

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

**PUBLIC HEARINGS**

6:00 P.M. (6)NJ R-11-06 Woodridge Community Church – 13800 W. Howard Ave.  
Rezone from R-4.5 to R-4.5/C-2.

**NEW BERLIN PLAN COMMISSION**

**SEPTEMBER 11, 2006**

**MINUTES**

The public hearing relative to the request by Jeffrey S. Oliver for Woodridge Community Church for a rezoning at approximately 13800 W. Howard Avenue from R-4.5 to R-4.5/C-2 was called to order at 6:03 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Barnes, Mr. Felda, Ms. Broge, Mr. Gihring. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner, Eric Nitschke, Storm Water Engineer; Mark Blum, City Attorney. Alderman Ament is excused.

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 if there were any comments or questions for the purpose of clarification?

Dwight Randall, 3772 S. Sunny Slope Road – I assume the only action being taken tonight on the Woodridge Church project will be the rezoning issue that is outlined here? Nothing else will be added during the public hearing or #7 on the agenda?

Mayor Chiovero – This is to delineate the wetlands on a certified survey map. That is all that is going to happen tonight.

Mr. Randall – Thank you.

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

Mayor Chiovero asked if there was anyone wishing to speak in favor of this project?

Dwight Randall, 3772 S. Sunny Slope Road – Yes, I would be in favor of this. Will there be an easement placed on the snake habitat as well?

Ms. Jones – The way we have been handling the conservation easements is staff prepares those and, in particular the ones that deal with snake habitat, refer directly to that plan that has been prepared with the endangered resource expert at the State. That way it runs with the property, rather than the zoning, which at some point could possibly be changed.

Mayor Chiovero asked three times for anyone else wishing to speak in favor of this project, seeing none.

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

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

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

6:02 P.M. ( )AK PG-741(5) - Zoning Ordinances Changes – Section 275-41C(10), 275-42 F, 275-42 E(1) – Temporary Outdoor Storage Units.

## NEW BERLIN PLAN COMMISSION

SEPTEMBER 11, 2006

### MINUTES

The public hearing relative to the revisions to Section 275-41C(10), 275-42E(1), 275-42F “Temporary Outdoor Storage Units” of the Zoning Ordinance (Chapter 275-41 and 275-42 of the City of New Berlin Municipal Code) was called to order at 6:10 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Barnes, Mr. Felda, Ms. Broge, Mr. Gihring. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner, Eric Nitschke, Storm Water Engineer; Mark Blum, City Attorney. Alderman Ament is excused.

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

Mr. Kim gave a brief presentation describing the proposed Zoning Ordinances changes.

Mayor Chiovero asked if there were any comments or questions for the purpose of clarification?

John Schroeder, 16700 W. Lincoln Avenue - At this point, do you have any proposed plans for duration, location, or permitting processes?

Mr. Kim – Available on line are the key changes that were incorporated. Currently, we do not have anything relating to duration or location.

Mr. Schroeder – So, you are staying with what you presently have and you are looking for new direction for that?

Mr. Kim – We do not have anything on temporary outdoor storage areas within our Zoning Code. Anything that is added is highlighted in blue. I can get you a copy of the ordinance. There is currently no language relating to duration or location or the permitting process.

Mayor Chiovero – This is the first step in the process to make such an ordinance that would control these type of containers.

Mayor Chiovero asked three times if there were any further questions or comments for clarification, seeing none.

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

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

Vern Bentley, 3450 S. Johnson Road – If you said there is no information on this at this time, why are we having a public hearing? It sounds a little bit like a while back when you had a public hearing for the floodplain in the Observatory Subdivision. There was no information here at all, and then when you came to the next planning meeting, the Commissioners had discussion and changed everything in the Floodplain Ordinance. I am wondering why are you having a public

hearing on something that has no information?

Mayor Chiovatero – There is information.

Mr. Kim – We don't have any slides related to it, but the changes to the ordinance have been in existence for the last three or four months. It has gone before our Code Committee, where they had the opportunity to make changes. It has also been at Plan Commission to set the public hearing date.

Mr. Bentley – The gentleman just asked for information. If you've got the information here, why don't you explain it. I know you said, go on-line. I personally don't have a computer, so I can't go on-line.

Mayor Chiovatero – He asked about type of structure and duration of structures.

Mr. Kim – We limit the location of placing these temporary outdoor storage units on a hard weather surface. We don't want to see them on the grass or in the back yard. We restrict the location of where the storage units can be placed.

As far as the duration, we don't want to see them for more than 30 days on a property. If they are placed on a property for more than 30 days, we would require a permit be pulled. If the temporary outdoor storage unit is specifically related to a building alteration, then we give a longer time frame. The ordinance outlines that.

As far as the permitting process, anything over 30 days would need to have a building permit. If someone is moving into a property and they are storing things in temporary outdoor storage as part of the moving process, this ordinance outlines the restrictions on that as well.

Mr. Bentley – What is the cost of the permit?

Mr. Kim – The cost of the permit is our regular administrative permit cost which is \$200.00 + \$50.00 filing fee.

Mr. Bentley – What if someone is doing a restoration on their property and they want to take their inside belongings out and put it in there. Say it take six months to do this. Do they have to pay a \$200.00 permit?

Mr. Kim – The Ordinance specifically states that if it is part of a building permit, then we would allow a certain period of time for that resident to use that temporary outdoor storage unit for storage purposes. If from the date of the building permit, it exceeds six months, then we require that property owner to come in to apply for a permit.

Mr. Bentley, OK, thank you. Like I said, the gentleman asked a question and you really didn't have any information.

Mr. Kim – I was going to give him a copy of the ordinance.

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

Mayor Chiovatero asked if there were any comments or questions from the Commissioners?

Mr. Gihring – At a previous meeting there were some pictures that were given out. Does this proposed ordinance include the structure type things with a frame?

Mr. Kim – That was part of car ports. We tried to include the car port section of our code with

this, but that has since been removed. If we decide, at a future date to bring that back in, that will be an entirely separate ordinance update.

Mr. Gihring – So this only covers those modules, those boxes?

Mr. Kim – Correct.

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

Mayor Chiovatero closed the public hearing at 6:20 P.M.

**NEW BERLIN PLAN COMMISSION**

**SEPTEMBER 11, 2006**

**MINUTES**

**PRIVILEGE OF THE FLOOR**

The Plan Commission Meeting was called to order by Mayor Chiovero at 6:21 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Barnes, Mr. Felda, Ms. Broge, Mr. Gihring. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Amy Bennett, Associate Planner; Tony Kim, Associate Planner, Eric Nitschke, Storm Water Engineer; Mark Blum, City Attorney. Alderman Ament is excused.

Motion by Mr. Sisson to approve the Plan Commission minutes of August 14, 2006. Seconded by Mr. Barnes. Motion carried unanimously.

**PLAN COMMISSION SECRETARY'S REPORT - none**

**NEW BUSINESS**

1. (7)NJ R-9-06 Lawrence & Clare Liebe – 3440 S Monterey Dr. – Rezone from R-4 to R-4/PUD. (Public Hearing 8/14/06)

Motion by Mr. Barnes to table the request by Lawrence & Clare Liebe to rezone the property located at 3440 S. Monterey Drive from R-4 to R-4PUD based on the application, plans on file and the following reasons for tabling:

- 1) The applicant is in the process of having a wetland field delineation completed for areas they may be wetlands.
- 2) Applicant is continuing to work on various engineering concerns outlined in a letter to the applicant last month.

Seconded by Mr. Felda. Motion carried unanimously.

2. (5)NJ R-13-05 S & B Retail Investments LLC – 14901-14955 W. National Ave. – Rezone from B-2 to B-2/PUD. (Public Hearing 8/14/06)

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 14901-14905 W. National Avenue from B-2 to B-2/PUD and amend the City Center PUD to include the following language as Addendum A, "All applications for new construction within the New Berlin City Center PUD shall be required to submit an application for Conceptual Use, Site, and Architecture. Applicant shall submit conceptual site plans and architectural elevation sketches for review and comment by the City and its design consultants."

Seconded by Mr. Barnes. Motion carried unanimously.

3. (5)GK S-171-06 Observatory Heights Phase II – 17400 Horizon Dr. – 10-Lot Conceptual Subdivision.

Mr. Kessler explained that the purpose of this meeting tonight is for conceptual review. The applicant is proposing a ten lot concept plat for the Plan Commission's discussion and review. Mr. Kessler explained that when looking at the City's Zoning Code and Master Plan, the proposed concept would not be consistent, but from an historical prospective he asked for further direction and discussion from the Plan Commission.

Mr. Felda discussed the size of the proposed lots. It would be difficult to fit septic on the proposed 23,000 sq. ft. lots, however they are in the ultimate sewer service area.

Christa Wollenzien, Yaggy Colby Associates commented that there is no intention to do development until sewer becomes available.

Mr. Kessler said the question still remains, is the Plan Commission even willing to rezone the property? Right now there is 9.96 acres currently zoned R1/R2 which is undividable under the current zoning regulations.

Mr. Sisson felt the way the ordinance reads there would only be room for one homesite and unless developed as a conservation subdivision, he could not support this.

Mr. Barnes agreed with Mr. Sisson, saying that we have been looking at a lot of extraterritorial plats lately and our major comments for objection are that these new subdivisions are all on small lots and are not following what we have set as a 1 unit/5 acre density.

Mayor Chiovaturo was concerned about the special assessments and hook-up requirements arising for the existing homes if infrastructure would go past them to bring water and sewer to the proposed subdivision. Another concern would be if it would even be accepted into the sewer district area. It is a unique piece of land in that it is practically developmentally land locked. He felt the land could support more than one home, however was not in favor of ten homes.

Mr. Kessler said that because of the 9.96 acres, it would not support a land division, nor could a conservation subdivision be done.

Ms. Broge asked what other options were there for this piece of land?

Mr. Kessler answered that it could be farmed as it currently is or they could apply for a building permit and build a home as it is currently zoned R-1/R-2.

Ms. Wollenzien said that everything the Commissioners are talking about was taken into consideration. Currently, if this property is left as R-1/R-2, it would become an isolated piece of property. There is Conservancy on the East side, R-4 Zoning on the East and North side, and Institutional Zoning on the South side. If it is not rezoned, it is going to be one lot. An option would be the concept plan. Her understanding was that sewer would be available sometime next year.

Mr. Kessler said the MMSD Facilities Plan is anticipated to be adopted by the middle of next year. The question still remains, does this Plan Commission support taking a property out of R-1/R-2 and rezoning it to a higher density? The concept plan is in violation of the City's Master Plan and the current zoning of the site.

Mayor Chiovaturo said he could not support rezoning to as high a density as being asked for.

Heather McGuire, Yaggy Colby Associates asked what density the Plan Commission would be willing to entertain so they would have an idea on how to proceed?

Mr. Sisson favored following our ordinances.

Ms. McGuire restated that they were trying to prevent isolating the "country residential" making a pocket land use. She felt the concept plan created a continuous land use in the area.

Mr. Gihring felt that because this is a unique isolated area, the Plan Commission doesn't have to feel that if we make a certain decision for this area, we have to do the same thing for other areas. Mr. Gihring would be willing to consider something with less density.

Mayor Chiovero summarized that the Plan Commission was not in favor of the conceptual plan presented tonight, but would consider other configurations with less density.

4. (7)AB U-49-06 Mustang Pizza – 18560 W. National Ave. – Delivery & Pick-Up  
Pizza Restaurant.

Motion by Mr. Sisson to approve the request for Use, Site and Architecture approval to convert a single-family residence into a commercial use to operate a delivery and take-out pizza restaurant located at 18560 W. National Avenue, and approval of the requested waiver, subject to the application, plans on file and the following conditions:

Waiver Request: Applicant is requesting a waiver from Section 275-57G(5) of the Zoning Code that states that the "turning radii for a single-unit truck (SU-design vehicle) shall be provided as a minimum to all portions of the lot." It is unlikely that a vehicle larger than an SUV will use the drive-thru.

- 1) Plan of Operation:
  - a) Delivery and pick-up restaurant only. No seating for customer dining.
  - b) Hours of operation to be Monday – Thursday, 10am – 10pm, Friday & Saturday, 10am to Midnight and Sunday, Noon to 9pm.
  - c) Up to three (3) employees.
  - d) Shared parking easement agreement shall be signed and recorded by the property owners of the properties at 18560 W. National Avenue and 18580 W. National Avenue prior to issuance of the Zoning Permit.
  - e) Existing second floor shall not be leased as living space except as defined under Sect. 275-42G(1)(a).
  - f) 4 parking stalls, including 1 accessible and 2 for employees, shall be designated for Mustang Pizza on Mustang Shelly's property (18540 W. National Avenue).
  - g) Approval of the landscaping plan and payment of all sureties are required prior to issuance of Zoning Permit. Landscape plan must 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 to be approved and signed by the Department of Community Development prior to installation of any materials.
  - h) Additional plant material shall be added to east side of building to enhance area around new ramp and steps.
- 2) Transportation:

- a) Lighting plan shall be submitted and approved prior to issuance of the Zoning Permit. Lighting is required for all on-site parking, circulation and pedestrian areas (Zoning Code §275-60 I). Plan shall show light pole layout with illumination levels and chart with photometric summary information.
  - b) Drive aisle widths shall be a minimum of 12-feet wide from edge of pavement to edge of pavement for a one-way operation.
  - c) Site plan parcel depth dimension is incorrectly shown. Dimension shown is to the middle of the National Avenue Right-of-Way. Applicant shall revise site plan showing correct dimensions.
  - d) An SU design vehicle (box truck), shall be able to navigate the entire site per §275-57 G (5). Applicant has request waiver from the Plan Commission.
  - e) Applicant shall designate pick-up customers and delivery vehicle parking area for Mustang Pizza only.
- 3) Inspection Division:
- a) Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 Plans)
  - b) Building plans shall be approved by the 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) Applicant shall obtain approval from Waukesha County or the State of Wisconsin and a County Sanitary permit for a holding tank prior to any City permits being issued.
  - e) Applicant shall submit well permit information verifying the existing single-family well can adequately serve this new use of the property prior to any City permits being issued.
  - f) Wrecking permit required for the razing of the existing detached garage.
- 4) Fire Department:
- a) Building shall be fully sprinkled.
  - b) Applicant shall monitor fire flow.
  - c) A "Knox Box" shall be installed.
  - d) Applicant shall provide water flow per Wisconsin Enrolled Building Code (2002).

Seconded by Mr. Gihring. Motion carried unanimously.

5. (7)AK U-50-06 Chad & Michelle Lucchesi – 16046 W. Monterey Dr. – Second Story Addition.

Motion by Mr. Gihring to approve the request for Use Approval to allow Chad & Michelle Lucchesi to construct a second story addition to an existing non-conforming single-family home located at 16046 West Monterey Drive, subject to the conditions and concerns outlined below, and the plans and application on file:

Findings:

- 1) Per Zoning Code Chapter 275-49 "Additions and enlargements to non-conforming structures with a conforming use are permitted and shall conform to the established building setback lines along streets and the yard, height, parking, loading and access provisions of this chapter. The Plan Commission may, upon the presentation of evidence showing practical difficulty, permit modification to the yard..... provided that the encroachment upon such requirements is no greater than the existing legal encroachment".
- 2) Existing home is a legal non-conforming structure due to setback of 48.24-feet from front lot line to fascia (any relatively broad, flat, horizontal surface, as the outer edge of a cornice). R-4 zoning requires a 50-foot front setback.
- 3) The Zoning Code definition of front yard setback is "The horizontal distance between the base setback line (lot line) and the nearest roofed or enclosed portion of a building or any projection thereof, excluding uncovered steps and stoops, gutters and awnings."
- 4) The second floor addition overhang is at the same legal non-conforming setback from the front lot line or base setback line as the current overhang. (The applicant is not encroaching into the front yard setback any more than their existing one story home does. The second story will be matched and blended in with the existing 1<sup>st</sup> story).
- 5) Apply and obtain appropriate building, plumbing and electrical permits following the issuance of a Zoning Permit and prior to starting construction.

Engineering Department Conditions:

- 6) Drainage from this lot shall not adversely effect, impact any adjoining- neighboring lots.
- 7) If there are additional drain tile to be added for the proposed additions to the existing structure, the drain tile shall connect to the existing system and/or if a sump crock is added it shall drain out the front foundation wall of the house as per the code.
- 8) The driveway shall not change location through the right-of-way to the street. If the existing driveway shall be added to the additional driveway surface shall blend back into the existing driveway prior to reaching the right-of-way.
- 9) If the driveway is to change location in the right-of-way then a culvert permit will be required.

Seconded by Mr. Felda. Motion carried unanimously.

6. (5)AK S-162-01 Honeyager Field Subdivision – 14055 W. Howard Avenue – 8 Lot - Final Plat.

Motion by Mr. Gihring to recommend to Common Council adoption of a resolution approving the Honeyager Fields Final Plat located at 14055 W. Howard Avenue subject to the application, plans on file and the following conditions:

- 1) Wisconsin Department of Administration Letter of No Objection shall be on file prior to signing of final plat.
- 2) Waukesha County Letter of No Objection shall be on file prior to signing of final plat.
- 3) Payment of \$17,100.80 (\$2,137.60 \* 8 lots) in Public Site, Open Space and Trail Fees is required prior to signing of final plat.
- 4) Per Section 235-33, a Declaration of Restrictions for Honeyager Fields shall be submitted prior to signing off on the Final Plat.
- 5) Engineering/Storm Water
  - a) The Developer shall supply a letter of credit as determined by tthe City Engineer to cover the completion of the pond currently on the Honeyager/Farrell Development. The Developer shall also submit an estimate for the cost to complete the pond that Honeyager Fields drains to.

- b. Applicant shall confirm that lot pipes have been installed.

Seconded by Mr. Sisson. Motion carried unanimously.

7. (6)NJ R-11-06 Woodridge Community Church – 13800 W. Howard Ave.  
Rezone from R-4.5 to R-4.5/C-2.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 13800 W. Howard Avenue from R-4.5 to R-4.5 and C-2 to field delineate the wetlands.

Seconded by Ms. Broge. Motion carried unanimously.

8. (1)AB U-59-06 Mike & Debbie Weber – 1704 S. Berlin – Construct An  
Addition to a Legal Non-Conforming Single-Family Home.

Motion by Mr. Gihring to approve the request for Use Approval to allow Mike & Debbie Weber to construct an addition to an existing non-conforming single-family home located at 1704 S. Berlin Avenue, subject to the following conditions and concerns outlined below, and the plans and application on file:

Findings:

- 1) Per Zoning Code Chapter 275-49 “Additions and enlargements to non-conforming structures with a conforming use are permitted and shall conform to the established building setback lines along streets and the yard, height, parking, loading and access provisions of this chapter. The Plan Commission may, upon the presentation of evidence showing practical difficulty, permit modification to the yard..... provided that the encroachment upon such requirements is no greater than the existing legal encroachment”.
- 2) Existing home is a legal non-conforming structure due to setback of 21-feet from front lot line (Berlin Avenue) to fascia (any relatively broad, flat, horizontal surface, as the outer edge of a cornice). R-5 zoning requires a 40-foot front setback.
- 3) The Zoning Code definition of front yard setback is “The horizontal distance between the base setback line (lot line) and the nearest roofed or enclosed portion of a building or any projection thereof, excluding uncovered steps and stoops, gutters and awnings.”
- 4) The home addition overhang is at the same legal non-conforming setback from the front lot line or base setback line as the current overhang. (The applicant is not encroaching into the front yard setback any more than their existing one story home does. The addition will be matched and blended in with the existing home).
- 5) Apply and obtain appropriate building, plumbing and electrical permits following the issuance of a Zoning Permit and prior to starting construction.

Engineering Department Conditions:

- 6) Drainage from this lot shall not adversely effect, impact any adjoining-neighborhood lots.
- 7) If there are additional drain tile to be added for the proposed additions to the existing structure, the drain tile shall connect to the existing system and/or if a sump crock is added it shall drain out the front foundation wall of the house as per the code.

Seconded by Mr. Felda. Motion carried unanimously.

**COMMUNICATIONS**

9. Communication To: Plan Commission

Communication From: Greg Kessler, Director of Community Development  
RE: "Study: Speed humps make neighborhoods safer for kids", USA Today, 3/30/04.  
"All-Way Stops Versus Speed Humps: Which is more effective at slowing traffic speeds?"  
by David E. Clark, P.E.

Plan Commissioners acknowledged receipt of this communication.

10. Communication To: Plan Commission  
Communication From: Tony Kim, Associate Planner  
RE: Parade of Homes Report – 2006

Tony Kim, Associate Planner gave a presentation on the 2006 Parade of Homes.

11. Communication To: Plan Commission  
Communication From: Nikki Jones, Planning Services Manager  
Re: "October is National Community Planning Month", Planning, August/September 2006.

Ms. Jones suggested National Community Planning Month as a great opportunity for the Plan Commissioners to visit City Center to see some of the things we don't get to talk about or see at the Plan Commission meetings. A date and time will be set.

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 7:45 P.M. Seconded by Mr. Barnes. Motion carried unanimously.