is that you just won't be able to get it. The problem we are faced with is telling you are in a floodplain because we are told to tell you. We don't have a choice.

This may be a Plan Commission meeting that should be re-broadcasted. Normally we don't do that but this may be one that would help people understand better. The main purpose for all this preparation is not to tell you whether you are in the floodplain or not, but to help you understand that after November 19, 2008 the staff can help you apply for the amendments on your parcels. As far as sending a letter to FEMA saying you don't like it, there isn't much that will do. There was no way before this. We could have alarmed 2400 people by telling them they could be in floodplain, but we didn't know that for sure. There was no way of notifying you before this point for sure whether you are in it or not. As Mr. Kessler has mentioned, the process for amending the map and for you to get the survey is no different after November 19th than it was last year or six months ago. The only difference is that once they close the book, you can't make an amendment until after the 19th. There is just a window where you can't change it. Before that you could change, now you can change it. The process stays the same.

I would like to know if this power point is available on the website?

Ms. Jones – No, but I can make it available.

Alderman Ament – Would you please because that power point is very helpful.

Mayor Chiovatero – I think Alderman Ament has put it in a nutshell. He has made a simple explanation of what will happen if we participate or not participate. That is what we were here for. We can broadcast this again. I will need to meet with Alderman Ament regarding this.

Bob Wernicke, 1445 S. River Road - Is FEMA doing this to everybody, or just Waukesha County?

Ms. Hewitt – It is nation wide. This is our time right now. Milwaukee Counties will be effective this month.

Mr. Wernicke – How accurate are aerial surveys for topography?

Mr. Kessler – It depends upon the scale at which they were flown. Desk top delineations and aerial photography delineations are not the most extremely accurate. That is why the whole process requires a registered land surveyor to be hired and brought on site and an actual survey be done on the site to find the lowest grade of the property.

Mr. Wernicke – It seems like an aerial topography map would be pretty tough.

Mr. Kessler – These elevations that they have actually mapped for this mapping process are within a tenth of a foot.

Mr. Wernicke – When was it done?

Mr. Kessler – They used 2005 topo date. If you go to the County's website and click on the maps, you will see a listing of all the different layers that you can turn on. If you click on the actual layer itself, it will define where the information came from and how old it is.

Mr. Wernicke – Have there been other communities that have objected to what FEMA has come out with? Where they successful?

Mr. Kessler - Mr. Bednarski has indicated not whole scale. As I said, we have objected to various parts of the city, we have objected to Observatory Heights, Buena Park Subdivision, back in the mid '90's there was an objection to an area in the Industrial Park. There have been areas where we have objected to. We have objected to some of the mapping in this one. We have been working on surveys that Nicole and Matt are working on. Unfortunately, in some of those surveys that we have submitted, FEMA has rejected them and said they determine that the surveys do not meet the criteria for pulling the property or structure out floodplain.

Mayor Chiovatero – You would think with all those surveys done on a daily basis all over, they would be able to scoop that data up somewhere and start getting some accurate data. They have to do what is deemed standard procedures, and that is the aerial photography.

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

Mayor Chiovatero closed the public hearing at 8:41 P.M.

6:02 P.M (4)NJ CU-8-08 Gateway Commons - 4905-4925 S. Moorland Rd. –
- Mixed- Use Multiple Building Retail Complex Comprising of
Approximately 22,000 Sq. Ft.

NEW BERLIN PLAN COMMISSION

SEPTEMBER 15, 2008

MINUTES

PUBLIC HEARING CANCELLED.

NEW BERLIN PLAN COMMISSION

SEPTEMBER 15, 2008

MINUTES

PRIVILEGE OF THE FLOOR

The Plan Commission Meeting was called to order by Mayor Chiovero at 9:12 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Gihring, Alderman Ament, Mr. Felda, Ms. Broge, and Ms. Groeschel. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Jessica Titel, Associate Planner; Corliss Tischer, Code Compliance Specialist; Nicole Hewitt, Storm Water Engineer, Cathy Schwalbach, Storm Water Engineer, and Mark Blum, City Attorney.

Motion by Mr. Sisson to approve the Plan Commission minutes from August 11, 2008. Seconded by Alderman Ament. Motion carried unanimously.

PLAN COMMISSION SECRETARY'S REPORT – Please note the following upcoming Neighborhood Meeting for the Comprehensive Plan:

Neighborhood "I"	September 24, 2008	New Berlin City Hall
Neighborhood "F"	November 5, 2008	New Berlin City Hall
Neighborhood "E"	November 19, 2008	New Berlin Public Library
Neighborhood "D"	January 14, 2009	New Berlin Community Center
Neighborhood "J"	January 28, 2009	New Berlin Public Library

Visit the website at www.newberlinplan.com for more information about the projects.

REFERRAL FROM COUNCIL

1. PG-976 Proposed Creation of a New Berlin Urban Service Boundary. (Citywide)

Motion by Mr. Sisson to recommend that the Common Council set a public hearing for November 10, 2008 before the Plan Commission regarding the establishment of the proposed Urban Service Area Boundary and present the proposed Plan Commission review draft Urban Service Area Boundary (USAB) for public comment.

Seconded by Alderman Ament. Motion carried unanimously.

CONTINUED BUSINESS

2. (5)NJ U-44-08 Margarita Paradise – 14931 W. National Ave. – Mexican Cuisine Restaurant. (Tabled 8/11/08)

Motion by Mr. Sisson to remove this item from the table. Seconded by Alderman Ament. Motion carried unanimously.

Motion by Mr. Sisson to approve the Use, Site and Architecture to construct Building H within the City Center Phase III Development for a Margarita Paradise restaurant, associated parking lot, and streetscape features for the property located at 14931 W. National Avenue subject to the application, plans on file and the following conditions:

- 1) General
 - a) See applicant's Plan of Operation and the Findings section of this report.

- b) All signage both temporary and permanent shall require a sign application, to be filed and approved by DCD prior to installation. Applicant shall request any modifications to the City Center Sign Guidelines and submit those in writing before any sign applications are taken in for this area.
- c) There shall be no outdoor storage of equipment or materials related to the businesses.
- d) Dumpsters shall be properly screened from the street and public view in accordance with Article VIII Section 275-56 of the New Berlin Zoning Ordinance. Applicant shall propose how these areas will be enhanced and screened and provide a color architectural rendering.
- e) Under 275-56G, "all new roof-top equipment requiring a Zoning Permit shall be screened from view if the equipment can be seen from the centerline of the public right-of-way in the front of the property, or placed in an area of the building as not to be seen. Rooftop screening shall be compatible and complementary to the building's architecture." Staff shall review proposed screening measures prior to occupancy of individual tenants. Applicant shall submit line-of-sight drawings from adjacent public right-of-ways in order to be able to determine if the roof top units can be seen. Care will need to be exercised with regard to the sight lines for any equipment or backside of parapet walls on the roof of the building.
- f) Approval of the Landscaping Plan and payment of all sureties is required prior to issuance of Zoning Permit. Landscape plans shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. A registered landscape architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to installation of any materials.
- g) Any future tenants shall be required to obtain a re-occupancy permit prior to building permits being issued. All future tenants will have to provide a Plan of Operation that shall state the number of employees in the largest shift as required by §275-24C(2)(d). Future tenants shall be reviewed on a case-by-case basis for parking and may be denied for lack of parking.
- h) Any building that will accommodate a food service or food preparation tenant will require an Outside Grease Trap Tank and an MMSD Sampling Manhole designed and installed to the City's Developer's Handbook requirements.
- i) Applicant shall identify all phasing. This includes identifying building construction, public infrastructure, associated parking, and streetscape / landscaping.
- j) Applicant shall submit a copy of the Phase II Environmental Analysis.
- k) Applicant shall refine the plans to make sure the architecture plan correctly reflects the changes to the grading and utility plans.
- l) Applicant shall submit an application for a CSM to combine all properties and dedicate any right-of-way.
- m) Applicant shall incorporate decorative stamped concrete treatment (to be approved by the City) into the final parking lot layout and road layout to coordinate with City plans for the final lift of Library Lane and Michelle Witmer Drive. This shall be included in the Developer's Agreement. Decorative stamped concrete shall coordinate with the new decorative treatments within the right-of-way of the medians along Michelle Witmer Drive.
- n) Applicant shall provide cross sectional details of all terrace areas adjacent to parking lot areas and public right-of-ways.
- o) Applicant shall show ADA parking spaces and routes.

- p) Prior to occupancy the applicant shall construct the parking lot as sidepath areas as indicated on the phased plan. If weather permits, landscaping shall be installed prior to occupancy, if this is not possible, the applicant shall install plantings associated with this building no later than June 1, 2008.
- 2) Applicant shall address comments identified in PDI's peer review comments dated September 3, 2008 to the satisfaction of DCD Staff and the Architecture Review Committee (ARC). An additional ARC meeting will be held on September 15, 2008 prior to the Plan Commission meeting to review the architecture revisions. This includes providing a color elevation detail of the dumpster enclosure.
- 3) Storm Water
 - a) Detail Sheet 3 of 5:
 - i) Sediment Trap outlet detail:
 - 1) Provide dimensions according to DNR Technical Standard 1063, such as 3' minimum from bottom of the basin to invert of principal outlet.
 - b) Construction Sequence:
 - i) List building construction in sequence.
 - c) Grading and Erosion Control Plan Sheet 4 of 5:
 - i) Applicant should install Inlets #18 and 18A and associated piping (Sheet 5 of 5) to drain low spot in parking and prevent having to dig up the parking lot in the future. If installed, provide inlet protection.
 - ii) Applicant shall verify if parking lot is sheet flowing to sediment trap or is there curb and gutter around parking lot?
- 4) Engineering
 - a) The applicant shall coordinate with the owners of the Deer Creek Homes Development and Culver's Restaurant for the public improvements for the Library Lane and the extension of Deer Creek Parkway rights-of-way. However, this portion of the project has no required public infrastructure and the applicants may proceed with Margarita Paradise only, following the approval of the Zoning Permit per Plan Commission conditions of approval. Even though a Developer's Agreement will not be required for the Margarita Paradise portion, the applicant is still required to submit a Letter of Credit for the complete City Center Phase III infrastructure work.
 - b) A Letter of Credit or certified check to guarantee performance of the terms of this agreement and of items listed below, in the amounts established by the City Engineer, in a form approved by the City Attorney, shall be filed or deposited with the City before any building permits are issued by the City:
 - i) A Letter of Credit equal in value to 5% of the total estimated cost to accomplish items listed in the Developer's Handbook to cover inspection fees and administrative costs per phase of the development.
 - ii) A Letter of Credit, certified check, or other financial guarantee in the amount of 100% of the value of all the Public Improvements of the Development as approved by the City Engineer in a form approved by the City Attorney for the following:
 - 1. Construction site Erosion Control;
 - 2. Public Site Grading;
 - 3. Public Sewers;
 - 4. Public Water Mains;
 - 5. Public Storm Drainage;
 - 6. Public Roadways and Lighting; and

7. Stormwater Water Quality Plan.

- iii) A maintenance surety instrument in the form of a Letter of Credit or certified check in the amount equal to 20% of the public infrastructure construction costs to guarantee workmanship and materials of construction for a period of two (2) years after City's acceptance of the public infrastructure.
 - c) Applicant shall submit a hold harmless agreement which shall be recorded with Waukesha County prior to issuance of the zoning permit. The agreement holds the applicant responsible for any and all work associated with Margarita Paradise.
 - d) A letter from Waukesha County approving the proposed improvements within the County ROW shall be on file with the City of New Berlin prior to any permits being issued by the City. This includes the street access permit for Deer Creek Parkway.
 - e) Applicant shall address all engineering issues related to construction plans in a letter dated September 9, 2008 prior to the issuance of the Zoning Permit.
- 5) Building Inspection
- a) Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 Plans)
 - b) Building plans shall be approved by the State of Wisconsin Department of Commerce Safety and Buildings Division per Wisconsin Commercial Building Code. (Comm 61.60 Certified municipalities and counties.)
 - c) Apply and obtain appropriate building, plumbing and electrical permits.
 - d) Erosion control shall be approved, permitted, installed and inspected prior to any commencement of site work or issuance of any building permits.
 - e) Buildings shall have designated water meter rooms.
 - f) Stake out survey with setbacks from lot lines shall be submitted with building permit application.
- 6) Fire Department:
- a) Fully sprinkle.
 - b) Monitor fire flow.
 - c) Install fire hydrants that are accessible within 50' of sprinkler connections.
 - d) Install Knox Box (key box for tenant spaces).
 - e) Plan review required for hood systems.
 - f) Manual fire alarm system required.

Seconded by Mr. Felda. Motion passes with Mayor Chiovatero, Alderman Ament, Mr. Sisson, Mr. Felda, Ms. Groeschel voting Yes and Mr. Gihring and Ms. Broge voting No.

Motion by Alderman Ament to extend the Plan Commission Meeting by 30 minutes. Seconded by Ms. Groeschel. Motion carried unanimously.

NEW BUSINESS

3. ()GK PG-946 Sewer Service Area Amendments. (Public Hearing 8/11/08) –TDB,LLC-Town Realty, Inc., 16415 W. Beloit Road, and Willow Tree, Buy Seasons, 5915 S. Moorland Road.

Motion by Ms. Broge to recommend to Common Council adoption of a resolution that approves the amendment of the sewer service boundary to include the property located at 5915 S. Moorland Road (Tax Keys: 1285-993-002 & 1288-998-001).

Seconded by Alderman Ament. Motion carried unanimously.

Motion by Ms. Broge to recommend to Common Council adoption of a resolution that approves the amendment of the sewer service boundary to include the property located 16415 W. Beloit Road (Tax Key: 1258-981).

Seconded by Alderman Ament. Motion carried unanimously.

4. (3)GK/AB CU-2-03 Certified Products – 19000 W. Lincoln Ave. –
Plan of Operation and Reclamation Plan for Giepel Property.
(Public Hearing 3-3-03, 5-5-03, Tabled 6-2-03, 10-2-06) (Public Hearing
8/11/08)

Motion by Alderman Ament to approve the Conditional Use permit for a Non-metallic Reclamation Plan including Future Land Use Plan Options 1, 2 and 8 only, subject to the application, plans on file and the following conditions:

- 1) The temporary trailer for Geipel's Certified Sod, Inc. business office shall be placed on site and relocated on site as needed throughout the 7-9 year reclamation process.
- 2) Temporary trailer shall meet all building setbacks of the zoning district.
- 3) Parcels that are located outside of the current sewer service area shall require private on-site sanitary facilities at the time of site development.
- 4) Any change in use shall require the property to be rezoned to a current zoning district and review and approval by the Plan Commission for Use, Site and Architecture.
- 5) An application for a wetland delineation rezoning shall be submitted.
- 6) Erosion Control Plan (Sheet 3 of 8):
 - a) Southwest sediment basin is shown outside of silt fence, berm and drainage area lines. Verify and correct. Also, this basin is not labeled and there is no information in the table for that basin.
 - b) Provide sizing information and design calculations for the sediment basins.
 - c) The contour lines do not match the berm and drainage area lines in some areas. Verify and correct and submit revised plans prior to issuance of the Zoning Permit.
 - d) Temporary sediment basin detail: Clay Liner Note 3: typically minimum of 90% modified proctor, verify and correct. These recommendations are typically made in the geotechnical report, which was not included.
 - e) If the sediment basins are to be used in the future as permanent storm water ponds, the freeboard shall be 1.5' from the 100-year elevation per the Developer's Handbook.
 - f) At the scale shown it is difficult to determine where drainage from the sediment basins is intended to go. Please add flow arrows and submit revised plans.
 - g) If the northern portion of the site is the only area that is going to be filled as part of this plan, then the proposed contours should be shown tying into existing. Currently, it appears that the future development contours are shown on the erosion control plan rather than the contours for the fill.
- 7) Erosion Control Detail (Sheet 4 of 8):
 - h) Sequence Note 8.H. is unclear.

- 8) Any future development will require a complete storm water management plan and maintenance agreement. This submittal does not include a storm water management plan, therefore the future facilities are not approved as part of this submittal. This includes Sheets 6-8.
- 9) WDNR NOI is required.

Seconded by Mr. Sisson. Motion carried unanimously.

5. (5)AB CU-6-08 Cricket Communications – WVCY – 12660 W. Beloit Rd. – New Cell Tower. (Public Hearing 8/11/08)

Motion by Mr. Sisson to approval the Conditional Use Permit for a 175-foot wireless telecommunication facility and related ground equipment located at 12660 W. Beloit Road subject to the application, plans on file and the following conditions:

- 1) Landscape plans shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the City's Zoning Code. A Registered Landscape Architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to installation of any materials. All landscaping shall be installed & adhered to as identified under Section 275-54 of the City's Zoning Code. Payment of all landscape installation and maintenance sureties are required prior to issuance of Zoning Permit.
- 2) A variety of plant species shall be added to the landscape plan surrounding the fenced area to better screen the lease area. Landscape plan shall be revised and submitted prior to issuance of the Zoning Permit.
- 3) A grading plan showing existing and proposed contours and spot grades shall be submitted. Applicant shall show elevations of existing buildings and drives prior to issuance of the Building Permit. A culvert may be needed under the new driveway at lease area for drainage.
- 4) Existing gravel driveway used for access to lease area shall be improved with asphalt or concrete surface as required under Sect. 275-57E(2).
- 5) Construction plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Commercial Building Code. (Comm. 61.31 Plans)
- 6) Apply and obtain appropriate building, plumbing and electrical permits.
- 7) Design shall comply with Comm. Section 62.3108 Radio and Television Towers, of the Wisconsin Commercial Building Code.
- 8) Building plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per the State of Wisconsin Dept. of Commerce Safety and Buildings Division and the Wisconsin Commercial Building Code. (Comm. 61.60 Certified municipalities and counties.)
- 9) If more than 4,000 square feet of ground will be disturbed during this project, erosion control measures shall be required.
- 10) Erosion control measures shall be approved, permitted, installed and inspected prior to any commencement of site work or issuance of any building permits.

Seconded by Mr. Felda. Motion carried unanimously.

6. (3)JT U-47-08 John Anderson – 1708 S. 170 St. – Front Setback for Proposed Home.

Motion by Mr. Gihring to approve the application of Section 275-46.C which states: "The required street yards may, with Plan Commission approval, be decreased in any residential or business districts to the average of the existing street yards of the abutting structures on each side but in no case less than 15 feet in any residential district and five feet in any business district," and to construct a home with a 30.1-foot front yard setback rather than the required 40-foot front yard setback located at 1708 S. 170th Street subject to the application, plans on file and the following conditions:

- 1) Section 275-46.C of the Zoning Code states: "The required street yards may, with Plan Commission approval, be decreased in any residential or business districts to the average of the existing street yards of the abutting structures on each side but in no case less than 15 feet in any residential district and five feet in any business district." The front yard setback for the new home shall be a minimum of 30.1-feet.
- 2) Applicant shall apply for and obtain all appropriate building, plumbing and electrical permits for the approval and construction of the new home.

Seconded by Mr. Groeschel Motion carried unanimously.

7. (3)JT RO-25-08 Lighting Quest – 1790 S. Johnson Rd. – Resale by Way Of Internet Based Website for Insurance Companies Recreational Vehicles – Inside Storage.

Motion by Mr. Gihring to recommend Re-Occupancy Approval of office and warehouse space within an existing building for the resale of insurance companies total loss recreational vehicles to the public located at 1790 S. Johnson Road and Staff supports the interpretation for the applicant's request that personal recreational vehicles are not defined under "Automobile Sales" subject to the application, plans on file and the following conditions:

- 1) Plan of operation shall be consistent with submitted plans on file.
 - a) Hours: Monday through Friday 8:00 AM to 5:00 PM, Saturday 8:00 AM to 1:00 PM
 - b) Number of Employees: 1 – 3 employees
- 2) Only the sale of personal recreational vehicles (ATV's, personal watercraft, snowmobiles, etc.) shall be permitted. Sale of automobiles, motorcycles and recreational vehicles suitable for travel on public streets shall be prohibited.
- 3) No outdoor displays or storage is permitted for this business at any time.
- 4) Employee and customer parking shall be contained on site.
- 5) 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.
- 6) Signage shall require a separate application and issuance of a Sign Permit prior to fabrication and installation.
- 7) All temporary signs shall also require an application to be filed prior to installation.
- 8) A site visit will be performed after issuance of the Zoning Permit. Per Section 275-53B(1)(11) All existing nonconformities and outstanding code violations shall be identified, resolved, and remedied by the deadline dates.
- 9) Application does not include any exterior building modifications. Separate applications and zoning permits are required for exterior modifications.
- 10) Apply for and obtain appropriate building, plumbing, and electrical permits, as required for any interior building modifications or alterations. Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code (Comm 61.31 Plans).
- 11) Building shall meet all applicable building and fire codes. Fire Extinguishers are required.
- 12) Please be sure to schedule fire inspection with occupancy inspection.

Seconded by Ms. Broge. Motion carried unanimously.

Motion by Alderman Ament to extend the Plan Commission meeting an additional 30 minutes.
Seconded by Mr. Sisson.

8. (7)CT U-52-08 Kozie's Express Concessions – 3642 S. Vogel Ct. – 7' x 16'
Trailer to be Used for Concessions at Fairs for Home Occupation to
Be Stored on Driveway behind Fence.

Motion by Ms. Broge to deny without prejudice the Use and Site request for a home occupation and front yard fence located at 3642 S. Vogel Court.

Seconded by Mr. Felda. Motion carried unanimously.

9. (1)JT U-55-08 Neal Schulz – 1401 S. Ranch Rd. – Construct Legal Non-Conforming Single-Family Home Building Addition.

Motion by Mr. Gihring to approve the Use and Site for the construction of a building addition onto a legal non-conforming single-family home located at 1401 S. Ranch Road subject to the application, plans on file and the following conditions:

- 1) Architecture of proposed addition shall match the architecture of the existing structure and shall be reviewed by Inspection Services Division at the time of building permit.
- 2) The addition shall be constructed in the location depicted on the plans on file.
- 3) Apply and obtain appropriate building, plumbing and electrical permits.
- 4) Applicant shall install erosion control measures if deemed necessary by Inspection Services.

Seconded by Alderman Ament. Motion carried unanimously.

COMMUNICATIONS

10. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: Planning Commissioners Journal, Summer 2008

Plan Commissioners acknowledged receipt of this communication.

11. Communication To: Plan Commission
Communication From: Amy Bennett, Associate Planner
RE: Parade of Homes 2008

Presentation will be given at Plan Commission Meeting scheduled for October 6, 2008.
Please bring your packet from this month.

12. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: MBA Symposium

Plan Commissioners acknowledged receipt of this communication.

13. Motion by Alderman Ament to remove pending list Item #15 from the table. Seconded by Mr. Felda. Motion carried unanimously.

(2)JT U-69-07 Alan C. Olson – 2880 S. Moorland Rd. – Building Addition. (Tabled
11/5/07, 2/4/08)

Motion by Alderman Ament to remove this item from the agenda.
Seconded by Mr. Felda. Motion carried unanimously.

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 11:06 P.M. Seconded
by Ms. Broge. Motion carried unanimously.