

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

PUBLIC HEARING

6:00 P.M. (2)NJ R-1-06 Blessed Savior Lutheran Church – 15250 W. Cleveland Ave. –
Rezone from I-1 and R-5 to I-1 and R-4.

NEW BERLIN PLAN COMMISSION

April 3, 2006

MINUTES

The Public Hearing relative to the request by Michael Schober for Blessed Savior Lutheran Church for a rezoning at 15250 W. Cleveland Avenue from I-1 and R-5 to I-1 and R-4 was called to order by Mayor Chiovarero at 6:03 P.M.

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

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

Steve Matheys – 2535 S. Graylog Lane – If it is rezoned into two parcels, can the parcel zoned residential be legally subdivided in the future?

Ms. Jones – The way we are looking at the zoning map now, it is just the rezoning to R-4. The certified survey map that the applicant has been working on shows that, if it were rezoned to R-4, it potentially could be subdivided in the future, but the applicant is not pursuing that at this time.

Mr. Matheys – What is the purpose of rezoning it to R-4?

Ms. Jones – The applicant indicated that they wanted to be able to sell the parsonage to the Pastor who currently is the Priest at their church, and in doing so, the parsonage is an accessory use to the institutional property, so they cannot sell it outright to him. It would still be an accessory use to the church.

Gary Fritz – 2550 S. Graylog Lane – (Referred to map) Is this the corner of the lot here, or does it touch my lot line?

Ms. Jones – This was an outlot of Parkland Green Subdivision. This borders your lot. That would be an existing lot line. They are not changing that lot line.

Mr. Fritz – When you subdivide for the parsonage when it comes up to Graylog, is there a distance of land between the new subdivision?

Ms. Jones – This line remains the same.

Mr. Fritz – Thank you.

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

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

Mike Schober, on behalf of the applicants.- The parsonage was built in 1963, and has been used continuously as a parsonage for the church. The church was built in 1962. The current Pastor, Matt Sanders has lived there for 2-1/2 years with his wife and their two children. It is his desire to stay permanently in this community, to purchase the home, and at the same time build up some equity for retirement. When we initially came in and approached the City, our initial thought was to utilize the current driveway that goes from the home to Graylog Lane. It is similar to the situation where in 2002 the City allowed this house on Cleveland Avenue, a single parcel land division with the driveway out on Graylog Lane. We would have liked to do the same thing, but in the mean time, I think your standards changed. Your standards no longer allow an access to a cul de sac. That cul de sac is sub-standard. As an alternative, the only other way to do this was to acquire this triangle from the developer of the Graylog Subdivision. We did acquire that, and it allows us to meet the R-4 standards. We have an oversized lot, that out of necessity, has to be that size because of the 110' required frontage. We came up with the configuration on the certified survey map. After the City notice was sent out, 104 letters were sent to those same neighbors, giving them some additional details, including a copy of the certified survey map and a copy of our application. Out of that, we got two calls. There is no hidden agenda here to have a development in the future. The church would like to stay there and intends to do so.

To identify one other thing that has not come up. When the staff came out, they eyeballed the site and saw what they believed to be a wetland area. I believe there is a drainage easement coming down into the woods that probably has increased the amount of water that goes onto this site and to the development of the adjacent subdivision. I believe it appeared that none of that wetland touched any of this parcel and would not effect this land division. Pursuant to the requirements, we are having a wetland delineation done which will show up on the certified survey map when it is finally prepared.

Beyond that, I think that this situation is one that I hope is not controversial based on the reaction that I did not get from the neighbors after sending out the letters explaining everything to them. This offers the church the opportunity to have a Pastor with roots in the community with the intention that the Pastor will be available long term. The Pastor and his family get a chance to own the home that they live in and build up some equity for the benefit of themselves. Lastly, I don't believe that home is on the tax rolls at this point because it is an accessory use of the church. This will bring the City an additional \$4,000 or \$5,000 tax money every year. It seems like a win, win, win situation.

Mayor Chiovero asked if anyone else wished to speak in favor?

Mike Schober - There are a number, at least a dozen or more, church members here and rather than have them say the same things that I have said, unless there is something new, I would say let the meeting officially move on.

Jim Haag, 13865 W. Lynfield Drive – There is no hidden agenda here. We simply would like to partition this off and have the Pastor receive some equity on his home. This is something that is happening with many of the Lutheran Churches, and we are trying to follow format. The majority that live in New Berlin and members of the church would like to see this done.

Don Wachholz, 13075 W. Weather Creek Court – We have been a member of the church for over 30 years. It is starting to happen in our churches, that the Pastors want to own their own homes. I was involved in the committee when we looked for the new Pastor, and of the five candidates

we had, all of them wanted their own home. It was in the best interest of the congregation to not own a parsonage any longer.

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

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

Mayor Chiovero asked for comments or questions from the Commissioners.

Alderman Ament – Is the triangle shaped piece zoned R-5?

Ms. Jones – Yes, that is correct.

Alderman Ament – And that will become part of the R-4?

Ms. Jones – Part of it will become part of the R-4, and part of it will become part of the I-1 consistent with the lot line change.

Alderman Ament – If that was ever divided off, that would have to meet all the requirements of R-4?

Ms. Jones - Right now, we reviewed this parcel to make sure it meets both the R-4 and I-1 guidelines. This one (pointing to the map), if the zoning doesn't go through, would not meet the I-1 guidelines. It would have to be rezoned to R-4 or no land division would be granted. This parcel (pointing to the map) meets the I-1 guidelines.

Alderman Ament – On Page 7, item #10 talks about a 66' right-of-way currently. Are they requesting a waiver? The current code is 66', correct?

Ms. Jones – Correct, in new areas of the city, the developers handbook is looking for 66' right-of-way. This is an older area of the city where a lot of the streets only have a 65' right-of-way. Right now the applicant could say that this is their frontage. This leans toward the land division discussion. As staff, we wanted to point out that if they further divide this lot in two, this technically is their frontage, and that is where they need their public access. Right now, the cul-de-sac you saw in the aerial photo is a public street. The extension of approximately 114' along this lot that was approved back in 2001, at that time they did not require this homeowner to construct the rest of the street, and currently is a private right-of-way that the church owns. They are showing a 66' right-of-way. The only reason we were suggesting 65' is the current Pastor's home is only set back approximately 49.63'. To be on the safe side and keep the property conforming, I was suggesting along with Mr. Schildt's review of the CSM, to maintain this as a 65' right-of-way so that this property could remain conforming and meet the 50' front setback that is required in the R-4 District.

Alderman Ament – The 65' would be consistent with the existing road?

Ms. Jones – Correct. We had thought about asking them to dedicate this and turn it into public right-of-way. By doing that, at this point in time, it would not be constructed to city standards. We would be taking over a road that is not built to standards, plus it dead ends into the churches parking lot. Weighing all the factors, this is the recommendation.

Alderman Ament – I am not still quite clear on this. We are not requiring them to extend the roadway that is already there going into the cul-de-sac, is that correct?

Ms. Jones – That is correct. The pattern when this land division was created back in 2001, was

that it was not required for the applicant to build a public road. At such time, if the church wants to bring the road through, there is right-of-way to do that, but right now it is privately owned by the church.

Alderman Ament – So, if they would ever want to extend that they would have to have 66'?

Ms. Jones – We were looking at adjusting it to have 32' on the northern half and 33' on the southern half so that it would meet the 50' setback of the existing house. Even if it remained I-1 it would still need a 50' front setback if a public road were put through. The idea would be if we did not need the 66' road because it was not necessary, we could still maintain a conforming parcel.

Alderman Ament – I am wondering if the road on both sides of the parcel, which is now Institutional, is 65', why would we want the 66' between them.

Ms. Jones – This side is conforming, this side is a stub street. There is a small paved area that the apartments have added so that fire trucks can turn around, but right now it just stubs out, and this side is the cul-de-sac as you see it on the aerial photo.

Alderman Ament – Right on the same page on Item 8 it talks about the gas water main. It is gas, I assume?

Ms. Jones – Correct. If you look at the certified survey map, along the northern right-of-way there is a dashed line that indicates the 22' existing gas easement. We are asking that they verify the actual easement in that area, not just the main itself.

Alderman Ament – So “water” is a misprint in the staff report?

Ms. Jones – That is correct.

Alderman Ament – If they ever decide to divide that off, both parcels would then have to meet the R-4 requirements? So, it would have to be divided off in a way where the existing, what is parsonage now, would still have to meet the rear setback.

Ms. Jones – Correct, if they were to get a land division for that parcel, they would have to meet the R-4 setbacks at that time.

Alderman Ament – I would assume the delineation would be done before we actually do the rezoning, which I assume would be at the next meeting?

Ms. Jones – I would look for the Plan Commission's direction on that. If you look on the screen, you will notice there is no C-2 out there currently, however, when the Engineer and I went out to the field, we got the feeling it might be wetland. I asked the applicant, per section of the code, to delineate the wetlands if there are any. Since they are not building something, I don't know if you want to give the applicant permission to move forward and do the land division, and just before we would sign the CSM have all the information on the CSM and bring it through to you like we would any other wetland delineation with a public hearing.

Alderman Ament – The only problem I would have with that is consistency. Does the code require that before we actually rezone?

Mr. Kessler - The code establishes a procedure to delineate the wetlands, but in this instance from what I am hearing, it sounds the wetland is on the I-1 property which is not part of this application.

Alderman Ament – Thank you.

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

Mayor Chiovero closed the public hearing at 6:29 P.M.

6:01P.M. (5)AB CU-1-06 Beloit Auto Plaza – 12401 W. Beloit Road – Convenience store, gas pumps, and car wash.

NEW BERLIN PLAN COMMISSION

April 3, 2006

MINUTES

The Public Hearing relative to the request by Steve Nikolas for Beloit Auto Plaza for a conditional use for a convenience store, gas pumps, and car wash at 12401 W. Beloit Road was called to order by Mayor Chiovero at 6:29 P.M.

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

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.

Steve Nikolas, representative for the project presented additional information explaining the request.

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

Tom Peterson, 13545 W. Maple Ridge Road – I have been a resident in New Berlin for 15 years. Is the car wash portion of the operation necessary to make the proposal viable?

Mr. Nikolas – Yes, actually it is, being that we downsized the development from previous proposals. The car washes are really an important element for financial success.

Jim Derse, 4587 S. 124th Street – I am currently vice-president of the condominium association. It is zoned for a car wash?

Ms. Bennett – In our zoning code, under the B-2 District a car wash is not a listed permitted, prohibited, or conditional use. The applicant has applied for a conditional use for the gas pumps, and the car wash would be up to the Plan Commission.

Kathy Nelson, 12420 W. Beloit Road – I represent Patty's Beer, Liquor, and Deli. We would like to submit a petition with a couple hundred signatures opposing this. We are concerned with bright lights, the car wash, idling cars, and the traffic on Beloit Road. We have neighbors who are also concerned.

Mayor Chiovero – You are welcome to turn in your petition.

Barbara Hoida, 4511 S. 124th Street – What are the hours of operation? How will the noise of the car wash be addressed?

Ms. Bennett – The plan of operation stated that the convenience store is proposed to be open from 5:00 a.m. to 12:00 a.m. seven days a week.

Mr. Nikolas – We have addressed the noise concern in two ways. We have orientated the access of the car wash to face Beloit Road, away from the condos. The tests that were done on the blowers show less than the required decibel levels of the City. Just for the record, a car wash is not a night time function. It is a morning and a weekend function. I have asked many manufacturers if they could give me a breakdown of hourly car washes. As the sun goes down, car washing is pretty much discontinued. In the winter time, it's earlier in the evening. In the summer time, it's probably a little later, but it is not a night time activity.

Ms. Hoida – Is there a request to limit the night time hours?

Ms. Bennett – That is up to the Plan Commission.

Mayor Chiovatero – I would suggest sending a letter to City Hall with the hours you request.

Concerned Citizen - If not this type of operation, what is this land suitable for?

Ms. Bennett – The B-2 District is defined as General Retail and Sales District. Automotive service, bars and taverns, funeral services, personal services, restaurants, retail commercial uses are some of the listed permitted uses in the B-2 District.

Jim Derse, 4587 S. 124th Street - What provisions are going to be made for sewer and drainage? We already have a lot of water and we have no sewers around the condominiums.

Mayor Chiovatero – The storm water requirements will need to be met. It is also regulated by MMSD. It will be controlled. It will probably improve the water issues around the condominiums. Right now the water goes anywhere it wants, now it will be controlled.

Randy Woldanski, 4565 S. 124th Street - I noticed on the revised plan they have trees along the property line. Do they still plan on having the 6' fence, which was originally proposed?

Ms. Bennett – Yes.

Mr. Woldanski – So, it will be a combination of trees, grass lands, and a fence?

Ms. Bennett – Correct.

Mr. Woldanski – Is that fence line going to be extended from the one that currently exists on the property line?

Ms. Bennett – The proposed fence line starts where the arrow is (referred to map) and goes all the way to here, along the property line.

Mr. Woldanski – This is going to be extended by the developer, correct?

Ms. Bennett – The fence that is out there, I thought was on the Beloit Meadows Condo property. I don't believe it is on this property.

Mr. Woldanski – I don't think it is either. Are they proposing a second fence, so there will be two fences there?

Ms. Bennett – Yes.

Mr. Woldanski – I know that they downsized the arrangement, mostly because they were going to

be required to have a detention pond where the grass land area is. Is there any future plans to develop that?

Mr. Nikolas – In order for us to redevelop that parcel, we would have to conform with the storm water management ordinance in the City, and we would not be able to do so.

Mr. Woldanski – Is there any regulations that the City has for garbage pick-up as far as times that large garbage trucks with back up alarms can operate?

Mr. Kessler – I'm not sure that is something that can be put on a Conditional Use Permit. Conditional Use Permits tend to be for those types of issues that are related to public, health, safety, and welfare.

City Attorney Blum – There is also a provision where you license haulers that operate within the City, restricting their hours pursuant to that permit. I don't have the code section in front of me, but we can check that and provide information back to the Commission.

Mr. Woldanski – The hours of operation I saw are from 5:00 A.M. to 12:00 A.M. Does that also include the car wash? Is the car wash the type with slots that you can deposit coins and operate whenever you want? The pumps could be closed, but these days most gas stations also have credit card operations which could allow someone to fill at 2:00 A.M. if they wanted. Essentially, they are never closed. Does the car wash fall into the same category?

Mr. Nikolas – It is consistent that the car wash have similar operation hours as the convenience store. Again, I must reiterate that the car wash is not a nigh time opportunity, but if that were the case we can have the car wash shut down at the same time of the operation of the store, at midnight.

Mr. Woldanski - Has the traffic study been updated?

Ms. Bennett – Yes, it has been updated and it was received this past Friday.

Mr. Woldanski – Do you know the dates of counts?

Ms. Bennett – I'm sorry, I don't. I handed it to the Transportation Engineer. I don't have the dates of additional counts, if any were done. I can let you know.

Mr. Woldanski – I was curious because of the impact on the reconstruction of Layton Avenue, plus the fact that last year it had been done during spring break when the high schools were out and the colleges were closed, so the traffic impact was minimized.

Ms. Bennett – the Developer may have an answer to that question.

Mr. Nikolas – I am concerned about stating that the traffic was minimized when college and high school kids were not in school, I would think just the opposite. There would probably be more.

Mr. Woldanski – It would affect the studies in the morning when kids are going to school and there is a school bus stop. If you are looking at by-passes so cars can get in and out of that gas station, those by-passes would also be the same lanes that the school busses would be in. I have mentioned before that there is a petroleum pipeline on the East side of 124th Street that is 16" in diameter on the Greenfield side. Any traffic or anything built on top of that would have potential negative impact on our condominiums, if there were a leak. Normally, they don't build roadways on top of petroleum pipelines. They just don't.

City Attorney Blum – The City does license garbage haulers that operate in the City. Section 220-6 of our code says, garbage operators shall not operate between the hours of 7:00 P.M. and

7:00 A.M. and shall not operate on Sundays. Those licensed to come into the City to service this facility would have to fall under that requirement and have one of our permits.

Mayor Chiovero – Thank you.

Mr. Woldanski – Does this show the correct configuration for the entrance into the gas station on 124th Street? I saw that they had requested that the amount of footage from the corner be changed.

Ms. Bennett – Our code requires that a driveway has to be 300' from the intersection. The applicant is requesting a waiver of that requirement. This is the latest plan that I have, so this is the location they are proposing.

Mr. Woldanski – Do you know what the approximate footage is from our driveway?

Ms. Bennett – When you stopped in the other day, we measured a 160'. I think in the developers plan of operation it is noted as 150'.

Mr. Woldanski – How far do those by-pass lanes extend? In other words, is the by-pass or the merge lane from the gas station going to extend to our property line?

Ms. Bennett – I don't have an answer to that. Our Traffic Engineer is not here tonight.

Mr. Woldanski – Is there anything on signage?

Ms. Bennett – They would have to come back for additional approval and a sign permit. There is a proposed location for the monument sign, but we do not have a rendering or a plan for that sign at this time.

Mr. Woldanski – Is there any plan at this time for the other small building that is built adjacent to it.

Ms. Bennett – That would be a use approval and Plan Commission would have to review the site plan, parking, architecture, etc.

Mr. Woldanski – Would the building be somewhat similar to what the convenience store, gas station building would be?

Ms. Bennett – Yes, the Architecture Review Committee would have to review it. We have not seen anything on that yet.

Mr. Woldanski – Is the proposed dumpster fully enclosed?

Ms. Bennett – Correct.

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

Mayor Chiovero asked if anyone wishes to speak in favor?

Concerned Citizen – I went through and looked at the proposal. I was not crazy about the architectural style, so I will refer to the Commission as to whether or not that is acceptable and fits into the surrounding area. I will say that for the time that I have been in the community, 15, 16 years, the corner is somewhat of a blight. Something should be done with it, one way or another. I myself, would like to see a convenience store. It would be a convenience. I also appreciate the neighbors and their concerns that they have in regards to the noise and added traffic. That area

has grown substantially in the past decade, therefore I believe people would use it a lot. Mr. Nikolas – We have met with the Condo Association last June to discuss their concerns and questions. Every concern they had regarding the lighting, noise, landscaping, fence, and green space has been addressed with our final proposal. We have 61 percent open space on this parcel. If you divide a 2 ½ acre parcel, we are only developing 50,000 sq. ft. We have buffered ourselves from the neighbors via the landscaping and fence. We have minimized the density of the element. We have addressed the car wash issues so the exit is away from the condos. We confirmed and identified the decibel levels are less than the City requirements. We have assured the staff that the lights will be non-glare and recessed. Unless there are some other issues that I am not aware of, I believe we have addressed all the concerns.

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

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

Christopher Ruka, 4549 S. 124th Street – I object to the car wash. When it is quiet out, you will hear those blowers kick in. It's going to be a problem. I also object to the hours. I think the hours should be shortened. It is more of a residential area than it is a commercial area. People will be turning around in our entrance, thinking they are going into the gas station.

Jim Derse, 4587 S. 124th Street – I am with the condominium board and would like to go on record as saying we oppose the project in its entirety, and we object to the noise the car wash will bring. There are eight families directly facing this project in one building alone. There are 40 families in the condominium project. I consider this whole area very residential except for this little triangular piece left over on the corner. To put another gas station in here with a double lane car wash with lines of cars, will lower our property values. I can just imagine what it will be like on Sunday afternoon when we are out sitting on our lawns. This is probably the worst thing that could have come along for the condominium association to have to deal with. I feel everybody there would like a voice in this at some point before this goes much further.

Randy Woldanski, 4565 S. 124th Street – I am echoing the same comments that my neighbors and Jim Derse have just mentioned. I think most of us are objecting to the fact that the car wash is going to be there. We don't want the smells, or the noise. Even the blighted building, in our minds, is better than looking at a new development that is something that we don't want to see there because we think it is going to drive down our property values. You would feel the same way if it were on your corner. Ironically, the gentleman who said it would be nice to have a car wash and a convenience store there because a lot of people are going to use it, is the same reason we don't want it, because a lot of people are going to use it. It is going to be busy. We know that. We know they wanted the car wash because that is where the money is. The car wash is the money making aspect of this. They didn't care about putting the extra building there. The developer is doing what his client want him to do. I congratulate you for at least trying to make it somewhat better. I think I am speaking for everybody, we don't want it. You should listen to us.

Kathy Nelson, 12420 W. Beloit Road – My sister has owned a store across the street for 20 years. It took a long time to build it up. If this does open, she won't last.

Mayor Chiovero asked three times for anyone else wishing to speak in opposition, seeing none.

Mayor Chiovero asked for comments or questions from the Commissioners?

Alderman Ament – As far as the request to limit the hours of the car wash, I would assume seeing as the applicant has said that the car wash won't be used at night, he would have no problem with that being a condition once this is before us for action. Amy, you had mentioned that the car wash is not mentioned in the B-2 District. Is it in any other district in the code?

Ms. Bennett – I don't believe so. I will double check.

Alderman Ament – The parking issue that is something that will be taken up at the use and site review, assuming this is approved?

Ms. Bennett - This is the review time for Phase I, it will come back for Phase II.

Alderman Ament – I am looking at the requirements from the County for the road, and unfortunately Mr. Bolte's letter is just a little unclear under Item #3. I assume the one on Beloit is 300' from the intersection, what the County requires?

Ms. Bennett – No.

Alderman Ament – What is the County suggesting?

Ms. Bennett – As far as practicable.

Alderman Ament – That is clear as mud. It sure would be nice if they were a little more clear on what they would allow.

Ms. Bennet – Yes, it would be. They are still working with the applicant on the plans. The County gave a preliminary look at the plans, but they are not willing to go further until they have a Use Approval for the site, and they know that the project could be developed.

Alderman Ament - So, if we gave them a Use Approval and they didn't meet the 300' that they require, then what?

Ms. Bennett – The applicant is asking for a waiver.

Mr. Nikolas – The placement of both ingress and egress off of 124th and Beloit has been a concern of all of us involved. If you take the 300' off of Beloit, it would be 65' from the condo property line. If you bring it back further West, it causes cumbersome internal circulation on the site. If you push it closer to the intersection, it challenges the 300' setback. Similar with the one on 124th Street. Originally, we had it at midpoint. We tried to accommodate 300'. We are at 277' right now. We could come closer to the condo entrance, but they do not want that. Between the 300', the County, and the condo association, we felt this was the best solution. We have asked for Plan Commission support of that location.

Ms. Broge – If the car wash was not included in this proposal, would that be acceptable?

Mr. Nikolas – Without the car wash, the project would not go forward.

Concerned Citizen - I would like a Traffic Engineer to go up there during rush hour and park in the parking lot across the street to take a look at the situation with these intersections. With these two lane roads, people can't turn left, they can't turn right.

Mayor Chiovatero – I assure you that our Traffic Engineer will definitely look at it. The County is also very concerned.

Mr. Felda – Even though the hours of operation are until midnight, is availability of gasoline through the charge card system still available 24 hours?

Mr. Nikolas – That is a possibility, but is contingent upon the Plan Commission's approval of hours. There is the opportunity to set to pumps to shut of with business hours.

Mr. Felda – Right now there is a business on the opposite corner that goes to well after midnight, the Varsity Club. There is traffic and things going on there.

Mr. Nikolas – If it is the Plan Commission's directive to shut the pumps down at the hours of operation of the store, that would be done.

Mr. Gihring – I am trying to understand where the tanker trucks come in on the site plan, can they refuel without having to stop traffic on Beloit Road?

Mr. Nikolas – He does not have to stop on Beloit Road to get to the tanks. He comes in and turns West in a U-turn, backs up, fills the tanks, and then goes out.

Alderman Ament – Will there be sidewalks required?

Ms. Bennett – There are no sidewalks on the plan. Ron Schildt is requiring a 5' paved shoulder along Beloit Road.

Ms. Broge – Are the hours of operation a conditional use issue? How does the city regulate the other gas stations in the city, what are those hours?

Ms. Jones – All gas stations are conditional uses because of the underground storage tank.

Ms. Bennett – The gas pumps require the conditional use in the B-2 District.

Mayor Chiovero – When I think of all the gas stations around my house, they shut down usually around 9:00 or 10:00 P.M.. The lights are off, but the pumps are still activated if you have a credit card. That is probably not the safest thing.

Ms. Jones – We could do an inventory of some of the stations and search our files to see what the average close and open time is.

Ms. Broge – I am thinking of the station that is on the corner of National Avenue and Sunny Slope Road, I think it is Mobil. It has a residential area right next to it. That station has a car wash. Have we had any issues with that?

Mayor Chiovero – That is another one just like that over on Cleveland Avenue and Sunny Slope Road. The gas pumps ask you if you want a car wash. If you do, it gives you a code. With this code, you may enter the car wash. I don't ever remember seeing anybody using it at night, but that doesn't mean it doesn't get used.

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

Mayor Chiovero closed the public hearing at 7:10 P.M.

NEW BERLIN PLAN COMMISSION

April 3, 2006

MINUTES

Privilege of the Floor

The Plan Commission was called to order by Mayor Chiovero at 7:11 P.M.

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

Motion by Mr. Sisson to approve the Plan Commission minutes of March 6, 2006. Seconded by Alderman Ament. Motion carried unanimously.

Plan Commission Secretary's Report - none

CONTINUED BUSINESS

1. (7)NJ R-19-05 J. W. Winco, Inc. – 17301 W. Cleveland Ave. – Rezone from R-3 to O-2. (Public Hearing 3/6/06)

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 17301 W. Cleveland Avenue from R-3 to O-2.

Seconded by Ms. Broge. Motion passes with Mr. Barnes abstaining.

2. (5)NJ U-79-03 Farrell – 14201 W. Farrell Dr. – 26 Duplex Condo Units. (Tabled 2-2-04)

Motion by Mr. Barnes to remove this item from the table. Seconded by Alderman Ament. Motion carried unanimously.

Motion by Mr. Felda to approve the request for Use, Site and Architectural Approval for Honeyager and Farrell Meadows PUD, a 48-unit condominium development located at approximately 3949 South Honeyager Lane and 14201 West Farrell Drive subject to the application, plans on file and the following:

- 1) This approval is granted for the Honeyager and Farrell Planned Unit Development, a 48-unit (24 duplexes buildings) condominium project. Any deviation from the approved site plan and layout, building elevation, materials or number of buildings shall require Plan Commission approval.
- 2) Developer shall be required to file and record a final Condominium Plat for each development prior to issuance of Building Permits with the exception of any "model buildings" identified in the Developer's Agreement, which may be approved at the discretion of staff, Board of Public Works and the Common Council.

- 3) A Developer's Agreement that governs all public infrastructure, roads, utilities, easements etc; shall be approved prior to construction of public infrastructure. The City shall require either a joint or individual surety instrument from the developers of the project (Mr. Honeyager and Mr. Farrell or successors) to ensure completion of the public infrastructure work, specifically the connection to Farrell Drive, and Fohr Drive and the utilities to the Preserve at Weatherstone Meadows. The amount of the surety shall be predicated on the costs for construction and shall be made part of the Developer's Agreement.
- 4) The Developer's Agreement shall outline the phasing of the project, and shall specify a termination date for the completion of all public improvements.
- 5) No Building Permits shall be issued for this development until all the public improvements are constructed, inspected and accepted by the City Engineer. The Developer's Agreement shall stipulate the number of model units to be allowed during construction for each development.
- 6) Architectural Review Committee shall approve the exterior architecture and finalize the general architecture of the individual buildings prior to issuance of Zoning Permit for individual buildings. A revised rendering for the "Lilac" building style is required per Architectural Review Committee recommendation.
- 7) Address all engineering comments and submit construction plans for review prior to approval of Developer's Agreement by the Board of Public Works.
- 8) Rezoning of the field delineated wetlands is required. A joint application with the City and Mr. Kasian shall establish the wetland and environmental corridor.
- 9) Applicant is required to submit a revised landscaping plan that addresses the overall development and each individual building pad prior to issuance of Zoning Permit. Landscaping plan shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. The plan shall address the tree replacement schedule submitted for this development. Approval of the landscaping plan and payment of all sureties are required prior to issuance of Zoning Permit. Landscaping Plan to be approved and signed by the Department of Community Development prior to installation of any material.
- 10) All Building Permit applications shall require stake out survey with setback distances from lot line, back of curb and neighboring buildings.
- 11) Building shall meet all applicable fire codes. Fire Department approval required prior to Building Permit.
- 12) Building plans shall comply with the Wisconsin Uniform Dwelling Code.
- 13) Building plans shall be approved by the City of New Berlin Department of Community Development Inspection Division.
- 14) All necessary permits shall be obtained from the Building Inspection and Zoning Department prior to commencement of any construction at this site.
- 15) Erosion control shall be approved, permitted, installed and inspected prior to the issuance of Building Permit and any on-site grading or excavation.
- 16) Any bedroom or sleeping room in basement level shall have required egress window.
- 17) Clearwater sumps shall be connected to storm sewer laterals.

Seconded by Mr. Sisson. Motion carried unanimously.

3. (5)NJ U-93-01 Honeyager – 3949 S. Honeyager Ln. – Use, Site, and Architectural Review of 22 Duplex Condo Units (No Action 2-2-04)

Motion by Mr. Barnes to remove this item from the table. Seconded by Alderman Ament. Motion carried unanimously.

Motion by Mr. Felda to approve the request for Use, Site and Architectural Approval for Honeyager and Farrell Meadows PUD, a 48-unit condominium development located at approximately 3949 South Honeyager Lane and 14201 West Farrell Drive subject to the application, plans on file and the following:

- 1) This approval is granted for the Honeyager and Farrell Planned Unit Development, a 48-unit (24 duplexes buildings) condominium project. Any deviation from the approved site plan and layout, building elevation, materials or number of buildings shall require Plan Commission approval.
- 2) Developer shall be required to file and record a final Condominium Plat for each development prior to issuance of Building Permits with the exception of any "model buildings" identified in the Developer's Agreement, which may be approved at the discretion of staff, Board of Public Works and the Common Council.
- 3) A Developer's Agreement that governs all public infrastructure, roads, utilities, easements etc; shall be approved prior to construction of public infrastructure. The City shall require either a joint or individual surety instrument from the developers of the project (Mr. Honeyager and Mr. Farrell or successors) to ensure completion of the public infrastructure work, specifically the connection to Farrell Drive, and Fohr Drive and the utilities to the Preserve at Weatherstone Meadows. The amount of the surety shall be predicated on the costs for construction and shall be made part of the Developer's Agreement.
- 4) The Developer's Agreement shall outline the phasing of the project, and shall specify a termination date for the completion of all public improvements.
- 5) No Building Permits shall be issued for this development until all the public improvements are constructed, inspected and accepted by the City Engineer. The Developer's Agreement shall stipulate the number of model units to be allowed during construction for each development.
- 6) Architectural Review Committee shall approve the exterior architecture and finalize the general architecture of the individual buildings prior to issuance of Zoning Permit for individual buildings. A revised rendering for the "Lilac" building style is required per Architectural Review Committee recommendation.
- 7) Address all engineering comments and submit construction plans for review prior to approval of Developer's Agreement by the Board of Public Works.
- 8) Rezoning of the field delineated wetlands is required. A joint application with the City and Mr. Kasian shall establish the wetland and environmental corridor.
- 9) Applicant is required to submit a revised landscaping plan that addresses the overall development and each individual building pad prior to issuance of Zoning Permit. Landscaping plan shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. The plan shall address the tree replacement schedule submitted for this development. Approval of the landscaping plan and payment of all sureties are required prior to issuance of Zoning Permit. Landscaping Plan to be approved and signed by the Department of Community Development prior to installation of any material.
- 10) All Building Permit applications shall require stake out survey with setback distances from lot line, back of curb and neighboring buildings.
- 11) Building shall meet all applicable fire codes. Fire Department approval required prior to Building Permit.
- 12) Building plans shall comply with the Wisconsin Uniform Dwelling Code.
- 13) Building plans shall be approved by the City of New Berlin Department of Community Development Inspection Division.
- 14) All necessary permits shall be obtained from the Building Inspection and Zoning Department prior to commencement of any construction at this site.
- 15) Erosion control shall be approved, permitted, installed and inspected prior to the issuance of Building Permit and any on-site grading or excavation.

- 16) Any bedroom or sleeping room in basement level shall have required egress window.
- 17) Clearwater sumps shall be connected to storm sewer laterals.

Seconded by Mr. Sisson. Motion carried unanimously.

NEW BUSINESS

4. (2)AB U-8-06 Sunny Slope Retail – 3333 S. Sunny Slope Road – New Retail Building.

Motion by Mr. Barnes to table the request for a new retail building located at 3333 S. Sunny Slope Road per the applicants request.

Seconded by Mr. Gihring. Motion carried unanimously.

5. (5)NJ LD-1-06 Diamond Estates – 13251 W. Coldspring Road – 3-lot land division.

Motion by Mr. Barnes to table the 3-lot Certified Survey Map for the property located at 13251 W. Cold Spring Road subject to the application, plans on file and following reasons for tabling:

- 1) The applicant, Mr. Sam Diamantopoulos, (owner of 13251 W. Cold Spring Rd.) shall come to an agreement with the owners of Lot 1, CSM No. 9436 (13227 W. Cold Spring Rd.) for the dedication and the extension of the existing road reservation for a 60.05' by 130' road right-of-way for the creation/extension of Diamond Ave. Applicant shall submit to the City the quit claim, real estate transfer documents and any other supporting documentation.
- 2) Applicant shall verify if the definition of the subdivision as defined by Wisconsin State Statutes Section 236.02(12) will prohibit him from continuing with his future development.
- 3) As the applicant is required to construct a public road for this project, the applicant shall ensure all "future lots" meet the R-4 requirements.
- 4) Applicant shall address all engineering concerns outlined in a letter dated 3/24/2006.
- 5) If the applicant is unable to revise plans accordingly by the next Plan Commission meeting, a letter of extension will be required.

Seconded by Ms. Broge. Motion carried unanimously.

6. (2)NJ LD-2-06 Blessed Savior Lutheran Church – 15250 W. Cleveland Avenue – 2-lot land division.

Motion by Mr. Barnes to table the 2-lot Certified Survey Map for the property located at 15250 W. Cleveland Avenue subject to the application, plans on file and following reasons for tabling:

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.

- 1) If the Common Council denies the rezoning, the land division cannot be approved because Lot 2 will not meet the following criteria:
 - a) Minimum lot width of 200 feet for the I-1 District; and
 - b) Per Section 275-42G(b) Residential quarters for the caretaker or clergy may be provided in the I-1 District as an accessory use.
- 2) Applicant shall provide Document No. 530798, Vol. 860 of Deeds on Pages 152-153 which grants an access easement to CSM No. 9366 (Parcel 2) Glendale Drive. This document shall be updated to reflect that Blessed Savior Church grants the same access easement to Lot 2 of this CSM.

- 3) Applicant shall correct all drafting errors identified by Staff prior to signing the final CSM.
 - a) Applicant shall correctly label the dedicated ROW on Graylog as part of the former Outlot 1.
 - b) New line 4 on the CSM shall be a radial line from the origin of the Graylog Lane ROW curve (about S20° E, not S40° E).
 - c) Per the R-4 Zoning District requirements, Lot 2 is only required to have 110' of width at the 50' front setback line along Graylog Lane. The plans indicate it is about 130'. Staff recommends reducing the lot width for Lot 2 so that Lot 1 has more than the 75' of lot width. If the applicant chooses not to adjust the lot width for Lot 1 to enlarge the width along Graylog Lane, 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." The note shall also indicate the distance the applicant will need to be at in order to meet the 200' front building setback if Lot 2 is developed further in the future.
 - d) Applicant shall show the easement on Lots 1 and 2 for the gas company.
- 4) 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.
- 5) Payment of \$2,137.60 per lot in Public Site, Open Space & Trail fees required before the City shall sign the CSM.
- 6) No further land divisions shall be created without a public road connecting the existing 2 ends of Glendale Drive.
- 7) Applicant shall complete a Wetland Field Delineation per Section 275-37B(4)(b) and submit any revisions to the CSM to the City for review and approval prior to the City signing the CSM. If wetlands are found applicant shall work with the City to rezone those areas.
- 8) The Church shall provide an access easement agreement for Lot 2 to access the church property so that the owner of Lot 2 can enter the lower level garage on the side of the home.

Seconded by Alderman Ament. Motion carried unanimously.

7. (3)NJ U-10-06 Thomas Cotey – 1435 S. Calhoun Road – Referral to Plan Commission from Board of Appeals regarding a building permit to increase the size of home.

Motion by Mr. Sisson to approve the request for Use Approval to allow Mr. Cotey to construct an addition to his legal non-conforming single-family home on his property located at 1435 S. Calhoun Road subject to the application, plans on file and the following:

- 1) The Architecture Review Committee will require revised building elevations to better identify building materials and colors.
- 2) Applicant shall provide the Building Inspection Division with a legal and survey for current lot of 155' by 85'.
- 3) Applicant shall work with the Transportation Division Engineer to properly locate the driveway during the building permit review.
- 4) Applicant shall comply with all Staff conditions for Building Permit #26224.
- 5) This home is located in a single-family district and shall follow all uses outlined within Section 275-33C.

Seconded by Mr. Gihring. Motion carried unanimously.

8. (6)NJ U-57-04 Parkwood Highland- 13700 Park Central Blvd. - Revised lighting plan.

Motion by Mr. Sisson to approve the request for the below mentioned modification to the Use, Site and Architectural Approval for modification to the Parkwood Highlands Senior Apartments (National Highlands II) located at 13700 West Park Central Boulevard subject to the original application, plans on file, and Zoning Permit # U-57-04:

Applicant requests to amend condition # 4 (a) of the Zoning Permit U-57-04 which reads, "Developer shall submit revised plans that show light pole layout with illumination levels and chart with photometric summary information prior to issuance of Zoning Permit. Plan must address all parking, circulation and pedestrian areas as required by Zoning Code Section 275-60 I." Section 275-60 I (4)(a) of the Zoning Ordinance requires the average illumination shall be 2.0 foot-candles. The applicant proposes an average illumination to be 1.0 foot-candle. This is based on the recommendation of the lighting designer and the developer because of the use of this facility for senior apartments and being directly across from single-family residence. Staff concurs that an average of 2.0 foot-candles for a residential area is too high.

Seconded by Alderman Ament.

Motion by Mr. Sisson to amend the motion to add a condition stating the property owner agrees to indemnify the City against any claims arising from the waiver of the lighting standards as to the foot candles in the parking area.

Amendment seconded by Alderman Ament.

Upon voting, Motion as amended carried unanimously.

9. (7)AB U-11-06 New Berlin West High School – 18695 W. Cleveland Avenue - Tennis Courts

Motion by Alderman Ament to approve the request for Use and Site Approval to construct ten (10) tennis courts and 10' chain-link fence at New Berlin West Middle & High School located at 18695 West Cleveland Avenue, subject to the application, plans on file and the following conditions:

- 1) Plan of Operation:
 - a) Ten (10) tennis courts shall be constructed.
 - b) 10' high chain-link fence with wind screens and 4' wide gates to enclose courts shall be constructed.
 - c) Courts shall be sealed with two (2) coats of acrylic sealer over Plexi-Pave colored coating.
- 2) Inspection Division:
 - a) Apply and obtain appropriate building, plumbing and electrical permits as required by code. Fees to be waived.
 - b) Erosion control shall be approved, permitted, installed and inspected prior to any commencement of site work or issuance of any building permits.
- 3) Applicant shall follow requirements set forth in 275-42G(3).

Seconded by Mr. Barnes. Motion carried unanimously.

COMMUNICATIONS

10. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: Current status and goals of the New Berlin City Center Project

Mr. Kessler asked the Commissioners to express their current thoughts regarding the status of City Center from an architectural perspective.

Alderman Ament - It is hard to tell, at this point, how it will look when it is done. The comment I have heard, and I agree with, is originally when this was sold to the City, it was going to be this nice, quiet little area where people could walk around. It seems to have more of a big box feel with a lot of condos and apartments. I don't know how the rest will play out, so I can't pass judgment yet. The one building right on National Avenue resembles more of the flavor we were originally sold on back in the '90's.

Mr. Barnes - I think we are striving for more of what was on National Avenue. The concept of City Center always was mixed use development. We did want housing in there to generate activity for the shops and stores that were also there. Mr. Wilkens comments that he thinks the development on Bluemound Road is more the character of what the ideal City Center was. I think maybe it actually is, but the difference is that in Brookfield they are developing everything at once, instead of going building by building. I believe they have a TIF District, and they have money for infrastructure so they are developing it as an entire development at one time. When you do that, you have the ability to control the character better. When the library was put in, it almost changed the character of what City Center was going to be as far as the old world/old town type of atmosphere. The prairie style building changed what I would say was the character of the development. What is also interesting about Mr. Wilken's comments, is that he says we didn't want big boxes in City Center. If you take a look at what's going on in the development he has pinpointed, there is a Circuit City, and Linen 'n Things which are big box developments. We can still do some of this, but we need to control the architecture. As it comes piece by piece, it is a little tougher.

Mr. Gihring – I understand the concept of the City Center and I like the idea of it being like a small community where there is a mixture of commercial and residential. I think we have to be very careful about controlling the architecture of the buildings. There are some things you can do with the architecture of big boxes to make them look better, however they usually end up looking like big boxes that are just broken into different styles, and it doesn't look as nice as it should. They still don't fit in with the smaller buildings. It would be nice if we could have more grassy, open areas with benches to sit and relax. That is my idea of the original concept of the City Center. I think we are going to have a problem with parking. We are already seeing it, and we are just getting started on the construction of buildings. We may have to limit the number of buildings so that we can manage the parking.

Alderman Ament – The impression that I got of the City Center when it was first being talked about was for it not to be like Bluemound Road. It is not there to draw people from all over the area to come there. The City Center that we are looking at developing, I thought was going to be developed as more of a small, quiet area for whatever residential is there and for the existing community of New Berlin. Not that other people won't come in, but that was not the main objective. We need to be careful not to get big buildings and steer toward smaller scale.

Mayor Chiovatero – Developer's are consistently coming here asking staff and myself to back off on the architecture style. We can't do that if want the upscale look. We need to continue to control the architecture in this area to maintain the quality we want. Developer's complain that it costs too much. They have a point, but if we want this done right, the architectural style has to be right. The medical building is beautiful, but I am having trouble with the opaque windows. Hopefully, as things fill in around it, it will fit in better. I like the City Center signage. Again, I need to stress holding to our architectural standards and continue with our original plan, especially Architectural Review Committee.

Mr. Kessler – All of the proposals that we do for City Center are also reviewed by PDI which was the original City Center Consultants who developed the first plan and concepts. They along with staff have been working hard at integrating the entire site. They do the architectural reviews. I will share these comments with them. We will continue to put our foot down on architecture with Plan Commissions support.

11. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: Memo from Bob Sigrist, Manager of Inspection Services dated March 13, 2006 regarding Building Permit for legal non-conforming single family home.

The present code states that Building Permits for legal non-conforming single family homes are to be reviewed by Plan Commission. Plan Commissioners were asked if they wished to continue this.

The general consensus of the Plan Commission was to continue to review these issues.

ADDENDUM

12. (1)NJ U-13-06 Reid Contracting, Inc. – 13007 W. Forest Dr. – Warehouse and Office Space.

Motion by Mr. Gihring to approve the request for Use Approval to allow Reid Contracting, Inc. to reoccupy a legal non-conforming business building on the property located at 13007 W. Forest Drive subject to the application, plans on file and the following conditions:

- 1) Section 275-48C(2) address the non-conformity of this site. This section states, "Change to other nonconforming use. The Plan Commission may approve a change of use to a use not otherwise allowed in the underlying zoning districts if the Plan Commission finds that the new proposed use will be no more injurious than the previous use or will decrease the extent of the nonconformity. If the Plan Commission approves such a change of use, it shall be authorized to impose conditions it deems necessary to reduce or minimize any potentially adverse effect upon other property in the neighborhood, and to carry out the general purpose and intent of this chapter. Any condition imposed must relate to a situation created or aggravated by the proposed use and must be roughly proportional to its impact." It appears from the information the applicant has provided that they will not be any more intense than the last business.
- 2) The proposed use of this property is a warehouse and office space. The warehouse will store all necessary supplies for construction services and environmental services.
- 3) Inside office space will be utilizes for general office work, estimating, etc. Inside warehouse space is used for storage of all necessary supplies. There is absolutely no manufacturing, painting, etc. performed in the warehouse.
- 4) One vehicle will be stored in the warehouse (cargo-van) during the overnight hours. The van is off the premises most of the day hours.
- 5) In the future this tenant is looking to purchase one additional van and one S-10 small truck.
- 6) Frequency and duration:
 - a. Spring hours of operation will be from ~ 7:30 AM to 5:00 PM Monday thru Friday. Field Staff hours are generally 7:30 AM to 3:30 PM.
 - b. Summer hours of operation will be from ~7:30 AM to 5:30 PM Monday thru Thursday and closed in the afternoons on Fridays.

- c. Full hours of operation will be from 7:30 AM to 4:30 PM.
- 7) Total Number of employees is limited to:
 - a. Total on-site employees is limited to 2 Full time employees at the site during the day – (President and Secretary) and 1 part time employee (Vice President occupies office on a part-time basis and one additional part-time person when needed).
 - b. Generally the 8 field staff report directly to the job site (Field staff is out in the field 90% of the time.).
- 8) This tenant will not be able to sublet this building.
- 9) No semi-truck or large truck deliveries shall be made on site.
- 10) No retail sales or customer traffic on site.
- 11) Meet all applicable building and fire codes.
- 12) No outside storage is allowed.
- 13) Property owner shall provide proof of an access easement to access this property from Forest Drive via 13017 and 13121 Forest Drive.

Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Mr. Sisson to adjourn the Plan Commission meeting at 8:55 P.M.
Seconded by Mr. Gihring. Motion carried unanimously.