

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

6:00 P.M. (3)NJ CU-7-04 Wisconsin Electric Power Co. – 16700 W. Rogers – Moorland Substation Expansion.

NEW BERLIN PLAN COMMISSION
NEW BERLIN CITY HALL COUNCIL CHAMBERS

NOVEMBER 1, 2004

MINUTES

The public hearing relative to the request by Russell F. Wiegand of American Transmission Co. for Wisconsin Electric Power Co. for a Conditional Use for a substation expansion located at 16700 W. Rogers was called to order by Mayor Wysocki at 6:02 P.M.

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

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

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

The representative for the applicant presented additional information explaining the request.

Mayor Wysocki asked if there were any comments or questions for purpose of 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 called the public hearing closed at 6:07 P.M.

PUBLIC HEARINGS

6:01 P.M. (7)OA R-10-04 Rogers Glen – 5165 S. Racine Ave. – Rezone from R-1/R-2, C-1, and C-2 to R-1/R-2, C-1, and C-2.

NEW BERLIN PLAN COMMISSION
NEW BERLIN CITY HALL COUNCIL CHAMBERS

NOVEMBER 1, 2004

MINUTES

The public hearing relative to the request by Dean Frederick of Thomson Corp. for Rogers Glen for a rezoning at 5165 S. Racine Avenue from R-1/R-2, C-1, and C-2 to R-1/R-2, C-1, and C-2 called to order by Mayor Wysocki at 6:07 P.M.

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

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

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

Mayor Wysocki asked if there were any comments or questions for purpose of clarification.

John Hebert, 6015 S. Aberdeen Drive – It might help to understand the delineation process which took place and how conservancy can be a conservancy but not a conservancy, if that makes sense. I would appreciate clarification of that.

Mr. Frederick, Thomson Corp. – The initial request to delineate the wetlands was processed by the City staff through SEWRPC and the DNR. There are not only wetlands (C-2), there is C-1, primary environmental corridor, and isolated natural resources areas also. They are all described in the packet.

Shari Bosman, 14200 W. Howard Avenue – On the top map, there is a large area of C-1 in the light green and that is not field delineated C-1 on the second map?

Mr. Agbaji – That is correct.

Ms. Bosman – That was field delineated by?

Mr. Agbjai – When the delineation was done, the wetland was found to go all the way across and around it is the isolated natural resource area. Same thing here (indicating map). The only thing that was consistent in this delineation is this area (indicating map).

Mayor Wysocki – There was a reduction in C-1 of 3.18 acres and a reduction in C-2 of 4.6 acres for a total reduction of 7.78 acres out of the 150.

Ms. Bosman – The current zoning map shown on the top was the plan that was approved by the court, correct?

Mayor Wysocki – Yes.

Ms. Bosman – I understand there are some incidental takings for the Butler Garder Snake.

Mr. Thomson – I think what Ms. Bosman is referring to is that there was an incidental taking notice regarding the wetland fill area for the area Olofu is pointing out on the map.

Ms. Bosman – I understand that there are retention and detention ponds.

Mayor Wysocki – Yes.

Ms. Bosman – Could you generalize where they are?

Mr. Agbaji – (indicated ponds on map) There are nine ponds.

Ms. Bosman – It is my understanding that at least one of the ponds upon digging it, the subsoil conditions was deemed not to be proper and the City has requested the ponds be relocated.

Mr. Nitschke, Storm Water Engineer – It was found the ponds had subsoil that would be beneficial for ground water recharge and infiltration, so there were two options. Line the pond or pre-treat the water before it gets to the pond thereby creating a benefit prior to entry into pond. We are working with Thompson and DNR on that.

Ms. Bosman – Does that require a change in the roadway layout?

Mr. Agbaji – No.

Ms. Bosman – There was a court case where a certain number of lots were replatted and lots were lost. Is there going to be a change in the lots?

Mr. Agbaji – Not that we are aware of.

Mayor Wysocki asked if there were any further comments or questions for purpose of clarification, seeing none.

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

Dennis Kasian, 2005 W. Lawnsdale Road – We have property North of the development. I just want to speak from the experience that I have had with the staff and the DNR over the years. Both groups are very thorough and I feel confident that if SEWRPC and DNR says these are where the lines are, that undoubtedly that is where the lines should be. Also, I have walked part of the property and in my landscape business, I have never seen so much silt fence and orange safety fence on a project ever before like they have out there. They are going out of their way to protect the natural areas and habitat.

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

Mayor Wysocki asked if there was anyone wishing to speak in opposition.

Herb Eggie, Bagpipe Court – I travel Barton Road everyday so I am quite familiar with what is happening with this subdivision. I am here today to object to this project which has been a symphony of errors and omissions right from the beginning. It has been an example of bad behavior on the part of the developer. The history of this project will attest to that. Now whether or not you want to consider that is something else but I think I speak for a number of people who live in the area when I say the following: true, the court approved this plat in November of 2002 after it was taken to court in April of 2002. The court was not appraised at that time of the violations of the code that were apparent in the plat. The City, however, was aware of the violations after the court ordered the approval and they asked the developer to sit down and discuss the plat in conformance with the master plan and the zoning ordinances at that time Chapter 17, now Chapter 275.

According to what I understand, the City Attorney, at that time in 2003 indicated that the developer was willing to sit down and discuss the modifications. However, shortly thereafter we learned at a hearing that the developer was not going to sit down as the attorney pointed out. There was no compulsion on the part of the developer to modify anything. I was at that hearing and I noticed that the attorney for the developer walked out saying in so many words, go to haytees. That is outrageous behavior. It indicates a violation of their agreement, informally. That

is unacceptable behavior and a number of people I am acquainted with in that area feel that when the developer can grant no favors for the City, that the City ought to now grant no favors for the developer. It is arrogance behavior to come in here at this time and ask for favors when they in turn were not willing to sit down with the City and seek those modifications. If they were willing to seek those modifications now in exchange for what they are now petitioning, I'm afraid it would be to late because there has been change as the development has gone on physically in the subdivision.

Perhaps we should not be vindictive, but this is a situation where if the Plan Commission and Common Council approves of this petition, I'm afraid it is going to set a precedent that we are caving in to developers who are showing a kind of community and civic attitude that we don't like to accept here in this community. I would ask on behalf of myself who lives near the subdivision and people who are in that area, that this Plan Commission should deny this and not discuss the substance of the petition any further. I don't think this will happen, but I need to convey the thinking of many of the people in this community about the behavior of the developer in this instance.

Shari Bosmans, 14200 W. Howard Avenue – With regards to Mr. Eggie's comments, "ditto".

John Heberon, 1015 S. Aberdeen Drive – Mr. Eggie is a tough act to follow, but I guess I applaud the city for the moratorium on development and this was proposed in good faith based upon the zonings present on the original map. The developer was willing to work with those at the time, there is no reason why he can't work with them now.

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

Mayor Wysocki asked for questions from the Commissioners.

Mr. Sisson – In the Southwest corner, in the proposed zoning, that which was C-1 has been changed to wetlands C-2 and there is a road that crosses it. What protection is being taken with respect to that wetland and that road?

Mr. Frederick – That area of wetlands went through a review by DNR. The area itself is an elevated crossing with a strip of wetlands that physically goes underneath the road in the area that was reserved as part of the Butler Gardner Snake issue. It is preserved under an arched culvert with footings on it. The DNR felt it would be conducive to the native habitat of the wetlands. Silt fencing has been placed to prevent any further migration of soils into the wetlands. The area that is being filled will be in city right of way.

Mr. Sisson – When staff prepared our staff reports, a comment under findings referred to conservation easement for those areas that are delineated wetlands so that they could be protected forever. When does that discussion take place?

Mayor Wysocki – I would suggest we could have that discussion at the next meeting when we discuss this entire proposal. I think your question is for the developer. Would he work with us on a conservation easement?

Mr. Sisson - Would you be willing to give us one?

Mr. Frederick – It would be hard for me to say yes or no to that question without seeing the terms and conditions and language. Are we agreeable to the concept of conservation easement over these areas? I think there is room for something like that to take place here, but obviously there has been a lot of discussion since this development started. Mr. Arndt with his presentation shows there is a lot of new information out there. I guess I would like to point out that these are the field delineated areas.

Mr. Sisson – I understand we don't have an obligation to approve the zoning change when it comes up before us. It might be worthwhile to consider the consequences of an easement along with the action of this commission.

Alderman Ament – In the notice per the request, you are going to be rezoning environmental corridor and isolated natural resource areas to C-1. Is that correct?

Mayor Wysocki – Yes, in your packet you will see the rezoning exhibits. It makes specific reference to rezone C-2 Shoreland/Wetland District, C-2 Wetland District, and to C-1 Upland Resource Conservancy, etc.

Alderman Ament – We are also eliminating and moving some of the C-1's. I don't understand how that was referenced. I think everyone of the C-1 areas, there is one entire area where the crossing on the second map it shows C-2, first map shows C-1. Where in the code do we delineate C-1's?

Mr. Kessler – It has been a practice of this Plan Commission that you asked us when a development has an environmental corridor or isolated natural area, those areas are to be identified. Under our zoning ordinances it specifically references changes to the zoning district from C-2 to C-1. (Sec. 275.22) The rezoning process is needed.

Alderman Ament – I understand that. Is the C-1 being eliminated based on the environmental corridor?

Mr. Agbaji – It is based on the actual field delineation of the wetlands and environmental corridor.

Mr. Kessler – I have not seen the report from SEWRPC. I believe that it is secondary environmental corridor. The primary environmental corridor is more to the North.

Alderman Ament – So if we have a C-1 District, because it is not an environmental corridor, we can just eliminate it? We can just delineate it off the zoning map?

Mr. Kessler – No, what we have done in the past is if there is C-1 zoning on the property, you can request SEWRPC to do a field delineation. How did we get the C-1 and C-2 zonings on the property in the first place, that was done through aerial photography interpretation, they were never field delineated. If there has not been a development application on a piece of property for say, 20 years it is highly unlikely that the delineation is correct on the zoning map. So when a development application comes forward to our department and this commission, we specifically ask the applicant to field delineate and survey through the proper regulatory authorities.

Alderman Ament – If you go back to the other map where it shows current and proposed zoning, the two main areas that I am looking at is where the crossing is and the area right there (indicated on map). So what we are saying is that the aerial photographs showed those at one time as C-1 and now they are not?

Mr. Kessler – It very well could be. I don't know the interpretation from way back when we did that. We did our aerial interpretation based upon the 1987 Wisconsin Wetland Inventory Map. What was on the ground there at the time the C-1 district was placed, I don't know.

Alderman Ament – I would request that the developer submit that so we can look at that. I can see the boundaries moving some but these are large tracks that have just disappeared.

Mr. Kessler – Mr. Frederick can get us a copy of the SEWRPC report and we can get it to you next week.

Alderman Ament – It happens that these delineations just happen to slide around on the plat. If you look at the C-1 on the upper right hand corner, it just so happened that it slid over to the east and just fits within the plat. It just seems kind of convenient. Also, the other section in the center that is in that cul-de-sac just seems convenient that on the court ordered plat all of a sudden the whole section that is C-1 just happens to be outside of that. I'm curious as to how that happened to come about. There is also a letter on Page 9, is that from SEWRPC or from the developer.

Mr. Kessler – It is from the developer.

Alderman Ament – It refers in here that this is field delineated according to the city Zoning Ordinance. Again, I don't see where that is in the ordinance and I would like to have someone show me where that is before the next meeting. I would like to see one or two other developments where we actually did delineate C-1s. On page 26 on the DNR sheet, second paragraph, fourth line stating, the majority of lots. I'm not sure what that means. Is that referring to the crossing?

Mr. Agbaji – That is referring to the crossing.

Alderman Ament – We are not under any obligation to rezone this, but we are losing some C-1 and C-2 by way of court order. The open space on a conservation subdivision under the old code was rezoned to C-3. Is that what is going to happen here?

Mr. Kessler – Past practices have it that common open space areas were rezoned to C-3. Based upon our discussions since midsummer with Randall Arndt and a discussion among ourselves here at the Plan Commission, I will strongly recommend that we do not do the rezoning to C-3 as Randall has already recommended that we do away with all our conservancy districts in the first place except the wetlands district and go for something that has more teeth such as a conservation easement. I would hope that the developer would sit down with staff and the city attorney to put preservation protection in place in a conservation easement document.

Alderman Ament – I agree with putting the easement in there, however, it was brought up about the rezoning of C-1, C-2 in particular for these conservation subdivisions, and Mr. Arndt did say having C-3 zoning besides the easement gives it another layer of protection. I guess I fall back on the districts of C-1, C-2, C-3 using the Sanctuary rezoning, giving it another layer of protection. I do agree the easements are harder to change. I'm having a lot of problems about why we are rezoning this. I realize it's just a request at this point, but why we will, if we do, rezone those C-1 areas what appears to me because the plat, which was court approved as the developer's attorney pointed out to us, just so happens to go into C-1 because according to that quote, if I remember correctly, they can only disturb 25,000 sq. ft. in that C-1. I don't recall how the old code reads as far as roads in the C-1 but it does seem convenient that the delineations all seem to work right around the court ordered plat and I think that is going to become a problem. During the court order hearing that Ms. Bosman asked about, I don't know if she was referencing anything in particular. Has there been changes other than some minor boundary changes on any of these lots from the court ordered plat?

Mr. Kessler – I do believe one lot was shifted but I do know that when the Plan Commission and Common Council accepted the plat, lot sizes was one of the conditions of approval. We did not review this subdivision for engineering standards so there was a condition placed and approved by Council, that changes to the plat would be only for engineering reasons.

Mr. Thomson – All the lots are generally in the same place as they were originally shown.

Mayor Wysocki – This sounds like this is all new rezoning, but what we are really doing here is zoning according to delineation. We did it preliminarily based on other information available to us. This is now the current zoning. This is now the delineation of what is the current zoning. The zoning areas are now specifically identified and delineated as is required per the code.

Shari Bosman, 14200 W. Howard – Is there an ingress/egress area between the easement?

Mr. Agbaji - Page 19, of the exhibits shows DNR Pipeline easement.

Mayor Wysocki called the public hearing closed at 6:50 P.M.

NEW BERLIN PLAN COMMISSION
NEW BERLIN CITY HALL COUNCIL CHAMBERS

NOVEMBER 1, 2004

MINUTES

The Plan Commission was called to order by Mayor Wysocki at 6:51 P.M.

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

Motion by Alderman Ament to approve the Plan Commission Minutes of October 4, 2004. Seconded by Mr. Gihring. Motion carried unanimously.

Plan Commission Secretary's Report -

Mr. Kessler informed Plan Commissioners of the two new position changes in staff. Ms. Nikki Jones was promoted to Planning Services Manager so she is now the Plan Commission Secretary. Ms. Amy Bennett is our new Associate Planner.

Mr. Kessler reminded Plan Commissioners of the two code amendment meetings scheduled for November 10 and 17, 2004.

CONTINUED ITEMS

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

No Action.

6. (3)AK SG-32-04 Kwik Fuel – 17145 W. Greenfield Ave. – Face Change.(Tabled 7/12/04)

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

Motion by Mr. Sisson to approve the after the fact sign face change to the existing monument and canopy signage for Kwik Fuel located at 17145 W Greenfield Avenue subject to the application, plans on file and the following:

- 1) Applicant shall be required to submit a hold harmless agreement for the monument sign that is located within the right of way of Greenfield Avenue to the City by Friday November 19, 2004.
- 2) Applicant shall submit a letter to the Planning Services Division informing the City that the name of the gas station has been changed from the Phillips 66 to the Kwik Fuel Gas Station, and that the Plan of Operation for this business has not been expanded or changed.
- 3) Per Section 201-6 "Sanitation" of the Municipal Code, junk and trash on the rear of the site shall be removed by Friday November 19, 2004.
- 4) The miscellaneous gas station price signs shall be removed by Friday November 19, 2004

Seconded by Alderman Ament. Motion carried unanimously.

7. (4)AK U-55-02 Postler Landscape Supply – 16370 W. Small Rd. – Use, Site, and Architectural Approval for the former Demler Property. (Tabled 9/9/02, 4/5/04)

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

Motion by Mr. Barnes to approve the request for the dormers on the building and an above ground pool and deck in the side yard of the building located at 16370 W Small Road, subject to the application, plans on file, and the following:

- 1) If Plan Commission approves the side yard above ground pool, the applicant will be required to submit an agreement to the City that if he sells either of the parcels that he owns (16370 and 16380 W Small Road) that the pool in the side yard will be removed. This legal agreement shall be drafted and submitted to the City by Friday November 19, 2004.
- 2) If the dormers and the above ground pool and deck are approved by Plan Commission, the applicant will be required to pull building permits for the pool, dormers and deck.
- 3) Applicant was required to install an onsite scale on his property for the sale of landscape materials. Prior to installation, applicant must first submit an application and get Plan Commission approval.
- 4) If applicant wishes to hold Christmas tree sales on the property, he shall first apply for a temporary use approval permit 3 months prior to the tree sale.
- 5) Any future modifications to the outside of the site, building, or change in the plan of operation or use of the business shall first require Plan Commission approval.

Seconded by Alderman Ament. Motion carried unanimously.

8. (3)NJ R-5-04 Francisco & Alcira Munoz – 1580 S. Springdale – Rezone from R-1/R-2 to R-3. (Public Hearing 5/3/04, 6/7/04)

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

Discussion on the possibility of Greenfield Avenue being widened by the State and the effect on the Munoz property.

City Attorney Blum said if the land is taken by the State, this would change the existing lot to a circumstance where you have a remnant which is less than minimum lot size which would operate to the detriment of the property owner.

Steve Munoz, applicant said the reason we put in this application is because the State is taking the land to widen Greenfield Avenue and change Springdale Road.

Mr. Munoz spoke about the single family homes all along the other side of Springdale on $\frac{3}{4}$ to 1 acre lot sizes concluding that their's would not be any higher density than the surrounding areas and the State is coming in with a road that could handle any run off or increased traffic.

Motion by Alderman Ament to recommend to Common Council adoption of an ordinance that denies the rezoning of property known as Steven Munoz located at 1580 S. Springdale Road from R-1/R-2 to R-3 based on the following:

- 1) The proposed rezoning is not consistent with the Growth and Development Master Plan Update (GDMP) as required by Section 275-22 F (2) (a). GDMP states, "Suburban Residential designation reflects the rural setting of the existing residential areas on the western half of the City. Lots in this category are generally located in existing subdivisions that have already been developed at higher densities than the surrounding Country Residential area. The Suburban Residential areas are not served by sanitary sewer and water, they are served by private onsite sewerage disposal systems and private wells. This area has smaller lots, an average of 35,000 square feet. New development may occur as infill development, but are not expansions to the existing subdivisions. Infill development is the development of vacant lots within existing subdivisions."
 - a) This property is not within an existing subdivision.
 - b) This property does not meet the definition of infill development.
 - c) After the proposed land acquisition by State the existing Munoz Property would have 1.02 lots per acre gross density (4 lots / 3.92 acre), which will be far below the density of one dwelling unit per 5 acres required under the policies set forth under the West Side Open Space Policies Section of the GDMP.
- 2) The proposed rezoning is not consistent with the Zoning Code as required by Chapter 275-33 (B) (3) which states that "This district is further intended to be used for residentially platted lots already existing at the time of the adoption of this Ordinance and so identified for this density range on the adopted City Master Plan or component thereof." This property is not a lot within an existing subdivision.
- 3) The rezoning fails to meet the criteria outlined in New Berlin Municipal Code Chapter 275-22 (F) (2) which states that; "The proposed development has taken into account impacts on surrounding properties or the natural environment, including air, water, noise, storm water management, soils, wildlife, and vegetation."
 - a) The applicant has not addressed the potential impacts of the steep slopes on this parcel.
 - b) A perc test has not been submitted.
- 4) SEWRPC delineated the Isolated Environmental Corridor on this property and this has the potential to impact the ultimate development of this land.

Motion fails for lack of second.

Motion by Mr. Gihring to recommend to Common Council adoption of an ordinance that approves the rezoning of property known as Steven Munoz located at 1580 S. Springdale Road from R-1/R-2 to R-3 based on the following:

- 1) State of Wisconsin has created a hardship that is no fault of the owner of the property.
- 2) The lot sizes of the rezoned land would be consistent with surrounding properties.

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

NEW BUSINESS

9. (6)OA U-57-04 National Highlands Phase II Enhancements – 3340 S. Sunny Slope Rd. – 4,000 Sq. Ft. Community Center.

Motion by Mr. Felda to approve the request for use, site and architectural approval for modification to the National Highlands II development located at 3340 S. Sunny Slope Road subject to the application, plans on file and the following:

- 1) Plan of Operation
 - a) Per Section 275-53B(1)(11) All existing nonconformities and outstanding code violations shall be identified, resolved, and remedied. Applicant is required to meet the conditions of approval of Zoning Permit # U-86-98 approved by Plan Commission on 12/06/1999 in its entirety (see findings). Recalculation of the impact fee is required as a result of Park and Recreation Department's refusal of the parkland dedication.
 - b) Payment of \$2,391/unit in Public Site, Open Space and Trail Fees required prior to issuance of Building Permit. Public Site, Open Space and Trail fees are in addition to any sewer and water utility connection fees required by the City of New Berlin. \$36,288 credited for the construction of trails and sidewalks.
- 2) Architectural Plans
 - a) Prior to issuance of the Zoning Permit, approval of the exterior architecture and materials for construction by the Architectural Review Committee is required.
 - b) All air conditioning units and roof top units must be properly screened and aesthetically incorporated into the building elevation. On-ground units must be appropriately screened with landscaping from public view.
 - c) Dumpsters must be properly screened from the street and public view in accordance with Article VIII Section 275-56 of the New Berlin Municipal Ordinance. The current location is in front of building (South side). Please show details of proposed screening plans on revised plans.
- 3) Site Plan / Engineering
 - a) Submittal of a revised site plan that address all the Engineering and Utility concerns outlined in the staff correspondence dated October 14, 2004 is required prior to issuance of Zoning Permit.
 - b) Submit revised site grading plans that address the building elevations and the overall site grades of the building.
 - c) Stake out survey for the buildings with three (3) ties to each building foundation using a minimum of a 200' radius to tie the foundations to lot lines will be required for Building Permit.
 - d) Submit underground parking garage plans for review.
- 4) Transportation
 - a) Developer shall submit revised plans that show light pole layout with illumination levels and chart with photometric summary information prior to issuance of Zoning Permit. Plan must address all parking, circulation and pedestrian areas as required by Zoning Code Section 275-60 I.
 - b) Drive aisle width must be a minimum of 24' wide from edge of pavement to edge of pavement (i.e. do not include curb and gutter in required width).
 - c) Developer is required to follow National Avenue Lighting and Landscaping Plan. City Standard pedestrian poles and luminaires will be required at 80-foot spacing. Developer will be required to post a letter of credit or bond for the purchase of each light for a period of 3 years.
 - d) Developer shall submit revised plans showing pedestrian connection between existing and new development, as community room will now be used by the entire facility.
 - e) Parking easement/ agreement for Casio Music must be filed with the City of New Berlin prior to signing of Zoning Permit. The parking easement shall not be executed to circumvent general development requirements. Casio Music parking area must also be properly landscaped as part of this approval.
- 5) Stormwater

- a) Prior to issuance of Zoning Permit, the Storm Water Division Engineer must approve the detention pond. Detention facility shall be in place and calcs and recert approved prior to issuance of Building Permit.
 - b) Developer will be required to meet the requirements of MMSD Chapter 13 and the City of New Berlin Storm Water Management Ordinance in its entirety.
- 6) Fire Department
- a) Building must meet all applicable fire codes.
 - b) Building must be fully sprinklered. Monitor fire flow.
 - c) Intelligent fire alarm system required.
 - d) Class I standpipes required in stairwells.
 - e) Fire Hydrant must be strategically located around building.
 - f) Knox boxes (key boxes) required for each building.
- 7) Landscaping Plan
- a) Approval of the landscaping plan and payment of all sureties are required prior to issuance of Zoning Permit. Landscaping plan must meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. Landscaping Plan to be approved and signed by the Department of Community Development prior to installation of any material.
- 8) Building Inspections
- a) All necessary permits must be obtained from the Building Inspection and Zoning Department prior to commencement of any construction at this site.
 - b) Building plans shall be stamped and signed by a registered architect or engineer (Comm 61.20 Responsibilities).
 - c) Building plans shall be approved by the Wisconsin Dept. of Commerce (Comm 61.70 Certified municipalities and counties. (5)(c) 3.
 - d) Restroom accessibility must meet Wisconsin Enrolled Commercial Building Code Chapter 11 requirements. The new entrance must be ADA compliant.
 - e) Building must be maintained per Chapter 201 of the City of New Berlin Municipal Code.
 - f) Erosion control shall be approved, permitted, installed and inspected prior to the issuance of Building Permit.
 - g) Water meter room accessible from the outside is required. Metering room must be clearly defined or shown on all architectural plans for this building. Direct outside accesses must be provided for Utility & Fire Departments to metering rooms.

Seconded by Mr. Barnes. Motion carried unanimously.

10. (4)NJ U-59-04 The Lofts at City Center – 15295 W. Main St. – Lofts and Townhomes.

Motion by Mr. Sisson to approve the use, site, and architecture for the construction of The Residences of City Center, including The Townhomes of City Center a condominium development with (3) – 4 unit building and an apartment development Library Lofts at City Center with (1) – 16 unit building and (1) – 55 unit building for a total of 83 units located at 15211-15295 W. Library Lane subject to the application, plans on file, and the following conditions:

- 1) Waiver – Applicant requests a waiver to deviate from the City's 10' no parking lot shall be located closer than 10' to a public ROW required per Section (6)(j) the PUD to construct the parking lot 6' from the internal lot line/ROW.

- 2) Waiver - Applicant requests a waiver to deviate from the City's standard parking space measurement of 9' x 19' that is required per Section 275-57 A(6) of the Zoning code and to construct stalls that are 9' x 18' in some areas.
- 3) Waiver – Applicant requests a waiver to deviate from the City's 10' internal lot line setback that is required per the PUD to construct the retaining wall between 2' and 6' from the internal lot line along the side of Building A and the rear of Building E.
- 4) Plan of Operation
 - a) The Developer's Agreement shall include a formalized phasing plan based on the information shown on page 35 of the Developer's Binder.
 - b) Applicant shall identify if there will be any special activities occurring on site or within the building.
 - c) If in the future the applicant wishes to separate the town house condominium parcel from the multi-family parcel, the applicant shall apply for a CSM. This will not be considered part of this application. Applicant shall address any internal lot line setbacks at this time.
- 5) Architectural Plans.
 - a) Approval of the exterior architecture and materials for construction by the Architectural Review Committee is required prior to the issuance of the Zoning Permit.
 - b) Townhomes Condo Plans: According to proposed grades shown for the 4-family twonehome condos some units will require as many as 5 steps between the garage and first floor. There does not appear to be enough room for this to happen. Revise the location of steps or increase the size of the garage.
 - c) Townhomes Condos: Identify the proposed floor elevation for each unit of the entry and the bonus room area.
 - d) Townhomes Condos: It appears many steps would be required to enter the meter rooms located on the sides of the buildings. Show such steps on the grading and on elevation views.
 - e) Applicant shall identify the air conditioners units, hydrants, electric meter boxes, and lights on the revised site plans.
 - f) 16-Unit Building: Show the proposed exposure at the southwest corner of Building D on the elevation views.
 - g) 16-Unit Building: Applicant shall explain the lack of elevator and handicapped accessibility in the 16-unit building.
 - h) 16-Unit Building: On the proposed floor plans Staircase B does not appear to be represented correctly. The door entrance is at midlevel between basement and first floor elevation.
 - i) 16 Unit Building: The floor drains are shown in underground garage yet no storm sewer connection to building is identified. Revise plans.
 - j) 55-Unit Building: Show proposed exposure at northwest corner of building on elevation views.
 - k) 55-Unit Building: The proposed exposure at the southeast corner is lower than underground garage elevation. Correct south elevation view plan.
 - l) 55-Unit Building: Show footing elevation on all elevation views.
- 6) Site Plan.
 - a) Site Plan: Per Section (6)(j) of the City Center PUD No parking lot shall be located closer than 10' to a public ROW. Applicant shall adjust parking plan to meet this setback along the "no build zone/ future extension of Library Lane" if the waiver #1 is not granted.
 - b) Staff calculates that you are 6 spaces short on parking.
 - c) A stake out survey shall be required at the time of building permit demonstrating that building setbacks are measured to the building overhang (eves) and parking setback including back up and turn around areas are located out of the 5' pavement setback.

- d) Staff may require handicap accessible ramps be added between this site and the library site.
 - e) Bike stands, benches, trash receptacles shall be purchased and installed by the developer near the front entrance. Applicant shall indicate these items on the Construction Plans.
- 7) All Engineering and utility concerns outlined in staff correspondence dated October 22, 2004 must be addressed in its entirety prior to issuance of Zoning Permit.
- 8) Prior to issuance of Zoning Permit, the Storm Water Divisional Engineer must approve detention pond. Detention facility must be in place and calcs and recert approved prior to issuance of Building Permit. Please address all items in staff correspondence dated October 22, 2004.
- 9) Landscape Plans
- a) Applicant, per Section 275-56(C)(2) shall submit a Landscaping Installation Bond and Maintenance Bond prior to issuance of the Zoning Permit.
 - b) Applicant, per Section 275-56(C)(1)(a) shall have plans stamped by a Landscape Architect.
- 10) Transportation
- a) Applicant shall revise the lighting plan to follow City standards prior to the issuance of the Zoning Permit. No lighting plan calculations were submitted. Lighting is required for all on-site parking, circulation and pedestrian areas (Zoning Code Section 275-60 I). Plan shall show light pole layout with illumination levels and chart with photometric summary information.
 - b) Lighting plan does not follow City Center standards. All lighting within the development shall be Lumec Domus series fixtures and poles consistent with the City Center standards.
 - c) Lights within the right-of-way are to have dual luminaires and banner arms, consistent with the lights on the rest of Library Lane.
 - d) Revise plans to show drive aisle widths 24-feet wide from edge of pavement to edge of pavement (i.e. do not include curb & gutter in required width). Parking stalls are 9' x 19'. Revise plans and indicate how the ADA handicapped parking space is calculated. See Section 275-57A(4).
 - e) Pedestrian walkways adjacent to perpendicular parking shall be a minimum of 8-feet wide to account for vehicle overhang from parking stalls.
 - f) Applicant shall verify if they are installing the sidewalk and pedestrian lights along Library Lane for the length of their parcel or if the Developer of City Center is doing this as identified on the overall plan.
- 11) Fire Department. Buildings must meet all applicable building and fire codes.
- a) All buildings to be fully sprinklered.
 - b) Fire hydrants within 50' of sprinkler connections on 16-units.
 - c) Monitor Fire flow.
 - d) Alarm System required.
 - e) Knox Boxes are required on all buildings.
 - f) Class III standpipes in all staircases.
 - g) Any parking on roadways other than noted parking stalls will be considered parking in fire lane.
 - h) All internal roadways shall be marked as fire lanes.
 - i) Class I standpipe in 16-unit and 55-unit buildings.
- 12) General
- a) Building plans shall be stamped and signed by a registered architect or engineer.
 - b) Building plans shall be approved by the Wisconsin Dept. of Commerce.
 - c) Apply and obtain appropriate building, plumbing and electrical permits.
 - d) Show accessible routes on plans.

- e) Erosion control shall be approved, permitted, installed and inspected prior to the issuance of a building permit.
- f) Applicant shall identify if there will be sidewalk connections and curb cuts to the library parking lot from the two walks located in between the townhome buildings.

Seconded by Mr. Gihring. Motion carried unanimously.

11. (4)AK U-61-04 Emerys Roofing – 20015 W. Julius Heil Dr. – Home Occupation – Roofing Business.

Motion by Mr. Gihring to approve the request for an after the fact home occupation application to run an office out of a home located at 20015 W Julius Heil Drive for a roofing business. Any ultimate decision regarding the approval or denial of this request will be based on the completeness of the application, the approved plans on file, and satisfaction of the following issues identified by staff:

- 1) Applicant and the home occupation shall follow § 275-42.G.(4) “Home occupations” of the New Berlin Zoning Ordinance.
- 2) Any future modifications to the outside of the site, building, or change in the plan of operation or use of the business shall first require Plan Commission approval.
- 3) Hours of operation shall be limited to 7am-5pm Monday through Saturday.
- 4) There shall be no customer visits to the house.
- 5) There shall be no materials related to roofing stored on the property.
- 6) There shall be no machinery related to the home occupation stored on the property.
- 7) There shall be no dumpsters or signage related to the business on the property.
- 8) Home occupation operations shall be limited to telephones, mail and bookkeeping.
- 9) There shall be no employee visits to the house.
- 10) The two trucks shall be stored as inconspicuously as possible. They shall not be visible from the street or any neighbors. If a complaint is made regarding the trucks, they may be required to be stored at another location.

Seconded by Alderman Ament. Motion carried unanimously.

12. (4)NJ U-64-04 Dr. Philip G. Conrardy - 19550 W. College Avenue – Site Overall Grading Plan.

Motion by Mr. Sisson to approve the use, site and architecture for an overall site grading plan located at 19550 W. College Avenue subject to the application, plans on file, and the following conditions:

- 1) Applicant shall not exceed an area of 10,000 sq. ft. of grading within 500’ of any navigable waterway according to the WDNR regulations for Chapter 30 submittal. It is the Storm Water Division Engineer’s belief that your property is bordered by a navigable water way that drains from southwest to northeast. If you desire to grade a larger area, you will need to submit to WDNR for a Chapter 30 permit.
- 2) Applicant, if removing any topsoil, shall replace it in the area identified on the map when bringing in the fill. Fill shall be an average of 2” and no more than 4” in any place to smooth ruts to ease mowing and maintenance of this site. Applicant will have ~ 8 truckloads of dirt delivered to the site. Applicant shall not exceed City standards for filling.

- 3) Applicant shall follow Section 275-55A(4)(b), which states “fill shall consist of satisfactory soil, stone, gravel or other acceptable materials, which is of a character and quality satisfactory of the purpose intended. The material shall be free from sod, stumps, logs or other organic matter, all types of refuse including constriction refuse, fragments of concrete larger than two feet in an dimension and other such material in the judgment of the Director as unsuitable.”
- 4) Applicant shall seed and restore grass as soon as final grading is approved.
- 5) No clearing, grubbing, grading or filling until a zoning permit has been issued.
- 6) Erosion control/silt fence shall be applied for, approved, permitted, installed and inspected prior any site work.

Seconded by Mr. Felda. Motion carried unanimously.

COMMUNICATIONS

13. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: Amended By-Laws (PG-942 & PG-10)

Plan Commissioners acknowledged receipt of this communication.

14. Communication To: Plan Commission
Communication From: Olofu Agbaji, Associate Planner
RE: U-60-04 Great Midwest Relay – 16301 W. Coachlight Dr. – Relay Run.

Mr. Agbaji explained how this communication shows the positive impacts and importance of connectivity of trails within the city. The relay race starts in Madison and is using part of New Berlin’s trail system along the way. The relay goes all the way to Chicago .

15. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: “Yorkville Adopts Plan to Preserve Green Space”, Milwaukee Journal/Sentinel, October 10, 2004.

Ms. Jones said this communication is another example of how residential development in other communities is preserving green space through conservation subdivisions. Caledonia is also utilizing the services of Randall Arndt.

Motion by Mr. Felda to adjourn the Plan Commission meeting at 8:07 P.M. Seconded by Mr. Barnes. Motion carried unanimously.