

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

**PUBLIC HEARINGS**

6:00 P.M. (3)JT CU-6-07 King Motorsports – 2130 S. Danny Rd. – Sales of Automotive Specialty Parts and a Shop Facility.

**NEW BERLIN PLAN COMMISSION**

**AUGUST 13, 2007**

**MINUTES**

The public hearing relative to the request by Scott Zellner c/o King Motorsports located at 2130 S. Danny Road for a conditional use for sales of automotive specialty parts and a shop facility was called to order by Mayor Chiovatero at 6:05 P.M.

In attendance were Mayor Chiovatero, Mr. Sisson, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner; Jessica Titel, Code Compliance Specialist; Eric Nitschke, Storm Water Engineer; Ron Schildt, Transportation Engineer; and Tom Schmitzer, City Prosecutor. Mr. Gihring was excused.

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 comments or questions for the purpose of clarification.

Mayor Chiovatero asked three times if there was anyone 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 for comments or questions from the Commission?

Alderman Ament – Looking at the map, on the right lower side of the property, is that more than one parcel where those little triangles are?

Ms. Titel – Can the applicant help to answer that?

Mike Stello, Representative for the project – The original smaller triangles were part of a utility easement. The outside lines are the boundary for the property.

Alderman Ament – That is all one parcel?

Mr. Stello – Yes.

Alderman Ament – Thank you.

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

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

6:01 P.M. (7)TK CU-8-07 City of New Berlin – 16280-16550 W. National Ave. – Salt Storage Dome.

**NEW BERLIN PLAN COMMISSION**

**AUGUST 13, 2007**

**MINUTES**

The public hearing relative to the request by Brandon Foss, Crispell-Snyder c/o the City of New Berlin located at 16280-16550 W. National Avenue for a conditional use for a salt storage dome was called to order by Mayor Chiovaturo at 6:10 P.M.

In attendance were Mayor Chiovaturo, Mr. Sisson, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner; Jessica Titel, Code Compliance Specialist; Eric Nitschke, Storm Water Engineer; Ron Schildt, Transportation Engineer; and Tom Schmitzer, City Prosecutor. Mr. Gihring was excused.

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.

Mr. Kim gave a brief presentation describing the request and showed maps indicating the location.

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

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

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

Mayor Chiovaturo asked for comments or questions from the Commission?

Alderman Ament – I noticed on the map that it is not in the wellhead protection area. I realize that the storage facility itself probably has a good base to protect it. There are two storage facilities there, and they obviously don't load inside. Is there anything we have done to protect so any spillage does not seep into the well area?

Mr. Kim – I posed that same question to Don Ullman, Streets Supervisor. He explained that there is an area of asphalt where the existing salt storage facility is. That area will be continued and from what I understand, drains to a catch basin area where that run-off is stored and used by the Streets Dept. It does not get into the sewers.

Alderman Ament – So we are confident that is not going to cause any negative problems?

Mr. Kim – Correct.

Alderman Ament – Thank you.

Mayor Chiovaturo asked for further comments or questions from the Commission, seeing none.

Mayor Chiovatero closed the public hearing at 6:16 P.M.

6:02 P.M. (3)AB CU-7-07 AT&T – 20855 W. Downie Rd. – Cabinet and Power Pedestal.

**NEW BERLIN PLAN COMMISSION**

**AUGUST 13, 2007**

**MINUTES**

The public hearing relative to the request by David Wellerritter c/o AT & T located at 20855 W. Downie Road for a conditional use for a utility within the C-1 zoning district was called to order at 6:16 P.M.

Motion by Alderman Ament to table the public hearing per the applicants request. Seconded by Mr. Sisson. Motion carried unanimously.

Mayor Chiovero closed the public hearing at 6:18 P.M.

6:03 P.M. (3)NJ R-6-06 (File #2) Tracy and Patricia Johnson – 18665 W. Coffee Rd. –  
Rezone from A-2/C-1 and C-2 to A-2/C-1/C-2 and R-1/R-2 and a wetland delineation.

**NEW BERLIN PLAN COMMISSION**

**AUGUST 13, 2007**

**MINUTES**

The public hearing relative to the request by Tracy & Patty Johnson for a rezoning at 18665 W. Coffee Road from A-2/C-1 and C-2 to A-2/C-1/C-2 and R-1/R-2 and a wetland delineation was called to order by Mayor Chiovatero at 6:18 P.M.

In attendance were Mayor Chiovatero, Mr. Sisson, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner; Jessica Titel, Code Compliance Specialist; Eric Nitschke, Storm Water Engineer; Ron Schildt, Transportation Engineer; and Tom Schmitzer, City Prosecutor. Mr. Gihring was excused.

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

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

Mayor Chiovatero asked three times if there was anyone 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 for comments or questions from the Commission?

Alderman Ament – On Page 5 of the Staff Report it states that the C-1 will go into a conservation easement. Would it be beneficial to put C-2 in a conservation easement also?

Ms. Jones – The conservation easements are new and we have been trying to use them especially for C-1 areas to protect whatever element is there. In looking at this one, I think what we would want to do is capture as much of this wetland as possible in the C-1. This is part of a larger concept. The area south of this also has some wetlands. Our thinking is to continue to work with the applicant on a conservation easement to preserve all of these trees and sensitive wetlands.

Alderman Ament – Does it pay to include those two smaller areas, or not?

Mr. Kessler – Traditionally, the Plan Commission or Council has not included wetlands into the conservation easement documents that we prepare. It is a policy decision for the Plan Commission. Recognize that you already have one layer of protection because it is a wetland. You have the zoning protection should the Plan Commission want to add it into the conservation easement. I believe it is your discretion. Traditionally, we have never done that. It has always

been the C-1 lands or woodlands, non C-2 type of things.

Alderman Ament – Is that something we can deal with when we actually act on this?

Mr. Kessler – Yes.

Alderman Ament - On Page 5 of the Staff Report, #9, talks about the roadside ditch along the south side of Coffee Road, right-of-way area needs to be cleared of trees to keep drainage from running through lots. Can you explain that?

Ms. Jones – Whoever comes into build a home on that lot will need to work with our Engineering Dept. to find out the best alternative. The site distances are very difficult in that area so they would need to trim some of the trees and work with them to determine if a culvert will be satisfactory or if they will have to bring fill in to even it out.

Alderman Ament – That would be primarily for the drive area?

Ms. Jones – Correct. It is rather steep in that area.

Alderman Ament – There was an application to subdivide this into five or six lots about three or four years ago. I for one am appreciative to staff and the applicant for working this out so that we can preserve the rural character on the west side as described in the GDMP. I would like to preserve as many of those trees along Coffee Road as possible.

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

Mayor Chiovatero called the public hearing closed at 6:27 P.M.

6:04 P.M. (5)NJ R-13-07 New Berlin City Center – 14967 and 15055 W. National Ave. –  
Rezone from B-2 to B-2/PUD.

**NEW BERLIN PLAN COMMISSION**

**AUGUST 13, 2007**

**MINUTES**

The public hearing relative to the request by Wade Balson and Steve Stewart c/o S & B Retail Investments for a rezoning at 14967 and 15055 W. National Avenue from B-2 to B-2/PUD was called to order by Mayor Chiovatero at 6:27 P.M.

In attendance were Mayor Chiovatero, Mr. Sisson, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner; Jessica Titel, Code Compliance Specialist; Eric Nitschke, Storm Water Engineer; Ron Schildt, Transportation Engineer; and Tom Schmitzer, City Prosecutor. Mr. Gihring was excused.

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

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

Richard Hawthorne, 15075 W. San Mateo Ct. – Under the proposal you are showing two new retail stores, is that correct?

Ms. Jones – As of this right now, this is a concept design for various building sizes. The only one that we think might be for sure is the bank with a turn around. The rest of these could be retail, restaurants, or possibly an upscale grocery. There are no official tenants so far. We are just trying to work with the buildings and see what can be achieved in the area.

Mr. Hawthorne – My concern is that I live across from this property and I keep hearing about different things happening, but I see nothing happening.

Ms. Jones – I reviewed the minutes and I remember you speaking last year at the public hearing about some of the issues you had about lights, etc. I think you will be happy to see that we are looking at additional landscaping along National Avenue. The City is currently working on a landscaping plan throughout City Center. As far as who exactly those tenants are going to be, I don't know that information.

Mr. Hawthorne – That's my concern. You look at the City Center across from my house and I see four foot weeds. The old Legacy has become a dumping ground with dirt and weeds. It has become a used car lot. There are cars, trailers, and motorcycles for sale there. This is what I have to live with right now. I had a green space once when the golf course was there, now I don't. Another concern I have is in the other portion of the City Center you had businesses abutting the property. This portion of the City Center is going to have residences abutting it. I am concerned about light against my house at night and things of that nature too.

Ms. Jones – Our lighting is all down-cast type lighting that you will be seeing on most of these buildings. We will pay close attention to that.

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

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

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

Richard Hawthorne, 15075 W. San Mateo Ct. – I have had to live with this for over a year and a half. I've seen promises made and not delivered. I really think that at this point in time we need to hold the developer accountable. He does not have to live with this, I do. I will have to live with the traffic patterns that go on. You don't. I do. That is my concern. I really think right now until he comes up with a master plan or we know exactly what is going to be put into this City Center, the property should be razed and the weeds removed.

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?

Ms. Groeschel – At the point when we look to approve building by building, would we re-evaluate the TIA based on the real traffic patterns? Big picture wise for the PUD, I am talking about public infrastructure, developing Deer Creek corridor as well as Acredale, and other things like that. At what point do we get into details like that?

Mr. Schildt – It would depend on the type of development that it is. Most of these things, and even the TIA that we reviewed last year for the Sims parcel looked at similar uses. The biggest change with this one is looking at the grocery that might be in there. We are looking at where the access is going to be. We already know we have a fixed point on Library Lane on the Southwest side. We know that we want to have something to possibly tie in with Culvers and possibly be signalized and look at what other opportunities there are along National Avenue. In talking with the County previously on other projects, they knew something was going to be happening in this area and they were all for trying to consolidate some of the access points that were out there. The developer is showing one access, the traffic study is showing that it could work as a full access, but the left turn out of there might be difficult so they are recommending that it be a right in/right out. That would be something we would need to work with Waukesha County on to see what type of improvements they would want to have to make sure you can turn out of there. There will be a lot of meetings with the applicant and the County and the City trying to get all that worked out, but we know that those are pretty much where the accesses will be unless the use change drastically. Unless the tenant is something extremely different from what is generally in that category, the traffic generated for the uses should still be valid.

Ms. Groeschel – If we are concerned about putting a signal at Deer Creek Parkway or adding more infrastructure along certain roads, would this be the time to talk about it? Would it be at this point during the rezoning or later when we would get into details with the County and get into details of what the City is really requiring?

Mr. Schildt – It is a combination of the two things. That is the reason we ask for the traffic study with rezoning because we want to know what type of things need to be changed with the infrastructure to make access work, what is not going to work, and what other possibilities there are to look at. Right now we know that, based on what is going in there right now, it doesn't look like a signal would necessarily be warranted. But, there are some problems with the left turn conflict of people getting in because of the high thru traffic on National Avenue. Wisconsin DOT

does have something called “left turn conflict assessment” and because of that, a signal may be something that we will look at. That is the reason we have the study so we know up front some of the hot spots that we need to look at. Once we actually get into the Use Approval, then we can focus on those.

Mr. Kessler – This is the dilemma that we face for most rezonings. Plan Commission requires a concept so we have to pen to paper with the applicant and our design team to develop a concept. We don’t have any other way to do that but try to project what those land uses are going to be. We recognize the needs of the residents to the north of Deer Creek Parkway about the need to control the thru traffic on National Avenue. We heard that at the previous public hearings for this development and we know that this is important. We will work with this applicant and the Plan Commission to try to either signalize this intersection or put in some kind of traffic control mechanism. It will ultimately be up to the County. That is there jurisdiction, that is their road. We can certainly give our opinion that in some form or another we have to control traffic in this area to make it easier for people to get in and out. We will review traffic at every single step of the way of this project. I hope that answers your question.

Ms. Groeschel – Yes.

Ms. Broge - Where does the City stand with the Simplicity dealership that is currently there?

Mr. Kessler – The City doesn’t stand anywhere with the structure. It is my understanding that the applicant has it under contract as an option to buy.

Ms. Broge – So it is not sold yet?

Mr. Kessler – I cannot verify it, but it is my understanding that the applicant has purchased the property.

Mr. Stewart – Yes, we have purchased the Simplicity dealership and also the car wash. We have completed the entire acquisition.

Mr. Kessler – So you are now the legal owner on record?

Mr. Stewart – Yes.

Ms. Broge – Are there plans or a time table for razing those buildings?

Mr. Stewart – We are in the process of doing that right now. We just closed about two weeks ago, so we are in the process of determining when we want to tear them down and get things squared away.

Ms. Broge – Thank you.

Mr. Sisson – We have waited a long time to see this. All of us have. Steve, I want to congratulate you and PDI for the progress that you have made and the steps that you have taken and encourage you to continue to move forward with this and we thank you.

Alderman Ament – On the first page of the Traffic Impact Study, it talks about National Avenue and Acredale Road. Where does Acredale fit into this? Was that an original description, or is it because of the intersection?

Mr. Schildt – That is the north side of the Deer Creek Parkway and National Avenue intersection. That is the fourth leg of the intersection.

Alderman Ament – So that is why that is included in there. It only makes sense to rezone this

and make it one piece and finish it off making it part of the PUD. I can't wait until we have that meeting because I have lots of ideas. I am not very fond of having all these buildings around the perimeter and the parking in the middle. I would like to see the buildings come closer together and the parking be on the outside. If we want to encourage having a mall area, walking type area where people can sit at benches and walk from one building to another. Right now if you want to walk from one building to another, you have to either stroll through the parking lot or go all the way around. It would make more sense to have the parking on the south side, shift some of those buildings closer and put a mall between them. You might even get more parking that way. I would like to see a parking lot in the area where Library Lane turns in. I still need somebody to answer me why that road has to go all the way through and why we can't utilize that space better for either parking or walking area, side path, or things of that nature. I think it would benefit the trucking for the bigger upscale grocery facility and also across the street for that condominium or multi-family. Those are some of my thoughts. I have lots of ideas.

Mr. Kessler – That is encouraging. We want to make sure that this development is acceptable as we move forward with future development.

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

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

6:05 P.M. (5)AB R-12-07 Lion's Den –New Berlin Eisenhower Football Booster – 4333 S. Sunny Slope Rd. – Rezone from I-1/C-1 and C-2 to I-1/C-1 and C-2 for a wetland delineation.

**NEW BERLIN PLAN COMMISSION**

**AUGUST 13, 2007**

**MINUTES**

The public hearing relative to the request by Dave and Lori Schinker c/o New Berlin Eisenhower Football Boosters for a rezoning at 4333 S. Sunny Slope Road from I-1/C-1 and C-2 to I-1/C-1 and C-2 for a wetland delineation was called to order by Mayor Chiovaturo at 6:48 P.M.

In attendance were Mayor Chiovaturo, Mr. Sisson, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner; Jessica Titel, Code Compliance Specialist; Eric Nitschke, Storm Water Engineer; Ron Schildt, Transportation Engineer; and Tom Schmitzer, City Prosecutor. Mr. Gihring was excused.

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

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

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

Mayor Chiovaturo asked for comments or questions from the Commission, seeing none.

Mayor Chiovaturo closed this public hearing at 6:52 P.M.

6:06 P.M. (7)TK CU-9-07 Western Home Pool & Storage Building – 19965 W. Rustic Ridge Drive – Pool and Storage Building.

**NEW BERLIN PLAN COMMISSION**

**AUGUST 13, 2007**

**MINUTES**

The public hearing relative to the request by Eric Western located at 19965 W. Rustic Ridge Drive for a conditional use for a pool and storage building was called to order by Mayor Chiovatero at 6:52 P.M.

Motion by Mr. Sisson to withdraw the public hearing and application from the agenda per the applicants request. Seconded by Ms. Broge. Motion carried unanimously.

Mayor Chiovatero closed the public hearing at 6:54 P.M.

**NEW BERLIN PLAN COMMISSION**

**AUGUST 13, 2007**

**MINUTES**

**PRIVILEGE OF THE FLOOR**

The Plan Commission Meeting was called to order by Mayor Chiovero at 7:04 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Felda, Alderman Ament, Ms. Groeschel, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner; Jessica Titel, Code Compliance Specialist; Eric Nitschke, Storm Water Engineer; Ron Schildt, Transportation Engineer; and Tom Schmitzer, City Prosecutor. Mr. Gihring was excused.

Motion by Mr. Sisson to approve the Plan Commission minutes of July 9, 2007. Seconded by Mr. Felda. Motion carried unanimously.

**PLAN COMMISSION SECRETARY'S REPORT**

Mr. Kessler distributed a memo regarding a summary of activities regarding City non-metallic mines for the Plan Commissioner's reference.

Mr. Kessler referred to the environmental corridors summary sheet which was added to the staff report for Item #10 on tonight's agenda, LD-4-07 Lawrence and Clare Liebe. Due to copy machine problems, it is not legible. Plan Commissioners who wish to get a copy should contact the Planning Dept. and it can be e-mailed or it can be provided at the next meeting.

**CONTINUED BUSINESS**

1. ( )GK PG-516(a) 2020 Comprehensive Plan Consultant

No Action.

2. (1)GK U-82-06 Deer Creek Inn & Conference Center – 1401 S. Moorland Rd. –Hotel & Conference Center.

Mr. Robert Williams, representative for the project gave a brief presentation to the Plan Commission summarizing the request for modification to the existing approval.

Alderman Ament discussed State requirements for restricting and labeling parking space sizes and questioned what will happen to the parking spaces lost in eliminating one floor of parking. Mr. Williams explained that the design became more efficient.

Alderman Ament questioned if there are plans to fill in the floodplain. Mr. Kessler said the project is located in the area of the floodplain and it was necessary for the applicant to submit a floodplain report. Mr. Nitschke reported on his review of the floodplain report.

Mr. Felda was happy to see the better use of space which enabled the elimination of one level of parking. He questioned if the entire four levels of parking is available for full size vehicles. Mr. Williams said that the minimum is 7'2" clearance in all parts of the structure which will accommodate full sized vehicles. All handicapped spaces which are raised up a little more are on the first level.

Motion by Mr. Sisson to approve the request to modify the Use, Site and Architecture for Zoning Permit #U-82-06, along with the waiver request (see below) to construct a hotel, indoor water park, conference center and mixed-use retail facility on the property located at 1401 South Moorland Road, subject to the application, plans on file and the following conditions:

Waiver Request:

Applicant requests a waiver from the City's requirement pursuant to Section 275-57(A) that parking stalls be nine feet wide by nineteen feet deep (9' x 19'). The applicant is proposing that all spaces be 9' x 18'.

Comments/Conditions:

- 1) Applicant shall meet the previous list of conditions as outlined in the Staff Report submitted to the Plan Commission on 02/05/07 in a manner acceptable to DED staff, including those contained in the 08/02/07 letter submitted to Mr. Williams.

Seconded by Mr. Felda. Motion passes with Mayor Chiorvatero, Ms. Broge, Ms. Groeschel, Mr. Felda, Mr. Sisson voting yes and Alderman Ament voting No.

## NEW BUSINESS

3. (5)AB R-12-07 Lion's Den –New Berlin Eisenhower Football Booster – 4333 S. Sunny Slope Rd. – Rezone from I-1/C-1 and C-2 to I-1/C-1 and C-2 for a wetland delineation.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that rezones the property located at 4333 S. Sunny Slope Road from I-1, C-1 and C-2 to I-1, C-1 and C-2 to field delineate the wetlands.

Seconded by Alderman Ament. Motion carried unanimously.

4. (7)TK CU-9-07 Western Home Pool & Storage Building – 19965 W. Rustic Ridge Drive – Pool and Storage Building.

Application Withdrawn.

5. (3)TK U-28-07 City of New Berlin Park & Rec. Dept. – 14900 W. Overland Tr. – Lion's Park Restroom Facility. Plan Commission decision requested regarding setback.

Motion by Alderman Ament to waive the 50 feet setback of the new restroom facility located at 14900 West Overland Trail subject to the application, plans on file and the following conditions:

Findings:

- 1) Section 275-36.D.(2) of the New Berlin Zoning Ordinance states that "the Plan Commission may modify the yard requirements in the P-1 District where it deems the requirement to serve no public purpose."
- 2) All setbacks are fifty feet (50') in the P-1 Zoning District, unless finding #1 is approved by the Plan Commission.

- 3) The property that the restroom facility would be on it zoned P-1, the adjacent property is also zoned P-1, therefore it appears that the above section of the code would apply.

Seconded by Ms. Broge. Motion carried unanimously.

6. (3)JT CU-6-07 King Motorsports – 2130 S. Danny Rd. – Sales of Automotive Specialty Parts and a Shop Facility.

Motion by Alderman Ament to approve the Conditional Use for sales of automotive parts and a shop facility within the M-1 Zoning District located at 2130 S. Danny Road subject to the application, plans on file, and the following conditions:

- 1) Plan of operation shall be consistent with submitted plans on file.
  - Office hours of operation: Monday through Friday 8:00 AM to 5:00 PM.
  - Total number of employees: currently 6, maximum of 10.
- 2) Employee and customer parking shall be contained on site.
- 3) 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.
- 4) Signage shall require a separate application and issuance of a Sign Permit prior to fabrication and installation.
- 5) No exterior alterations are included with this application. This permit is for interior modifications and conditional use approval only.
- 6) Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 Plans) Plan signed and stamped by David Lehman.
- 7) Building plans shall be approved by the State of Wisconsin Dept. of Commerce Safety and Buildings Division per Wisconsin Enrolled Commercial Building Code. (Comm 61.70 Certified municipalities and counties.)
- 8) Apply and obtain appropriate building, plumbing and electrical permits.
- 9) Building is on private septic system and an approval for any construction by the Waukesha County Health Department is required prior to the issuance of any City building permits.
- 10) Per New Berlin Fire Department, modifications to building may require upgrading sprinkler system with fire pump and holding tank.
- 11) All operations will occur within the building and all customer vehicles will be stored within the building during non-business hours.
- 12) No outdoor displays or storage is permitted for this business.

Seconded by Mr. Sisson. Motion carried unanimously.

7. (7)TK CU-8-07 City of New Berlin – 16280-16550 W. National Ave. – Salt Storage Dome.

Motion by Alderman Ament to approve the Conditional Use Permit for a new salt storage building and a lighting waiver request by the City of New Berlin Streets Department, to be located at 16280-16550 West National Avenue, subject to the application, plans on file and the following conditions:

Waiver #1: The applicant requests that Plan Commission waive the requirements outlined in Section 275-60.I. Lighting. The applicant is proposing a series of lights to be installed along the perimeter of the buildings.

- 1) Applicant shall work with engineering staff to revise the plans for the berm as it currently does not meet City Standards.

- 2) The three trees that will be removed as part of this application shall require replacement on the site. Please follow the City's tree replacement schedule.
- 3) Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 Plans)
- 4) Building plans shall be approved by the State of Wisconsin Dept. of Commerce Safety and Buildings Division per Wisconsin Enrolled Commercial Building Code. (Comm 61.70 Certified municipalities and counties.)
- 5) Apply and obtain appropriate building, plumbing and electrical permits.

Seconded by Ms. Broge. Motion carried unanimously.

8. (3)AB CU-7-07 AT&T – 20855 W. Downie Rd. – Cabinet and Power Pedestal.

Motion by Alderman Ament to table the request for a Conditional Use Permit for the installation of an AT&T cabinet and a power pedestal in the C-1 District located at 20855 W. Downie Road per the applicants request.

Seconded by Mr. Sisson. Motion carried unanimously.

9. (7)AB LD-3-07 Richard Guse – 19100 W. Hillcrest – NE ¼ SEC. 29 – Two-Lot Land Division.

Motion by Mr. Felda to recommend to Common Council approval of the 2-lot Certified Survey Map for the property located at 19100 W. Hillcrest Drive subject to the application, plans on file and following conditions:

- 1) 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.
- 2) A copy of restrictions for the Hillside Terrace has been submitted to the City and may have a bearing on the Applicant to divide the land; however, the City makes no independent assessment on the validity or applicability of the restrictions and the review and/or enforcement of the restrictions are the responsibility of those who are parties to them.
- 3) A private water supply well meeting the requirements of the Wisconsin Department of Natural Resources is required. Please show on the final CSM where the wells and septic areas will be located for both lots.
- 4) All easements shall be shown on the face of the CSM.
- 5) The "new" house for Lot #2 shall require an attached garage as per the zoning code.
- 6) A natural low spot exists in the rear yard of the proposed Lot #2 that shall be filled in and graded so Lot #2 drains to the front of the property at the time of building permit.
- 7) Applicant shall provide additional soil samples to determine whether the proposed mound system for the proposed Lot #2 can be located in the front yard.
- 8) The proposal for the "new" home on Lot 2 shall work with the existing contours.

Seconded by Ms. Groeschel.

Motion for approval retracted by Mr. Felda due to the information brought forward in findings.

Motion by Ms. Groeschel to recommend to Common Council approval of the 2-lot Certified Survey Map for the property located at 19100 W. Hillcrest Drive subject to the application, plans on file and following conditions:

- 1) 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.
- 2) A copy of restrictions for the Hillside Terrace has been submitted to the City and may have a bearing on the Applicant to divide the land; however, the City makes no independent assessment on the validity or applicability of the restrictions and the review and/or enforcement of the restrictions are the responsibility of those who are parties to them.
- 3) A private water supply well meeting the requirements of the Wisconsin Department of Natural Resources is required. Please show on the final CSM where the wells and septic areas will be located for both lots.
- 4) All easements shall be shown on the face of the CSM.
- 5) The "new" house for Lot #2 shall require an attached garage as per the zoning code.
- 6) A natural low spot exists in the rear yard of the proposed Lot #2 that shall be filled in and graded so Lot #2 drains to the front of the property at the time of building permit.
- 7) Applicant shall provide additional soil samples to determine whether the proposed mound system for the proposed Lot #2 can be located in the front yard.
- 8) The proposal for the "new" home on Lot 2 shall work with the existing contours.

Motion fails for lack of second.

Motion by Alderman Ament to recommend to Common Council denial of the 2-lot Certified Survey Map for the property located at 19100 W. Hillcrest Drive for reasons stated in Section 235-26G, new lots within existing residential subdivisions may be prohibited under any of the following criteria:

- (1) When the new lot area is less than the average area of the existing lots within the subdivision excluding unbuildable lots; or
- (2) When the new lot width is less than the average width of the existing lots within the subdivision excluding unbuildable lots; or
- (3) The subdivision was platted over 25 years ago.

Seconded by Mr. Felda. Motion fails for tie vote with Mayor Chiovatero, Alderman Ament, Mr. Felda voting Yes and Mr. Sisson, Ms. Broge, Ms. Groeschel voting No.

The request by Richard Guse for a 2-lot Certified Survey Map for the property located at 19100 W. Hillcrest Drive is referred to Common Council with no recommendation from Plan Commission.

10. (7)NJ LD-4-07 Lawrence & Clare Liebe – 3440 S. Monterey Drive – NE ¼ SEC 15 – Three-Lot Land Division.

Motion by Alderman Ament to recommend to Common Council approval of the 3-lot Certified Survey Map for the property located at 3440 S. Monterey Drive subject to the application, plans on file and following conditions:

- 1) 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.
- 2) Sewer and water are required for this development.
- 3) All easements shall be shown on the face of the CSM. This includes the Conservation Easement Document number provided by Waukesha County.
- 4) Applicant shall submit Waukesha County letter approving access to Moorland Road and receive permit to work within the County right-of-way.
- 5) Per the R-4 Zoning District requirements, Lot # 1 is required to have 110' of width at the 50' front setback line along Monterey Drive. A note shall be added to the face of the CSM indicating, "Lot # 1 shall meet the width of a parcel of land measured at the building setback line or required front yard setback, which ever is greater."
- 6) Engineering and Utility
  - a) The proposed CSM (Certified Survey Map) shows an error in the ultimate right-of-way description/labeling for the ten-foot (10.0') right-of-way dedication on the West side of Moorland Road the City of New Berlin. It should be dedicated to Waukesha County. Please revise the notation to reflect Waukesha County D.O.T. as accepting this dedication for the ultimate right-of-way not the City of New Berlin.
  - b) The ponds are determined to be man made and therefore a thirty-foot (30.0') separation/setback from the waters edge for any grading, filling or landscaping for any lot bordering the existing ponds shall be imposed. Limits of disturbance shall be established at the time of the building permit process. Possibly orange construction fencing. This criteria would effect both Lots # 1 and 3.
  - c) Currently the wellhead for the homestead lot, Lot # 2, is located in the limits of proposed Lot # 1. The well shall be abandoned and Lot # 2 required to connect to the water main in Moorland Road.
  - d) The proposed sanitary sewer lateral should not connect directly into a manhole but be offset down stream from the manhole at least five feet (5.0') from the manhole. Coordinate with the City Engineer.
  - e) The proposed laterals should be flipped with the sanitary lateral on the "east side" and the water lateral on the west.
  - f) The proposed laterals servicing Lot # 1 are under the driveway. Coordinate with City Engineer on placement of laterals possibly to the east and/or maybe outside of the access easement all together.
  - g) The sanitary sewer lateral length for proposed lot # 1 will be considerably longer than normal with at least three (3) cleanouts placed approximately one hundred feet (100.0') apart. This lateral length may affect the depth of the foundation of the proposed house on this lot. The future homeowner should verify gravity flow to the sanitary sewer main in Monterey Drive when submitting a proposal for a building permit.
  - h) Applicant shall be required to coordinate with City staff to execute a Conservation Easement over the site to maintain screening for both the neighbors and from Moorland Road. This will further strengthen the development requirement guidelines outlined in Section 275-37 B (3). The 20,000 square ft. of buildable area shall be established and recorded at the time of Building Permit via a stake out survey.

- i) Staff has determined that there isn't an official Isolated Natural Resource Area/ Environmental Corridor on this site; however this property closely matches the SEWRP's definition of an Isolated Natural Resource Area which states, "areas that contain significant remaining resources apart from environmental corridors. They are at least five acres in size and at least 200 feet wide. This woodland is approximately 3.25 acres in size but does meet the width requirements. A Conservation Easement will be prepared for this parcel limiting areas of disturbance on each lot to 20,000 sq. ft. as has been the past practice with other projects with isolated woodlands and isolated natural resource areas. *(Please see attached map and Environmental Corridors Fact Sheet.)*
- i) Applicant shall reconfigure the beginning locations of the sanitary and water laterals for Lot # 1 because the sanitary lateral connection cannot be less than 90 degrees to the discharge pipe from existing manhole 37.
- j) The water service lateral for Lot # 1 is to be located left of the sanitary lateral as you face the property per Developers Handbook Design Standards Paragraph II.I.1. This will require the cleanouts to be relocated. Maintain the 100-ft O.C. spacing of the cleanouts.

Seconded by Mr. Sisson. Motion carried unanimously.

11. (4)NJ LD-6-07 Citizens Bank of Mukwonago – 5450 S. Moorland Rd. – Sw ¼ Sec. 26 – Two-Lot Land Division.

Motion by Mr. Sisson to recommend to Common Council approval of the 2-lot Certified Survey Map for the property located at 5450 S. Moorland Road subject to the application, plans on file and following conditions:

- 1) General:
  - a) Applicant shall correct all drafting errors identified by Staff prior to signing the final CSM.
  - b) A 60-foot vision triangle is required at the intersection of the ROW lines. Show on the CSM.
  - c) Please verify on the easement table on page two of the CSM where the triangle # 12 is located. Please provide copies of easements #13, # 14, and document number 2394913 for the right-of-way of Small Road that was vacated per that document.
  - d) Show the scale and North arrow on sheet 2.
  - e) Applicant shall provide the open space calculation for Lot #1 prior to the City signing the CSM to make sure it meets the 30% requirement in the M-1 Zoning District.
- 2) 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) All easements shall be shown on the face of the CSM.
- 4) Sewer and water are required to all new parcels.

Seconded by Mr. Felda Motion carried unanimously.

12. (7)NJ LD-5-07 Tracy and Patricia Johnson – 18665 W. Coffee Rd. – Sw ¼ Sec. 16 – Three-Lot Land Division.

Motion by Mr. Sisson to recommend tabling of this application for a 3-lot Certified Survey Map for the property located at 18665 W. Coffee Road subject to the application, plans on file and following reason:

- 1) Plan Commission will need to act on the rezoning prior to any action on this CSM. The applicant is required to have the zoning in place first.

Seconded by Ms. Broge. Motion carried unanimously.

13. (3)TK U-40-07 Forge Bow & Pro Shop – 18300 Cleveland Ave. – Home Occupation – Archery Shop.

Motion by Alderman Ament to deny the request to operate a home occupation archery shop within an existing single-family home located at 18300 West Cleveland Avenue because it does not meet all the requirements of the home occupation section and subject to the application, plans on file and the following reasons for denial:

- 1) This home occupation request does not meet the following sections of Section 275-42.G. of the New Berlin Zoning Code:
  - (2) The total area devoted to a home occupation shall not exceed 20% of the building area of the principal dwelling unit.
  - (8) Retail and wholesale sales shall be prohibited except for the retail or wholesale sales of products or goods produced or fabricated on the premises as a result of the home occupation.
  - (9) The applicant shall demonstrate that there is sufficient off-street parking available to the home occupation. All vehicular parking for both the residence and the home occupation shall be located on the premises.

Seconded by Mr. Sisson. Motion carried unanimously.

14. (7)JT U-43-07 Insane Choppers – 18580 W. National Ave. – Outside Sales and Displays.

Motion by Alderman Ament to approve the request for Use Approval to allow outdoor displays and sales of motorcycles, scooters, ATVs and dirt bikes for Insane Choppers located at 18580 W. National Avenue subject to the application, plans on file and the following conditions:

- 1) Currently displays and merchandise are located within the right-of-way of National Avenue. All future displays shall be located outside the ultimate right-of-way of National Avenue.
- 2) Per section 275-41.C(9) outdoor sales and displays may be allowed in all commercial districts, but shall not exceed 5% of the gross floor area of the store or 500 square feet, whichever is less; shall not obstruct traffic, sidewalks or fire lanes; and shall not be used for the storage of merchandise.
- 3) Applicant shall identify an area, not greater than 119 square feet (2,380 sq. ft. store area x 5% = 119 sq. ft.), where outdoor displays and sales shall be located. This area shall be approved by DCD Staff and physically identified on the parking lot, in a manner that is suitable to DCD Staff (i.e. striping), by August 31, 2007. Outdoors sales and displays shall only be permitted within this area. Zoning Permit U-43-07 shall not be issued until this condition is met.
- 4) Displays shall only be located outdoors during business hours. Applicant has defined business hours as Monday through Friday 9:00 AM – 7:00 PM and Saturday 9:00 AM – 5:00 PM.
- 5) No outdoor storage is permitted for this business.
- 6) Outdoor displays and sales shall not interfere with designated parking spots or traffic flow.

Seconded by Ms. Broge. Motion carried unanimously.

15. (5)AB U-44-07 Lion's Den (New Berlin Eisenhower Football Booster) – 4333 S. Sunny Slope Rd. – Building to Include Restrooms, Concessions, and TeM

Meetings/Storage Room.

Motion by Alderman Ament to approve the request for Use, Site and Architecture to construct a 24' x 80' multi-use structure at 4333 S. Sunny Slope Road subject to the application, plans on file and the following conditions:

- 1) Plan of Operation:
  - a) Accessory structure shall be located 30' from any wetland boundaries.
  - b) Architecture Review Committee shall review and approve multi-use structure.
- 2) Building Inspections:
  - 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.

Seconded by Ms. Broge. Motion carried unanimously.

16. ( )RS PG-968 SEWRPC Transportation System Plan for Southeastern Wisconsin 2035 (PG-968) – Approve Plan and Resolution.

A summary was provided by Ron Schildt. No action was taken.

#### **COMMUNICATIONS**

17. Communication To: Plan Commission  
Communication From: Greg Kessler  
RE: Plan Commissioners Journal (Roadways)

Plan Commissioners acknowledged receipt of this communication.

#### **ADJOURN**

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 8:44 P.M. Seconded by Ms. Broge. Motion carried unanimously.