

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

**PUBLIC HEARING**

6:00 P.M. (3)AB R-19-07 New Berlin Condo Storage – 20050 W. Lincoln Ave. – Rezone from M-1 to M-1 and C-2 to Field Delineate the Wetlands.

**NEW BERLIN PLAN COMMISSION**

**FEBRUARY 4, 2008**

**MINUTES**

The public hearing relative to the request by Brian Fisher c/o Anderson-Ashton, Inc. for a rezoning at 20050 W. Lincoln Avenue from M-1 to M-1 and C-2 to field delineate the wetlands was called to order by Mayor Chiovarero at 6:00 P.M.

In attendance were Mayor Chiovarero, Mr. Sisson, Mr. Gihring, Alderman Ament, 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; and Mark Blum, City Attorney. Mr. Felda and Ms. Broge were excused.

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.

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

Mayor Chiovarero asked three times if anyone wished to speak in favor of this application, seeing none.

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

Mayor Chiovarero asked for comments or questions from the Commissioners?

Alderman Ament – Do the drawings show the existing property lines?

Ms. Bennett – Correct, these are the existing property lines.

Alderman Ament – I am assuming if they purchase land to the north and west, they would be purchasing that sliver along the western border?

Ms. Bennett – Correct.

Alderman Ament – Is that already zoned M-1?

Ms. Bennett – Yes it is.

Alderman Ament – Thank you.

Mr. Gihring – Is the area that will be added to the north and west included as a part of the rezoning?

Ms. Bennett – Yes, it is.

Mr. Gihring – Has that property already been purchased?

Ms. Bennett – It hasn't, however we have property owner signatures from the adjacent property owner and the owner of the main property. The legal descriptions do include that C-2.

Mr. Gihring – Is the wetland delineation actually done on the extended property?

Ms. Bennett – Yes, and the tree inventory as well.

Mr. Gihring – What was the strip on the west side of the property intended to be?

Ms. Bennett – It is a very large parcel and wraps around the two pieces including the piece in discussion. I don't have an answer for you as to why that piece was left.

Mr. Gihring – So it's not a drainage ditch or right-of-way?

Ms. Bennett – No. It's not a driveway or anything. There are trees there now.

Alderman Ament – Does that create any setback issues for the property to the west?

Ms. Bennett – No, it is not changing their property line.

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

Mayor Chiovarero closed the public hearing at 6:10 P.M.

## **NEW BERLIN PLAN COMMISSION**

**FEBRUARY 4, 2008**

### **MINUTES**

#### **PRIVILEGE OF THE FLOOR**

The Plan Commission Meeting was called to order by Mayor Chiovarero at 6:10 P.M.

In attendance were Mayor Chiovarero, Mr. Sisson, Mr. Gihring, Alderman Ament, 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; and Mark Blum, City Attorney. Mr. Felda and Ms. Broge were excused.

Motion by Alderman Ament to approve the Plan Commission minutes of October 29, 2007. Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Alderman Ament to approve the Plan Commission minutes of January 7, 2008.  
Seconded by Ms. Groeschel. Motion carried unanimously.

### **PLAN COMMISSION SECRETARY'S REPORT**

Ms. Jones reported that the first Comp Plan Meeting was held on January 30, 2008. The meeting was well attended. Information about the Comp Plan will be available throughout the process on the Comp Plan website, [www.newberlinplan.com](http://www.newberlinplan.com). The next meeting for the neighborhood groups will be on February 27, 2008 at 6:00 P.M. in the Council Chambers.

### **CONTINUED BUSINESS**

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

Item remains tabled per the applicants request.

2. (3)AB U-8-07 New Berlin Condo Storage – 20050 W. Lincoln Avenue – Site Plan Modification.

Motion by Mr. Sisson to approve the Site and Architecture Modification based on a recent wetland delineation to construct storage condominiums with the lighting and grading waivers at 20050 W. Lincoln Avenue subject to the application, plans on file and the following conditions:

Waiver Request 1: Applicant is requesting a waiver to deviate from the City's Lighting requirements under Section 275-60I of the Zoning Code. See applicant's letter attached for the rationale for this request.

Waiver Request 2: Applicant is requesting a waiver to deviate from Section 275-35D(6) wetland setback of the Zoning Code that requires all impervious surfaces shall be set back a minimum of 30' for grading purposes. Under Section 275-35(6)(b), grading may be allowed within the wetland setback upon approval by the Plan Commission. Staff recommends a 5' setback from the wetland boundary for grading. See applicant's letter attached for the rationale for this request.

- 1) Plan of Operation:
  - a) Approval of the landscaping plan and payment of all sureties are required prior to issuance of Zoning Permit. Landscape plan 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.
  - b) Applicant shall revise landscape plan to add additional evergreen screening along west property line.
  - c) Architecture Review approval required prior to the issuance of the Zoning Permit.
  - d) No outside storage shall be allowed on site.
  - e) Applicant shall submit a copy of condo documents to the Planning Department. Condo by-laws shall prohibit any retail, wholesale or operation of any business from the condominium unit.

- f) Applicant shall submit a conservation easement document to be recorded to protect the Butler's garter snake habitat on the property prior to issuance of the Zoning Permit.
  - g) Applicant shall submit a copy of any regulatory permits required, such as an incidental take permit from the DNR, prior to issuance of the Zoning Permit.
- 2) Storm water:
- a) Applicant shall address all storm water issues addressed in letter dated January 25, 2008.
  - b) Please show details of the bio-retention swales. The soil mix and planting schedule shall be submitted. See WDNR Technical Standard 1004 and associated details. Also, seeding called out on the detail is conservation seeding which contradicts with the landscaping plan. Please verify.
  - c) Offsite drainage patterns shall be shown. This is especially true for the area downstream of the pond's outfall.
  - d) A fountain and/or aerator shall not be allowed in the pond. Please remove the note in the plans referring to the fountain/aerator.
  - e) Erosion control plans shall be required. (DH Section 3.7.I and Ordinance 2268) The erosion control plans shall provide enough detail to verify that overland drainage will discharge to the pond during construction and incorporate temporary construction swales. Additional silt fence shall be required at the northeast end of the project. The following shall be added to the Construction Schedule Note 10, "Install Silt Fence around perimeter of bioswale. Construction traffic shall not be allowed in the bioswale area."
  - f) Grading is proposed along the majority of the lot lines. The erosion control plan and grading plan shall ensure that no grading will be done on other private properties. Applicant shall provide a line and/or label indication for the construction limits and note that construction shall not be permitted outside of construction limits.
  - g) The landscaping plan currently shows plantings in the eastern swale. Please correct the planting schedule. The landscaping sheet is unclear and contradicts plantings called for on the erosion control sheet. For example, what is being planted in areas that are not hatched. Several trees are shown being planted close to the underdrain piping, move further up the slope. Trees and/or woody vegetation is not allowed on the sideslopes of the detention pond.
  - h) A SWMP maintenance agreement shall be required prior to issuance of the Zoning Permit.
  - i) An NOI shall be required.
- 3) Engineering:
- a) Applicant shall address all engineering issues identified in a letter dated January 25, 2008.
  - b) Plans shall clearly show grading limits.
  - c) A CSM shall be submitted for review and approval to combine the adjacent lands to West and North purchased from an abutting owner.
  - d) Applicant shall show an elevation benchmark on the grading and utility plans.
  - e) Each garage unit shall be plainly marked with a number (use the number system found on the site plan) for easy identification in the field by fire or police in case of emergency. Entire site will have just one address- 20050 W. Lincoln.

- f) Plans do not show existing or proposed driveway culvert under driveway at Lincoln. City topo maps show possible one long existing culvert for both this drive and neighbor to West's drive, and possibly other cross-culverts. Applicant shall verify situation in field. Current City standards require flared ends for culverts, concrete pipe if longer than 40', otherwise CMP, 10' between culverts, etc.
- g) The applicant shall build storage buildings sequentially.
- 4) Transportation:
  - a) Lighting plan does not follow City standards. See Zoning Code §275-60 I. 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. Applicant has requested a waiver from the Plan Commission.
  - b) ROW Permit shall be required at time of permanent driveway construction from the Department of Community Development.
  - c) Ultimate ROW for Lincoln Avenue is 80-feet (40-feet on each side of the centerline). Existing ROW is 66-feet. All setbacks are based on the planned ultimate ROW line.
- 5) Inspection Division:
  - 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 City of New Berlin Department of Community Development Inspection Division per State of Wisconsin Dept. of Commerce Safety and Buildings Division and the Wisconsin Enrolled Commercial Building Code. (Comm 61.70 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.
- 6) Fire
  - a) Monitor Fire Flow.
  - b) Install Fire Department Knox Box with keys for all units per City Fire Protection Code Section 124-11A(14).
  - c) Copy of condo covenants shall be submitted to the Fire Department and Department of Community Development.

Seconded by Ms. Groeschel.

Motion by Alderman Ament to table approval of the Site and Architecture Modification based on a recent wetland delineation to construct storage condominiums with the lighting and grading waivers at 20050 W. Lincoln Avenue until Common Council acts on the rezoning request for this location.

Motion dies for lack of second.

Motion by Mr. Sisson to add Condition #7:

- 7) Applicant shall have the zoning in place prior to the City signing the Zoning Permit.

Seconded by Ms. Groeschel.

Upon voting, motion to approve passes with Mayor Chiovatero, Mr. Gihring, Mr. Sisson, Ms. Groeschel voting Yes and Alderman Ament voting No.

## NEW BUSINESS

3. (6)NJ LD-9-07 Fritz/Kasian – 14300 W. Howard Ave. – Se ¼ Sec. 14 – Two-Lot Land Division.

Motion by Alderman Ament to table the request for a 2-lot Certified Survey Map for the property located at 14300 W. Howard Avenue subject to the application, plans on file and the following reasons for tabling:

- 1) A signed copy of a 60 to 90-day letter of extension shall be submitted to the Department of Community Development prior to the Plan Commission meeting. This allows staff to table our recommendation until a wetland delineation can be prepared or the applicant can provide data that one has been completed for this specific area. This provides an update to the zoning districts in the Preserve at Deer Creek PUD Ordinance to accurately reflect the zoning districts in the area of this CSM request. Currently the proposed lots contain both R-4.5 and Rd-1 PUD zoned lands.
- 2) Plan Commission will need to act on the rezoning and Preserve at Deer Creek PUD Ordinance amendment (*under a separate application request File #: R-18-07*) prior to any action on this CSM request. The applicant is required to have the updated zoning in place first. \*
- 3) Applicant shall complete a Wetland Field Delineation per Section 275-37B(4)(b) and submit any revisions to the CSM to the City for review and approval prior to the City taking action on this CSM request. If wetlands are found applicant shall work with the City to rezone those areas. The DNR Wetland Inventory Map indicates there may be wetlands on this property. Also, verify the pocket of wetland in Area 6 of the PUD and submit the required information.

*\*After submitting the legal description for the separate application and meeting with staff during a meeting on January 8, 2008, the applicant realized he needed to amend the legal description prior to the City taking any action on his rezoning request. The applicant is making some modifications to his application and is anticipated to resubmit for a future Plan Commission meeting.*

Seconded by Mr. Sisson. Motion carried unanimously.

4. (2)JT U-95-07 Keller Addition & Renovation – 12850 W. Scarborough – Two-Story Addition.

Motion by Mr. Sisson to approve the Use, Site and Architecture for the construction of a building addition onto a legal non-conforming single-family home located at 12850 W. Scarborough Court subject to the application, plans on file and the following conditions:

- 1) Architecture of proposed addition shall match the architecture of the existing structure.
- 2) The additions shall be constructed as shown on the plans on file.
- 3) Homeowner shall meet the requirements of Comm 21.08 Fire Separation which would entail 5/8" drywall on the inside of the garage adjacent to the existing home.
- 4) Any new sump pump shall be hooked up to the existing sump crock which discharges to the existing storm sewer.
- 5) Per Section 275-55.B(1)(a), "The discharge from all downspouts and extensions shall be at least 10-feet from the side or rear property line."
- 6) No fill shall be allowed around the new additions. Existing grades must be matched.

- 7) Building plans shall be approved by the Department of Community Development Inspection Services per the State of Wisconsin Dept. of Commerce Safety and Buildings Division and the Uniform Dwelling Code.
- 8) Apply and obtain appropriate building, plumbing and electrical permits.
- 9) Applicant shall install erosion control measures if deemed necessary by Inspection Services.

Seconded by Alderman Ament. Motion carried unanimously.

5. (2)JT U-96-07 Sunny Slope Retail – 3333 S. Sunny Slope Rd. – Retail Building  
– Site Modifications.

Staff requested that before the applicant is asked to revise their plans, the Plan Commissioners should discuss their expectations of the site. Ms. Titel explained that if the Plan Commission wants to see coordination with respect to access and storm water, proper direction needs to be given to the applicant for the future.

Alderman Ament – Remembering back to this item when it was before us originally, I was a little hesitant with it. One of the reasons the majority of the Plan Commission approved this at that time was because of the coordination. Without that, I would be concerned that we are presenting more of a problem, particularly with storm water, in this area. I for one would like to see, if this were approved, that we do make sure that the coordination of the storm water is included.

Ms. Titel – When the original project came before the Plan Commission there was very little discussion, however, there was a great deal of discussion when the parcel was rezoned from Rm-1 to B-2 to allow for this shared storm water pond. During that public hearing is where a lot of discussion happened about the storm water and drainage concerns that the neighbors have, and the rezoning would allow for the shared pond to help alleviate some of their concerns.

Mayor Chiovero – One of the concerns I would have is the area that was rezoned. Is there any condition that it remain a storm water retention area?

Ms. Titel – We cannot put conditions on a rezoning, therefore the rezoning is simply zoned B-2 at this point.

Mayor Chiovero – I agree with the site coordination of the storm water because it was tight for both pieces. I was not excited about the access that was going to be determined between National Avenue and Sunny Slope Road because I felt it could be a cut-through. It would cause traffic issues. That is not a bad intersection. I go through it several times a day, but people feel it is tough waiting for the light. The light is sufficient to get enough cars through but traffic backs up sometimes. We talked about it when Wilbur Drive was discussed with the coordination of the opening of the one-way to a two-way street because people are trying to avoid this corner. I think if a drive between these two lands was coordinated it would entice the cut-through. Once or twice I have seen people cut through the gas station.

I do feel the storm water coordination is a strong point. Is the storm water facility on this plan adequate to handle the site?

Ms. Titel – Reason No. 2 for tabling says that additional storm water information is needed. The Storm Water Management Plan was not complete. Our Storm Water Engineer began her review, but did not have enough information to make a determination whether the storm water pond was adequate. That would be part of their revised plans and part of our staff review. Right now, we do not have an answer to your question.

Brian Kliesmet, applicant – I am happy with the discussion that has taken place. I would like to propose that we continue to work with staff to work through the issues that were written in the letter, specifically, the storm water, making sure that it is sized accordingly, not only for our development, but also in theory if we can ever do business with the gentleman next door, we would love to open up our storm water system to him, and do everything we can to prepare for that at this point in time. If we could oversize our pond at this point, I would love to do that. We would like to do anything we can to accommodate the City and their plans to get these two sites linked. We have gone to the point where we have a reciprocal agreement that we gave to the land owner, and he told us he was going to sign it, but never did. That continued to slow up our process. What I am trying to explain is that we really do have some time constraints. It is because we had tenants that signed leases predicated on an opening date in July of this year, and our attempts to try to coordinate the sites only caused us frustration and time. We thought we could get that done, to the point where we even offered the land owner to pay for the pond on his site. As citizens and neighbors, we have done everything we can. We would just like the City help us get under construction so we can meet our lease deadlines.

Mayor Chiovatero – I appreciate that the site has been a challenge, considering the three properties combined into one, and you have worked with the neighbor to the South and the apartments as far as the concerns with traffic and headlights. I appreciate that.

Ms. Titel – We just wanted to make sure we had this discussion here tonight before we send the applicant on to create their final set of revised plans. I was hoping to give the applicant and staff some guidance to move forward with this.

Mr. Gihring – When the vacant property to the west does get developed, won't they need their own separate detention pond? Will it connect with this one? How does the drainage flow from there?

Ms. Titel – The drainage flows through the property to the east. The applicant has provided for drainage through the property with a storm sewer. The vacant parcel will be required to do storm water management with the alternatives they come up with, whether it be a pond or biofiltration. I am not sure that the pond being proposed with this new site would be able to handle all the run-off from the development. That would be something that they would have to work out with the future applicant.

Mr. Gihring – Right now it is probably sized to handle this particular site alone?

Mr. Kliesmet – It is sized only for our site right now.

Mr. Gihring – Anything that is done to the west, that drainage would have to flow out to the east separate from this? Would they have to get an easement somewhere?

Ms. Titel – The applicant is providing a storm sewer pipe. We require it in our Zoning Code that you cannot landlock a parcel, so the development of this project cannot landlock drainage. They have made arrangements on their site plan in their storm water management for the water to go through based on the drainages conditions right now.

Mr. Gihring – So future development to the west would be able to use this drainage pipe?

Ms. Titel – That is correct.

Mr. Gihring – Is it sized to handle it?

Ms. Hewitt – We require them to size it for the 25-year storm. They are sizing it based on all the drainage that is going to be coming in to that site and will need to go through that storm sewer.

Mr. Gihring – Including what comes from the west?

Ms. Hewitt – Yes. That is what that storm sewer is sized for.

Mr. Gihring – So the reason for separating this out is so that we can move ahead with this one without waiting for agreements from the other property owner?

Ms. Titel – That is correct. The agreements between the two property owners did fall through, so they are hoping to move forward independently of the properties that are vacant on National Avenue.

Mr. Gihring – If we can get these reasons for tabling resolved, they will be able to go ahead?

Ms. Titel – That is correct.

Mayor Chiovatero – Does the City see any concerns that in the future if the property from the west does come to this owner to coordinate a storm water pond for both, there is nothing that would stop that owner from doing that except for possibly this land owner. Would we have any concerns?

Ms. Titel – That is correct. We would need to see the engineering to make sure that the storm water pond can handle new capacities if someone came in the future and wanted to extend the pond they are proposing and do a similar design layout.

Mayor Chiovatero – There is no problem with setbacks, or lot lines, or anything?

Ms. Titel – We would have to review it at the time to see what they are proposing, but my understanding is we don't have a setback from property lines for storm water ponds. They would have to meet our buffer requirements, building setbacks, parking setbacks, and all the regular site design requirements.

Mayor Chiovatero – There is no application on file for the property to the west at this time?

Ms. Titel – No, there is not.

Attorney Blum – In a worse case scenerio, in respect to the development of the westerly parcel, you are saying that this pipe that you are requiring this gentleman to put in will be able to handle the flow going to Sunny Slope, is that what you are saying? What I am concerned about is that you are asking this gentleman to put in this pipe regarding a future development that we have no idea what it will look like. This agreement that they were talking about really should be in place right now. My concern is that you have someone with a development plan in the future and exceeds the capacity of what we are doing now. If we build in sufficient capacity and what allows them to use that if there is no agreement in place between these two property owners.

Ms. Hewitt – There are requirements through the DNR, MMSD, and the City that require any development to control their outflow.

Attorney Blum – But when it goes across private property, there is no requirement that this gentleman take that, unless there is a storm water easement that allows for that flow. Can you point out on the screen where this water is going? Where would it flow out of this pond?

Ms. Titel – The pipe they are proposing from the west property to carry the water is a separate pipe from the pond that will carry the water through the property. This pond (Ms. Titel referred to drawing) has a separate outflow.

Attorney Blum – Are you talking about a pipe that will sheetflow across the parking lot?

Ms. Titel – Perhaps the applicant can explain that.

Attorney Blum – Is that what you are going to do? There is a pipe (Attorney Blum asked for the pipe to be pointed out on the screen) that is flowing across there that allows the storm water from the west to go across this gentlemens property. Is that sheetflowing across that parking lot?

Mr. Kliesmet – No, the invert on that pipe is probably 4-5' below grade. The lowest invert on Sunny Slope Road is 5-6' below the curb line. We propose an end wall pipe there. One of the comments is that they would like an actual inlet to accept that predevelopment run-off. That was one of the points that Nicole mentioned that the requirement is we have to discharge at the predeveloped rate. It is their responsibility to design the pond as big as it needs to be to hold the water long enough so it can discharge into that pipe designed for 25 year predevelopment.

Attorney Blum – What does that pipe do for you?

Mr. Kliesmet – Nothing.

Attorney Blum – Who is going to maintain it?

Mr. Kliesmet – Initially, it did nothing. Our latest design allowed us to use that pipe to discharge our predevelopment run-off as well.

Mayor Chiovatero – So you are sizing the pipe for both properties in future hope that you will coordinate that with the landowner to the west?

Mr. Kliesmet – Correct. Initially, when we submitted the plan we created a master plan to come up with those calculations, to design the pond that was there before, so we have taken all of these things into consideration so that the pipe or conveyance is going to be able to handle what is going to be coming through our site or through a pipe under our site.

Alderman Ament – Has this applicant done everything that we, as a City, have asked him to do or plan to do? Are they doing what we need done on this site?

Ms. Jones – The original Zoning Permit expired this January, so the applicant applied for a new Use Approval with the plan you see up on the screen and the rest of their plan set. Jessica has been working with them. There are several things they still need to address in a revised plan set before we would bring it back before you. Storm water drainage is one of those issues. We will continue to work with them. Tonight we are looking at the coordination aspect and looking for input from the Plan Commission.

Alderman Ament – The coordination part is what I am asking about. We are asking this applicant to help us coordinate for himself and any future development to the west which he does not own. Has he done those things, or has he not done them, or are we still working on them?

Ms. Jones – We are still working on those items.

Mr. Kliesmet – I would say we have done all those items. I could explain.

Mayor Chiovatero – Right now there is more work. Tonight's discussion was to help give staff as well as the developer, some direction as to where to go from here as far as the coordination of the sites.

Ms. Jones – That is correct.

Mr. Kliesmet – We have a plan for that. We want to buy that site. We have tried to buy that site. We have offers to purchase and reciprocal agreements both for cross access with roadways and with storm water on the desk of the owner, and he realized that through our work and our effort to coordinate these in our ability to pay for his pond on his lot, his land is worth more money now. It was a vicious circle and that is the cautionary tale. We are environmentalists and have a history of doing cross access for both storm water and parking on all of our commercial developments throughout the State of Wisconsin. We have never built one without those in place, but we control them. Here is a case where we are trying to get that same thing done and we can't get control of the other property because every time we make progress with the City with approval, his value keeps going up and he knows it. We basically got his land approved, and we did his storm water management calculations. We want to buy the property from him, and we have the resources and ability to get that done. We just need to move forward now because he has locked us in a box.

Mayor Chiovatero – Right now, I am only considering the site that is up on the screen. If the storm water pond can be coordinated for your site specific, I would appreciate it. As far as coordination with parking or driveways, personally I don't think it is a good idea.

Mr. Kliesmet – I agree with you. I am willing to give up that cross access with the roadways. We will link with the gas station on the corner, which we have made preparations for because that makes perfect sense. I would love to X out that idea of circulation between the two.

Mayor Chiovatero – I am only one Commissioner, but that is my personal opinion. Obviously, I would like to see this plan go together for the future. I don't know what the site to the west is going to have to do for retention. If that was my site and I could coordinate water retention with another adjacent neighbor, I would love to do it because it would save both of us a lot of headaches. The question that Alderman Ament was asking is has Sunny Slope Retail done everything that we have asked them to do to try to coordinate his site with possible future coordination of the adjacent site. I think the answer is pretty close to yes, except for the storm water plan.

Ms. Titel – That is a difficult question for me to answer. With the previous plan, yes they did. This one you can see that it is not coordinating with the other site. Some things are out of their control.

Mr. Kliesmet – We have an answer for that. I would like to tell you. It is very quick and easy. If you could flip back to the other plan. What we would be willing to do at any point in time if we ever had to connect across, we've already sized this basin for this property. If we had to put the road in, we would put a retaining wall here. ( Mr. Kliesmet referred to drawing.) It would allow us to further link this pond. There is no doubt in our minds that when this development does happen, this pond will look like this.

Mayor Chiovero – I don't think that is the preference of the Plan Commission from the rezoning that we had previously done.

Mr. Kliesmet – We would go back to this plan. We would love to keep this plan, just eliminate this road. We will build this pond just like this right now, and it's about \$15,000 more for us to put this retaining wall in. We would gladly do that in the event that this ever had to happen. We would be set up to blend with the next lot when we buy it.

Mayor Chiovero – I would say to continue working with staff to address those issues, and then when it comes back to us this will be resolved.

Mr. Kliesmet – We have three pages of things we need to address. We have agreed to address all of them, so when we bring our plans back they will be able to check off every one of the points on the list.

Alderman Ament – I think the Mayor picked up on my concern, and I hope every one else did. I originally was opposed to this project, however, it was approved and I realized it expired. I'm willing to table this for one more meeting, but I would hate to see us hold up the applicant if he is not the problem. If he is doing what we are asking him to do to prepare the site to the west as best that he can, not knowing what might be proposed there, I would have a difficult time saying no to him.

Mayor Chiovero – I agree, Alderman Ament. One of the reasons we are tabling it is because there are some incomplete plans that the staff needs to review.

Mr. Sisson – I would like to see this move forward also, and I encourage you to get that storm water management plan finished, Jessica. As the applicant probably knows, the Architectural Review Committee took a look at your design and that has been approved. If we can get this other thing resolved, hopefully we can move this thing forward without any further delay.

Mr. Gihring – Is the no access now for north bound traffic on Sunny Slope Road to get into the gas station?

Mayor Chiovero – Yes, there is.

Mr. Gihring – Will that be cut off then when this development is finished? What is the point?

Ms. Titel – That is for future access. They won't be connecting with this project.

Mr. Gihring – On the aerial photo, can you drive into the gas station? (Drive in was located on aerial photo) That's what I thought. Will that be cut off when the other driveway is put in? If not, why would you want access to the gas station parking lot too?

Mayor Chiovero - There is a history that this site, as well as the gas station, and the site directly west of the gas station would be coordinated into one plan. That never materialized, but this is thinking ahead if the gas station was ever redeveloped, the opening could possibly be closed.

Mr. Gihring – It just seems like you should have as few as possible access points on National Avenue and Sunny Slope Road.

Mayor Chiovero – The access out of the gas station is very steep. If you go over it at more than 3-4 mph, you leave part of your vehicle there. I think part of the idea was if the gas station was ever redeveloped, the access would be closed.

Ms. Jones – At that point, you would need to have a cross access easement between those two property owners, and that may not be something they are ready to do at this time. If we are not going to coordinate the whole plan, maybe that is a mute point.

Mr. Gihring – Isn't that part of the whole coordination issue?

Ms. Jones – That is part of it. I think Jessica did a very nice job on Page 7 and 8 of the staff report where she went back to listen to past meetings. That is why we are here, because there was that intent to have coordination, and it sounds like the applicant is willing to work with us and show some future potential access points. That is what we need to hear, so if they do want to connect and have a coordinated development with access and storm water, they can. If not, at least we are not prohibiting it from happening.

Mayor Chiovero – The coordination of the site has been going on since the approval and construction of Pick 'n Save, back then it was the Jewel Osco building. This site has a lot of history going back at least eight years.

Mayor Chiovero – Did we provide enough discussion for staff to continue?

Mr. Titel – Yes, we will work with the applicant to come up with a site plan that we feel comfortable bringing back to you to request approval for.

Motion by Mr. Sisson to table the request for approval of the Use, Site and Architecture for the construction of a 10,960 square foot multi-tenant retail and professional office building located at 3333 South Sunny Slope Road, subject to the following reasons:

- 1) Site re-design does not meet the expectations for providing a unified coordinated development with the surrounding potential development sites. This coordination was the basis for the rezoning of these lots. There is a long history of Plan Commission and Staff recommendations with the expectations of a coordinated development plan for this corner. Please see the attachments for additional information. The DRC and the applicant have requested a discussion at the February 4, 2008 Plan Commission meeting regarding the coordinated access on this corner.
- 2) Submitted stormwater management plans were incomplete. Applicant shall address all stormwater concerns outlined in the Stormwater Section below.
- 3) Per Section 275-56F, "parking areas and drive aisles shall not encroach upon bufferyards." Submitted plans show the northern portion of the parking lot encroaching into the 10-foot bufferyard along the northern property line. Plans shall be revised to meet bufferyard requirements.

Seconded by Alderman Ament. Motion carried unanimously.

6. (1)NJ&GK U-97-01 ProHealth Ambulatory Care Center – 1700 S. Moorland Rd.- Ambulatory Care Facility and Physicians Office Building.

Motion by Alderman Ament to table the request for Use, Site and Architectural approval to construct an ambulatory care center and medical office building on the property located at 1700 South Moorland Road, subject to the application, plans on file and the following reason for tabling:

- 1) The applicant has requested that the Plan Commission table the project.

Seconded by Mr. Sisson. Motion carried unanimously.

7. (3)AB R-19-07 New Berlin Condo Storage – 20050 W. Lincoln Ave. – Rezone from M-1 to M-1 and C-2 to Field Delineate the Wetlands.

Motion by Alderman Ament to recommend to Common Council adoption of an ordinance that approves the rezoning of the field delineated wetland on the property located at 20050 W. Lincoln Avenue from M-1 to M-1 and C-2 districts.

Seconded by Mr. Sisson. Motion carried unanimously.

8. (7)JT&GK S-170-05 Settler's Ridge – 3275 Wehr Rd. – Final 15-Lot Subdivision Plat.

- 1) Planning:

- a) Wisconsin Department of Administration Letter of No Objection shall be on file prior to signing of Final Plat.
- b) Waukesha County Letter of No Objection shall be on file prior to signing of Final Plat.
- c) Developer shall submit a Mylar copy of the Final Plat to the City once recorded.
- d) Developer shall submit a digital copy of the Final Plat to the City prior to the City signing the Final Plat.
- e) A final copy of the final plat shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- f) Prior to the City signing the Final Plat the applicant shall record the Conservation Easement, Grant of Private System Easements, Storm Water Maintenance Plan, and Declaration of Restrictions documents with the Waukesha County Register of Deeds. Document numbers shall be added to the face of the Final Plat.
- g) Applicant shall coordinate with staff to finalize a permanent method to physically identify the Conservation Easement boundaries on Lots #1, 3, 7 and 15. Applicant shall complete the installation of the "boundary markers" prior to the City signing the Final Plat. "Floating" conservation easement areas shall not be allowed.
- h) Applicant shall pay any outstanding fees, taxes and invoices prior to the City signing the Final Plat.
- i) Applicant shall update the "INRA Boundary Line Table" on Page #5 to include the entire boundary. Submitted Final Plat defines only the eastern border through Lot #1.
- j) The proposed septic areas shall be located for each lot and shown on the Final Plat. The drawing for each lot shall consist of the actual size of the mound system and the accurate location of on or off lot systems that are located directly behind respective lots, per the Zoning Code. This was Condition #4(b) of approval for the Preliminary Plat.
- k) Applicant shall mark the septic easement areas in the field with iron pipes, as indicated on the Final Plat, prior to the City signing the Final Plat.
- l) Applicant shall submit an application for rezoning the two pockets of wetlands identified on the plat prior to the City signing the Final Plat.

- 2) Engineering:

- a) The Developer has presented "Exhibits A-1" for Lot #1, "Exhibit B-1" for Lot #3, "Exhibit C-1" for Lot #7 and "Exhibit D-1" for Lot #15. Applicant shall provide the legal descriptions for the Conservation Easement areas identified in exhibits.
  - b) Applicant shall submit an Affidavit of Correction to change Gordon Lane on the Hilly Acres Subdivision Plat to Settler's Hollow or rename Settler's Hollow to Gordon Lane on the Settler's Ridge Final Plat.
  - c) Applicant shall choose a label of street, drive, lane, avenue, place or court to be added to Settler's Hollow.
  - d) Applicant shall work with the Streets Department for the installation of all street signs and pay all resulting invoices upon recording of the Final Plat.
  - e) Applicant shall add the following note to the face of the Final Plat: "The Developer shall remove the existing cul-de-sac bulb from Country Lane by September 30, 2008." Applicant shall also provide the City with a letter indicating the timeframe for this work.
- 3) Stormwater:
- a) The Stormwater Maintenance Agreement shall be approved by the City prior to being recorded and the City signing the Final Plat. Applicant shall use the City's boilerplate maintenance agreement.
  - b) The applicant shall define the actual wetland boundary (not the wetland protective area) in a line table. The distance/dimension from a known location shall be provided where any wetlands cross a property line.
- 4) Transportation
- a) A (private / WE-Energies) streetlight is required on Wehr Road. WE-Energies has the permit and the City has signed and returned the work order. Applicant shall provide written proof of payment to WE Energies prior to the City signing the Final Plan. Applicant shall notify the City when installation is complete.
  - b) Vision triangles on Page #4 shall be cross-hatched or highlighted with a leader labeling them as "Vision Corner Easements" rather than "V.C.E." on each page.
  - c) Applicant shall replace "the ground." with "the edge of pavement surface elevation." to the end of the Visions Corner Easement Note on Page #1.
- 5) Inspection
- a) Applicant shall address all suggestions/corrections to the Declaration of Restrictions outlined in the letter dated January 25, 2008.

Seconded by Mr. Sisson. Motion carried unanimously.

## COMMUNICATIONS

9. Communication To: Plan Commission  
Communication From: Nikki Jones, Planning Services Manager  
RE: Update on Razing Home Located at 2530 Johnson Road (U-3-07)

Ms. Jones said the house has been razed since this communication was received.

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 7:28 P.M. Seconded by Alderman Ament. Motion carried unanimously.