

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

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

December 16, 2004

MINUTES

The Plan Commission Meeting was called to order by Mayor Wysocki at 6:00 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Gihring, Mr. Sisson, Mr. Barnes. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitsche, Stormwater Engineer; Ron Schildt, Transportation Engineer; Larry Wilms, Utilities Engineer; and J. P. Walker, City Engineer. Excused were Mr. Teclaw, and Mr. Felda.

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

Chapter 275

Amendment #4

Motion by Mr. Barnes to adopt the following amendments to Amendment #4:

- Page 6, 2(a) 1 through 8 – Change to percentages.
- Page 6, Line 21 – Change .95 to 100%.
- Page 6, Line 21 – Change “designated” to “delineated”
- Page 6, Line 19 – Change “overhead” to “above-ground”
- Page 6, Line 15 – add shall constitute “constrained land” after “ and”
- Page 6, Line 17 – after the word “existing” add “reserved or dedicated prior to the date of submission of the application for”
- Page 6, Lines 31,32,33 – delete what is there and replace with “(b) Only one constrained feature deduction shall apply to any one portion of the tract. The greatest applicable density factor shall apply.”
- Page 7, Line 1-5, strike “c”
- Page 7, Line 20, change “could” to “will”

Seconded by Mr. Gihring. Motion carried unanimously

Motion by Mr. Gihring to adopt Amendment 4 as amended. Seconded by Mr. Barnes. Motion carried unanimously.

Amendment #5

Motion by Mr. Barnes to amend Amendment #5 as follows:

- Line 3 – Change “conservation areas” to “environmental corridor”
- Line 4 – Change to “secondary environmental corridors”
- Line 18 – Delete “At lease two-thirds of the” and add “To The maximum extent practicable” for the sentence to read “The maximum extent practicable lots shall directly abut or be located directly across the street from conservation land.”
- Line 22 – Change “61” to “41”
- Line 10 – Change “playing” to “play” and add a space between play and fields.
- Line 5 – add word “additional” setback requirements.

- Line 4 – Add “ and isolated natural resources”.
- Line 6 – 2(a) to read “From all roads right-of-ways bordering the perimeter of the plat.
- Add (7) “Subdivisions shall be divided in accordance with the City’s Development Handbook and all applicable City Ordinances.”

Seconded by Alderman Ament. Motion carried unanimously.

Motion by Alderman Ament to adopt Amendment #5 as amended. Seconded by Mr. Barnes. Motion carried unanimously.

Amendment #6

Motion by Alderman Ament to amend Amendment #6 as follows:

- Strike paragraph (1) in its entirety.
- Strike paragraph (2) in its entirety.
- Page 10, Line 2 – Strike words in parenthesis.
- Page 10, Line 4 – Change “Plan Commission” to “City”.
- Page 10, Line 8 - Change “unity” to “unit”.
- Strike paragraph (5) in its entirety.
- Strike paragraph (6) in its entirety.

Seconded by Mr. Gihring. Motion carried unanimously.

Motion by Alderman Ament to adopt Amendment #6 as amended. Seconded by Mr. Sisson. Motion carried unanimously.

Amendment #7

Motion by Mr. Gihring to amend Amendment #7 as follows:

- Page 11, Line 9 – Strike “wholesale nurseries”.
- Page 12, Line 3 – Add to (8) “The integrity of all conservation lands shall be maintained and not adversely impacted”.
- Page 12, Line 3 – Add “private owner” at beginning of the sentence.
- Page 12, Line 16 – Change to “primary environmental corridors”.
- Page 12, Line 17 – Change to “secondary environmental corridors”.
- Page 12, Line 17 – Add “isolated natural resource areas”.
- Page 13, Line 14 – Strike sub paragraph (a).
- Page 11, Line 17 – Correct “with”
- Page 11, Line 27 – Change “play fields”
- Page 13 – Change reference to Sections 275 and 235.
- Page 12, Line 18 and 24 – Change section references 275-33.
- Page 12 – Strike paragraph (3).
- Page 13 – Add paragraph 4 submission of a plan for the maintenance and operation of the conservation areas as required per 235-41(B)(3)(b).

Seconded by Mr. Barnes. Motion carried unanimously.

Motion by Mr. Barnes to adopt Amendment #7 as amended.
Seconded by Alderman Ament. Motion carried unanimously.

Amendment #8

Motion by Alderman Ament to amend Amendment #8 as follows:

- Page 14, Line 3 – Change “shall” to “may”
- Page 14, Line 3 – Change “Plan Commission” to “City”.

- Page 13, Line 32 – Change “Plan Commission” to “City”.
- Page 14, Line 6 – Add “and the Wisconsin Uniform Conservation Easement Act”.
- Page 13, Line 32 – Place parentheses after the word “facilities”.

Seconded by Mr. Barnes. Motion carried unanimously.

Motion by Mr. Sisson to adopt Amendment #8 as amended.
Seconded by Alderman Ament. Motion carried unanimously.

Amendment #9

Motion by Alderman Ament to amend Amendment #9 as follows:

- Page 14, Line 19 – Verify if the Plan for Southeastern Wisconsin is authorized by SEWRPC’s.
- Page 15, Line 28 – Add “or its designee”.
- Page 14, Line 13 – Verify Section 275-41B.
- Page 15, Line 2 – correct placement of apostrophe.
- Page 14, Line 30 – Add paragraph (c) “There is no environmental contamination on the site”.
- Page 15, Section 3 – Add paragraph (h) “The Bylaws must prohibit amendments without the approval of the City as to the conservation lands”.

Seconded by Mr. Barnes. Motion carried unanimously.

Motion by Alderman Ament to adopt Amendment #9 as amended.
Seconded by Mr. Gihring. Motion carried unanimously.

Amendment #10

Motion by Mr. Barnes to amend Amendment #10 as follows:

- Page 17, Line 1 – Change “ within 600” to “not less than 600 from”
- Page 17, Line 2 – Add “and notice of the Public Hearing shall also be published as a Class II legal notice under Chapter 985 of Wisconsin Statutes.

Seconded by Mr. Gihring. Motion carried unanimously.

Motion by Alderman Ament to adopt Amendment #10 as amended.
Seconded by Mr. Sisson. Motion carried unanimously.

Amendment #11

Motion by Alderman Ament to drop Amendment #11.
Seconded by Mr. Sisson. Motion carried unanimously.

Amendment #3

Motion by Mr Sisson to amend Amendment #3 to state that any individual cul-de-sac (public or private) within the residential development shall have no more than 15 units that have exclusive frontage along said cul-de-sac. A public cul-de-sac shall serve at least a minimum of 5 units that have exclusive frontage along the cul-de-sac.

Seconded by Alderman Ament. Motion carried unanimously.

4. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Director

Communication Re: Letter from Metropolitan Builders dated December 2, 2004.

Comments from letter Metropolitan Builders dated December 2, 2004 Pertaining to Chapter 235

235-9 Dept. of Community Development

Page 3

(A)(3): We believe that in order for this to be successful, it is critical that when DCD makes a recommendation, they are careful to make the right impression and not make commitments controlled by the Plan Commission.

Mayor Wysocki stated staff abides by this policy. Staff has exercised in the past several years that they are not in a position to tell applicants what the thinking of the Plan Commission is. They work with the technical aspects of the Code. The final position and comments are with the Plan Commission.

235-12 Common Council

Page 4

(A): It is important that the public meeting does not refer to a "public hearing" format because of the time frames for placing on an agenda and action within a certain number of days would be required.

Mayor Wysocki stated he did not see this as any conflict within the Code. We do distinguish between public meetings and public hearings. Public hearings are formal public meetings, and are much more informal. They do not attach to any kind of time frames; they are noticed as public meetings, and do not require a class 2 notification.

235-15 General Subdivision Procedure

Page 5

Step 1: Text calls for a 14 day submission date for pre-application period for preliminary plat but the preliminary plat cannot be submitted until after approval of the pre-application sketch plat. It looks like a 135 day period from sketch plan to preliminary plat. It is unclear why the 14 day requirement is inserted.

Mr. Kessler stated we tried to put some time frame toward the pre-application meeting. This is no longer a recommendation.

Page 6

Step 11: We believe this step should be completed concurrently with Step 10 otherwise there could be an additional 60 day delay.

Mr. Kessler stated this refers to at the time the Developer's Agreement is drafted and sent to the Board of Public Works, that cannot be done until after Staff has reviewed and approved the construction.

Page 7

Step 14: Consideration should be given to submitting a Letter of Credit or Bond to assure installation of improvements. This would allow for filing the Final Plat prior to completion of the improvements with the assurance that the improvements will be installed. Issuance of Building Permits/Occupancy Permits and/or signing/ recording of the Final Plat could still be contingent on the completion and acceptance of improvements, thus, allowing the City to maintain full control. Step 15(B) (Step 2) (Voluntary Sketch): The step asking for a sketch plan is a good step. However, if more than a hand-drawn sketch is required then cost could become a factor. We are concerned with the level of effort required to meet acceptance at the conceptual stage. We agree that all interested parties should be fully aware of attributes of a site, but, we believe that if City

Staff, Plan Commission, Common Council, and the design team all meet on site to conceptualize a design there is a risk of having "too many chefs stirring the pot". Designing a development meeting everyone's expectations will be difficult. The meeting will need to be publicly noticed, meaning that residents would be allowed to attend creating liability issues for the application and/or land owner. We would recommend instead that consideration be given to a sub-committee of the Plan Commission. The sub-committee should include staff.

Step 15(B)(Step 2): What happens to the site visit on inclement days and winter meetings? Will they still be held or will this hold up the process for another month?

Mr. Kessler stated we would like to have the conceptual sketch up front and we want to get the Plan Commission to walk the site. We do not ask the developers to invest tremendous amounts of money before we get to the Preliminary Plat stage.

Mr. Kessler referred to Step 14 and stated the Code is very specific in stating improvements have to be installed, inspected, and accepted before the City can approve the final plat. Mr. Kessler referred to Ch. 236 and stated when the final plat is approved, that action accepts dedication of public infrastructure including the roads.

Page 8

(15)(F) Step 6: If applicant chooses not to participate in the voluntary pre-application process, what would be the consequences or is it really an option?

Mayor Wysocki stated the consequences would be that a proposal is brought forward, if the Plan Commission believes it should have required the kind of analysis that we need to do relative to natural features, etc., the Plan Commission would say it needs to go through that process.

Mr. Kessler stated the applicant would be better off not spending tremendous amounts of money by engineering the plat, but get the map information from the City, the DNR, or SEWRPC rather than engineering everything that is involved for plat preparation.

235-36 Voluntary Sketch Plan (Overlay Sheets)

Page 11

(A)(1)(b)(3)(g): These locations should be determined/delineated/studied in order to determine their accurate location prior to preparing the sketch plan. This could be a significant up front cost, particularly for an individual or landowner, without any assurances from the City that a development is visible. The existing City maps can only be used as a general guideline. Field delineations and studies can vary widely from the City maps. Another concern here is that only very large developers would have the means to afford the Voluntary Sketch Plan process of review, unless the City updated its maps. Each step of the Review Process must be sensitive to cost for the individual and lot owner to perform that function.

Mayor Wysocki stated we are asking the developer or landowner to make a greater investment on the front end, but the payback is as you go through the rest of the process, it is less expensive and less time consuming.

Page 13

235-38 Existing Conditions and Site Analysis Map

Again, this could be a lot of work and cost a lot of money without assurance of the ability to develop. It could be particularly costly for the individual or farmer who wants to create a CSM to create a couple of lots for his siblings or pay for a special assessment as a result of sewer or water extensions by the City.

Mayor Wysocki stated there is some significant City data available to the landowner or developer. If a lot of the up-front analysis gets done, it makes the rest of the process less expensive and less time consuming.

Page 14

(B)(2)(c): We believe that a photogrammatic survey with field verification should also be allowed.

Mr. Schildt stated either an ortho or a photogrammatic survey could be used.

235-38 Existing Conditions and Site Analysis

Page 15

(B)(4)(i): Are there any sycamore, tulip poplar, sassafras, holly, water beech or eastern redbud naturally (or purposely planted) in the city of New Berlin? Also, there are some concerns with the requirement of locating all trees with a caliper of fifteen inches. Could the City differentiate between woodland quality and indicate some on the plan. It could become expensive to specifically locate each and every tree per the list and if the woodland is of high quality, proper measures could be taken.

Mr. Kessler stated we eliminated the specific species of trees.

235-40 Four-Step Design Process for Conservation Subdivisions

Page 16

(B)(5): Definition of open space calls for 50% of land not occupied by street drainage, or utility ROW, 100 year floodplain, wetlands or slopes of 20% or more. Could the City soften the percentage to gross acreage prior to development and then possibly a smaller percentage of net lands per proposed development area.

(B)(5): Stormwater/Water Quality management ponds are becoming increasing larger and are integral components with the design of any development. The language in the proposal seems to indicate that these ponds could be included in the calculation of conservation areas. We urge that this continue to be the case. These ponds are generally designed to be conservation features and amenities to a development and should be included in the calculation of conservancy area.

Mr. Kessler stated the way we reviewed this amendment is that under conservations lands up to 50% cannot be occupied by city drainage and utility right-of-ways or floodplains, wetlands or slopes. The water quality management ponds can be included in the calculation of conservation areas.

Page 17

(C)Step Two: The fifty feet setback from conservation areas should only be a guideline when determining house sites. The actual design of homes, and footprints, will vary from the boxes or pads generally used to simulate a home during this process. Future owners and builders should be encouraged to design around the conservancy areas, however, a rigid setback will not foster the development creative home designs. A house site should not be construed as building pads have been in the past on grading plans. Therefore, we would encourage some flexibility with this requirement.

Mayor Wysocki said we came to a conclusion that it was important that we maintain that setback. If we start to allow for negotiations on those, we run across situations that do not lend themselves because there are issues of adding decks, swimming pools, etc.

235-41 Conservation Design Review Standards

(A)(1): Could the City soften the 75' buffer for improvements from the wetland to between 30' and 50', and the 75' buffer from navigable bodies, considering 50% of the site will be preserved

Mr. Kessler said this is in a State Statute and was not in our discussions.

Page 18

(B): Would a pool and/or clubhouse be acceptable or should these be on separate outlots?

(B)(1): Again, Storm water/Water Quality Management Ponds should be included as conservation features. Proper design consideration, and enforcement by the City, can assure that the ponds are features.

(B)(3): We are pleased to see that some non-adjoining lots are acceptable. This should lead to better overall design and flexibility in the design of the infrastructure components.

Mr. Kessler said we would need to refer to the Zoning Code and the Zoning Code Amendments to answer that.

235-15.1 General CSM Procedure

Page 21

(E)(6): Who drafts the development/improvement agreement? Currently, the City drafts the document with input from the applicant. This gives the City greater control in the process including compliance with construction(infrastructure)plan review. It would be appropriate to set time deadlines for the review and placement of the agreement on BPW and CC agendas.

(E)(6)(d): Financial benefit will be very subjective and difficult to determine for CSM's. CSM's do not usually require Deed Restrictions which can prescribe building size and ultimately assessed valuation (except retail and commercial uses). Again, the farmer/land owner may only be creating a couple of lots for their siblings to build on or lots to sell to off-set a special assessment. This would be very difficult to administer.

City Attorney Blum said that the process for drafting the development/improvement agreement would not be changed. Mr. Kessler said we are working on creating a construction plan formal checklist and review process which should solve the issue of the timing for placement on BPW and CC agendas. Mayor Wysocki said with the State changes for CSM's, we would need to apply that same standard.

Mayor Wysocki said the comments in the letter referring to Chapter 275 will be discussed at a later date.

Motion by Mr. Barnes to adjourn the meeting at 10:34 P.M. Seconded by Mr. Sisson. Motion carried unanimously.