

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-946 Sewer Service Area Amendments.

NEW BERLIN PLAN COMMISSION

AUGUST 11, 2008

MINUTES

The Public Hearing relative to the request by Michael DeMichelle, c/o Willow Tree Development and James Doering, c/o TDB,LLC – Town Realty to request that staff be directed to make a request to MMSD to adjust the Current Sewer Service line (boundary) to include parcels for the Willow Tree, Buy Seasons property located at 5915 S. Moorland Road and parcels for the TDB,LLC – Town Realty, Inc., property located at 16415 W. Beloit Road was called to order by Mayor Chiovero at 6:05 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, 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 gave a brief presentation describing the request and showed maps indicating the location.

Mr. Bill Stauber, SEWRPC Chief Land Use Planner provided additional information from his technical report. A copy of this report was provided to the Plan Commissioners.

Mayor Chiovero asked for comments for the purpose of clarification.

Joe Russ, 16800 W. Shadow Drive - The parcel on Beloit Road was a single family home. Is it zoned residential?

Mr. Kessler – It is currently zoned R-4 Single Family Residential.

Mr. Russ – Are you putting sewer there so they can go with light manufacturing?

Mr. Kessler – They have a petition before the Plan Commission to rezone the property from R-4 to M-1 which is Light Manufacturing.

Mr. Russ – How does that fit in with the Master Plan?

Mr. Kessler – The adopted Future Land Use Plan and Map for this site has it identified as mixed use residential. That would be a multi-family designation.

Mr. Russ – Would we need sewer there if it was mixed use residential as well?

Mr. Kessler – Not necessarily. I don't recall if the original home had a holding tank or septic. I am assuming it was septic. If it did go light industrial it could go on a holding tank. That is what Buy Seasons currently has right now.

Mr. Russ – You have answered my next question which was how Buy Seasons is handling the situation since they put up a building before they had sewer connection to it.

Jim Doering, Town Realty, Milwaukee – I am the partner of the applicant of this development. I am here to answer any questions anyone may have.

James Hornak 16800 W. Beloit Road – How is that to be served by sewer?

Mr. Kessler – The sanitary sewer would come through a utility easement through either Stratton Drive or Emmer Court as an interior through Town Corporate Park. There would not be a main extended down Beloit Road.

Mr. Hornak – Is it presently zoned R-4?

Mr. Kessler – Correct.

Mr. Hornak – Is there a residential property to the east of that?

Mr. Kessler – This is the property we are talking about here on the map. (Mr. Kessler referred to the map on display.) The property just to the east is currently zoned M-1. That is a built light manufacturing facility.

Mr. Hornak – Is there sewer coming down Beloit Road? What is your forecast?

Mr. Kessler – No. There are no plans for sewer coming down Beloit Road. Sewer would come through an easement up this direction. (Mr. Kessler used arrows to indicate direction on the map) We would not be able to extend a main down Beloit Road. Did you say you lived on Beloit Road?

Mr. Hornak – I live at 16800 Beloit Road.

Mr. Kessler – We would not be providing you with sewer as a result of this project. There would not be a main coming down Beloit Road as a result of this project.

Mayor Chiovatero asked three times if there was anyone else with comments or questions for clarification, seeing none.

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

Jim Doering, Towne Realty, Milwaukee – I would like to comment in favor of the sewer service district amendment for our property on Beloit Road. The reason we are seeking this extension, as you will have on your agenda later tonight, we are also seeking a zoning change. We are hoping to bring sewer to this property so we can develop this property in the future to be of similar quality to the two buildings immediately east of this property developed by TDB, LLC which is a partnership. What we are finding in the market place is that light industrial users of those natures tend to be more in a region, and one of their check list items is that the property offer municipal sewer connection. To further explain what Greg had said to the previous gentleman, for connection for sewer to this property our engineers have told us and we have presented this to your staff that a sewer easement would likely have to go between the two buildings we currently own on Emmer Drive to connect to the sewer line in Emmer Drive. That is where we could make a gravity connection. Our engineers have explained to us and the City staff that this can be done by a gravity sewer.

Mayor Chiovatero asked three times if there was anyone else wishing to speak in favor of this

application, seeing none.

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

Joe Russ, 16800 W. Shadow Drive – I am against both of them. The one on Beloit Road means changing the zoning from the original intent of the Master Plan, and will add more traffic to Beloit Road and Calhoun Road and the intersection of Beloit and Moorland Roads. The residents live here and deal with the traffic, the developers don't. As far as the Buy Season property, I was at the hearing back in December where MMSD was dealt with. I can't help it that Buy Seasons wasn't bright enough to check out the facts that they wouldn't have sewer before they built a 300,000 square foot warehouse. The point is, it is a warehouse so it should be able to survive on holding tanks, if that is indeed their long term goal for that building. We keep moving sewer service west. I think we need to start wheeling in this industrial park a little bit. It is getting too big. We shouldn't be worrying about servicing a warehouse with sewer. I am against this extension.

James Hornak, 16800 W. Beloit Road – I am also opposed to the Town Property expansion. I understand it is light manufacturing, but so is the whole Corporate Park. Budweiser seems to make a lot of noise at night. They are constantly loading or unloading their trucks at night, and they are pulling away from their docks, and their docks are constantly banging. It's 10:00 P.M. at night, what was that? It's Budweiser loading and unloading their trucks. I am not sure what light manufacturing totally encompasses, but I think Budweiser is light manufacturing and they are noisy.

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

Mayor Chiovero asked for comments or questions from the Commissioners.

Alderman Ament – Will these be two separate issues when it comes back for action?

Mr. Kessler – Yes, there will be motions for each parcel. This is how these amendments have traditionally been handled.

Alderman Ament – There is a requested action to review and re-establish what is being termed New Berlin Urban Service Area Boundary at the Council meeting tomorrow night. If that is approved, I would think that rather than this being handled separately it could be handled as part of that.

Mr. Kessler – From my conversations with Alderman Harenda, the Mayor, and the City Attorney, it is my understanding that this would act independently with future consideration for the Plan Commission to analyze the creation of a New Berlin Urban Service Area Boundary. That would be separate from this. Is that your understanding also, Mayor?

Mayor Chiovero – That was my understanding.

Alderman Ament – It really doesn't matter, other than it might save some work for the staff and maybe even up here because part of his requested action says "a New Berlin Urban Service Area Boundary should be created utilizing the City's current approved and adopted Master Plan and Future Land Use Map. The request shall be taken up by the Plan Commission within the next 30 days."

Mr. Kessler – That will be at your next meeting.

Alderman Ament – I was thinking that these may cross paths. It might be easier for staff to just include it in that part of it rather than having a separate action.

Mayor Chiovatero – I am under the understanding that even if that requested action is approved and a Urban Service Area Boundary is established, it would still have to go through the process it is going through right now, right?

Mr. Kessler – Yes.

Mayor Chiovatero – So what work would it be saving staff?

Alderman Ament – I just thought it wouldn't necessarily have to come back as a separate action, and be written up separate. I thought it could be written up as part of that action.

Mayor Chiovatero – It always has to come back as a separate action, wouldn't it?

Mr. Kessler – I think what Alderman Ament is saying, is that right now you would have three separate actions. You would have the action to add in the TDB, LLC property, you would have the action to add in the Buy Seasons property, and a third action to actually approve that Urban Service Area Boundary. Alderman Ament is suggesting tying it in with the urban service area boundary reducing the number of actions.

Alderman Ament – It may work out. It's something to keep in the back of your mind.

Mr. Kessler – I think we need to keep them separate.

Alderman Ament – The second thing I have is on the second page of the preliminary draft of the Regional Water Quality Management Plan referring to the June 11, 2008 letter. Is that just for these two parcels?

Mr. Kessler – That letter was initiated by me based upon action by this Plan Commission and the Common Council authorizing me to initiate the start of this process. That was my letter for these two properties.

Alderman Ament – If by some chance these weren't approved, that would be gone?

Mr. Kessler – Yes.

Ms. Groeschel – Is the sewer extension going to be paid for by the land owners?

Mr. Kessler – These would be at their expense. Is the one on Beloit Road a main extension and the one for Buy Season's a lateral extension? That would be a question for Dominic.

Dominic Ferrante, 3425 S. Russel Road - If it was the south or east direction, it would be lateral through an easement. There would not be any public way issues.

Mr. Kessler – You can look at the infrastructure map, Commissioner Groeschel. (Mr. Kessler pointed out the black arrows and the direction of the flow on the map)

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

Mayor Chiovatero closed the public hearing at 6:30 P.M.

6:01 P.M. (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)

NEW BERLIN PLAN COMMISSION

AUGUST 11, 2008

MINUTES

The Public Hearing relative to the request by Jerry Geipel c/o Certified Products for a Conditional Use for the Plan of Operation and Reclamation Plan for Giepel Property located at 19000 W. Lincoln Avenue was called to order by Mayor Chiovarero at 6:30 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, 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. Bennett gave a brief presentation describing the request and showed maps indicating the location.

Michael Losik, Losik Engineering Design Group supplied additional information regarding the request.

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

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

Mr. Losik - On behalf of the owner of the property, we are in favor of the development of this property along the lines of the different alternates that have been presented pending positive action on the part of the City to approve one or a number of the uses proposed.

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

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

Mayor Chiovarero asked for comments or questions from the Commissioners?

Alderman Ament – Can the staff electronically send me the map that was handed out tonight and those conceptual maps up on the screen?

Ms. Bennett – Sure.

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

Mayor Chiovatero closed the public hearing at 6:44 P.M.

6:02 P.M. (4)JT R-10-08 Jodi Kornak & Chris White – 13335 W. Eagle Trace –
Rezone from R-3 and C-2 to R-3 and C-2 to Field Delineate the
Wetlands.

NEW BERLIN PLAN COMMISSION

AUGUST 11, 2008

MINUTES

The Public Hearing relative to the request by Jodi Kornak for a rezoning at 13335 W. Eagle Trace from R-3 and C-2 to R-3 and C-2 to Field Delineate the Wetlands was called to order by Mayor Chiovatero at 6:44 P.M.

In attendance were Mayor Chiovatero, 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, and Mark Blum, City Attorney.

Mayor Chiovatero 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. Titel gave a brief presentation describing the request and showed maps indicating the location.

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

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

Jodi Kornak, 13335 W. Eagle Trace – I would like to speak in favor of this application as explained by Jessica. There is no significant change of the wetland nor the wetland preservation area. Thank you.

Mayor Chiovatero asked if there was anyone else wishing to speak in favor of this application, seeing none.

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

Mayor Chiovatero asked if there were any comments or questions from the Commissioners, seeing none.

Mayor Chiovatero closed the public hearing at 6:48 P.M.

6:03 P.M. (7)NJ CU-7-08 Insane Choppers – 18580 W. National Ave. – Make-A-Wish Event from August 27, 2008-August 31, 2008.

NEW BERLIN PLAN COMMISSION

AUGUST 11, 2008

MINUTES

The public hearing relative to the request by Reid Murphy c/o Insane Choppers for a Conditional Use for a Make-a-Wish Event from August 27, 2008 – August 31, 2008 located at 18580 W. National Avenue was called to order by Mayor Chiovaturo at 6:48 P.M.

In attendance were Mayor Chiovaturo, 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, and Mark Blum, City Attorney.

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

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

Ms. Jones gave a brief presentation describing the request and showed maps indicating the location.

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

Reid Murphy, 18580 W. National Avenue – I am the owner of Insane Choppers. I would like to clarify that most of this is being done for Make-A-Wish, not in conjunction with the 105th anniversary. It just turned out that it happened to be the same date. All donations will go 100% for the children. I have already invested a great deal of money for bands, advertisement, etc. We have done a lot of work in trying to make sure that this is organized. We are making sure we have enough people to staff it. We have ample port-a-poties, we have arranged enough parking, and security measures have been taken with wrist bracelets and fences for the alcohol area. There will be only four vendors there, mainly food. There will be people selling tickets for the raffles. I did run an event like this a few years back when I was in Muskego. That event ran perfectly without any incidents whatsoever. It was on the same scale as this. We have the support from many of the businesses in the New Berlin area that have given donations and plan to attend the event. With that, we hope to raise between \$5,000.00-8,000.00 for the children. We plan to have a kids show on Saturday that is designed for the children by a person that works at Walt Disney. He puts on a show called "Kids are People Too". He will be presenting some of the kids with presents that day. Also, on Saturday Make-A-Wish will have a representative at the event with some of the children, and we will present them with the check during that time frame so they will get a check right away.

Speaking of any of the issues with possible violations, all of them have been addressed and I don't believe any of them are left open at this time. I have corrected all of them. I have hired a coordinator, Peggy, who is with me right now. She has been working diligently on this to see that everything runs smoothly as well. We are hoping to get an approval on this tonight because of the time frame. We apologize for getting this in late. When I was in Muskego the time frames were a little different to get an event done. It wasn't our intention to spring this on you late in the game, and would appreciate any consideration that you might give us.

Mayor Chiovaturo asked three times if there was anyone else with comments or questions for

clarification, seeing none.

Mayor Chiovero asked if there was anyone who wished to speak in favor of this application?

Peggy Johnson, Event Coordinator for Insane Choppers - I wanted to personally thank you for expediting this for us. I know we were only in hours of making the dead line. If anybody has any further questions, I can certainly answer any of them.

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

Mayor Chiovero asked three times if there was anyone who wished to speak in opposition of this application, seeing none.

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

Alderman Ament – I'm looking at what staff has on the screen which says August 31, the agenda has August 31, but the staff report says August 30.

Ms. Johnson – We decided to forego activities on Sunday, so it will be through August 30. We will be shut down by 9:30 or 10:00 on Saturday night and closed on Sunday.

Alderman Ament – On Page 6 of the Staff Report under Findings #5 you touched on any issues that needed to be cleaned up. The applicant mentioned that those have all been taken care of. Is that correct?

Ms. Jones – That is correct. He is in the process of addressing all of those issues.

Alderman Ament – I assume that will all be taken care of before you issue the permit?

Ms. Jones – Correct.

Alderman Ament – The only other thing that I have here is the question on Page 1 about the alcohol issue. I am not clear on this. There will not be any alcohol sold or permitted outside or within certain areas. I want to make sure there are proper controls.

Ms. Jones – They have worked with the Clerk's office to apply for those permits.

Mr. Murphy – That was addressed in our application, and have applied for applications for making sure we have properly staffed people with licenses. The area where people will be drinking only will be fenced off with orange snow fence and be completely enclosed. There will be one entrance and two security people. At the time that they purchase tickets outside of that area, they will have to show an ID to get a bright colored wrist bracelet attached to that person immediately and they will be the only people allowed in that area to drink.

Alderman Ament – If there is any part of this event that extends any closer to National Avenue, I would be concerned with safety on National Avenue especially with the traffic that potentially could be there given that it's during the time that all of these other events are going on around then with motorcycles and cars. That section of National Avenue gets a lot of use, and I wouldn't want to see that event work it's way closer to National Avenue. There is a little bend in the road and an intersection there with a lot of distractions. I just don't want to see somebody get hurt on the road out there.

Mr. Murphy – I have nothing close to that.

Mr. Sisson – The date says it will run August 27 – 30. That is Wednesday, Thursday, Friday, and Saturday. Is the live music only on Friday and Saturday?

Mr. Murphy – That is correct.

Mr. Sisson – What are you going to do on Wednesday and Thursday?

Mr. Murphy – We have three or four vendors coming up from out of town. We will have them set up to display some of the stuff we do. My painter and my seat guy will be displaying some of the work we do.

Mr. Sisson – There is a fence that runs between Chapels and your place. What are you going to do about that fence?

Mr. Murphy – We plan to put a snow fence all the way around to block that off completely so nobody can get in. We have been back there and checked that area out. It will be completely fenced off so nobody can get into the area.

Mr. Sisson – I'm talking about the fence that is already there. There is a wood plank fence running down your driveway between you and Chapels.

Mr. Murphy - That is Mustang Shelly's that has the wood fence down the middle. That fence is between Mustang Shelly's and the roofing company.

Mr. Sisson – OK.

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

Mayor Chiovero closed the public hearing at 7:06 P.M.

6:04 P.M. (5)AB CU-6-08 Cricket Communications – WVCY – 12660 W. Beloit Rd. – New Cell Tower.

NEW BERLIN PLAN COMMISSION

AUGUST 11, 2008

MINUTES

The public hearing relative to the request by Mike Kozlowski c/o Infinigy Engineering for a Conditional Use for a new cell tower located at 12660 W. Beloit Road was called to order by Mayor Chiovaturo at 7:06 P.M.

In attendance were Mayor Chiovaturo, 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, and Mark Blum, City Attorney.

Mayor Chiovaturo 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. Bennett gave a brief presentation describing the request and showed maps indicating the location.

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

Joe Russ, 16800 W. Shadow Drive – How far will this tower be placed away from the existing towers?

Ms. Bennett – Mike, can you answer that question? I can give you the setbacks from the property lines, but I don't know the distance from the other towers.

Mike Kozlowski, Infinigy Engineering – I believe this tower will be somewhere in the order of 300 ft. away. We had to place the tower to meet all the setbacks and the fall radius.

Ms. Bennett – This proposal does meet all the Zoning Code requirements for setbacks.

Mr. Russ – Is that the fall radius of that tower or the fall radius of the other towers?

Ms. Bennett – The proposed tower.

Mr. Kozlowski – There is one difference between a guyed tower and a monopole. A guyed tower will come down upon itself, while a monopole would fall differently. This is far enough away to stay away from the guyed anchors and all accommodations have been met for this tower.

Andrew Piche, 12795 W. Allerton Avenue – I walked in just when you were saying how tall the current tower is and what is the closest residence from that point.

Ms. Bennett – Do you mean the existing guyed towers?

Mr. Piche – Not the existing, well I guess that is another question, what is the height of the two existing towers? What is height of the proposed tower? What is the proposed towers distance from the nearest residence?

Ms. Bennett – Those towers are over 300 ft. The proposed tower is 175 ft. I can show you the simulation. This gives you a view of the existing tower and the proposed tower (Ms. Bennett displayed this on the screen) Reading from the Code, “The tower shall be located no closer to the lot line than 25% of the tower height whichever is greater. Towers that are contiguous to a residentially zoned parcel shall be set back from the lot line a distance equal to the height of the tower.” On the west I believe it is 220’ to the east, I think it was close to 180’. Mike, correct me if I am wrong. They meet the setbacks which would be 175’.

Mr. Piche – 220’ to the west. That is where I am. Thank you.

Lavern Gebhard, 12685 Bobwood Road – Did you say that the current towers are over 300’? How much over?

Ms. Bennett – I don’t know if I have the exact height.

Mr. Kozlowski – Those towers are 495’.

Ms. Gebhard – Yes, 495’ and 500’.

Ms. Bennett – Thank you.

Ms. Gebhard – Wasn’t it stated that there is an over saturation of these cells in the area? Years ago already there was an over saturation.

Ms. Bennett – I don’t have any information on that. Stated where?

Ms. Gebhard – In the minutes of a meeting a few years ago. The then current Mayor made a statement to that affect, and now this additionally. Is it fair to the residents residing in the proximity of these towers when already there is interference with many of the appliances, computers, phones, etc? This doesn’t seem fair to these residents when there is over saturation already. Thank you.

Mark Ninneman, 8100 N 45th Street Brown Deer – I am here in behalf of Cricket Communications. As Amy Bennett pointed out, there are no other towers in a one mile radius surrounding WVCY. The two existing towers structurally cannot take any additional equipment on them. That is why we are forced to build a new tower. If we are not allowed to build a new tower as the coverage map showed, there is a huge gap in the network. It is not a situation of having too many carriers. This is the only available spot for us. Regarding interference with computers and TVs, the FCC allows us to operate within a very small frequency spectrum completely unrelated to toasters, computers, TVs or radios.

Andrew Piche, 12795 W. Allerton Avenue – In regard to the interference statement, every speaker in my house will pick up the AM radio. I know this is regarding a cell tower, so I guess there is no real interference regarding the cell tower, but on any power speaker I hear the AM radio going constantly. I am sure everyone in the area has the same thing whether it is computer speakers, television with no sound and you’ll just hear the AM radio interference, an AM radio headset like when I’m mowing the lawn and can’t tune it, all I get is that one station.

I have another concern I need clarified. Anyone who lives to the west of the tower, any HD television you watch, you have to point toward where the HD is broadcasted from which is all to the east. To me it would be northeast. Essentially, another tower would be placed in my line of site to get HD channels. It would be a broadcast which is going to be a standard in 2009. Depending on where your house is, your line of site to HD could be interfered with. I know mine

is finicky now with the existing north tower. There is that concern as well.

Mayor Chiovero – Have you contacted WVCY about the interference on your speakers?

Mr. Piche – I would not know who to contact.

Mayor Chiovero – It looks like there is a gentleman here tonight. I know there is some fixes that they can supply you with to help with that kind of interference. I know that there is another neighbor in the area that has had problems in the past, but some of those fixes did not work on her equipment. I don't know why, and I don't know if the problems have been resolved. I know I had been working with her. It had to do with WVCY. The application is for a cell tower. I just wanted to give you that piece of information. If you contact WVCY, I think they are in the phone book, and work down the chain you will find somebody, or maybe the gentleman who is here from WVCY can help you with a contact name to help you get those issues fixed. I don't have a solution for the HD, maybe they would.

Mr. Piche – I don't know if there is a solution. I have done a lot of research so I understand quite a bit about it. The north tower is definitely right where most of the broadcast stations are for me. It is unfortunate.

Mayor Chiovero - I just know that WVCY will work with anyone who has problems.

Mr. Piche – The phone was a big one. There was a constant buzz. As cell phones became more prevalently used, we don't use that phone as much

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

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

Mike Kozlowski, Cricket Communications – Out of 140 sites in Milwaukee, I've only had to build three new sites. There is just simply nothing else around. We have spent a lot of time and effort with your Planners coming up with a very attractive solution and something that will provide you with long term solutions. I know there will be future carriers. I know the existing towers cannot structurally handle this. We have designed a very expensive site that will accommodate everything in zoning. I appreciate all of the neighbor's interest and problems with the previous towers. We will do our best to accommodate everybody.

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

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

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

Alderman Ament – Is that a self supporting tower, it does not have guy wires?

Ms. Bennett – No, it is a monopole tower.

Alderman Ament – When the reference was made that the existing towers cannot handle any more structurally. Who watches this and what do they mean by them not being able to handle them. Are they just not physically able to or are they becoming in disrepair? That might be something you want to check into.

Paul McClain, WCVY – Any time any new equipment goes on the tower, we have an analysis done by the manufacturer of the tower which is in accordance with all FCC regulations. What they

are saying is that right now you have all you can put on that tower to be safe. What is on there now is safe, but you cannot put anything additional on there.

Ms. Groeschel – Is this tower sized for future other wireless carriers?

Ms. Bennett – The structure can expand to accommodate up to three co-locaters on this tower in addition to their antennas.

Mayor Chiovatere – I remember a situation when they tried to locate a cellular antenna on an existing tower. At that time we also tried to get some of the interference down from the WCVY broadcast. Are any of those antennas going to be relocated onto this monopole? Are the existing antennas on the existing towers going to stay?

Ms. Bennett – We don't have any applications or information on that. I don't know if Cricket has any information that they can share with us, but they can have up to three additional users.

Mark Ninneman, Cricket Communications – At this time, there is no carrier that has expressed interest in going on our pole. It is possible in the future, either taking off of the existing towers and putting it on this monopole, or if another new carrier comes into town they would be looking at us first.

Mayor Chiovatere – One reason I bring this up is because there was a lot of controversy over the current towers. It turned out some of the towers were there before some of the residents close by. But, now the residents are there. I would be concerned about the fall zone. It seems like you have met that, but I would also be curious if there is anything being moved off of the existing towers just to calm some of the nerves of the neighbors.

Mr. Ninneman – It definitely is a possibility for the future. We have designed it accordingly.

Mayor Chiovatere – You are building a tower and you are building an equipment building, correct?

Mr. Ninneman – Correct.

Mayor Chiovatere – Are you leasing the land, but owning the tower and building?

Mr. Ninneman – Actually what we are doing, is we are going to build the tower and deed it over to WVCY.

Mayor Chiovatere – WVCY will be the owner?

Mr. Ninneman – Correct.

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

Mayor Chiovatere closed the public hearing at 7:29 P.M.

NEW BERLIN PLAN COMMISSION

AUGUST 11, 2008

MINUTES

PRIVILEGE OF THE FLOOR

The Plan Commission Meeting was called to order by Mayor Chiovatero at 7:32 P.M.

In attendance were Mayor Chiovatero, 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, and Mark Blum, City Attorney.

Motion by Alderman Ament to approve the Plan Commission minutes from July 7, 2008. Seconded by Ms. Broge. Motion passes with Ms. Groeschel voting present.

PLAN COMMISSION SECRETARY'S REPORT – The next Comprehensive Planning Steering Sub-Committee meeting is scheduled for August 20, 2008 at 6:00 P.M. in the City Hall Council Chambers.

NEW BUSINESS

1. (3)JT SG-36-08 KS Energy Services – 19705 W. Lincoln Ave. – Wall Sign.

Motion by Alderman Ament to approve the request along with Waiver Request #1 for two wall signs located at 19705 W. Lincoln Avenue subject to the application, plans on file and staff review and approval of compliance to the sign code regulations:

WAIVER REQUEST #1: Applicant is requesting a waiver from Section 275-61.1(1)(c) which states that all new signs and/or replacement signs located along arterials shall be monuments signs. Lincoln Avenue is listed as an arterial. Please see attached letter from the applicant.

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

2. (4)AB R-9-08 TDB LLC – Towne Realty – 16415 W. Beloit Rd. –
Rezone from R-4 to M-1. (Public Hearing 7/7/08)

Motion by Ms. Groeschel to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 16415 W. Beloit Road from R-4 to M-1.

Seconded by Mr. Sisson. Motion carried unanimously.

3. (4)JT R-10-08 Jodi Kornak & Chris White – 13335 W. Eagle Trace –
Rezone from R-3 and C-2 to R-3 and C-2 to Field Delineate the
Wetlands.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 13335 W. Eagle Trace from R-3 and C-2 to R-3 and C-2 to field delineate the wetlands.

Seconded by Mr. Felda. Motion carried unanimously.

4. (5)CT U-39-08 Gene Dukatz – 13800 W. Sun Valley Dr. – After-the-Fact Fence within a drainage easement.

Motion by Ms. Groeschel to approve the request for an existing fence within a drainage and utility easement located at 13800 W. Sun Valley Drive subject to the application, plans on file and the following conditions:

- 1) Applicant shall file a Hold Harmless Agreement with the Waukesha County Register of Deeds prior to issuance of Zoning Permit subject to approval by the City Attorney.
- 2) Applicant shall confirm that the fence meets the setback of 2 feet from the property line and provide a site plan showing the location of the fence.
- 3) If the fence is replaced or removed, the new fence shall be located outside of the easement.
- 4) The applicant shall comply with both items listed below:
 - a) Cut off the bottom 6 inches of the existing fence area within the easement area by September 1, 2008
 - b) Install a catch basin and storm sewer system that will tie into the existing system by November 15, 2008.

Seconded by Mr. Felda.

Motion by Ms. Groeschel to amend the motion to require the applicant to cut off 6 inches of the existing fence area within the easement by September 1, 2008, but not require a catch basin and storm sewer system.

Amendment to motion failed for lack of second.

Second to original motion withdrawn by Mr. Felda.

Motion by Ms. Groeschel to amend the motion to have the 4th Condition read as follows:

- 4) In the event that the fence structure materially impairs storm water flow such that it adversely impacts adjacent property, staff will have the discretion to modify the fence to accommodate that situation.

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

5. (4)JT U-41-08 CGS Premier – 5770 S. Westridge – Building Addition.

Motion by Mr. Sisson to approve the Use, Site and Architecture for the construction of a 14,005 sq. ft. building addition located at 5770 S. Westridge Drive subject to the application, plans on file and the following conditions:

- 1) General:
 - a) Plan of operation shall be consistent with submitted plans on file.
 - Hours - 7:00 AM to 10:00 PM year round.
 - Number of employees – maximum of 30 employees during largest work shift.

- b) Architecture Review Committee approved the building addition architecture on July 30, 2008.
 - c) Dumpsters shall be properly screened from the street and public view in accordance with Section 275-56 of the Zoning Code.
 - d) Approval of the Landscaping Plan and payment of all sureties are required prior to issuance of the Zoning Permit. Landscaping Plan must meet all the requirements of Article VIII Section 275-53 through 275-56 of the Zoning Code in its entirety. A registered Landscape Architect shall stamp plans. Landscaping Plan to be approved and signed by the Department of Community Development prior to installation of any materials.
 - e) Drive aisles and parking areas must be set back 50-feet from the Ultimate ROW line. See Zoning Code §275-57 A(7)(f)[2]. Proposed paved area along Schaefer Court (west property line) does not meet the 50-foot parking lot setback. Applicant shall revise plans accordingly.
 - f) The existing parking lot on the west side of the building is in poor condition. Applicant shall repair, re-seal and re-stripe the existing west parking lot by November 1, 2008. Applicant shall re-stripe the existing northern parking lot to match submitted plans.
 - g) The number of parking stalls does not meet the Zoning Code requirements stated in Table 275-57-1. Provide parking lot layout / pavement marking plan for new paved areas. Parking lot layout shall provide additional parking stalls to account for the spaces being lost due to the expansion and provide adequate spaces to meet the Zoning Code requirements.
- 2) Engineering:
- a) Sheets C100 & L100 are not plotted to a scale.
 - b) Lighting plan does not follow City standards. See Zoning Code §275-60 I. This is required to be completed for all on-site parking, circulation and pedestrian areas. Plan shall show light pole layout and illumination levels for the entire paved surface on plan sheets. A chart with photometric summary information shall also be provided. The development light levels can be higher than the requirements for average footcandles, but must be equal to or lower than the average-to-minimum and maximum-to-minimum ratios in the zoning code.
 - c) Any and all bench marks shall be in the USGS datum standard and taken from one of two places: the sanitary sewer inverts from as-builts on file with the City and/or the SEWRPC dossier sheets for a nearby monument with vertical controls stamped on the cap.
 - d) A current Plat of Survey will be required with building permit. The Plat of Survey shall show a minimum of three ties to permanent structures or land marks.
 - e) The side slope of the berm shall not exceed 4:1 (25%) when the finish grading is complete. The berm shall be vegetated upon completion.
 - f) The first floor elevation of the proposed addition shall match the existing building first floor elevation of 854.47'.
 - g) Applicant shall provide a paved surface or stoned area for the job trailer and visitor/contractor parking. No parking of any vehicles/construction equipment shall be allowed off site. All parking and staging of equipment shall take place on the building site.
 - h) Any infractions of the erosion control policies shall be corrected at the time of occurrence.
 - i) No grading, filling or landscaping within the exiting drainage and utility easements without prior approval from DCD Staff.
 - j) Applicant shall revise plans to show the truck turning radius for all the overhead doors.
 - k) The site shall be ADA compliant, per ICC/ANSI A117.1-2003.

6. (7)JT U-42-08 N. B. Fire Department – Station #3 – 5120 S. Racine Ave. –
New Fire Station.

Motion by Alderman Ament to approve the Use, Site and Architectural for the construct of a new fire station, along with the two waivers, located at 5120 S. Racine Avenue subject to the application, plans on file and the following conditions:

WAIVER REQUEST #1: The applicant is requesting a waiver from the landscape plant material size requirements for deciduous and evergreen trees noted in Section 275-56.C(7)(a) & (b) of the Zoning Code. The Zoning Code states that a minimum of 50% of the deciduous trees shall have DBH of 4-inches and the remainder shall have a minimum size of 2-inches DBH. It also states that a minimum of 50% of the evergreen trees shall have a minimum height of 8-feet and the remainder shall have a minimum height of 6-feet. The applicant is proposing 2.5" DBH shade trees and 6' Ht. evergreen trees. Please see attached letter.

WAIVER REQUEST #2: Applicant requests a waiver to deviate from Section 275-601 (Lighting). Applicant is proposing lower light intensity levels. Please see the attached letter submitted by the applicant and lighting engineer.

- 1) Planning:
 - a) Plan of operation shall be consistent with submitted plans on file.
 - b) Architecture Review Committee approved the building addition architecture on July 30, 2008.
 - c) Applicant shall protect existing trees as required in Section 275-54.B(5).
 - d) No outside displays or storage shall be allowed on site.
 - e) Dumpsters and mechanical equipment shall be properly screened from the street and public view in accordance with Section 275-56 of the Zoning Code. Applicant shall provide details of the dumpster enclosure and the screening for the ground-mounted mechanicals.
 - f) Employee and customer parking shall be contained on site.
 - g) Signage shall require a separate application and issuance of a Sign Permit prior to fabrication and installation.
 - h) Parking lot lighting could be turned down in designated areas after hours to reduce the impact on surrounding residential properties. Applicant should submit a plan showing designated areas prior to issuance of the Zoning Permit.
 - i) Applicant shall correct the label for the side yard setbacks. The side yard setback is 50-feet in the I-1 Zoning District, not 25-feet as it is listed.
 - j) Generator testing shall take place during the hours of 8:00 AM to 5:00 PM.
 - k) Landscaping plan must meet all the requirements of Article VIII Section 275-53 through 275-56 of the Zoning Code in its entirety, with exception to the section pertaining to the Waiver Request above. A registered Landscape Architect shall stamp plans. Landscaping Plan to be approved and signed by the Department of Community Development prior to installation of any materials.
 - l) Common Council shall approve the rezoning of the property prior to issuance of the Zoning Permit. Action is expected on August 12, 2008.
- 2) Engineering:
 - a) Applicant shall address all technical engineering comments in the letter dated 8/1/08.
 - b) Grading and drainage plan shall meet all the requirements in the Developer's Handbook and be completed to the satisfaction and approval of DCD Staff prior to issuance of Zoning Permit.

- c) A letter from Waukesha County approving the plan of proposed improvements within the County ROW shall be on file with the City of New Berlin prior to any building permits being issued by the City.
 - d) Drive aisle widths are to be 24-feet wide from edge of pavement to edge of pavement (i.e. do not include curb & gutter in required width).
- 3) Stormwater:
- a) Applicant shall address all technical stormwater comments in the letter dated 8/1/08.
 - b) Applicant shall adhere to all City of New Berlin codes, ordinances and plans regarding storm water conveyance and maintenance and/or as identified by the Department of Community Development.
 - c) Stormwater Maintenance Agreement shall to be completed and registered with Waukesha County. Use the City's boiler plate agreement. The operation and maintenance was included in the text of the Stormwater Management Plan (SWMP) along with an inspection checklist. These can be copied out and used as the Exhibits for the Agreement.
- 4) Inspection:
- a) Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Commercial Building Code. (Comm 61.31 Plans)
 - b) Building plans shall be approved by the State of Wisconsin Dept. 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) Sheet C1.2 denotes proposed zoning as I-2. Applicant shall revise plan to read I-1.
- 5) Fire:
- a) Building must meet all applicable fire codes.

Seconded by Mr. Gihring. Motion carried unanimously.

7. (5)NJ U-44-08 Margarita Paradise – 14931 W. National Ave. – Mexican Cuisine Restaurant.

Motion by Alderman Ament to table the request for Use, Site and Architecture to construct Building H within the City Center 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 reasons for tabling:

- 1) Applicant shall complete the construction plan set which includes the overall site plan for City Center Phase III prior to revising plans for this particular building.
- 2) Applicant shall address all engineering issues identified in the letters dated July 21 and July 31, 2008.
- 3) Applicant shall address all architectural modification comments in the letters dated July 21 and July 31, 2008.

Seconded by Ms. Broge. Motion carried unanimously.

8. ()GK PG-969 FEMA Floodplain Map Modernization 2007 – Set Public Hearing Date.

Motion by Mr. Sisson to recommend that the Common Council direct the Department of Community Development, City Attorney and Mayor hold a public hearing on September 15, 2008 before the Plan Commission regarding the new FEMA adopted base flood elevation maps and FIS.

Seconded by Ms. Groeschel. Motion carried unanimously.

9. (7)NJ CU-7-08 Insane Choppers – 18580 W. National Ave. – Make-A-Wish Event from August 27, 2008-August 31, 2008.

Motion by Alderman Ament to approve the Conditional Use Approval for the Harley Davidson 105th Celebration and Open House at Insane Choppers located at 18580 and 18600 W. National Avenue subject to the application, plans on file and the following conditions:

- 1) Plan of Operation:
 - a) See attached site plan and letter.
 - i. This is a Make-A-Wish Foundation event that will be held in conjunction with an open house for the dealership.
 - ii. The event will run from August 27 through August 30. Live music will be on August 29 and August 30 from 5:00 to 9:00 PM. The dealership will close by 10 PM.
 - iii. The applicant is proposing to sell food and raffle tickets for donated items.
 - b) Applicant shall contact and coordinate with the City of New Berlin Police Department, the Clerk's Office, the New Berlin Fire Department and the Streets Department in writing a minimum of three weeks before the scheduled event. This shall trigger any necessary permits or license required for any scheduled event.
- 2) Applicant shall contact Waukesha County Department of Environmental Health for any necessary permits pertaining to food supplied via a licensed vendor.
- 3) Sanitation and fresh water facilities shall be adequate for the actual number of people using the site as required by Waukesha County Health Department.
- 4) If liquor is to be sold on site, applicant shall contact the City of New Berlin Clerk's Office to obtain a liquor and soda permit.
- 5) If any sales or solicitation of business will occur with vendors on site, a Direct Sellers Permit will be required from the Clerk's office.
- 6) All barricades shall be properly permitted by the City of New Berlin Streets Department and the New Berlin Police Department if applicable. Contact Streets Department to discuss all applicable barricade and signage requirements three weeks prior to event.
- 7) Applicant shall apply for and receive a loudspeaker permit from the City of New Berlin Police Department.
- 8) Apply and obtain appropriate building, plumbing and electrical permits when required to do so by code.
- 9) Temporary wiring for displays or lighting circuits shall require electrical permit and inspection from Building Inspections. Electrical work shall be performed by a licensed electrician.
- 10) Temporary structures that cover an area in excess of 120 square feet shall not be erected, operated or maintained for any purpose without obtaining a permit from the local building official per Wisconsin Enrolled Commercial Building Code. (Section 3103.1.1)
- 11) Tent Building Permit required. Fee \$150.00. Application shall include copy of site plan showing location of tent, interior layout of tent, location of fire extinguishers and a copy of flame retardant certificate.
- 12) Information delineating the means of egress and the occupant load shall be provided at time of building permit application. Temporary structures shall have permanent fire rating labels attached for inspectors review.

- 13) Tent Permit and inspection by the City of New Berlin Fire Department are required for events requiring tent set up. One or more fire extinguishers required in all temporary structures.
- 14) Applicant shall apply for and receive individual Sign Permits for all event signage and banners prior to installation.
- 15) The City of New Berlin reserves the right to review any potential complaints and take appropriate action, if necessary.
- 16) Site Plan:
 - a) Approval of the overall traffic flow and site plan by the Transportation Engineer shall be required prior to Zoning Permit being issued.
 - b) Site plan showing access for ambulance shall be submitted to the Fire Department for review and approval prior to issuance of the Zoning Permit.
 - c) Coordinate all traffic flow with Waukesha County Department of Transportation. Contact Waukesha County DOT to inform them of the event.
 - d) There shall be no parking on County Highways (National Avenue) or City roads. All event parking shall be contained on site. If parking is to be on adjoining properties, letters from those property owners shall be on file with the City allowing any off-site parking.
 - e) Parking and all activities shall meet all setback requirements.
 - f) All signs shall be installed outside the ultimate right-of-way.
- 17) All activities, displays, merchandise and parking shall be located outside the ultimate right-of-way of National Avenue.
- 18) Transportation:
 - a) Since venue will be open until 10:00 PM applicant shall address lighting concerns. Applicant shall identify what form of lighting is planned for both the event areas as well as parking.
 - b) Prior to signing the zoning permit, applicant shall more clearly identify where and when the planned 29 helpers / staff will be present. Also, identify where they will be parking and if this will take up spaces in the 40 proposed car parking area (or cycle).
 - c) Drive aisle to parking area shall be separated from the event area in some way. Barricades, cones, tubes, barrels or paint shall be used to clearly delineate the aisle.
 - d) Additional workers may be needed during peak times to assist with vehicles parking and attempting to get traffic to and from National Avenue to the rear of the lot.
 - e) Proper drive aisle space shall be provided between rows of parked cars (18-20') and motorcycles (8-10'). A maximum of two rows of parking can be used before providing a drive aisle.
 - f) A site inspection will be performed by DCD Staff on August 29, 2008 to ensure that proper measures have been put into place to identify parking areas and drive aisles.
- 19) Inspection
 - a) Applicant shall resolve all non-compliance issues on site per the letter dated July 31, 2008. Applicant shall follow-up with the Code Compliance Specialist. These issues should be resolved prior to the City signing the Zoning Permit.
 - b) In the event of rain the applicants are responsible for cleaning up any tracking of dirt onto public roads and the restoration of the disturbed areas.

Seconded by Mr. Felda. Motion carried unanimously.

COMMUNICATIONS

10. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: Small Business Times, June 13, 2008, "Top 10 Small Businesses"

Plan Commissioners acknowledged receipt of this communication.

11. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: 2008 Upper Midwest Planning Conference – Planning for Sustainability

Plan Commissioners acknowledged receipt of this communication.

Motion by Mr. Sisson to adjourn the Plan Commission meeting at 8:51 P.M. Seconded by Mr. Gihring.