

PUBLIC HEARINGS

6:00 P.M. (2)AB R-1-05 Open Pantry – 15551 W. Cleveland Ave. – Rezone from B-4 to B-2.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

MARCH 7, 2005

MINUTES

The public hearing relative to the request by Steve Nikolas of Zabest Commercial Group, Inc. c/o Open Pantry for a rezoning at 15551 W. Cleveland Avenue from B-4 to B-2 was called to order by Mayor Wysocki at 6:04 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr Sisson, Mr. Gihring, Mr. Teclaw, Mr. Felda. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Ron Schildt, Transportation Engineer; Eric Nitschke, Storm Water Engineer. Mr. Barnes 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 Wysocki asked if there were any comments or questions for the purpose of clarification.

Ken Price, 2761 S. Acredale Road – I don't have the issue fully researched yet, but I was in contact with Dept. of Transportation and have accident reports on the intersection and also traffic counts on Cleveland and Moorland Road. It will be addressed later on in the building process but you may want to look into it closer at this time because there are big problems involved. The intersection itself has a major accident almost weekly. Moorland Road is maxed out and we are now looking at increasing Moorland Road from Cleveland Avenue to I-94 to a full four lane road. Cleveland Avenue right now is at its max for a two lane road. In fact, it is exceeding traffic for a two lane road. The understanding I had was they wanted to block off a left turn out of the station onto Cleveland Avenue so, virtually coming out of the station, there would be no way for a vehicle to go West on Cleveland without cutting across all the lanes of traffic on Moorland Road or turning right onto Cleveland Avenue and going down and trying to make a U-turn by Wendys or Acredale Road or maybe someones driveway. There is no cut through on Moorland Road southbound either if you are going south from the station

so, obviously people are going to come out on Moorland, go through the intersection and try to make a U turn. This is a big concern and I think you really need to look at a full impact study now at this stage rather than waiting for the building stage.

Mayor Wysocki – There is a letter in the packet from Richard Bolte, Director of Dept. Public Works in Waukesha County. This letter addresses three items, two of which you brought up with regard to access points on Moorland Road, the medium opening on Cleveland Avenue and the requirement for a commercial driveway access permit. This information is available to the Plan Commissioners.

Alderman Tom Augustine, 13520 W. Fountain Ct. - I would concur with Ken Price's concerns. In talking with the neighbors, there is a concern about U-turns east of Cleveland Avenue and also just the idea of people utilizing this proposed facility needing to have an easier way of getting out other than cutting across Moorland.

Mayor Wysocki asked three times if there were any more questions for clarification, seeing none.

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

Ron Hlavinka, 13211 W. Coldspring Rd. - I agree with them about figuring out the traffic pattern, but I am in favor of it because I have some property in the immediate area. That area is an excellent area for development. I am in favor of seeing that nice building that is being planned as I think it will enhance the area. I understand the traffic problem, but I think that it can be worked out.

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

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

Mayor Wysocki asked for questions from the Commissioners.

Mr. Sisson – Did I understand it correctly that the retail and office space that was in the original set of plans has been modified?

Ms. Bennett – It has been eliminated from the conceptual plan. The most recent submittal we have shows a convenience store.

Alderman Ament – It seems like the only problem with this could be the traffic issue. I know the County has addressed it. I think that it would be a nice improvement for that area, however, how can it be reconciled with the Code? We do not have a traffic impact analysis.

Mayor Wysocki – The Code does allow us to have some flexibility on the requirement in

the sense that we are going from a zoning category that does not exist to an applicable zoning for that area and then following it up with the appropriate use which we would be discussing at another public hearing. That is when we would need the full traffic impact study. Because the zoning does not exist is why we are part of the applicant in this zoning request.

Alderman Ament – I just want to make sure we are following our own codes. Does the City Attorney have an opinion if we still need to do that or if we can do it later on?

City Attorney – This situation is unique because it is going to require a conditional use application to follow through on the request. Because of the fact that they are required to make the change to the district, we would waive the requirement of the full impact statement.

Mr. Teclaw – I do take this to be a special situation, but I want to be careful not to set a precedent because I do think a traffic impact study is important in making a rezoning decision. I understand what the City Attorney is saying but we, as Commissioners, need to follow the approval criteria where it says the public needs to be fully informed as far as what is planned.

Mr. Felda – The building being very impressive and I do look at it as being a big improvement to that corner as well, but is there any concern for height restrictions?

Mayor Wysocki – That will all be considered when they make their use application.

Mr. Felda – Just so they are aware of that.

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

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

6:01 P.M. (7)AB R-13-04 Woodland Meadows – 3335 S. Catamount Dr. – Rezone from R-1/R-2, C-2 to R-1/R-2,C-2,C-3.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

MARCH 7, 2005

MINUTES

The public hearing relative to the request by David P. Engsberg c/o Woodland Meadows for a rezoning at approximately 3335 S. Catamount Drive from R-1/R-2 and C-2 to R-1/R-2, C-2 and C-3 was called to order by Mayor Wysocki at 6:23 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr Sisson, Mr. Gihring, Mr. Teclaw, Mr. Felda. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Ron Schildt, Transportation Engineer; Eric Nitschke, Storm Water Engineer. Mr. Barnes 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 Wysocki asked if there were any comments or questions for the purpose of clarification.

Dale Schaper, 19150 W. Coffee Road – Where are they planning to put the road and how many acres will the 6 lots each have?

Ms. Bennett – At the end of Catamount there is an existing home where there is a cul de sac with a large culvert. There will be one house starting there and there will be five houses in all at 1.69 acres per lot. This is a conservation subdivision so different rules come into play. Ms. Bennett indicated where the drive would be and explained the layout on the map.

Steve Schmidt, 19050 W. Coffee Road – There used to be a road reservation along here, (indicated on map) along this line when I first bought my lot so I figuring that I could subdivide mine so I'd be landlocked by this new road that they are going to put in there. I'm also here representing the homeowner to the east of me and he highly disapproves of this action tonight. I'd really like to see how it is laid out and split up before there is a big problem.

Ms. Jones – To back up a little, there was a preliminary plat that went through Plan Commission and Common Council. Now tonight we are discussing rezoning the wetland and open space lands. They will be back for a final plat and that may be the appropriate time to discuss the road issue.

City Attorney Blum – As far as the layout, it has pretty much already been established by the approval of the preliminary plat.

Mayor Wysocki – The purpose of this rezoning is to protect the open spaces that have been identified now as a result of the planning process. As indicated, the preliminary plat has already been approved relative to the lots themselves. Mayor Wysocki directed staff to give Mr. Schmidt a copy of the plat. Just for my own clarification, Mr. Schmidt, you are indicating that you own land south of this entire parcel. Am I correct?

Mr. Schmidt – Yes.

Mayor Wysocki – You have frontage on Coffee Road?

Mr. Schmidt – Yes.

Mayor Wysocki – You are suggesting that there was some indication that there was a road that you would have access to the back of your lot?

Mr. Schmidt – It was still in the planning stage when I purchased the lot.

Ms. Jones – (asked Mr. Schmidt to point out location on map) Some of this land down here is wetland and to put a road in here would require certain permitting processes you have to go through with the DNR and we would try to discourage roads in those areas if possible.

Mayor Wysocki – We will just continue on Catamount.

Mr. Schmidt – OK

Mayor Wysocki asked for further questions for clarification, seeing none.

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

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

Mayor Wysocki asked for questions from the Commissioners.

Mr. Teclaw – Why is there a difference between the size of development and proposed density?

Mayor Wysocki – On the original application is was 27.34 give or take and we found out that the actual calculated area was 27.47 rather than 27.34.

Mr. Teclaw – As far as the density calculation, it looks like it was rounded off to 6 lots.

Ms. Jones – As you know when they went through their conservation subdivision, they were required to provide the 50% open space. As you work your way down the chart, you are correct, the total was 5.49 lots and then with the bonus area, it came to .57 which allowed them to have the lots.

Alderman Ament – One of the six lots is the existing lot?

Mayor Wysocki – Yes.

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

Mayor Wysocki closed the public hearing at 6:45 P.M.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

MARCH 7, 2005

MINUTES

The Plan Commission meeting was called to order by Mayor Wysocki at 6:45 P.M.

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

Motion by Mr. Sisson to approve the Plan Commission Minutes of January 26, 2005. Seconded by Alderman Ament. Motion passes with Mr. Teclaw voting present.

Motion by Mr. Sisson to approve the Plan Commission Minutes of February 7, 2005. Seconded by Alderman Ament. Motion passes with Mr. Teclaw voting present.

Motion by Mr. Gihring to approve the Plan Commission Minutes of February 14, 2005. Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Mr. Sisson to approve the Plan Commission Minutes of February 17, 2005. Seconded by Alderman Ament. Motion passes with Mr. Felda and Mr. Teclaw voting present.

Plan Commission Secretary's Report – The next Plan Commission meeting for code amendments will be March 16, 2005 at 6:00 P.M.

SPECIAL PRESENTATION

5. Historical Report by Olofu Agbaji regarding U-4-04 South Phase Kasco PUD – 14300 W. Howard Ave, U-79-03 Farrell – 3849 S. Sunny Slope Rd. and U-93-01 Honeyager – 3949 S. Sunny Slope Rd.

Mr. Agbaji gave a short presentation explaining previous plans and activities and Plan Commission decisions on the three properties. Mr. Agbaji also explained how these three properties interact with each other and how development of the properties involves the issue of infrastructure.

- a) (5)OA U-4-04 South Phase Kasco PUD – 14300 W. Howard Ave. –

Site approval for the public infrastructure. (Tabled 3/1/04, 8/2/04, 9/13/04, 11/4/04)

Motion by Mr. Sisson to approve the request for Use, Site and Architectural Approval for Phase III of The Preserve at Deer Creek PUD (Kasco PUD) development located at 14300 West Howard Avenue subject to the application, plans on file and the following:

- 1) No Zoning Permit will be issued for this development until Kasco LLC and Honeyager Fields Subdivision executes an agreement/ contract that guarantees the improvement of Howard Avenue to Sunny Slope Road. This document shall be recorded upon approval as to form by the City Attorney. This agreement/ contract will demonstrate the commitment of all parties involved to achieve a homogeneous development, and allow for the construction plans to go before the Board of Public Works for approval of Developer's Agreement. The agreement/ contract must be further strengthened by providing appropriate surety instruments that will ensure the installation of the public improvements.
- 2) A Developer's Agreement that governs all public infrastructure, roads, utilities, easements etc, must be approved prior to issuance of a Building Permit for Kasco LLC. The City will require either a joint or individual surety instrument from Kasco LLC and Honeyager Fields to ensure completion of the public infrastructure work, specifically the extension of Howard Avenue and the associated utility lines. The amount of that surety will be predicated on the costs for construction and will be part of the Developer's Agreement.
- 3) The Developer's Agreement shall outline the phasing of the project, and shall specify a termination date for the completion of the public improvements.
- 4) No Building Permits will be issued for this development until all the public improvements (Howard Avenue to Sunny Slope Road) are constructed, inspected and accepted by the City Engineer. Once the improvements are accepted by the City Engineer, the City will pursue a dedication for the southerly 30' of right-of-way of Howard Avenue and will pass a resolution accepting the northerly 30' which was reserved by Deed.
- 5) No Zoning Permit will be issued for this development until Kasco LLC and Honeyager/ Farrell PUD development executes an agreement/ contract that guarantees that the Certified Survey Map approved by Common Council on May 14, 2002 will be signed and recorded. The City will require Mr. Farrell and Mr. Honeyager to acknowledge that at such time as they develop their property, the development will be consistent with the Certified Survey Map approved by Common Council on May 14, 2002.

- 6) All proposed developments must apply for and receive a Zoning Permit from the Plan Commission. At such time the buildings must be designed to fit within the approved building envelope. No deviation outside these envelopes will be allowed. Applicant must provide architectural plans of the proposed building schemes and material samples that include the following:
 - a) Full set of colored architectural rendering for all variation of building styles, colors, materials and other treatments.
 - b) All material samples and colored elevations and perspectives as required by the development review procedures.
 - c) Architectural Review Committee must approve exterior architecture and finalize the general architecture of the individual buildings prior to issuance of Zoning Permit for individual buildings.
- 7) Address all engineering comments prior to final approval of construction plans.
- 8) Rezoning of the delineated wetlands is required.

Seconded by Mr. Felda. Motion carried unanimously.

- b) (5)OA U-79-03 Farrell – 3849 S. Sunny Slope Rd. – 29 Duplex Condo Units. (Tabled 2/2/04)

Item remained tabled.

- c) (5)OA U-93-01 Honeyager – 3949 S. Sunny Slope Rd. – Use Site, and Architectural Review of 21 Duplex Condo Units. (No Action 2/2/04)

Item remained tabled.

CONTINUED ITEMS

6. (7)OA R-14-04 Oak Pointe – 4435 S. Calhoun Rd. – Rezone from R-4 to Rm-1. (Public Hearing 2/7/05)

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

Motion by Alderman Ament to recommend to Common Council adoption of an ordinance that denies the rezoning of the property known as Oak Pointe located at 4435 South Calhoun Road from R-4, Low Density Single-Family Residential District to Rm-1, Multi-Family Residential District for the following reasons:

- 1) This petition has not met the requirement of Chapter 275-33(B) (8) which states that: "New lands to be placed in the Rm-1 District by rezoning petition shall be located not closer than 120 feet to an existing single-family residential subdivision".

- 2) Applicant has not to submitted a Traffic Impact Analysis as required by Chapter 275-58(2) c. A traffic impact analysis is required and shall meet the content requirements as identified under 275-58(3).
- 3) The petition to rezone this parcel must meet the following criteria outlined in New Berlin Municipal Code Chapter 275-22 (F) (2) subsections:
 - a) Adequate public facilities and services (including sewage and waste disposal, water, gas, electricity, schools, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
 - b) Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of the City to provide them; No engineering studies have been submitted to determine that there is capacity or calculations of how the lift station will be upgraded, and what work will be necessary to the conveyance pipes in the area.
- 4) The proposed rezoning must address the Growth and Development Master Plan Update (GDMP) as required by Section 275-22 F (2) (a). GDMP states, “The Mixed Use Residential Transitional designation applies to several areas where heavier intensity business uses meet single-family residential uses. The purpose of Mixed Use Residential Transitional is to provide a flexible method for the development of certain areas by the criteria of intensity and impacts of the use rather than by its general nature. There are several specific land uses that can occur in mixed-use areas. These include low-density multi-family, senior housing, duplexes, condominiums, or institutional uses. Development approval for these uses would come only after a review process to determine compatibility with surrounding land uses, particularly the residential neighborhoods.” Applicant should explore other mixed use transitional development as outlined in the GDMP.
- 5) The proposed rezoning must address the Growth and Development Master Plan Update (GDMP) as required by Section 275-22 F (2) (a). Please review the Growth Policies outlined in the “Planning Context, Vision and Development Policies” of National Avenue Corridor –West and West Side-Open Space outlined in the GDMP.

Seconded by Mr. Sisson. Motion carried unanimously.

7. (3)AB CU-10-04 Deer Haven Banquet Hall – 19300 W. Cleveland Ave. – Banquet Hall. (Public Hearing 2/7/05)

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

Ms. Bennett introduced the project giving a description and location of the request. Ms. Bennett read the staff recommendation.

Ms. Bennett – There have been a few changes to the plan of operation since the last meeting. The hours of operation have changed from 12:00 p.m. to 12:00 a.m. and maximum capacity has changed to 275. Last month the hours of operation were stated as 12:00 p.m. to 2:00 a.m. and maximum capacity was 300. The only proposed changes to the existing building is a canopy added to the side of the building and a paved turn around. In addition, as mentioned earlier, a petition has been submitted of which the Plan Commissioners have a copy. Also, a letter was submitted on Friday by the applicant regarding traffic. Plan Commissioners should have a copy of that also this evening.

Mayor Wysocki – For purposes of clarification, we are dealing now with a separate building that was built for a different activity some time before. Can the staff give us the background of what the original building was built for and the conditions placed on it at the time.

Ms. Bennett – If you look in your packet on Page 14, there is a description of hours of operation for the Raven Golf Services which was for the driving range and golf manufacturing facility. The driving range was open daily from 8:30 a.m. to dusk and there was additional office hours from 8:00 a.m. to 6:00 p.m. The current owner of Deer Haven Golf Course has purchased this property and intends to combine the golf facility with the golf course.

Mayor Wysocki – The original purpose of the building had nothing to do with the capacities of 275 people and it had nothing to do with the parking lot being lighted. Is that correct?

Ms. Jones – There is some lighting out there but not nearly what our code would require at this point.

Mayor Wysocki – So if we change the use, there would be a different lighting requirement than what was allowed or required in its original use?

Ms. Jones – Yes.

Mayor Wysocki asked for a motion.

Motion by Mr. Sisson to recommend conditional use approval for a banquet facility to be located at 19300 West Cleveland Avenue subject to the application, plans on file and the following conditions:

- 1) Plan of Operation
 - a) Hours of operation shall be 12 pm to 12 am, daily, as booked.
 - b) Three (3) to five (5) employees per booked events.
 - c) Maximum allowed capacity of facility is 275.

- 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) Applicant shall combine parcels.
 - b) All interior parking and paved areas shall be kept a minimum of 5' from all side and rear lot lines unless the parcels are combined.
 - c) 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. Please review the pathways from the parking area's for Handicap accessibility to the building. Show the necessary changes on the plan set.
 - d) Maximum 4:1 slopes allowed between turn around drive and lot line.
 - e) 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) A Traffic Impact Statement is required. The statement shall include a description of the proposed development, proposed site layout, and the number of trips generated during the average day and AM & PM peak hours. Trips shall be based on ITE's Trip Generation Manual. Based on this information, a full Traffic Impact Analysis (TIA) may be required.
 - b) Parking 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.
 - c) 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. Average-to-minimum and maximum-to-minimum values are acceptable.
 - d) Old driveway access from Cleveland Avenue to lot should be removed and restored along with parcel combination.
- 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 to be fully sprinklered.
- c) Monitor sprinkler flow.
- d) Knox box required.
- e) Must meet flow requirement of Comm. 62.0904 (b) 6.
- 8) Engineering – Utility Division -
- a). The plans shall show the location of on-site waste disposal facilities (tanks, manholes and mound sites) and underground piping associated thereto. The City should have a plan of the complete system in our records for review prior to the issuance of the Conditional Use Permit.
- b) The Applicant shall address the adequacy of the existing on-site disposal system and its designed capacity as installed. Further, the Applicant shall address the potential impacts that a facility of this type would have on the hydraulic and bio-loading on the existing on-site disposal system and how they will be resolved.
- c) The plans shall show the location of the on-site water supply well and underground piping associated thereto. The City should have a plan of the complete system in our records for review

d) The Applicant shall address the adequacy of the existing on-site water supply and its designed capacity as installed. Further, the Applicant shall address the potential impacts that a facility of this type would have on the hydraulic capacity of the existing well and water supply system.

Seconded by Mr. Gihring.

Mayor Wysocki asked for discussion.

Alderman Ament – I'm going to be voting against that. In the discussions on this with staff, it was mentioned that they would not be cooking any food there, but I assume they will be storing food. I see a cooler in the drawing. I would imagine they would still have to prepare the food in some manner. It also looks like they are showing two big double doors going into that area labeled storage. I assume that is not going to be storage. I would assume that would be primarily for storing the food and preparing it. I also don't see any facilities for a kitchen area for cleaning dishes and areas needed for cleaning the banquet hall. I would imagine the tables and floors would occasionally need cleaning. I don't see anything for that. Does that mean the storage facility is going to be a combination of a kitchen area.

Ms. Bennett – The proposal that was submitted shows no kitchen facilities in this building. Mr. Kernan, the applicant can address exactly what is going to be in storage.

Alderman Ament – So there would be no cleaning?

Mr. Kernan – That is correct. The only thing that we would be doing is wiping tables off. We are not doing dishes there. It is all being catered in. The coolers are for the beer and soda.

Alderman Ament – There is some concern that this could expand beyond that once it is approved. One of the main things that I see as a problem is that once this would become a banquet hall, obviously something would have to be done with the parking lot and our codes would require lighting. When you look at some of the other golf facilities that are used for similar uses in these districts, Kasco for an example, their hours of operation are one hour after sunrise and two hours after sunset, seven days a week. The original Raven Golf Service plan says office hours are from 8:30 a.m. to 6:00 p.m. Monday thru Saturday and the driving range hours are from 8:30 a.m. to dusk daily.

If you compare this to Tee It Up down the street, one of the major concerns when it was approved in the mid '90s was the lighting. One of the reasons that their operation hours are restricted from 8:30 a.m. to dusk was because we didn't want lighting in that rural area. We didn't want to encourage a business district there when this is supposed to be a rural park setting. I can not support this in any way because once they turn this into a banquet hall, by our own codes, we will have to have that be a lighted facility. What we would be doing here is not the original intended use of this building. If by some chance this gets approved, I would like to see some conditions put on to restrict the hours similar to the other facilities I mentioned.

Mr. Teclaw – I was not here at the last meeting, but I was here and participated when this came through as a supper club. It talks about a maximum capacity of 275. I want to reflect back on the neighborhood and some of the concerns that became obvious at the public hearing. How can you have 275 people with 3 to 5 employees?

Mr. Kernen – The 3-5 will be our people, bartenders, etc. The caterers will have their own people.

Mr. Teclaw – So you are saying everything that would occur on this facility will be catered?

Mr. Kernen – 100%

Mr. Teclaw – As I read through the public hearing minutes, it seemed like there were a lot of unanswered questions. The lighting plan seems to be something that is not resolved. The hours of operation seems to be a problem with the people in the area. When I review a conditional use, I do it from a standpoint as to whether it is something that people around it want or is it something that they don't want. If they want it, I think full steam ahead. If it is not, we need to make sure every question gets answered and no stones are unturned. The hours seem to be a huge issue here. When the prior use was approved, the hours were somewhat limited to the afternoon and here it seems as though the hours are extended well into the evening and there would be a much greater chance of it being a disruption to the neighbors. Has the staff looked at that from that standpoint?

Ms. Jones – There was some discussion on that at the public hearing. I know the closing began at 2:00 a.m. and was backed down to 12:00 a.m. It would be up to the Plan Commission if they wished to further restrict the hours, comparing it to some of the other facilities out there that close early. The hours are in a position for review.

Mr. Teclaw – What was approved with Ravens Golf seemed like a common theme at the public hearing from the standpoint of activities there, given the parking, traffic, and lighting would be extended based on that approval of 4:30 or 6:00. Is that correct?

Ms. Jones – Yes, it opens at 8:30 and closes at dusk.

Mr. Tecalw – I wonder if it might be appropriate to defer this until we get some of those things answered, particularly the lighting. Where are we at with the traffic impact?

Ms. Bennett – There is a letter in your packet submitted and there is one that was given to you this evening from two different consultants. The letter you received this evening from Landscape Architects, Inc. addressed to Mr. Kernan reads ... (Ms. Bennett read letter aloud) . The letter included in your packet concludes exactly the same.

Mr. Teclaw – So we don't have anything to go on?

Ms. Bennett – Correct.

Mr. Teclaw – So I look at this from the prospective of the valid concerns from the people that spoke. Some of these concerns were prior concerns from the supper club that was being contemplated. They still relate to key areas, lighting, traffic, hours of operation. I am wondering if these are things that can be resolved or perhaps getting further information on them would allow us to make a more informative decision. I guess, I would not be comfortable personally voting Yes without that information. I am not sure I would be comfortable voting Yes even with that information. It would be very important to have the information though in making that decision.

Mr. Sisson – We need to keep in mind, we are not building a new structure. We have a structure that exists and is not now being used. They are trying to find a use for it. With respect to the lighting, I think we need to recognize that this thing is not going to be operating seven days a week, 365 days a year. It is not going to be like a regular business. In respect to lighting, I think it also needs to be reconsidered. Those lights aren't going to be on when that facility is not operating. Today we have lighting capabilities in parking lots to direct that light straight down to minimize the impact on neighbors. I was out there yesterday, mid-afternoon Sunday, very little traffic. Later on that evening, right near dark I was also out there, same deal, very little traffic. We have dragged this out long enough and I intend to support it.

Mr. Gihring – Don't we have a lighting plan or at least a partial lighting plan on Page 12?

Ms. Bennett – They did submit a lighting plan. It does not meet our codes. If you look under No. 4 Transportation – Letter c, it indicates that their plan proposes a lower foot candle than what is required in our code.

Mr. Gihring – The black dots are lighting fixtures (looking at lighting plan) so there are a lot of lights. It does not meet our standards because they are not bright enough, is that what you are saying?

Ms. Bennett – Correct.

Mr. Gihring – What do they have for sewage facilities? What are they permitted to do here?

Ms. Bennett – There is comments from the Utility Engineer on Page 2 and 3. There is an on-site disposal system and the applicant has to confirm with Waukesha County whether or not the site can handle this proposal. There are some additional conditions regarding that.

Mr. Gihring- Are they required to upgrade?

Ms. Bennett – If it is necessary.

Mr. Gihring – Is the bar in this building only open and available to the caterers or would this be available at other times?

Ms. Bennett – Just during those times.

Mr. Gihring – So it is only used by the caterers.

Mayor Wysocki – This is an application for a Conditional Use and although I have said in the past that I have tied it to the idea that the building that we see there was approved with certain conditions, this is a new application, therefore there are new considerations to be taken into account. I am not comfortable for the lack of engineering analysis relative to the waste disposal facility as well as potential impact on the water resources with regards to the supply. Although the food would be supplied, obviously the water and facility demands relative to the waste disposal system really have to be addressed before we go ahead with an approval.

I am also concerned about the fact of the impact relative to the hours of operation. I know of no other activity in that area that has that kind of public activity at that time in the evening to midnight. If this were to be approved, I would hope the hours of operation would be reconsidered. We would need a more compatible ending time. I know of no other operations, nor when I look at the Master Land Use Plan for this area which is primarily the western area, for activities out there that would go to midnight whether it be weekday or weekends.

You did make an attempt to look for a traffic impact statement and I understand what the experts have said. We all recognize that there would be a traffic impact out there although I would assume, since this is a County road, that the County would be looking at potential impacts with this increased capacity both with the golf course and now the possibility of this facility operating at the same time and what this would mean, with regards to improvements, additional lanes through that intersection especially with Wehr Road coming down into that complex.

I would prefer that the information be provided to us, especially in the areas of the waste disposal and water impacts, before we would take a vote on this. I would like to have the County's analysis of traffic. I would also ask for a reconsideration of the hours of operation, at least a 10:00 p.m. ending time would probably make more sense relative to the area. I would like to have this come to us in that format for recommendation with those areas being addressed because those would be the conditions of use that I would put on it.

Alderman Ament – It was mentioned the building is already there and this is about the use. That is true, the building is already there, although the neighbors were concerned about the use that this building would have because the building itself was approved for this area because of the use that was going into it.

Now we are looking at taking this building and expanding the use by the hours of it and changing the lighting by doing that. One of the conditions that was placed on the Tee It Up use and the use of Ravens Golf Services was an 8:30 a.m. to dusk hours of operation. This is primarily due to the Alderman and the neighbors concerns about disruption in this rural area of our community where it specifically says no lighting other than security lights are to be allowed. The Tee It Up operation which is at 20101 W. Cleveland Avenue which is just down the street from Deer Haven was approved with the same conditions as Deer Haven for the same reasons. I think that we are changing the use here and the intent of what that building was built for. As I meant before when I was talking about the kitchen facilities, these things just seem to keep expanding.

Because someone bought a piece of property and someone built a building, we have to do cartwheels up here to try to make sure they make money on it. When that land was purchased, those were the conditions that were specified for it and other similar uses in the area. On 11/5/01 Plan Commission unanimously denied and on 11/13/01 the Common Council denied the request from Tee It Up for miniature golf for the same basic reasons. This area was never intended and we should not allow business uses to encroach on this quiet residential area.

The parking lot lighting in this area would impose an undue disturbance of natural resources on adjacent uses. I took that out of Sec. 275.36(b)(2). Those adjacent uses are residential uses. The noise from music at late hours, after dusk, will impose an undue disturbance of natural resources on adjacent uses under the same part of our code. Also, in Sec. 275.36(b)(2) it says “when applied to private owned recreational lands, this district is intended to avoid the conversion of such lands to other urban uses without adequate public review and approval”. We have no such approval from the public, in fact, we have a petition with 35 signatures on it, several letters and about 10-12 e-mails and phone calls to back that up. This is not a compatible use in this area or on this parcel. I think we would be doing an disservice to the other operations that are similar that we have denied these things for the same reasons.

Motion by Mr. Sisson to end debate and call question. Seconded by Mr. Gihring. Motion fails with Mayor Wysocki, Mr. Gihring, Mr. Sisson voting Yes and Alderman Ament, Mr. Teclaw, Mr. Felda voting No.

Mr. Teclaw – Conditional Uses are really simplified by saying it is a situation where it is not allowed by right in a district and I believe the reason it isn't is because there are issues that have to be taken into consideration. First and foremost becomes the integrity of the neighborhood and then you can add the concerns of the citizens in closest proximity and then you can start adding the other things like the Master Plan, the Zoning Codes, etc. Finding No. 7 says “The applicant shall be required to meet all the issues and concerns raised by staff.” The staff has a lot of things that are unanswered. According to the citizens that spoke at the public hearing, it was not a matter of 50/50, it was overwhelming in one direction. When you look at this, there are a lot of issues and concerns that not only us as Commissioners are talking about (lighting, traffic, hours, waste system), but I think the public deserves to know with an element of definity and have their questions answered also.

City Attorney Blum – Just to clarify what is before us, a conditional use application in this particular zoning classification allows for banquet halls as a conditional use. In any district you have a series of permitted uses, accessory uses, conditional uses and prohibited uses. You chose to put this piece of property in a zoning classification which allows for banquet halls as a conditional use. The issue is not whether this use necessarily should be prohibited but rather whether it should be allowed based upon conditions that go with fitting this use to this neighborhood and these circumstances based upon evaluation of public health, safety, and welfare. The staff report has a list of conditions which would try to address those particular issues.

This is not a question of what was here previously. It is a question of whether a banquet hall can meet the requirements of this neighborhood and address the concerns. If you believe that a banquet hall can be allowed in this district with adequate conditions, vote in favor. If you believe that the banquet hall cannot be put in this particular district because you cannot fit the proper conditions to meet the concerns of the neighborhood, then vote against it.

Motion by Mr. Teclaw to table the request for a banquet facility to be located at 19300 West Cleveland Avenue.

Seconded by Alderman Ament. Motion fails with Alderman Ament, Mr. Teclaw, Mr. Felda voting Yes and Mr. Sisson, Mr. Gihring, Mayor Wysocki voting No.

Mayor Wysocki – We have before us a motion to recommend a conditional use approval and I wish to say for the record that I will oppose the conditional use based on the plan of operation hours. I will vote against this based on the condition that the utility issues are not addressed adequately. I also believe that the impact relative to the required lighting tied to the hours of operation are not compatible as a use within the neighborhood.

Motion by Mr. Gihring to amend Condition #1(a) of to change the hours of operation to be 12:00 P.M. to 11:00 P.M.

Seconded by Mr. Sisson. Motion fails with Mr. Gihring, Mr. Sisson voting Yes and Mayor Wysocki, Alderman Ament, Mr. Teclaw, Mr. Felda voting No.

Original Motion for Approval fails with Mr. Sisson voting Yes and Mayor Wysocki, Mr. Gihring, Alderman Ament, Mr. Felda, Mr. Teclaw voting No.

Motion by Alderman Ament to deny the request for a banquet facility to be located at 19300 West Cleveland Avenue for the following reasons:

- 1) The plan of operation hours are not incompatible with the neighborhood in which this facility is being located.
- 2) Engineering Utility details relative to the waste disposal and impact on water issues are not addressed adequately relative to the concerns for the changes of the use of the facility for the kind of activity being proposed.
- 3) Impact relative to the required parking lot lighting tied to the hours of operation are not compatible as the use within the neighborhood. Lighting, as proposed does not meet our zoning code requirements.

Seconded by Mr. Felda. Motion carried unanimously.

8. (3)NJ/AB CU-1-05 Independent Truck & Equipment, Inc. – 20090-20094 W. Lincoln Ave. – Truck and Equipment Repair. (Public Hearing 2/7/05)

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

Motion by Mr. Sisson to recommend conditional use approval for the operation of a truck and construction equipment repair business in the M-1 district at 20090-94 W. Lincoln Avenue subject to the application, plans on file and the following conditions:

- 1) Plan of Operation
 - a) Applicant shall repair all vehicles and construction equipment inside the building.
 - b) Hours of operation shall be 7am to 5pm, Monday through Friday and 7am to noon, Saturday.
 - c) Applicant shall have a total of three (3) employees, one shift per day.
 - d) Vehicles to be parked on site include employee vehicles, a small service vehicle and repaired vehicles/equipment awaiting customer pick-up.
 - e) Applicant shall store no more than ten (10) vehicles, including construction equipment, in designated parking spaces overnight.
 - f) No outside storage other than those specifically listed.
- 2) Site Plan
 - a) Designated 60' x 100' recycled asphalt area behind building addition to be used for parking construction equipment and semi-trucks.
 - b) Employees to park in existing striped parking stalls located south of the building.
 - c) Parking requirements for future tenants to be reviewed on case by case basis. Potential future tenants may be denied for lack of parking or potential conflicts with this business.
- 3) Engineering
 - a) Storm water quality issues shall be addressed prior to the issuance of the Zoning Permit in accordance with City Ordinance 2193 and approved by the Storm Water Division Engineer.
- 4) General
 - a) Building plans submitted with application do not indicate any interior finishing for the tenant.
 - b) Any interior building plans shall be stamped and signed by a registered architect or engineer (Comm 61.20 Responsibilities).
 - c) Any interior building plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per Wisconsin Dept. of Commerce (Comm 61.70 Certified municipalities and counties. (5)(c)3.)
 - d) Apply and obtain any appropriate building, plumbing and electrical permits as required by code.
 - e) Fire extinguishers required.

Seconded by Mr. Teclaw. Motion carried unanimously

9. PG-936 Conservation Forum – Subdivision and Zoning Code Amendments.

No Action.

NEW BUSINESS

10. (4)NJ/AB CU-2-05 New Berlin Pizza Buffet & Family Entertainment Center – 5320 S. Moorland Rd. – Restaurant and Entertainment Center. – Conceptual discussion.

It was the consensus of the Plan Commission that the applicant should proceed with a conditional use in the M-1 Zoning District because the Plan Commission agrees that the entertainment aspect of the business is secondary to the restaurant.

11. (7)AK U-2-05 Kat’s Café – 19680 W. National Ave. – Installation/Replacement of an Existing Canopy/Awning, Approval for Replacement of Two Openings with Windows, Paint the Exterior of the East Wall, and Request the Expansion of Parking on the Site.

Motion by Alderman Ament to table the request for Installation/Replacement of an Existing Canopy/Awning, Approval for Replacement of Two Openings with Windows, Paint the Exterior of the East Wall, and Request the Expansion of Parking on the site located at 19680 W. National Avenue based on the following:

- 1) There are multiple violations and concerns that are inter-related with the above requests. Those violations and concerns need to be addressed prior to any action being taken on the above request.

Seconded by Mr. Sisson. Motion carried unanimously.

12. (4)AK R-2-05 Kat’s Café – 19680 W. National Ave. – Rezone from R-1/R-2 to B-2. – Set Public Hearing.

Motion by Alderman Ament to table the request to rezone the property located at 19680 W. National Avenue from R-1/R-2 to B-2 based on the following:

- 1) There are multiple violations and concerns that are inter-related with the above requests. Those violations and concerns need to be addressed prior to any action being taken on the above request.

Seconded by Mr. Sisson. Motion carried unanimously.

13. (7)AK SG-2-05 Kat’s Café – 19680 W. National Ave. – Canopy Signs.

Motion by Alderman Ament to table the request for canopy signs located at 19680 W. National Avenue based on the following:

- 1) There are multiple violations and concerns that are inter-related with the above requests. Those violations and concerns need to be addressed prior to any action being taken on the above request.

Seconded by Mr. Sisson. Motion carried unanimously.

14. (3)OA SG-1-05 Keystone Travel Services – 16735 W. Greenfield Ave. – Wall Sign.

Motion by Alderman Ament to approve the request for a Wall Sign Permit for Keystone Travel located at 16735 W. Greenfield Avenue subject to the application, plans on file and the following:

- 1) Because it is not practical to locate a monument sign on this property as required by Section 275-61 (I) (1) (c) (1) of the Municipal Code, the applicant would like the Plan Commission to waive this requirement. Based on recommendation from the Transportation Division Engineer, staff is requesting that this requirement be waived for this particular tenant and allow the installation of this wall sign.
- 2) Per Section 275-53B(1)(11) all existing nonconformities and outstanding code violations shall be identified, resolved, and remedied.
- 3) All future modifications, including face changes, structural alterations, conversions, extensions, relocations, and additional signs must be applied for and receive a Sign Permit, and must meet the provisions of the Section 275-61 New Berlin Municipal Code.
- 4) The non-illuminated wall sign face shall read, “KEYSTONE TRAVEL – Vacation & Cruise Center” in white.
- 5) The overall sign face shall not exceed 157” in width x 22” in height and. Sign face dimension shall be consistent with the approved plan on file.
- 6) No payment is required per the following calculations:
Sign Face: 22” x 157” = 24 sq. ft. x \$3/sq ft = \$72
Less application fee: (\$75): -\$3.00

Seconded by Mr. Sisson. Motion carried unanimously.

15. (7)AK U-5-05 Guardian Upholstery – 2830 S. Calhoun – Home Occupation – Garage to be used for an Upholstery Business and the Outside of Garage in Front and Back for Temporary Storage of Personal and Customer Vehicles.

Motion by Alderman Ament to approve the request for an after the fact temporary structure in front of the garage and upholstery home occupation located at 2830 S. Calhoun Road subject to the plans on file and the following:

- 1) Home occupation shall meet all requirements set forth in Section 275-42 “Home Occupations” of the City of New Berlin Zoning Ordinance.

- 2) If signage is necessary, a separate sign application needs to be applied for prior to any installation of signage on the property per Section 275-61 H(1).
- 3) Home occupation operations shall be limited to the garage only and shall only include operations related to upholstery.
- 4) At any given time, the maximum number of customer vehicles that shall be stored on site must not exceed two vehicles, and those vehicles must be stored as inconspicuously as possible.
- 5) The home occupation shall be approved for a temporary 1-year period. If at the end of that 1-year period there are no violations or complaints related to the home occupation and its operations, then a permanent Zoning Permit will be granted.
- 6) All machinery, parts, materials and operations related to the home occupation must be stored in the garage.
- 7) The home occupation operations shall not deviate from what was submitted on the Plan of Operation. Any changes to the Plan of Operation will require that a new use approval application be applied for.
- 8) The temporary structure shall not be used by customers.

Seconded by Mr. Teclaw. Motion carried unanimously.

16. (7)AK U-6-05 Airport Service, Inc. – 3460 S. Cari Adam Ct. – Home Occupation Limousine Service.

Motion by Mr. Teclaw to approve the request for an after the fact office for a limousine dispatch home occupation service located at 3460 S Cari-Adam Court subject to the plans on file and the following conditions listed below:

- 1) Home occupation shall meet all requirements set forth in Section 275-42 “Home Occupations” of the City of New Berlin Zoning Ordinance.
- 2) If signage is necessary, a separate sign application needs to be applied for prior to any installation of signage on the property per Section 275-61 H(1).
- 3) The number of commercial vehicles related to the home occupation that will be allowed to be stored on the property shall be limited to two (2) cars and one (1) van.
- 4) Vehicles related to the home occupation shall not be parked and stored on the cul-de-sac or within City right of way.
- 5) The home occupation shall be approved for a temporary 1-year period. If at the end of that 1-year period there are no violations or complaints related to the home occupation and its operations, then a permanent Zoning Permit will be granted.
- 6) Outdoor storage will be restricted to the two home occupation related cars and one van.
- 7) The home occupation operations shall not deviate from what was submitted on the Plan of Operation. Any changes to the Plan of Operation will require that a new use approval application be applied for.

Seconded by Mr. Felda. Motion passes with Mayor Wysocki, Mr. Gihring, Mr. Sisson, Mr. Felda, Mr. Teclaw voting yes and Alderman Ament voting No.

COMMUNICATIONS

17. Communication To: Plan Commission
Communication From: Bob Sigrist, Inspection Services Manager
RE: Letter dated February 16, 2005 from Mel Virrueta, President of Badger Contracting, Inc. of S. WI referencing moving of house from 14980 W. Beloit Road to out of City limits.

Plan Commissioners acknowledged receipt of this communication.

18. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: Letter dated February 8, 2005 from Raymond Kucik regarding Oak Pointe Apartments

Plan Commissioners acknowledged receipt of this communication.

19. Communication To: Plan Commission
Communication From: Bob Sigrist, Inspection Services Manager
RE: Building Permit Application for 6161 S. Linnie Lac Drive

Item to be listed for Plan Commission action at next Plan Commission meeting.

Motion by Alderman Ament to adjourn the Plan Commission meeting at 9:45 P.M.
Seconded by Mr. Sisson. Motion carried unanimously.