

*Revised - 3/14/06 Item #1,
first motion to amend by
Alderman Ament.

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

PUBLIC HEARING

6:00 P.M. (7)NJ R-19-05 J. W. Winco, Inc. – 17301 W. Cleveland Ave. – Rezone from R-3 to O-2.

NEW BERLIN PLAN COMMISSION

March 6, 2006

MINUTES

The Public Hearing relative to the request by John Winkler for J. W. Winco, Inc. for a rezoning at 17301 W. Cleveland Avenue from R-3 to O-2 was called to order by Mayor Chiovero at 6:02 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; Ron Schildt, Transportation 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 Chiovero asked if there were any comments or questions for the purpose of clarification?

Joe Russ, 16800 W. Shadow Drive - Will this require a change to the Master Plan?

Ms. Jones – There is an amendment that takes place. Generally, Plan Commission acts on the rezoning and forwards their recommendation to Common Council. If Common Council approves the rezoning, then Plan Commission would follow up with a resolution to amend the Future Land Use Map.

Vern Bentley, 3450 S. Johnson Road – Does this require a 50' buffer to the residential neighbors?

Ms. Jones – There is a 40' buffer. There is a table in our Zoning Code that looks at residential next to office buildings greater than 20,000 sq. ft., so a 40' buffer would need to be maintained.

Mr. Bentley – Does that meet the requirements of the O-2 District?

Ms. Jones – There are several different requirements that we look at. We look at building set-backs, parking set-backs, and buffer areas. The way they are designing the building now would meet some of those. They may possibly have to look at some waivers from Plan Commission at the time of Use, Site, and Architecture review.

Mr. Bentley – Could they ask for a waiver for a smaller buffer?

Ms. Jones – They could ask for a reduced buffer. That is in the section where the Plan Commission can grant waivers if they choose.

Steve Nersesian, 17351 W. Cleveland Avenue – Can we fight the changing of the buffer?

Ms. Jones – They are proposing to rezone this to office, and the light industrial type of use is a conditional use within the O-2 District. You will have an opportunity again when they bring in the conditional use application and the storm water and utility plans. There is a public hearing at that time.

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

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

Bill Luterbach, 2880 S. 171st Street – We own the property to the South of the Winkler facility. We would have no objection to them building this. I understand this is going to be a brick building that will match the existing structure, and I think it will fit in well with the neighborhood and the overall Master Plan. As a builder, I think it will come, whether it passes or not, to look to try to reduce the buffer zone a little bit for parking only. The concept here going to the West. I would also look that if we get a chance, staff would take some pictures out there to see what is there as far as privacy. That is a matter of timing and in one of the out structures I do not believe is occupied. There is no building encroaching in buffers, just parking.

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

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

Joe Russ, 16800 W. Shadow Drive – I oppose this rezoning for a number of reasons. First of all, it would be a change in the Master Plan. We made the Master Plan, we should try to stick by it.

Secondly, the areas west of Calhoun on Cleveland Avenue is already under attack. We have the Greek Church, Deer Haven, now this is going to nibble away a little more at it.

Thirdly, the company did have property along Beloit Road, which they sold but they could have used it to expand. Instead, they are asking us to change the Master Plan. The lot they sold would not have required any changes. I am confused because the public hearing that was scheduled to be last week was for manufacturing, this week the public hearing is for office. I am concerned that once they get the office building, they will want a zoning change to manufacturing.

Finally, I don't think there should be any reduction in the buffer. The buffer is there to protect the neighbors. There is a residence and a school nearby, therefore, I believe we need all the buffer that is required.

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

Mayor Chiovero asked for comments or questions from the Commissioners.

Alderman Ament – On page 3 of the Staff Report under Sanitary Sewer Provision it says within current sewer service area Basin 6 and then it says basin capacity available is none, however applicant will need to prove they will have no increase. But, on page 4 under Findings under (d) it says estimated number of employees to increase due to the expansion, initially 2 and they do not estimate more than 18 more over the next 5 years. Is there a conflict here? On one hand we are going to require them to prove there will be no increase, yet they could have up to 18

additional employees.

Ms. Jones – When they come for use, site, and architecture, they are required to show storm water and verify how many bathrooms. Our Engineer has talked to Debra Jensen at MMSD and asked, based on the things that they are thinking of doing, is this going to have an increase on the system? Her reply was no and they can proceed as long as they are not going to add a great deal of sewer capacity need. As with any project, we deal closely with MMSD because of the capacity issues and limits that we are at right now.

Alderman Ament – Can we get that in writing from MMSD?

Ms. Jones – JP Walker has that information, but we will be looking for more as they start developing. Floor plans and architecture will help their determination. Right now I don't have a floor plan to show them showing for sure how many bathrooms they plan to have. That will be required for MMSD to take a more serious look.

Alderman Ament – My concern would be that we would lead these folks on to thinking they could do this, and then later on have an issue with the sewer assuming that it would get rezoned.

Ms. Jones – I have talked with their architect about that. They are fully aware of the situation.

Alderman Ament – On page 13 of the Staff Report, does #2 under Additional requirements apply to all the districts in Table 275-35-2 or just O-1?

Ms. Jones – You are right, it does not define if it is applying to all districts.

Alderman Ament – When this comes back, can we be clear on that?

Ms. Jones – I will look into it further.

Mr. Felda – I would like to compliment the applicant on not connecting the driveways. I need staff to comment on the control flow roof allowing the building to require no storm water collection.

Ms. Jones – We do not have any specific information on that today. They are planning to submit that information with their use approval application. It is one of the options since it is a tighter site so they can save some space on ponds in the area. They will be working closely with Eric Nitschke at that time.

Mayor Chiovaturo asked if there were any further questions or comments from the Commissioners, seeing none.

Mayor Chiovaturo closed the public hearing at 6:23 P.M.

NEW BERLIN PLAN COMMISSION

March 6, 2006

MINUTES

Privilege of the Floor

The Plan Commission was called to order by Mayor Chiovero at 6:30 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; Ron Schildt, Transportation Engineer; Eric Nitschke, Storm Water Engineer; Mark Blum, City Attorney.

Motion by Alderman Ament to approve the Plan Commission Minutes of February 6, 2006. Seconded by Mr. Felda. Motion carried unanimously.

Plan Commission Secretary's Report - Materials that arrived earlier today referring to Deer Haven Golf Course were distributed to Plan Commissioners. Information on the WAPA/WASLA 2006 Spring Conference was supplied to the Plan Commissioners.

CONTINUED BUSINESS

1. (3)AB CU-9-05 Deer Haven Golf Course – 19300 W. Cleveland Ave. – Club House and Banquet Facilities. (Public Hearing 1/9/06, Tabled 2/6/06)

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

Mr. Jeff Kernen, applicant for the project gave a short presentation further explaining plans for the banquet facility and club house.

Motion by Mr. Sisson to approve the request for a banquet facility and club house to be located at 19300 West Cleveland Avenue and the waiver described below subject to the application, plans on file, and the following conditions:

Waiver Request: Applicant requests a waiver to deviate from the City's lighting requirement under Sec. 275-601(4)(a). The applicant requests that the average illumination shall be lower than 2.0 footcandles. Applicant requests no additional lighting other than existing building fixtures and eighteen (18) 1.5' – 2' marker lights to outline the entrance of the lot.

- 1) Plan of Operation
 - a. Hours of operation shall be 6 am to 12 am, daily, as booked.
 - b. One (1) to four (4) employees per booked events.
 - c. Maximum allowed capacity of facility is 225.
 - d. The Conditional Use Permit shall run with the management of this banquet facility as identified on the application. If there is a change in ownership or management of the banquet facility, a new Conditional Use Permit shall be applied for and obtained.
 - e. Liquor license required for alcohol service at banquet facility.

- 2) Architectural Plans -

- a. Prior to issuance of the Conditional Use Permit, approval of the revised exterior architecture and materials for construction by the Architectural Review Committee is required. Applicant shall submit material samples for review and archiving.
- 3) Site Plan –
 - a. All ADA requirements shall be met for parking area slopes, 5.0% longitudinal slope or less with no more than a 2% cross slope, sidewalk pathways 5.0% or less and also at the entrances. Submitted plans reflect correct slopes.
 - b. Maximum 4:1 slopes allowed between turn around drive and lot line.
 - c. The parking lot run-off shall be treated prior to leaving the site for water quality issues. Please contact the Storm Water Division Engineer for requirements.
- 4) Transportation –
 - a. Parking lot light usage shall be limited to actual booked banquets. All lights shall be turned off at close (12am). Applicant shall investigate motion sensors on lights. Lighting plan does not follow City Standards. Parking lot lights shall be turned off if events are not scheduled.
 - b. Parking lot lights shall be directed downward toward the parking lot. An average illumination of 2.0 foot- candles is required for all on-site parking, circulation and pedestrian areas. Applicant has requested a waiver from the Plan Commission. Average-to-minimum and maximum-to-minimum values are acceptable.
 - c. Old driveway access from Cleveland Avenue to lot should be removed and restored.
- 5) Landscaping Plan -
 - a. Identification of any trees to be removed per Section 275-54 B (3) (b) [2]. Tree inventory required if trees are greater than 4" DBH.
 - b. 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.
- 6) Building Inspections -
 - a. Approval of Waukesha County Department of Health for the use of existing septic and well for the proposed banquet facility is required prior to issuance of Zoning Permit.
 - b. All necessary permits must be obtained from the Building Inspection and Zoning Department prior to commencement of any construction at this site.
 - c. Building plans shall be stamped and signed by a registered architect or engineer (Comm 61.20 Responsibilities).
 - d. Building plans shall be approved by the Wisconsin Dept. of Commerce (Comm 61.70 Certified municipalities and counties. (5)(c) 3.
 - e. Apply and obtain appropriate building, plumbing and electrical permits.
 - f. Erosion control shall be applied for, approved, installed and inspected prior to any on site grading or excavation.
- 7) Fire -
 - a. Fire and Emergency services shall review proposed canopy over the drop off area for sufficient height to respond to an emergency. Canopy must also meet ADA accessibility requirements.
 - b. Building shall be fully sprinklered.
 - c. Monitor sprinkler flow.
 - d. Knox box required.

- e. Applicant shall meet flow requirement of Comm. 62.0904 (b) 6.

Seconded by Ms. Broge.

*Motion by Alderman Ament to amend the motion to have the property owner agree to indemnify the City against any claims arising from the waiver of the lighting standards as to the foot candles in the parking area.

Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Alderman Ament to reduce the hours of operation from 8:30 A.M. until dusk.

Seconded by Mr. Felda. Motion fails with Alderman Ament and Mr. Felda voting Yes, and Mayor Chiovero, Mr. Gihring, Mr. Sisson, Ms. Broge, Mr. Barnes voting No.

Motion by Alderman Ament to restrict the hours of operation from 6:00 A.M. until 9:00 P.M Sunday-Thursday, and 6:00 A.M. until 12:00 midnight Friday and Saturday.

Seconded by Mr. Felda. Motion carried unanimously.

Upon voting the original motion as amended passes with Mayor Chiovero, Mr. Gihring, Mr. Sisson, Mr. Felda, Ms. Broge, Mr. Barnes voting Yes, and Alderman Ament voting No.

NEW BUSINESS

2. (5)AB S-168-04 Victoria Estates – 5150 S. Sunny Slope Rd. – Final Plat.

Motion by Mr. Felda to recommend to Common Council adoption of a resolution approving the Victoria Estates 10-lot Final Plat subdivision located at 5150 S. Sunny Slope Road subject to the application, plans on file and the following:

- 1) Applicant shall address all outstanding engineering concerns to the satisfaction of the City Engineer prior to signing the Final Plat.
- 2) Payment of \$2,137.60/lot in Public Site, Open Space and Trail Fees required prior to the City of New Berlin signing the Final Plat.

Seconded by Mr. Barnes. Motion carried unanimously.

3. (7)GK U-4-06 Veteran's Memorial - 16280 W. National Ave. – Veteran's Memorial.

Motion by Mr. Sisson to approve the request for Use, Site and Architectural Approval for The New Berlin Veterans Memorial Veterans Committee to erect a Veterans Memorial to honor New Berlin citizens who have served in the armed forces in service to the United States located at 16280 W. National Avenue subject to the completeness of the application, the plans on file, and the following conditions:

- 1) Applicant will need to contact Digger's Hotline to locate utilities on site.
- 2) All permit fees to be waived.
- 3) A separate sign permit will need to be applied for if signage will be placed on site.
- 4) All appropriate building, plumbing and electrical permits will need to be applied for as needed. The Department of Community Development can assist in identifying when these are necessary.
- 5) Erosion control shall be approved, permitted, installed and inspected prior to any commencement of site work or issuance of any building permits.

Seconded by Alderman Ament. Motion carried unanimously.

4. (4)NJ S-157-00 Lyndenwood – 14500 and 14510 W. Beloit – 8-lot subdivision- final plat.

Motion by Mr. Gihring to recommend to Common Council adoption of a resolution approving the eight (8)-lot final plat for the Lydenwood Subdivision, a mixed-use condominium development, subject to the application, plans on file and the following conditions:

- 1) Applicant shall address all outstanding engineering concerns to the satisfaction of the City Engineer prior to signing of Final Plat.
- 2) Waukesha County "Letter of no Objection" shall be on file prior to signing of final plat.
- 3) Wisconsin Department of Administration "Letter of no Objection" shall be on file prior to signing of final plat.
- 4) Applicant shall correct all typos and grammatical errors identified by Staff.
 - a. Applicant shall identify the tree preservation easement and specify any standard language for this easement.
 - b. The final plat shows a temporary cul-de-sac at the West end of Lindenwood Dr. However, a full cul-de-sac was constructed. The Plat shall be revised to indicate this is a permanent cul-de-sac.
 - c. Applicant shall add to the Final Plat the standard language regarding the homeowners responsibility for pond maintenance as identified in the Developer's Handbook.
 - d. Developer shall submit a Mylar copy of the final plat to the City.
- 5) Applicant shall install a streetlight at Beloit and Forest Ridge Drive this spring.
- 6) As part of the Use Approvals for the multi-family units on lots 3 and 8, the applicant shall be required to obtain an amendment to the Rm-1/PUD Ordinance 2223 to reduce the 40' front setback to 10' setback for building 1 of the multi-family.
- 7) Applicant shall include a chart/table on the face of the Final plat to include PUD setback information.
- 8) Any entrance monument signage shall require a separate sign application and associated plans.
- 9) Payment of Public Site, Open Space and Trail fees are required prior to City signing Final Plat. (Fee will be based on rates in affect at the time of Final Plat approval, current rate would be \$2,137.60 per lot).
- 10) Applicant shall pay the Water Impact Fee at the time of issuance of the building permit for each multi-family building and at the time of plating the single-family lots.
- 11) The developer's agreement states that the developer shall pay his proportionate share of extra charges for resizing the sanitary sewer in Beloit Rd. due to the increased density of rezoned projects like this, and Hickory Hills, and Motion Fitness, after sewer was installed. Applicant shall work with the Engineering Staff to complete this task.
- 12) Applicant shall submit a copy of the Homeowners Association Covenants as required per Section 235-33.
- 13) Applicant shall obtain Use, Site, and Architecture approval prior to the issuance of any building permits being for lots 1, 3, and 8.
- 14) Plan Commission understands there will be a creation of a Homeowners Association by the developer for the multi-family, single-family, condominium and subdivision districts.

Seconded by Mr. Sisson. Motion carried unanimously.

5. (1)AB U-5-06 Cingular Wireless - 1855 S. Sunny Slope Road – Replacement of antennas and equipment cabinet.

Motion by Mr. Sisson to approve the request for Use, Site and Architectural Approval for Cingular Wireless to replace six (6) antennas at 123' to the existing 118' WEPCO transmission tower and erect a new equipment shelter at 1855 S. Sunny Slope Road and the waiver request described below subject to the completeness of the application, the plans on file, and the following conditions:

Waiver Request: Applicant has requested a waiver to deviate from the City's landscaping requirements under Sec. 275-41C.(16)(j)[4]. The site has existing landscaping as noted on the submitted plans and any additional landscaping will not serve a functional value based on the existing topography and surrounding land uses, including the railroad, utilities and trail.

- 1) Equipment shelter shall be constructed with brick as required by the Architecture Review Committee. Applicant shall submit a color elevation and materials prior to the Zoning Permit being issued.
- 2) Equipment shelter shall be designed to accommodate communication equipment for future providers, if necessary.
- 3) Per Section 275-53B(1)(11) All existing nonconformities and outstanding code violations shall be identified, resolved, and remedied.
- 4) Building plans shall be signed and stamped by a registered architect or engineer per Wisconsin Enrolled Commercial Building Code (Comm. 61.31 responsibilities).
- 5) 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).
- 6) Apply and obtain appropriate building, plumbing and electrical permits.

Motion by Mr. Gihring to add a waiver to allow brick veneer rather than full brick.

Seconded by Alderman Ament. Motion fails with Alderman Ament, Mr. Gihring, Mr. Felda voting Yes and Ms. Broge, Mr. Sisson, Mr. Barnes, Mayor Chiovarero voting No.

Original motion seconded by Mr. Gihring. Motion passes with Mayor Chiovarero, Mr. Gihring, Mr. Sisson, Ms. Broge, Mr. Barnes voting Yes, and Alderman Ament, Mr. Felda voting No.

6. (3)NJ R-3-04 Gerald Timmers – 19925 W. Pinecrest Lane-Resolution to update Future Land Use Map.

Motion by Mr. Sisson to approve the resolution to amend the Future Land Use Plan and Map to correctly reflect the rezoning action taken in Ordinance #2251 to rezone the property located at 19925 W. Pinecrest Lane from R-1/R-2 and C-2 to R-3 and C-2.

Seconded by Mr. Gihring. Motion passes with Mayor Chiovarero, Mr. Gihring, Mr. Sisson, Mr. Felda, Ms. Broge, Mr. Barnes voting Yes and Alderman Ament voting No.

7. (4)NJ R-9-03 Lyndenwood Condominiums – Amendment to Ordinance No. 2223.
Motion by Alderman Ament to recommend to Common Council adoption of an ordinance that approves the amendment to Ordinance Number 2223 the Lyndenwood PUD to modify the front setback requirements in Section Rm-1/PUD (5)(a) of the PUD from "40 feet from the base setback line of a public street" to "10 feet for building number 1 only."

Seconded by Mr. Barnes. Motion carried unanimously.

COMMUNICATIONS

8. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: Planning Commissioners Journal, Winter 2006

Plan Commissioners acknowledged receipt of this communication.

Motion by Mr. Barnes to adjourn the Plan Commission meeting at 8:05 P.M. Seconded by Mr. Sisson. Motion carried unanimously.