

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

PUBLIC HEARINGS

6:00 P.M. (4)NJ R-15-07 Rinderle Tire – 13300 W. College Ave. – Rezone from B-4 to B-3.

NEW BERLIN PLAN COMMISSION

DECEMBER 3, 2007

MINUTES

The public hearing relative to the request by Mark J. Rinderle for a rezoning at 13300 W. College Avenue from B-4 to B-3 was called to order by Mayor Chiovero at 6:02 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Gihring, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; 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.

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

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

Allen Cozington, W166 S8374 Kurtz Lane, Muskego – The reason that B-4 doesn't exist is because the zoning just does not exist anymore? Once this is zoned B-3, you can't change the zoning back again?

Ms. Jones – I had an opportunity to speak with your wife on Friday, and we went through the Zoning Code changes and how the B-4 District was eliminated during one of our code updates and they added this transitional section so that as people made transitions in their property, such as this gentleman purchasing your property and wanting to do a different business somewhat similar to yours. However, there are some things that he is not going to do, not at this time, yet we have an opportunity to review their proposed use under the new zoning district. The appropriate zoning district would be B-3. As far as you are concerned, if you were to remain there and not sell the property, I think the one issue you would have is the outside storage. There would need to be a Conditional Use if you were going to continue to run the operation and not sell to Mr. Rinderle. Does that help answer your question?

Mr. Cozington – Yes, thank you.

Ed Graat, 13175 W. Longleaf Drive - I would like a definition of B-3? I would like to know what the improvements will be to that site? Does a tire store include the burning of tires? You mentioned in your statement that tires would be hauled away on a more frequent basis. I would like to know how often? Specifically, what improvements will be made there? I would concur that having some kind of a fence to the entrance is very appropriate. In my opinion, I think it is a bit of

an eyesore. I object to it. Those are my comments. Thank you.

Ms. Jones – The code for the B-3 Zoning District suggests that it is the General Bulk Sales District. The bulk sales district is intended to provide for such uses and building supplies, equipment sales, contracting services, septic system services, LP gas sales, and outdoor storage establishments. This district is intended to accommodate the needs of the agricultural community for the western portion of the community without detracting from the character of the area. The B-3 District is also intended to provide for, where properly screened, on-site parking for customers, automobiles, on-site outdoor areas of merchandise, storage and sales, customer off-street loading and facilities, open outdoor areas for sale of large items of merchandise transported by truck. The district also requires the minimization of adverse impacts upon the adjacent and compatible land uses. The district further intends to promote the provision of ample off-street parking and loading areas, landscaping planted screens adjacent to non-business developments or other incompatible uses and development in character with the adjacent land uses.

The B-4 District in our old Code was referred to as the Automobile Orientated Business District. That was the definition of the old B-4 District. As far as improvements to the site, the applicant is planning to clean up the site. The applicant is here tonight, and if the Plan Commission wishes, he can come up and address some of these issues as well. He is planning to remove all of the outdoor storage items that have been there. He is planning to paint the green areas on the building. If there are any of the cream colored area that need repainting, the Architectural Review Committee has asked that it be spruced up if need be. The Conservancy Subdivision did a lot of planting when they installed the new fence, so there probably won't be much additional landscaping along that side. We are thinking of having him add a cedar fence across that area as you come in off of Conservancy Drive. We plan to work with the applicant, Mr. Rinderle, to potentially use some cedar fencing to help screen the view as you come in. It doesn't make sense to add additional landscaping because that would prohibit the access through the parking lot. That was one option we looked at. He does plan on storing all of the tires within the fenced area in the storage unit. There are some indoor/outdoor storage areas right behind the building where the tires will be stored. We will continue to work with Mr. Rinderle after the zoning goes through to make sure that he does keep it in good repair. He does have two other current shops in operation that he has spoken to us about. He wants to have a good image and keep up the property. We are going to be working with him on lighting. He submitted a lighting plan for the current lighting that exists there and is making sure that it meets City guidelines. He will be resealing and striping the parking lot, the areas out in front, and possibly adding some additional parking just behind that cedar fence area if necessary.

As far as the tires, the City of New Berlin does not have an exact code that says when tires have to be removed from properties. I did learn through working with him that he has a shop in Milwaukee. Milwaukee has an ordinance that requires that those materials be moved to a proper storage place. He has a hauler already that comes and picks up those tires on a regular basis. It is just a matter of us working with Mr. Rinderle to find out if by-weekly pick-ups make sense, and condition that on his Zoning Permit for the Use Approval part of this application. He is willing to do that.

City Attorney Blum – The question about the open burning of the tires. Section 124-12 (N)(2)(e) specifically prohibits burning of any material that is coated with rubber or has rubber as a constituent part or any petroleum based product. That would take care of that issue.

Todd Garrettson, 13090 W. Longleaf Drive - With all due respect to the current owner, he has been there for a lot of years and the business has been what it has been. My concern is, as we move forward as a community and bring a new business in and someone turns the ownership over to someone else, I would like something that is going to look nicer and have a better feel for the community. In the past, this place has not been the most upkept business. We just bought in a nice subdivision, and I think as we all moved in there, we felt like this a very nice community to

live in. But, the entrance to the community has not in the past been what we feel is the best. Hopefully, I would like it to be brought up to meet some standards. I don't know what the standards are, but the bottom line is we don't want to continue to have, and again I apologize to the current owner, what I sometimes consider a junk yard. It has been that way in the past. As long as he is going to make sure that he brings this up to standards or up to what the code can allow, I would appreciate it. Where are his current sites now so I can go and look to see how he keeps up his current location? Would he consider closing that entrance on Conservancy Drive? Is there any reason to have both of those entrances? Could we just fence it off, and have it completely closed off on that side if there are a couple of entrances along Janesville Road? I am not sure what Conditional Use means. When do you decide on what a Conditional Use is for storage and those kinds of things? Can someone explain that better to me?

Ms. Jones – The question you asked about regarding access, when we worked on The Conservancy Subdivision there was currently an ingress/egress that was shared between the Wisconsin Muffler Property and Mr. Cozington's current business. When the subdivision went in, they worked together to put that entryway in, so they had their own entryway onto Conservancy Drive without having to access through the other property. There are a lot of different lines that go through here. With Waukesha County having right-of-way in that area, I think we would have a hard time closing off that access easement. It is their primary access point. The City would not encourage having only a secondary access through another persons property. The City would want each to have their own access point and then maintaining the shared access for additional traffic flow.

Mr. Garrettson – I guess that Conservancy Drive being the entrance for the people that live there has no bearing to the situation?

Ms. Jones – Conservancy Drive is a public road and they have a public access that was part of the approved plat for the subdivision.

Mr. Garrettson – Is the proposed idea to put a fence past that?

Ms. Jones – We were thinking that they would replace the chain link fence that is in this area (referred to picture).

Mr. Garrettson - You aren't talking about bringing one further towards the road?

Ms. Jones – We would start entering into Waukesha County Right-Of-Way, and we cannot do that. This fence that we are talking about is the area marked "chain link" (referred to map) hopefully having them replace it with a cedar fence to match what The Conservancy Subdivision has already done.

Mr. Garrettson – My concern is that you are saying, "hopefully", "probably". Is there anyway to make sure that we can get them to do that?

Ms. Jones – We can require them to add additional screening based on that definition that I read to you earlier. Once we get through the rezoning, Staff keep working with the applicant to identify all of these issues.

Mr. Garrettson – I have nothing against them being there. I just want to make sure there is some improvement as we go along.

Ms. Jones – Their current locations are 2079 S. 35th Street, Milwaukee and there is another site in Neosho. You asked about the Conditional Use for outside storage. I would consider what is going on there now as self storage as far as the boats and the other items in the back area. We have talked to Mr. Rinderle and told him that if he would like to do self storage, the code says that in the "B-3 District a self storage facility may be approved as a Conditional Use provided that no

perishable products may be stored unless the Plan Commission determines that adequate health provisions have been made". If he would like to do that in the B-3 District, he needs to have a Conditional Use Permit. People within 600 feet of the property would be notified, a sign would be placed on the property, and information would be provided again at that time. There would be a condition added to the zoning permit that he would need to follow if he wished to do outside storage of other peoples items as in self storage.

Mike Gillard, 13175 W. Winterberry Way – Is the muffler company zoned B-2? What is the difference between B-2 and B-3?

Ms. Jones – B-2 District is similar. It is a General Retail Sales and Service District, however, B-2 would not work for this property because B-2 does not allow bulk sales or outside storage. The B-3 District allows for him to bring the tires in, which I would consider a bulk storage and to have storage outside. It does need to be screened, as we mentioned earlier.

Ed Graat – 13175 W. Longleaf Drive – Right now, I believe the site does have cars for sale in the front. Is that a part of B-3 also?

Ms. Jones – It is an allowed use. He has mentioned he is not going to be selling cars. We will state on his permit that auto sales are not an approved use as part of his use approval. They are required to give us a plan of operation of the items that they will be doing, and that is not one that he has listed.

Mr. Graat – Does outside storage include old boats and cars?

Ms. Jones – It includes basic outside storage as long as it is screened. He has agreed that he is not going to be storing other people's items outside in this area.

Mr. Graat – Will he be telling us what he is going to be doing with those storage items that he has in there now?

Ms. Jones – I believe the applicant is here tonight and can better address that if the Plan Commission wishes.

Ms. Graat – I would like that. I would like to meet the man. He is not planning on having those items there? Is there a deadline on removing them?

Ms. Jones – We haven't gotten that far. He is still in the process of making the purchase of the property. We will be working with the applicant on the Zoning Permit that is part of the Use Approval application.

Mr. Graat – Thank you.

Mark Rinderle, Rinderle Tire – I would just like to address some of your concerns. I am not into selling cars. I am in the tire and mechanical business. I like keeping a clean shop. I spent almost a million dollars to build a new shop up in Neosho nine years ago. I moved out of the city because a lot of the companies I did business with moved out also. I am the third generation in the tire business. We started in 1932. I don't sell cars, I don't sell boats, I don't sell anything but tires and do mechanical work. I don't like anything out front. My new shop is spic 'n span, and I like to keep it that way. I can understand your concerns immensely. I'm here to talk to you anytime you have any questions. I like a clean shop myself.

Mr. Graat – Perhaps some of these questions can be answered privately, but I want to bring it up to the Board and the audience here. I don't think it is a clean shop the way I see it now. As a businessman myself, I appreciate that it takes time to do things and if you're looking at a tire only shop and you run a clean shop, it isn't a clean shop now. With regard to my fellow neighbors

here, we want to be kind, but we do want to state what the truth is, and right now it doesn't embody the quality of the community at large. I think that has to be forcefully stated. I understand and appreciate your intent. I would hope the Board looks at that as a positive, however, I don't see it as anything but an eyesore right now.

Mayor Chiovero – I would like to remind everyone here that this is the Rezoning of the property and doesn't have anything to do with the operation of the property. The comments are being well taken by the Plan Commission as well as the staff as I am sure by the current new owners. Those items will be addressed as part of the Use Approval.

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

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

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

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

Mr. Felda – For the new owner, do you have any plans of using it for any storage at all?

Mr. Rinderle – Just for my company vehicles in back behind the chain link fence. I would rather park my customer's vehicles inside. All I would be keeping back there is my tire stuff.

Mr. Felda – Nikki, is the muffler shop to the west of there?

Ms. Jones – That is correct.

Mr. Felda – If you look at the muffler shop and you look at the other property, it's a big difference. I would hope your place would resemble the one to the left. I think everybody in the neighborhood would appreciate it.

Mr. Rinderle – You can go look at anyone of my shops right now. I don't have anything parked outside. I cannot have any outside storage in Milwaukee plus if you did, it probably would be messed with. I have regular garbage pick-up. I have a letter from the company that picks and recycles my tires. They have to have a Wisconsin DNR license, a waste haulers license to pick up old scrap tires. Nobody can just haul tires in our business. I have someone that legally picks them up and legally disposes of them properly. That is usually a two week situation.

Ms. Groeschel – In the purchase of the land, is the current owner going to be clearing the property for you?

Mr. Rinderle – Yes, he has people's names for the boats and rental items.

Mayor Chiovero – The Alderman of the area asked me to extend a comment that he does not have a problem with the rezoning, but he does want to make sure that the outdoor storage is either eliminated or controlled. Those comments will be saved for the Use Approval Permit, but he wanted them to be heard at this time also.

Alderman Ament - Assuming the rezoning is complete, the Use Approval will be coming back here?

Ms. Jones – Correct. We take in a rezoning application in order to get the property into the appropriate zoning district. We also have an application on file from Mr. Rinderle for the Use

Approval which covers the use, site, and architecture of the building. As I stated before, the Architectural Review Committee has reviewed it and Mr. Rinderle understands he is going to be taking care of the building. At that time, unless the applicant is looking for waivers from any of the discussion we have had here tonight, I believe we could administratively approve this as long as he is agreeable to some of the items we talked about tonight as far as the cedar fence, the more organized storage, a date certain for all items to be removed from the site. If, however, I feel he is not agreeable to meeting those or need waivers, I would certainly bring it back to the Plan Commission.

Mr. Sisson – I would like to comment from the Architectural Review Committee perspective, it was our feeling that it could be administratively approved.

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

Mayor Chiovatere closed the public hearing at 6:38 P.M.

6:01 P.M. (2)JT R-16-07 Alan C. Olson – 2880 S. Moorland Rd. – Rezone from O-1 to O-1 and C-2 to Field Delineate Wetlands.

NEW BERLIN PLAN COMMISSION

DECEMBER 3, 2007

MINUTES

The public hearing relative to the request by Alan C. Olson for a rezoning at 2880 S. Moorland Road from O-1 to O-1 and C-2 to field delineate wetlands was called to order by Mayor Chiovero at 6:38 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Gihring, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; 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.

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

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

Ron Hlavinka, 2879 S. Acredale Road - My property abuts Mr. Olson's property. I am somewhat familiar with conservancy areas. That small little pocket was put in years and years ago as a small retention pond. When a manmade retention pond is put in, does that make it a conservancy issue? Does a conservancy situation have to be water coming through the earth? How did that become a conservancy? I'm not going to act like I never heard that term for that pond. I have heard that for years. I have always wondered because there are times when there is a lot of water and then there are times when it dries out. If you dig into the land, there are actually drain tile from the mushroom farm running to that pocket. Does that make it a conservancy area?

Ms. Jones – When we did our site visit, it had characteristics of a wetland. Whenever we visit a site and we feel that we see wetland or we think it might be wetland, we are required by the DNR to have a field biologist go out there, which is what has been done here. There was a report generated that is calling this pocket a wetland. As you know, they only field delineated the area that was on their side of the property. If they were to go back with permission from you, they might find additional wetland that make up the rest of that little pocket you see when you drive by. It seems they did a good job of historical research when they put this together. If you are aware of something that we are not, you would want to bring it to our attention, however they deemed it as a wetland based on all the characteristics that it meets.

Mr. Hlavinka – “They feel”, who is “they”? Is it the Department of Natural Resources that went in there and labeled it as wetlands?

Ms. Titel – The applicant hired a biologist that is certified by the DNR. They look at soil

characteristics, contours, and the plants that are present in the area. Based on all those factors, it meets the definition of a wetland.

Mr. Hlavinka – I do wonder why this person that got hired to do this research didn't talk to the owner of the property of the majority of the pond to get actual historical facts during the time frame that I owned the property and knowing the previous owners. I take it a little serious when people are walking on some ones land and declare it wetland when it isn't. In regard to my land, I will talk about it because of Mr. Olson's land. This designated delineation area is just where the water is. I don't have to worry about them coming in and saying we go 20 ft. beyond the pond. Is that a possibility?

Ms. Titel – If you decide to do something on your property, you will be required to have a wetland delineation. The field biologist will delineate the boundaries of the wetland and our current code has a 30 ft. setback from the boundary of the wetland.

Mr. Hlavinka – OK, I'll buy it, but I resent the fact that whoever got hired to do this job, never had the courtesy to talk to me. From what you just told me, I basically just lost 30 ft. around that pond. Is that right?

Ms. Titel – Depending on what the field biologist would delineate.

Mr. Hlavinka – I just want to understand because I went through a lot of heartache with that property, and now I find that they come onto my land, they tell me it's a delineation because it's water filled. I'll take them there in July and it will be bone dry. I could pick up dry leaves. I can remove the drain tile that is there. Just because a guy comes on my land, I loose 30 ft. around that pond.

Ms. Titel – The delineation was only completed on Mr. Olson's property.

Mr. Hlavinka – Obviously that is what happened to Mr. Olson, and now it is going to happen to me.

Ms. Titel – When the original application came in for Mr. Olson's building addition, the surveyor had indicated a pocket of wetlands on the survey, and so we are obligated to follow up with the wetland delineation.

Mr. Hlavinka – I am not faulting you, I am faulting the company that got hired to do this job and did a poor job. I can contact the DNR too, but there is no point in it. All I'd do is spin my wheels talking to some young college graduate that can tell you all about leaves in the water. Thank you very much.

Mayor Chiovatero – Sir, it is your own land and anytime you want to do anything, often times historical data is taken into account, but as we are trying to explain, it has taken on the characteristics of a wetland by definition.

Mr. Hlavinka – I understand. Thank you.

Alan Olson, 4145 S. Avon Drive – To the extent that it is necessary, I will give clarification, the wetland delineation report was created by a person who is assured by the DNR to do a proper job. They generated this report at considerable expense. This report is on file at the City of New Berlin. This report contains a lot of detail as to why they arrived at that, and as stated, it is only based on my property to protect that area so that the parking lot doesn't encroach on it. That is the simple reason for it. If there are any questions, I would be happy to answer them.

Mayor Chiovatero – Thank you, Mr. Olson. And to the previous speaker, the report is on file at the City, and you are welcome to obtain a copy of it for your records.

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

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

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

Mayor Chiovatero asked for comments or questions from the Commissioners.

Alderman Ament – Once this is done, can the Use be administratively approved?

Ms. Titel – The Use Approval will come back to Plan Commission because the applicant is asking for waivers. We will see this back, probably in January.

Alderman Ament – Because it has in the past several years, I know one of the issues that is going to come up is the height of the building. The other issue is the question of at one time wasn't there a proposal or requirement to have a service drive along Moorland Road for access to all those other facilities including Open Pantry which would become part of the Use.

Ms. Titel – We have found the recorded easement document and a member of our engineering staff has mapped that easement onto the site plan so that will be taken into consideration when we do the Use Approval for his site modifications.

Alderman Ament – Again, going back to the height. I notice on Page 5 it says that impact on surrounding properties has been noted. I hope that when this gets to Use Approval that will also apply and those neighbors are notified of this development.

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

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

NEW BERLIN PLAN COMMISSION

DECEMBER 3, 2007

MINUTES

PRIVILEGE OF THE FLOOR

The Plan Commission Meeting was called to order by Mayor Chiovero at 6:50 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Gihring, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; and Mark Blum, City Attorney.

Motion by Mr. Sisson to approve the Plan Commission minutes of November 5, 2007. Seconded by Alderman Ament. Motion carried unanimously.

PLAN COMMISSION SECRETARY'S REPORT - The City Center Charrette will take place on December 18, 2007 from 6:00 – 8:00 P.M. in the Council Chambers at City Hall. An information notice will be placed in the newspapers and on the website. The purpose of this charrette will be to gather opinions from the people that live in the area as well as notifying some of the original members that were part of the working committee to get their opinions on the new phase of the City Center. Plans will be similar as to what was looked at at the library at the last work shop. It will be an open house and the community, Plan Commissioners, and Council members are welcome to attend.

CONTINUED BUSINESS

1. (5)NJ U-5-99 The Preserve at Weatherstone Meadows – 4200 S. Cambridge – Continuation of U-5-99 – 4177 S. Sunny Slope – Phase II Modification of Use, Site, and Architecture from Original Application. (Tabled 6/4/07)

Motion by Mr. Felda to remove this item from the table. Seconded by Ms. Broge. Motion carried unanimously.

Motion by Mr. Sisson to approve the modifications to the Use, Site, and Architectural Approval for Zoning Permit File #: U-5-99 to modify the site plan and road layout slightly to accommodate a revised layout based on DNR required storm water pond modifications and a wetland field delineation at the property located at 4200 S. Cambridge Drive subject to the application, plans on file, and satisfaction of the following conditions:

- 1) Planning

- a) Approval of the landscaping plan and payment of all sureties and any tree replacement fees are required prior to issuance of the Zoning Permit. Landscape plans shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. A registered landscape architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to installation of any materials. A tree inventory has been submitted by the applicant. Several average quality trees are planned to be removed. For the trees that cannot be re-planted on the site the applicant shall, at \$300 per tree, provide a landscape donation fee of \$27,000 based on the larger 5" to 7" DBH trees that are being removed. If the applicant wishes to plant additional trees on site, they shall coordinate with Staff.
 - b) Applicant shall coordinate with Staff to add additional language to the Landscape Letter of Credit "maintenance section" that over the 3-year time period if trees identified in "area one" on the Tree Inventory Plan decline in health after the road is constructed, the applicant shall coordinate with Staff to provide additional replacement trees.
 - c) All buildings shall conform to the PUD Ordinance #2108.
 - d) Applicants shall coordinate with the neighbor directly north of Phase I to ensure construction plans address drainage concerns. The revised plans indicate an additional catch basin has been added in this area as well as some swale work.
- 2) Inspection & Engineering
- a) Applicant shall verify fire hydrant spacing in the area between Lot # 25 at the end of the cul-de-sac and building # 18.
 - b) Building plans shall be reviewed under the Wisconsin Uniform Dwelling Code requirements by the New Berlin Inspection Division upon building permit application.
 - 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) Stake out survey with setbacks from lot lines shall be submitted with building permit application.
- 3) Engineering
- a) Address all engineering concerns regarding construction details in a letter dated November 21, 2007.
 - b) Utility easements will be required as well as a hold harmless agreement for driveways located in the easement areas (e.g., between buildings #24 and #25).
 - c) Applicant shall verify the construction phasing plan. Staff would suggest that you start with building #'s 10, 15, 24 and 38 to minimize disruptions for existing residents and ease in finishing landscaping.
- 4) Storm Water
- a) All temporary storm sewer associated with the temporary ponds shall be removed.
 - b) Applicant shall follow City Ordinance #2193.
 - c) Please provide a maintenance agreement. This document shall be on file prior to the issuance of the zoning permit.

Seconded by Mr. Felda. Motion carried unanimously.

NEW BUSINESS

2. (7)JT LD-8-07 City of New Berlin Fire Dept. – Approx. 5120 S. Racine Avenue – SE1/4

SEC. 29 – Three Lot Land Division.

Motion by Mr. Felda to recommend to Common Council approval of the 3-lot Certified Survey Map including the waiver for the property located at approximately 5120 S. Racine Avenue subject to the application, plans on file and following conditions:

WAIVER REQUEST #1: Applicant requests a waiver from Section 235-26.E which states, “Flag or panhandle lots are prohibited in the City of New Berlin.” Proposed Lot #3 is a flag lot.

- 1) The Promersberger Family Trust shall coordinate with the City of New Berlin in reaching an agreement on the escrow agreement for the cul-de-sac reconstruction.
- 2) General:
 - a) Applicant shall correct all drafting errors identified by Staff prior to signing the final CSM.
 - b) A final copy of the CSM 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.
- 3) The property, which is located outside of the MMSD Sewer Service District, will require private on-site waste treatments sites (POWTS) that will meet Waukesha County requirements for each lot that is created.
- 4) Private water supply wells meeting the requirements of the Wisconsin Department of Natural Resources will also be required. Please show on the final CSM where the wells and septic areas will be located for the three lots.
- 5) Proposed Lots #2 and #3 will remain zoned R-1/R-2, with a lot area requirement of 5 acres and a minimum lot width of 200’. Due to the unique shape of Lot #2 and Lot #3 Building Inspection Services will work with future owners of these lots to determine appropriate building location at time of building permit.
- 6) As indicated on the face of the CSM, the 30’ x 30’ ingress and egress easement for the benefit of Lot 1 of CSM No. 9539, per CSM No. 9539, shall be terminated by agreement with abutting beneficiaries. The recording of this CSM shall be evidence that the City of New Berlin has acquired said agreement(s).
- 7) As indicated on the face of the CSM, Woodridge Lane is dedicated to the City of New Berlin for public road purposes.
- 8) As indicated on the face of the CSM, the existing 60’ x 300’ road reservation per CSM No. 9539, shall not be accepted by the City of New Berlin and the recording of this CSM shall be evidence of said non-acceptance. A Resolution may be required to release the note on the face of the plat.
- 9) As indicated on the face of the CSM, there is a 10’ x 80’ ingress and egress access easement per CSM No. 9539.
- 10) Section 235-26.E states: “Flag or panhandle lots are prohibited in the City of New Berlin.” The applicant will require a waiver for a flag lot as part of the land division.
- 11) A 30’ wide drainage easement shall be added to proposed Lot #2 to convey the water from the public drainage ditches on Woodridge Lane. The 30’ wide drainage easement shall run from east to west and located 10-feet south of the northern lot line. The drainage easement is located 10’ feet south of the property line to avoid an existing 10’ x 80’ ingress & egress easement.
- 12) In order to prevent the blockage of drainage coming from the easement on Lot #2, a note shall be added to the CSM. Note 7 on the CSM shall read: “Development on Lot #1 shall not impede water flow coming from the drainage easement on Lot #2. A plan to provide water conveyance from Lot #2 to Racine Avenue shall be submitted and approved by City Staff prior to issuance of the building permit.”

Seconded by Ms. Groeschel. Motion carried unanimously.

3. (1)JT U-72-07 L-E-S-S Discount Liquor – 12940 W. National Ave. – Liquor Store.

Motion by Mr. Sisson to approve the Use, Site and Architectural to occupy space within an existing building to be used as a liquor store located at 12940 W. National Avenue along with the waiver request subject to the application, plans on file and the following conditions:

WAIVER REQUEST #1: Applicant requests a waiver to deviate from Section 275-60I (Lighting). Applicant is proposing lower light intensity levels.

1) General:

- a) Plan of operation shall be consistent with submitted plans on file.
 - Hours of operation: 9:00 AM to 9:00 PM Monday – Saturday, 9:00 AM to 5:00 PM Sunday, 9:00 AM to 7:00 PM on Holidays.
 - Initially plans for 2 employees.
 - Deliveries to occur during normal business hours.
- b) Employee and customer parking shall be contained on site.
- c) Dumpsters shall be properly screened from the street and public view in accordance with Article VIII Section 275-56 of the New Berlin Municipal Ordinance. Applicant shall submit plans for a dumpster enclosure prior to issuance of the zoning permit.
- d) Signage shall require a separate application and issuance of a Sign Permit prior to fabrication.
- e) Existing wall sign shall be removed by January 31, 2007. Any new wall sign shall require a permit and shall be in compliance the City's Sign Code.
- f) Existing monument sign shall be moved to a location outside the ultimate right-of-way on National Avenue. Applicant shall provide the proposed location of the sign to Staff for approval as part of a sign application. If approval is received from Waukesha County, the sign may remain in the existing location. The County may require a revocable occupancy permit for the sign.
- g) Parking lots shall be resealed, re-stripped and re-configured by April 30, 2007.

2) Engineering:

- a) Applicant shall submit a lighting plan per Section 275-60I prior to issuance of the zoning permit. This will be required to be completed for all on-site parking, circulation and pedestrian areas (Zoning Code §275-60 I). Plan shall show light pole layout and illumination levels on plan sheets. A chart with photometric summary information shall also be provided.
- b) Any future building additions or site alterations may require compliance with the National Avenue Lighting Plan. Four (4) City Standard pedestrian poles and luminaires will be required at 80-foot spacing. A letter of credit for \$24,000 will need to be submitted to the City, which will be cashed when the City's construction project takes place.
- c) Any future building additions or site alterations may require compliance with the National Avenue Landscaping Plan.
- d) Drive aisles and parking areas must be set back 10-feet from the Ultimate ROW line. See Zoning Code §275-57 A(7)(f)[3]. It appears from our maps and aerial photography that the existing parking lot along National Avenue is actually in the County ROW. Any future building additions or site alterations will require the removal of existing pavement in this setback area.

- e) Applicant shall submit a revised parking plan to address the following issues:
 - i. A turnaround area needs to be provided in the parking area. See Zoning Code §275-57 A(7)(b)[1].
 - ii. The paved area in front to the store entrance shall be used as a turn-around area for customers to prevent backing onto National Avenue. No parking shall be permitted within this area.
 - iii. Parking shall be located outside the ultimate right-of-way on National Avenue and 130th Street.
 - iv. Twenty-four foot (24.0') drive aisles are required for two-way traffic. See Zoning Code section 275-57 A(7)(b)[1].
 - v. Nine by Nineteen (9.0' x 19') parking stalls are the standard stalls for the City of New Berlin Commercial sites. See the Zoning Code section 275 A(7)(b)[1].
 - vi. Identify one handicapped parking stall.
 - vii. Applicant shall provide a minimum of 8 parking stalls.
 - f) The Ultimate ROW shall be used to determine all setbacks and location of parking areas and signage along National Avenue.
- 3) Inspection:
- a) Building alteration 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 alteration 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) Living quarters shall only be used by owner or proprietor in a B-2 district.
 - e) No exterior building alterations proposed with this application.
- 4) Fire:
- a) Building must meet all applicable building and fire codes. Fire Extinguishers are required.

Seconded by Mr. Felda. Motion carried unanimously.

4. (4)NJ U-78-07 Rinderle Tire – 13300 W. College Rd. – Tire Sales, Custom Wheels, Auto Repair, and Road Side Services.

Motion by Alderman Ament to table the Use, Site and Architectural approval to occupy space within an existing building to be used as a tire, custom wheel, auto repair, and roadside services shop located at 13300 W. College Avenue, subject to the application, plans on file, and the following reason for tabling:

- 1) Plan Commission will need to act on the rezoning (*separate application File #: R-15-07*) prior to any action on this Use Approval. The applicant is required to have the updated zoning in place first.

Seconded by Ms. Groeschel. Motion carried unanimously.

5. (2)JT R-16-07 Alan C. Olson – 2880 S. Moorland Rd. – Rezone from O-1 to O-1 and C-2 to Field Delineate Wetlands.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning the property located at 2880 S. Moorland Road from O-1 to O-1 and C-2 to field delineate the wetlands.

Seconded by Mr. Gihring. Motion carried unanimously.

6. (5)NJ U-81-07 Canterbury Custom Homes, Inc. – 3939 & 3935 Fohr Dr. – Duplex.

Motion by Ms. Groeschel to approve the request for Use, Site and Architectural to construct a duplex within The Preserve at Deer Creek condominium development located at 3939 and 3935 South Fohr Drive subject to the application, plans on file and the following:

- 1) Planning
 - a) There shall be no deviation from the grading plans approved by Plan Commission on November 9, 2004 for Kasco South Phase PUD U-4-04. Any deviation will require an amendment of the condition of approval by the Plan Commission. This approval is granted under the condition that the applicant shall meet all the requirements of Zoning Permit # U-4-04 granted by Plan Commission on November 9, 2004 in its entirety.
 - b) Applicant shall also meet all the requirements outlined in the Developer's Agreement entered into with the City of New Berlin as it relates to acceptance of public infrastructure prior to issuance of Building Permit.
 - c) Approval of the landscaping plan and payment of all sureties are required prior to issuance of Zoning Permits. 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 material.
 - d) Buildings shall conform to the requirements set forth in the PUD Ordinance #2094.
- 2) Engineering
 - a) Address all engineering comments prior to issuance of Zoning Permit.
 - b) The Engineering Department will allow sidewalks and small wood decks outside of the building envelope on the side of the proposed two family (2-family) unit. Any modifications to the deck will require City review and approval.
 - c) Building is being proposed with no steps in the garage. The garage floor will be the same elevation as the first floor.
 - d) There are two scapewells proposed on the both the right and left elevations. The scapewlls appear not to provide frost protection for the footings of the structure/building, +/- 3.5 feet to the bottom of the footings. Applicant shall show how frost protection is achieved in these areas.
 - e) The proposed foundation wall shall not exceed a nine-foot high wall.
 - f) The right-of-way shall not exceed seven-tenths total rise from the back of curb to the right-of-way line, the front lot pipe. The "southerly" most drive along the South edge of said driveway does exceed the maximum allowable change in gradient of seven tenths. Please revise.
 - g) The plan shows an elevation view marked "Left side" and appears to indicate the placement of a retaining wall behind the side entry door for the "southerly" unit. The wall appears to be +/- 2 feet. Any new retaining walls will require staff review. Please verify and correct if necessary.
 - h) When grading around the foundation of the building maximum (4:1) slope criterion shall be followed. Maximum front yard slope should be 6:1.
- 3) Inspection Division
 - a) 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 Uniform Dwelling Code (UDC)
 - b) Apply and obtain appropriate building, plumbing and electrical permits.

- c) Erosion control shall be approved, permitted, installed and inspected prior to any commencement of site work or issuance of any building permits.
- d) Scapewells for finished sleeping rooms in lower level are not shown on the survey or landscape site plan. Sidewalks may need to be altered as far as location to accommodate them.

Seconded by Mr. Felda. Motion carried unanimously.

COMMUNICATIONS

- 7. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: Planning Commissioners Journal, Fall 2007

Plan Commissioners acknowledged receipt of this communication.

- 8. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: "What Is Today's Plan Commissioner", Metropolitan Builders Assoc.

Plan Commissioners acknowledged receipt of this communication.

- 9. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: Amended 2008 Plan Commission Meeting Schedule

Plan Commissioners accepted the amended 2008 Plan Commission Meeting Schedule.

Motion by Mr. Sisson to adjourn the Plan Commission meeting at 7:42 P.M. Seconded by Ms. Groeschel.
Motion carried unanimously.