

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

PUBLIC HEARINGS

6:00 P.M. (3)AB CU-7-05 D & L Grading, Inc. – 1820 S. Johnson Rd. – 1,000 Gallon Diesel Fuel Tank.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

AUGUST 8, 2005

MINUTES

The public hearing relative to the request by Ben Horn for D & L Grading for a conditional use for a 1,000 Gallon Diesel Fuel Tank located at 1820 S. Johnson Road was called to order by Mayor Chiovero at 6:04 P.M.

In attendance were Mayor Chiovero, Alderman Ament, Mr. Sisson, Mr. Barnes, Mr. Felda, Mr. Gihring. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Anthony Kim, Code Enforcement; Eric Nitschke, Storm Water Engineer. Mr. Teclaw was excused.

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

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

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

Bob Gross, 1725 S. Johnson Road – My concern is the value of our property, since there was already some environmental damage done. When we bought our facility, we had to get a Phase 1 environmental site assessment done, and there was already a lust site for leaking Wisconsin underground storage tanks at the Elmbrook Electric Facility. I am very concerned that this will cause further decline in the value of our property. We already had one thing which we did not oppose, which was the cell phone tower that was put in place and that has now cost our business multiple thousands of dollars in useless Cingular cell phone equipment. Because of a hill, we don't have line of site with the towers over in Brookfield. We have to come back through. The new tower was placed exactly in line of site with the Cingular towers and blocked all our cell phones in the business. I am very concerned about things that go up that may affect the value of our property. We are not planning to sell, but if we were, it would appear on the report and there would have to be additional work done by whoever is purchasing our property.

Mayor Chiovero – Any damages done on a lust site deals with underground storage tanks. The one we are talking about tonight is above ground. It is double walled and very well contained. There is spill protection to protect the environment and properties. Above ground is more preferred than underground tanks. It should not affect your property, but we can get the opinion of the Assessor.

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

Mayor Chiovero asked three times if there was 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 questions from the Commissioners?

Alderman Ament – With this being so close to a floodplain, I would like to ask staff if there are any issues with the DNR. Are any permits required?

Ms. Bennett – No permits are required. For the last approval back in 1999, the applicant was required to show that the slab and the tank was above the 100 year floodplain elevation. He has done that. This tank will be on the existing slab and no changes are being made to the property.

Alderman Ament – Are there any permits required besides City permits for this type of tank?

Ms. Bennett – Fire Department approval.

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

Mayor Chiovero closed the public hearing at 6:12 P.M.

6:01 P.M.

(5)AB CU-5-05 Beloit Auto Plaza – 12401 W. Beloit Rd. – Car Wash.(Tabled
6/6/05)

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

AUGUST 8, 2005

MINUTES

APPLICATION WITHDRAWN

NEW BERLIN PLAN COMMISSION
NEW BERLIN CITY HALL COUNCIL CHAMBERS

AUGUST 8, 2005

MINUTES

Privilege of the Floor

The Plan Commission meeting was called to order by Mayor Chiovero at 6:20 P.M.

In attendance were Mayor Chiovero, Alderman Ament, Mr. Sisson, Mr. Barnes, Mr. Felda, Mr. Gihring. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Anthony Kim, Code Enforcement; Eric Nitschke, Storm Water Engineer. Mr. Teclaw was excused.

Motion by Alderman Ament to approve the Plan Commission Minutes of July 11, 2005.
Seconded by Mr. Felda. Motion carried unanimously.

Plan Commission Secretary's Report - none

CONTINUED ITEMS

5. (4)NJ U-33-04 The Conservancy Subdivision – 13150 W. Janesville Road - 8' fence.
(Tabled 7/12/04, 7/11/05)

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

1. *Waiver Request* - Applicant requests a waiver from Section 275-42G(3)(b)(1), which states, "All structural and support components of a fence shall face away from adjacent properties." The applicant would like to have the fence portion with the bracing face the property to the west rather than the subdivision. (See applicant waiver request.)

Motion by Mr. Sisson to deny Waiver Request #1. Seconded by Alderman Ament. Motion carries unanimously.

2. *Waiver Request* – Applicant requests a waiver from Section 275-56C(13)(e), which states "No landscaping shall be located within a utility easement, drainage easement, or road right-of-way except for seeding or sod with prior approval by the Director." The applicant wishes to have plantings in the right-of-way to create a nice entry.

Motion by Mr. Sisson to approve Waiver Request #2. Seconded by Mr. Gihring. Motion carried unanimously.

Motion by Mr. Barnes to approve the use, site and architecture for construction of an 8' fence and landscaping located at 13150 W. Janesville Road subject to the application, plans on file and the following conditions:

- 1) Site Plan and Architecture
 - a) Entryway signage shown on the Landscape Plan shall require a separate monument sign permit.

- b) The fence shall be constructed of Cypress Cedar in the Dog Ear style. It will be installed with 4 horizontal rails, full cut 4 x 4 posts set in concrete, and topped with decorative finials. The fence shall be installed at least 2 feet off the property line. All structural and support components of a fence shall face away from adjacent properties.
 - c) Prior to the issuance of the Zoning Permit, applicant shall add the fence to the grading plans.
 - d) MLG shall remove and dispose of the existing chain link fence prior to the installation of the new fence.
 - e) Applicant shall adhere to Section 275-42G(3) "fences" in its entirety.
 - f) Mr. Cozington, property located at 13330 College Avenue shall have an access point as agreed upon on the site plans and in the letter dated July 20, 2005 (see attached). Mr. Cozington will give us his existing driveway and a new one will be installed to the north accessing at the north end of his graveled and asphalted area (just north of the power pole). MLG Commercial shall submit the final construction drawings reflecting the proper turning radius that will result from this addition.
 - g) MLG Commercial shall submit a copy of the easement agreement with Mr. Cozington to the City of New Berlin.
 - h) The fence shall not continue in the area between Mr. Cozington's new driveway cut and Janesville Road.
2. Transportation
- a) A standard utility streetlight is required at the access point along W. Janesville Road. Pole shall be located within the public ROW. Luminarie wattage shall be 100 to 150 watts. Installation will be the responsibility of the Developer. The City will be responsible for all ongoing electrical and maintenance costs. If decorative lighting is desired, the poles shall NOT be located within the public ROW, and all costs associated with the installation, maintenance, and on-going electrical costs, shall be the developer's or homeowner association's responsibility.
 - b) Submittal letter for landscaping plan states landscape lighting has been integrated into the landscaping plan. No lighting is shown on the plan, except for a comment in the entry monument detail that states "Up-light Boulder". Applicant shall show all lighting on a plan sheet.
 - c) 60' vision triangles are required at the intersection of Conservancy Drive and W. Janesville Road. Proposed 8' fence and landscaping on the west side of the entrance does not follow this requirement. 30' vision triangles are required at all other intersections within the development.
3. Landscape Plan
- a) The landscape Plan shall be stamped and signed by a registered licensed landscape architect.
 - b) Applicant, per Section 275-56(C)(2) shall submit an Installation Bond and Maintenance Bond prior to issuance of the Zoning Permit for the entire landscape area.

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

6. (4)AK U-29-04 William Luterbach – 5400 Westridge Dr. – Dock Doors. (Tabled 7/11/05)

Item remains on Table.

7. (4)OA U-25-05 Michael Byrne – 5600-5900 Moorland Rd. – Westridge Development East.(Tabled 6/6/05)

Item remains on Table.

8. (4)AB PG-950 Small Road – Cul-de-sac.

Motion by Alderman Ament to table the request to forward minutes to Common Council for the cul-de-sac option on W. Small Road east of S. Moorland Road and south of W. Beloit Road based on the meeting minutes from Board of Public Works meeting held on 8/1/2005.

Seconded by Mr. Barnes. Motion carried unanimously.

9. (2)AK U-80-00 New Berlin Auto Body – 14750 W. National Avenue – Revised landscaping plans.

Motion by Mr. Sisson to approve the request to paint the entire length of the fence that faces the business a neutral color and maintain the original landscape plan at the property located at 14750 W. National Avenue subject to the plans on file and the following conditions listed below:

- 1) The revised landscaping plan submitted on 7/29/05 by the applicant does not meet the requirements of Section 275-56 "Landscaping and Buffering" of the New Berlin Zoning Ordinance.
- 2) Applicant shall be required to plant the landscaping per the approved original plan if Plan Commission does not grant staff and the applicant to come to a resolution.
- 3) All landscaping on the site shall be completed no later than August 30, 2005.

Seconded by Mr. Barnes. Motion carried unanimously.

NEW BUSINESS

10. (7)NJ R-6-05 Jacob Ruby – 2955 S. Country Ln. – Rezone from R-1/R-2/C-2 to R-1/R-2/C-2. (Public Hearing 7/11/05)

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 2955 S. Country Lane from R-1/R-2 and C-2 to R-1/R-2 and C-2 to delineate the wetlands.

Seconded by Mr. Barnes. Motion carried unanimously.

11. (6)AB R-7-05 Dr. Torres Medical Office Building – 12555 W. National Avenue – Rezone from B-2 to B-1. (Public Hearing 7/11/05)

Motion by Mr. Barnes to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 12555 W. National Avenue from B-2 to B-1.

Seconded by Alderman Ament. Motion carried unanimously.

12. (4)OA U-58-05 Motion Fitness & Racquet Club – 14999 W. Beloit Rd. – Landscape Plan for New Berm Along Beloit Rd.

Motion by Mr. Sisson to approve the request for a parking lot addition to the Motion Fitness & Racquet Club property located at 14999 W. Beloit Road subject to the application, plans on file and the following:

- 1) Submittal of a revised plan that meets the original TIA from 2001 is required. The TIA was prepared with the assumption that there were to be two exiting lanes from the development; however, the driveway was constructed with only one exiting lane. The proposed 7 stalls along the east side of the drive aisle shall be eliminated from the proposed improvements, and an 80-foot long (plus 50-foot taper) dedicated right turn lane shall be constructed. The new radius at Beloit Road shall include a sidewalk ramp, and short section of sidewalk to the east property line.
- 2) Signing & marking plan shall be required.
- 3) Proper intersection sight distance is required at the driveway. Ensure that proposed berm and plantings do not interfere with the vision triangle standards.
- 4) Drive aisle widths shall be 24-feet wide from edge of pavement to edge of pavement (i.e. do not include curb & gutter in required width).
- 5) Vertical face curbing with a gutter section shall be required as currently represented on the proposed Grading and Erosion Control Plan.
- 6) Revise plans shall address the approved walking path within the area proposed to be bermed.
- 7) Applicant shall submit calculations to show if the detention facility is adequately sized to accommodate this additional impervious area. The Storm Water and Drainage Engineer will determine the necessary storm sewer size for the added impervious areas and whether or not the existing detention basins are sized for the added run-off prior to issuance of Zoning Permit.
- 8) The Storm Water and Drainage Engineer requires that the one (1) existing storm sewer inlet shall be sized for the additional impervious areas being directed towards it. Added inlet structures may be required and/or storm sewer pipe resizing may also be applicable.
- 9) All impervious areas and filling, grading and landscaping shall remain a minimum of ten feet (10.0') from the wetland line.
- 10) All landscaping work within the utility mains must be approved by the City of New Berlin Utility Division Engineer.

Seconded by Mr. Felda. Motion carried unanimously.

13. (5)NJ U-49-05 New Berlin City Center – Building C – 15100 Library Ln. – Retail Building.

Motion by Mr. Sisson to approve the request for use, site and architectural approval for construction of City Center Building “C”, a multi-tenant retail building, subject to the application, plans on file, final Architecture Review Committee review and satisfaction of the following conditions:

- 1) Plan of Operation
 - a) Prior to occupancy, all site improvements in this phase, including all parking, curb and gutter, landscaping, colored concrete areas and storm sewer shall be completed. This includes the entire parking lot.
 - b) This application is only for the “shell” of building “C”. No tenant floor plans or plan of operations have been identified within this application.
 - c) Each tenant shall be required to obtain a re-occupancy permit prior to building permits being issued. All future tenants will have to provide a Plan of Operation that shall state the number of employees in the largest shift as required by §275-24C(2)(d). Future tenants shall be reviewed on a case-by-case basis for of parking and may be denied for lack of parking.
 - d) The City of New Berlin recently installed stamped concrete in the terrace area along Library Lane in front of this property. The applicant shall be responsible for repairing and replacement to any damage to the stamped concrete during construction.

- e) No additional waivers have been requested in writing for this project. The site plan will remain as approved for Building "B". The applicant has indicated they do not wish to do the stamped concrete. This will be required as part of the City Center project.
- 2) Architectural Plans –
- a) Prior to the City signing the Zoning Permit, the applicant shall obtain final approval by the Architecture Review Committee. The Committee discussed several items that need to be tweaked on the plans. Applicant shall attend the Architecture Review Committee (ARC) meeting on 8/08/2005 prior to the Plan Commission meeting and respond to any comments made during the meeting. Revised plans shall be submitted and reviewed by the ARC prior to the issuance of the Zoning Permit.
 - b) Applicant shall utilize the rendering technique that was used for Building "B" as well as the original submittals for this building (Building D). It is difficult to tell material colors, bump out areas, and the plaza areas. This is a design component for City Center. The applicant was asked to submit a revised elevation showing the building elevation from the intersection of Michelle Witmer and Library Lane.
 - c) Applicant shall submit line of sight drawing from National Avenue for roof top units. It appears that a parapet wall may be necessary to allow for screening.
 - d) Prior to issuance of the Zoning Permit, approval of the exterior architecture and materials for construction by the Architectural Review Committee is required.
 - i. Window pattern and brick accents on lower area do not match. Applicant shall use more brick or possibly a different color brick or additional landscaping along Library Lane. There is a lot of brick/block in this area and very little window/glass are for pedestrians to look into due to the grades in this area.
 - ii. It's difficult to tell from plans what type of brick is used in this corner as well (white, tan or and red). Applicant shall verify if the color pallet is the same as Building B.
 - e) The front (along Library Lane and the parking area) windows shall not be blocked or opaque, and shall allow pedestrians to see into the store or display windows as recommended by the City Center Development Plan. Street level retail buildings are to have a minimum of 60% glazing facing the street, or its pedestrian walkway or plaza. The South elevation of Building "C" facing Library Lane will be rather tall and contain no doorways or windows at the pedestrian eye level. It will be critical to identify how the City Center standards will be achieved. Applicant should consider some alternatives for the south elevation along Library Lane for building "C".
 - f) Applicant shall submit color drawings for each building elevations, not just the "north" and "west" elevations. The black and white drawings should specifically label the materials and brick colors to be used. This will allow the Code Compliance to verify the materials used when construction begins.
 - g) Applicant shall verify how the front elevation in the parking lot will work. There appears to only be 2 doors, however this is intended to be a multi-tenant building. What if the building will have more tenants at some point? How will this be dealt with?
- 3) Site Plan.
- a) The building owner/developer shall purchase and install benches along the sidepaths along National Avenue and Coffee Street at locations approved by DCD staff as required by the City Center Development Plan. Applicant shall identify locations on the site plan.

- b) Coordinated bike stands, trash receptacles and architecturally integrated newspaper racks shall be purchased and installed by the building owner/developer and shown on the site plan as required by the City Center Development Plan. Applicant shall identify locations on the site plan.
- 4) Landscaping
- a) Applicant, based on the final architecture for Building D, shall work with Staff to add additional plantings around the base of the building along Library Lane where brick is currently exposed. Planter may be used around the window areas.
- 5) Engineering.
- a) Applicant shall identify how the vestibule will work. It seems like there will be access to only the end tenant through this door.
 - b) Applicant shall indicate if there will be a patio or plaza area here for dining.
 - c) Elevation view looks to be showing the wrong amount of exposure per review of grading plan and rendering. Please verify the grades.
 - d) Applicant shall have utilities (water and sewer) approved and installed prior to the issuance of the Building Permit.
- 6) Utility
- a) Applicant and their technical consultants are referred to the Developer's Handbook for Sanitary Sewer and Water System construction specs and standards for sewer and water service to building. NOTE that both lateral stubs are available along Library Lane to service this building.
 - b) Multi-tenant buildings require that a Water Meter Room be provided at the Building Water Service piping entrance. The Meter Room:
 - i. Shall be large enough to accommodate work on the meters;
 - ii. Shall not be obstructed with water softeners, vacuum cleaners, garbage cans, cleaning-janitorial supply storage or work area, etc;
 - iii. Shall have adequate heating and lighting and floor drain;
 - iv. Shall have outside direct access or access via public hallway; and
 - v. Shall have be locked with an access key provided to Water Utility Division. Counsel directly with the Water Utility at (262) 786-7211 for other requirements.
 - c) Any building that will accommodate a food service or food preparation tenant requires an Outside Grease Trap Tank and an MMSD Sampling Manhole designed and installed to the City Handbook Requirements.
 - d) Pay Water Impact Fees and Pay Sanitary Sewer Impact Fees based upon equivalent domestic water meter size required for Each Building for domestic service, including lawn sprinkling meter capacity (if and when installed), in accordance with City Code in effect at time of Permit Application(s).
- 7) General
- a) All signage will be under a separate sign application.
 - b) Building plans shall be stamped and signed by a registered architect or engineer.
 - c) Building plans shall be approved by the Wisconsin Department of Commerce.
 - d) Erosion control shall be permitted, installed and inspected prior to issuance of building permits.
 - e) Apply and obtain appropriate building, plumbing and electrical permits.

- f) Buildings must meet all applicable building and fire codes.
 - i. Buildings to be fully sprinkled.
 - ii. FDC to be changed to 5" storz.
 - iii. Fire hydrants are required within 150' of hydrant connection.
 - iv. Fire alarm required.
- g) Building must be maintained per Chapter 201 of the Non-residential Property Maintenance Code. No outside storage shall be permitted on the lot.
- h) Fully sprinkled building. Sprinkler system to be monitored. Fire Department sprinkler connection be near an accessible location approved by the Fire Department.
- i) Knox box required.

Seconded by Alderman Ament. Motion carried unanimously.

14. (2)OA U-53-05 The Preserve at Deer Creek Golf Course – 4285 S. Sunny Slope Rd. – Maintenance Building.

Motion by Alderman Ament to approve the request for Use Approval to construct a 40' x 40' maintenance building for equipment storage, repairs and office space for golf course superintendent subject to the application, plans on file and the following:

- 1) Maintenance building material and color must match the golf course club house. Material shall be cultured stone and hardi plank siding. Architecture shall include bandings.
- 2) Per Section 275-53B(1)(11) All existing nonconformities and outstanding code violations shall be identified, resolved, and remedied. Applicant is required to meet all conditions of approval of Zoning Permit #U-44-02 approved by Plan Commission on January 6, 2003 in its entirety.
- 3) Hours of operation to be: sunrise till 3:00 PM daily from April – November or weather permitting.
- 4) Up to 4 employees during peak season.
- 5) No outside storage is permitted for this operation.
- 6) Customer parking must be contained on site.
- 7) Permits are required from the Building, Inspection, and Zoning Departments for any interior and exterior alterations or modifications. Apply for and obtain appropriate building, plumbing, and electrical permits, as required.
- 8) Building plans shall be stamped and signed by a licensed architect or professional engineer per Wisconsin Enrolled Building Code. (Comm 61.31 Responsibilities).
- 9) Building plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per Wisconsin Dept. of Commerce Safety and Buildings Division per Wisconsin Enrolled Commercial Building Code. (Comm 61.70 Certified municipalities and counties).
- 10) Building must meet all applicable building and fire codes. Fire Extinguishers are required.

Seconded by Mr. Sisson. Motion carried unanimously.

15. (3)AK U-54-05 Kwik Fuel – 17145 W. Greenfield Ave. – Expand the Convenience Store and Eliminate Auto Repair Bays.

Motion by Mr. Gihring to deny the request to expand an existing convenience store into an existing attached garage space for the Kwik Fuel located at 17145 W. Greenfield Avenue based on the following reasons:

Reasons for Denial:

- 1) Section 275-57-1 "Minimum Number of Required Parking Spaces" states that Automotive Fuel Sales requires "one space per 200 square feet of sales, office or waiting area, plus one space per fuel pump or service bay". Applicant is required to have 6 parking spaces at the bare minimum. Plans show 4 parking stalls, one of those being a handicapped parking space.
- 2) As per the Planning Department the parking must remain a minimum of five feet (5.0') off of any property line.
- 3) Applicant did not indicate the location of the delivery vehicle on the plans.
- 4) All parking areas shall be located 5 feet off any lot line. The parking stalls along the south property line do not meet this requirement.
- 5) This site does not meet the open space requirements.

Planning Department Comments:

- 6) Applicant, per Section 275-56(C)(2) shall submit an Installation Bond and Maintenance Bond prior to issuance of the Zoning Permit for the entire landscape area.
- 7) Façade changes and material selection must receive approval from the Architectural Review Committee. If project is approved color elevations shall be submitted to the Architectural Review Committee.
- 8) 30% open space requirement?????

Engineering Department Comments:

- 9) Section 275-60 I(4) "Minimum lighting standards" of the New Berlin Zoning Ordinance states that "all areas designated on approved site plans for vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.4 foot candles, exclusive of approved anti-vandal lighting. This standard shall not apply to properties in agricultural and single-family residential districts". This will require that a lighting plan be submitted.
- 10) Curb and gutter shall be used for all parking areas. This shall be illustrated on the plan. Drive aisle widths are calculated from the edge of the pavement (not the face of the curb) and the plan shows that they do not meet the minimum width requirements.
- 11) Landscaping on the property shall not obstruct sight at the Calhoun Driveway.
- 12) The City's Alternative Transportation Plan indicates the planning for facilities along Calhoun Road. An 8-foot sidewalk shall be constructed along the entire frontage on Calhoun Road. Sidewalk shall extend to the southern side of the shared access driveway with the parcel to the south.
- 13) A Storm water Quality Plan shall be submitted .
- 14) If the existing site is altered at all then the requirements for two-way traffic drive aisles are to be shown on the site plans or show posted and directed one-way traffic that will be met on site. Two-way traffic will require twenty-four foot wide (24') drive aisles and one-way traffic patterns on site would require of a minimum of twelve feet wide (12.0') drive aisles in one direction. The aisles do not account for any additional parking. That would mean additional pavement space, surface of a least nine feet (9.0') in width for parallel parking next to the drive aisles.
- 15) If the proposed food preparation area will be catering or preparing and serving food then Mr. Larry Wilms P.E., Utilities Engineer should be consulted to verify the need for an outside grease trap.
- 16) The site does "Not" meet the City of New Berlin requirement of an unimpeded sixty-foot, (60') vision triangle through the site. The vision triangle runs through the canopy over the pumps and islands. There are plantings on the landscaping plan that depending on there height would also interfere with the vision triangle.
- 17) ADA ICC/ANSI A117.1-1998, sec 403.5.2 clear zone for pedestrian traffic and wheel chairs to access the same sidewalk requires a sixty inch (60") or five foot (5.0') wide pedestrian walkway. Follow all requirements for Handicap accessibility for the site. The site appears not to have the area to provide the minimum sidewalk widths for handicap accessibility.

Seconded by Mr. Sisson. Motion carried unanimously.

16. (5)NJ U-56-05 City Center Conceptual Plan – 14901-15105 W. National Ave. – Conceptual Plan.

Larry Witzling and Mark Smith from Planning Design Institute (PDI) gave a power point presentation including a brief history of the Plan and outlined the Plan refinements. Site plan options were presented including a regulating diagram, initial phase, and final phase of the draft conceptual site plan for the City Center Expansion.

This item was presented for discussion purposes only to get the Plan Commission's opinion on the general concept plan expansion.

A suggestion was made to make more walking area in the island separating the parking. We need to make the City Center pedestrian friendly. The future road was a good idea and would help on the North side of the road as well, if it were signaled. The developer should make contributions for this road and signal. Ideas for more green space needs to be incorporated into plan. Caution should be made with location of drive thru areas. Types of businesses such as coffee shops may draw more traffic into the City Center and their location was preferred to be more toward the major roads like National Avenue. The current City Center is getting a lot of compliments from the residents and Plan Commissioners want to continue the ideals of the City Center into this piece of property.

17. ()NJ PG-741 Zoning Ordinance Revision – Floodplain Zoning Ordinance.

This item is presented to give the Plan Commission an opportunity to ask questions or offer their comments.

Mr. Kessler said we received a letter from the DNR in June of this year indicating that due to our participation in the community rating system which is associated with FEMA and provides premium discounts for residents in the City who are required to have floodplain insurance. We are required now to adopt the State's model floodplain ordinance. In the interest of time, we only have six months from the day of the letter, which is June 23, 2005 in order to process the ordinance and get it through the system along with a public hearing. We wanted to get it to the Commission as soon as possible so they can begin to review it. Staff has read it, but has questions we need to refer to our City Attorney, as well as the DNR. Any questions the Plan Commissioners can get on record to convey to the DNR as well, would enable us to come back at the September meeting with clarification.

Alderman Ament requested an outline of the major changes.

18. () PG-10 Plan Commission Procedure – Conceptual Review Discussion.

This item is at Plan Commission to discuss how in-depth a Conceptual Review should be. Mr. Kessler said that we have traditionally had conceptual approvals available to the applicant. The applicant is not looking for action but they are looking for direction from the Commission prior to spending large amounts of money on site design, planning, engineering, or architecture. This is a good time to re-evaluate where we are with this. City Attorney Blum still has the same opinion that he issued a few years back.

Mr. Sisson said I am very uncomfortable when staff comes to the Plan Commission looking for opinions. Conceptual decisions fall into that category. I am very concerned to the extent that I don't participate in it, as others do.

Mr. Barnes said I am taking the alternate side on this. It is much like what I see in the conservation plans, subdivision plans where we are asking for them to do a sketch plan which is basically a concept for us to say yes, it works, here are some ideas or no, it is not going to work. I don't think we need to spend a lot of time with conceptual review, but I do think it is a way to save the developer and staff considerable amount of time and money.

Mr. Sisson said if we take a look at something and say it looks good from a conceptual standpoint and the developer takes off in that direction, comes back here, and for some other reason they get rejected after they have invested a sum of money, I don't want to be liable for any of that because we led them down this path.

Mayor Chiovero said people ask me about what I would like to see concerning different things and I am uncomfortable answering also because if I like the idea and say so, it still has a lot of approvals to receive and there is no guarantee. At the same time, I don't want staff spending a lot of hours for something we might not like at all.

Mr. Sisson said it has to start with staff because we have statutes and ordinances which developments need to meet. If they don't, staff would know.

Asst. City Attorney, Lori Fabian said from the legal aspect, the biggest issue is that there may be issues that arise. Without the full application and all the supporting documentation regarding the project, there may be questions that you don't think of asking with only the conceptual plan. Without all the documentation in front of you, things may arise which you thought previously might have been a good idea, are not now. You need to indicate that anything that is being said during the Plan Commission meeting is not a binding decision, it is simply the thoughts of the Commissioners and not a recommendation. You need to be clear about this to the applicant.

Alderman Ament said I like seeing the conceptual plan but in the end, I don't know if we are doing them any favors if they end up spending the money and we misled them.

Mayor Chiovero said every developer should know that at any point in time there can be things that stop a project, even at the end the direction of a project can change.

Mr. Kessler said that bringing conceptual approvals to the Plan Commission is a way to mediate disagreements between staff and the developer. It is part of the role of a Plan Commissioner as identified under State Statutes to look at comprehensive planning items, and future concept planning is part of your function as a Plan Commission. We can follow whatever directive you provide. If you don't want conceptals to come here anymore, we would need to do some code amendments. If you want to continue with conceptual reviews, we can put a statement in the staff report that it does not guarantee any form of approval. Again, conceptual review offers an opportunity for staff to get feedback from the Commission and the developer.

Mr. Kessler said in closing, the structure we use for pre-application meetings deals with each project as a case and there is a team of people who meets with each applicant. We sit down with the applicant and the issues of concern are presented. They then make the decision if they want to come forward to Plan Commission for conceptual or a full submittal.

COMMUNICATIONS

19. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: "Condemnation for Private Redevelopment" WAPA LEGAL ALERT by Michael R.

Christopher, DeWitt, Ross & Stevens S.C., July 5, 2005

Plan Commissioners acknowledged receipt of this communication.

20. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: WAPA Legislative Update, By Jordan K. Lamb, DeWitt Ross & Stevens S.C., July 15, 2005

Plan Commissioners acknowledged receipt of this communication.

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