

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

PUBLIC HEARINGS

6:00 P.M. (6)OA R-14-05 Park Central – 13700 Park Central Blvd. – Rezone from Rm-1, R-4.5,C-2 to Rm-1,R-4.5,C-2 to Reflect the Northern Boundary of Park Central Blvd.

NEW BERLIN PLAN COMMISSION

December 5, 2005

MINUTES

The public hearing relative to the request by Michael Losik for Park Central for a rezoning at 13700 Park Central Blvd. from Rm-1, R-4.5, C-2 to Rm-1, R-4.5,C-2 to Reflect the Northern Boundary of Park Central Blvd. was called to order by Mayor Chiovatero at 6:03 P.M.

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

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

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

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

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

Bob Zoelle, UFG, Appleton, Wisconsin – As Mr. Agbaji has said, this is really a housekeeping issue. Through the process of design development with the Engineering staff and Planning staff and many meetings with the neighbors, it was determined that shifting the road location to create more of a T-turn would be beneficial to them. That is what drove the redesign.

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

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

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

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

PUBLIC HEARING

6:01 P.M. (4)AB R-16-05 Richard D. Gazdecki – 19430 W. Vista Dr. – Rezone from R-1/R-2 & C-2 to R-1/R-2 & C-2.

CANCELLED

PUBLIC HEARING

6:02 P.M. (4)NJ R-15-05 Living Word Church – Approx. 21400 W. National Ave. – Rezone from Q-1, R-1/R-2 to I-1.

CANCELLED

PUBLIC HEARING

6:03 P.M. (4)NJ R-12-04 Living Word Church – Approx. 21400 W. National Ave. – Rezone from Q-1, R-1/R-2 to R-1/R-2.

CANCELLED

NEW BERLIN PLAN COMMISSION

December 5, 2005

MINUTES

Privilege of the Floor

The Plan Commission Meeting was called to order by Mayor Chiovatero at 6:30 P.M.

In attendance were Mayor Chiovatero, 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; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitschke, Storm Water Engineer; City Attorney, Mark Blum. Mr. Teclaw was excused.

Motion by Alderman Ament to approve the Plan Commission Minutes of November 7, 2005. Seconded by Mr. Gihring. Motion carries with Mr. Barnes voting present.

Plan Commission Secretary's Report – no report

CONTINUED ITEMS

1. (5)AB U-83-05 T-Mobile – 12660 W. Beloit Rd. – Co-location and Out-Building. (Tabled 11/7/05)

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

Mayor Chiovatero asked if this request meets our Code? Ms. Bennett said co-location is required by our Code and referenced Sec. 275-41C(16)(i). This request was approved in 2004, but they are back at Plan Commission because their permit expired.

Motion by Mr. Gihring to approve the Use, Site and Architectural for T-Mobile to co-locate 9 antennas at 140' to the existing 495' guyed tower and erect a new equipment shelter at the VCY transmission station located at 12660 West Beloit Road subject to the completeness of the application, the plans on file, and the following conditions:

- 1) Equipment shelter shall be designed to accommodate communication equipment for future providers.
- 2) Building plans shall be signed and stamped by a registered architect or engineer per Wisconsin Enrolled Commercial Building Code (Comm. 61.31 responsibilities).
- 3) 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).
- 4) Apply and obtain appropriate building, plumbing and electrical permits.

Seconded by Mr. Sisson. Motion carried with Mayor Chiovatero, Mr. Gihring, Mr. Sisson, Mr. Felda, Mr. Barnes voting Yes, and Alderman Ament voting No.

2. (4)NJ S-163-02 The Conservancy – 13150 W. Janesville Rd. – Final Plat. (Tabled 11/7/05)

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

Motion by Mr. Barnes to recommend to Common Council adoption of a resolution approving a 67-lot final subdivision plat for the Conservancy of New Berlin Subdivision located at approximately 13150 W. Janesville Road, subject to the application, plans on file and the following conditions:

- 1) The applicant shall receive title from the City at to the 100' x 100' area on Outlot 3, which is currently owned by the City for Well #11. In consideration for said conveyance the applicant shall provide the City with a right of entry and license agreement to allow the City to access and utilize Well 11 for municipal water utility purposes pending re-conveyance of said Lands to the City pursuant to the option to purchase agreement between the parties. The Plan Commission shall then recommend approval to Common Council of the conveyance of the 100' x 100' area of Outlot 3 per Section 275-15D(8)(a) of the Zoning Code and 62.23 of State Wisconsin Statutes. This conveyance and right of entry and license agreement will permit the City to sign the Final Plat as the official governing body for the City, not as an owner of land within the Subdivision. The conveyance and the right of entry and license agreement shall be approved as to form by Staff and must be further be approved by the Common Council.
- 2) Applicant shall address all outstanding engineering concerns to the satisfaction of the City Engineer prior to signing of Final Plat.
 - a) Sheet 1 of 7:
 - i) What does the last sentence in Item 3 mean? By what right?
 - b) Sheet 2 of 7:
 - i) In General Notes:
 - ii) Note # 4, I'm not sure if this was missed in the previous submittal but the last sentence in Item 4 is also stated in Item 6.
 - iii) Note # 12 What does that sentence mean? Are you indicating that the Isolated Natural Resource Area as shown are per the County's GIS System?
- 3) Wisconsin Department of Administration Letter of No Objection shall be on file prior to signing of final plat.
- 4) Waukesha County Letter of No Objection shall be on file prior to signing of final plat.

- 5) Applicant shall correct all typos and grammatical errors identified by Staff.
- 6) Payment of \$143,219.20 (\$2,137.60 * 67 lots) in Public Site, Open Space and Trail Fees is required prior to signing of final plat.
- 7) The City will require a pedestrian walking path to be constructed through Outlot 2 rather than just an easement over the entire outlot 2 for the City to construct the trail at a future point in time. Applicant shall meet with Staff to determine the timing of design and installation.

Seconded by Mr. Felda.

Motion by Alderman Ament to remove Condition #2.
Seconded by Mr. Felda. Motion passes unanimously.

Motion by Alderman Ament to amend Condition #7 having the last sentence read, Applicant shall meet with Staff to determine the timing of design and installation, maintenance, and materials with a separate agreement, prior to the December 13, 2005 Common Council meeting.

Seconded by Mr. Barnes. Motion carried unanimously.

Upon voting, motion to approve as amended carried unanimously.

NEW BUSINESS

3. (2)OA R-12-05 Sunny Slope Retail – 3333 S. Sunny Slope Rd. – Rezone from Rm-1 to B-2.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 3333 S. Sunny Slope Road from Rm-1, Multi-Family Residential District to B-2, General Retail Sales and Service District.

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

4. (4)AB R-16-05 Richard D. Gazdecki – 19430 W. Vista Dr. – Rezone from R-1/R-2 & C-2 to R-1/R-2 & C-2.

Motion by Mr. Barnes to table the request by Richard D. Gazdecki to rezone the property located at 19430 W. Vista Drive from R-1/R-2 & C-2 to R-1/R-2 & C-2.

Seconded by Mr. Sisson. Motion carried unanimously.

5. ()GK PG-741 Zoning Ordinance Revision – Floodplain Zoning Ordinance.

No Action.

6. (6)OA LD-13-05 Park Central – Multi-Family – 13700 Park Central Blvd. – Nw ¼ Sec. 13 – One-Lot Land Division.

Motion by Mr. Sisson to recommend to Common Council approval of the Certified Survey Map for the property located at 13700 Park Central Boulevard subject to the plans on file and following conditions:

- 1) Applicant shall correct any drafting errors identified by Staff prior to signing of final CSM.
- 2) All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.

Seconded by Mr. Gihring. Motion carried unanimously.

7. (4)NJ LD-14-05 Living Word Church – Approx. 21400 W. National Ave. – Sw ¼ Sec. 6 - Two-Lot Land Division.

Motion by Mr. Sisson to table the request by Living Word Church for a two-lot land division located at approx. 21400 W. National Avenue.

Seconded by Mr. Barnes. Motion carried unanimously.

8. (3)AB LD-15-05 Rundle-Spence Manufacturing Co. – 2075 S. Moorland Rd. – Se ¼ Sec. 2 – Two-Lot Land Divison.

Motion by Mr. Sisson to recommend to Common Council approval of the Certified Survey Map for the property located at 2075 S. Moorland Road subject to the application, plans on file and the following conditions:

- 1) A final copy of the CSM shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- 2) Applicant shall show the easement on Lot 1 for access to Lot 2 from S. Moorland Road, if applicable.
- 3) Applicant shall show the easement on Lot 2 for access to Lot 1 from W. Rogers Drive, if applicable.
- 4) Applicant shall show a vision triangle on CSM for Lot 1.
- 5) A note shall be placed on the face of the CSM prior to the City signing the CSM stating, "The use of the holding tank is until sewer capacity is made available from the Milwaukee Metropolitan Sewerage District" and the applicant shall agree to enter a hold harmless agreement with the City of New Berlin with respect to the holding tank.
- 6) Per Waukesha County Department of Parks and Land Use a temporary holding tank agreement, between the property owner and the local municipality is required to be recorded on the property deed.
- 7) Access restriction to Lot 1 & Lot 2 shall be shown on the plat, and shall be confined to the existing driveway location on Moorland Road and the existing driveway location on Rogers Drive. No further driveway access points will be granted in the future without PC approval and affidavit of correction filed for the CSM.
- 8) The new address for Lot 1 shall be 2035 S. Moorland Avenue.
- 9) Payment of \$2464.14 in Public Site, Open Space & Trail fees required before the City shall sign the CSM.

Seconded by Mr. Barnes. Motion carried unanimously.

9. (7)NJ S-167-04 Woodland Meadows – 3335 S. Catamount Dr. – 6-Lot Final Plat.

Motion by Alderman Ament to recommend to Common Council adoption of a resolution approving the Woodland Meadows Final Plat for the property located at 3335 S. Catamount Drive 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 of Final Plat.
- 2) Wisconsin Department of Administration Letter of no Objection shall be on file prior to signing of final plat.
- 3) Waukesha County 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.

- 5) The Tree Preservation Easement Note(e) should be updated to reflect that “no decks are allowed within the open space (Outlot 1).
- 6) Payment of \$10,688.00 (\$2,137.60 * 5) new lots in Public Site, Open Space and Trail Fees is required prior to signing of final plat.

Seconded by Mr. Gihring. Motion carried unanimously.

10. (4)OA S-160-01 Rogers Glen – 5265 S. Racine Ave. – 62-Lot Final Plat.

Motion by Mr. Barnes to recommend to Common Council adoption a resolution approving the Roger’s Glen Conservation Subdivision Final Plat located at 5265 S. Racine Avenue, pursuant to the provisions of Chapter 235 and 275 of the City of New Berlin Municipal Code, and Section 236 Wisconsin Statutes, subject to the application, plans on file and the following:

- 1) Applicant shall submit a letter of commitment and post appropriate surety instruments to address all outstanding engineering concerns to the satisfaction of the City Engineer prior to signing of Final Plat.
- 2) Wisconsin Department of Administration Letter of no Objection shall be on file prior to signing of final plat.
- 3) Waukesha County Letter of no Objection shall be on file prior to signing of final plat.
- 4) Payment of \$128,256 (\$2,137.60/lot x 60 lots) in Public Site, Open Space and Trail Fees is required prior to signing of final plat.
- 5) Correct “Covenant and Restrictions for the Septic System Easement Areas in the Roger’s Glen Subdivision” text on the final plat to prohibit Private Owner Waste Treatment Systems (POWTS) within the Wetlands, the Primary Environmental Corridor and the Isolated Natural Resource Areas. Text shall also designate the role of the City of New Berlin as advisory rather than permitting.
- 6) Add wetland boundary restrictions on the face of the final plat.
- 7) The City of New Berlin shall require the developer to clearly mark the wetlands, PEC & INRA with orange construction fence. The fences shall be in place until each building receives occupancy. The City of New Berlin will require the wetlands and rear setback line to be shown on the individual plats of surveys that are submitted along with the building permit application.

Seconded by Mr. Sisson. Motion carried unanimously.

11. (5)NJ PG-956 Official City Map Amendment – Spruce Road Utility Easement

Motion by Alderman Ament to recommend to the Common Council approval of a resolution to amend the “Official City Map” of New Berlin with respect to Spruce Road “Parcel D” to include a new 60 foot Sanitary Sewer, Water Main, and Pedestrian Easement as described in “Exhibit B” (attached) between the existing Spruce Road and Howard Avenue with the following comments and background:

- 1) The Department of Community Development received a petition signed by Spruce Road and nearby residents dated August 29, 2005 opposing any future road connections be made between Spruce Road south to Howard Avenue. The petition requests that they “oppose, both now and in the future, any municipal initiative to connect Spruce Road to Howard Avenue”. The property where the easement would run through is identified as “Parcel D” (CSM Document # 3217718). The neighbors have indicated an interest in the creation of a pedestrian connection in this area.

- 2) Staff initially had thought that a road reservation existed on "Parcel D" and had received a Board of Public Works (BPW) vote to eliminate the reservation at their September '05 meeting. The BPW then forwarded this request onto the Plan Commission for review and final recommendation to the Common Council. In the meantime, after additional research, it was determined that a road reservation did not exist on "Parcel D" therefore invalidating the BPW's action. Plan Commission has the ordinance authority [Sections 275-15(D)(7) and 275-15(D)(8)] to make recommendations to the Common Council on these matters, therefore, staff is requesting action from the Plan Commission as to their opinion of an "Official Map" Amendment in response to this petition. There would be no need to forward this back to the BPW unless the Commission wishes to do so. Note: As a result of recent development in the area, water and sewer mains have been installed through "Parcel D". At a minimum, utility easements need to be established.
- 3) Per the attached Resolution, by its adoption, the Plan Commission and Common Council will direct staff to amend the "Official City Map" per Section 275-15D(7)(a) and Section 275-15(8) by adding the following notation to the western 60 feet of "Parcel D", "There shall be a 60 feet no-build area for the purposes of a Utility Easement to include Sanitary Sewer, Water Main and Pedestrian Easements only, but no road shall ever be built through this area".

Seconded by Mr. Felda.

Motion by Mr. Barnes to amend the Resolution to use the wording "currently there are no plans for a future road connection".

Seconded by Mr. Gihring. Motion carried unanimously.

Upon voting, motion to approve as amended passes unanimously.

COMMUNICATIONS

12. COMMUNICATION TO: Plan Commission
COMMUNICATION FROM: Nikki Jones, Planning Services Manager
RE: Planning Commissioners Journal, Fall 2005

Plan Commissioners acknowledged receipt of this communication.
13. COMMUNICATION TO: Plan Commission
COMMUNICATION FROM: Amy Bennett, Associate Planner
RE: Open Pantry Memo

Plan Commissioners acknowledged receipt of this communication.
14. COMMUNICATION TO: Plan Commission
COMMUNICATION FROM: Nikki Jones, Planning Services Manager
RE: Letter addressed to New Berlin Plan Commission dated November 14, 2005 from LaVerne E. Gebhard

Plan Commissioners acknowledged receipt of this communication.
15. COMMUNICATION TO: Plan Commission
COMMUNICATION FROM: Nikki Jones, Planning Services Manager
RE: Letter addressed to New Berlin Plan Commission dated November 17, 2005 from Bobwood Acres Subdivision Residents

Plan Commissioners acknowledged receipt of this communication.

16. COMMUNICATION TO: Plan Commission
COMMUNICATION FROM: Nikki Jones, Planning Services Manager
RE: Packet of information from Donald Murn regarding Carleton Point Condominiums,
13050 W. Cleveland Avenue, R-1-04

A new PUD has been sent to the applicant and staff is waiting for feedback.

17. COMMUNICATION TO: Plan Commission
COMMUNICATION FROM: Greg Kessler, Director of Community Development
RE: WAPA LEGAL UPDATE By Michael R. Christopher, DeWitt, Ross & Stevens S.C.,
November 15, 2005
Plan Commissioners acknowledged receipt of this communication.

ADDENDUM ITEM

18. (3)AB PG-958 Waiver for Right of First Refusal – Kuglitsch Properties – 16000 W. Cleveland Avenue.

Motion by Mr. Barnes to recommend approval to Common Council of the waiver for the City's right of first refusal to purchase the tract of land at 16000 W. Cleveland Avenue based on the following:

- 1) The New Berlin Industrial Park Declaration of Restrictions states that the City of New Berlin has the right of first refusal to purchase tracts of land in the Park. Staff has discussed this with many departments within the City and it has been determined that this site is not needed by the City at this time. The applicant submitted a letter to the Clerk on November, 2005 requesting the City (Common Council) waive their right of first refusal.

Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Mr. Sisson to adjourn the Plan Commission meeting at 8:14 P.M.
Seconded by Alderman Ament. Motion carried unanimously.