

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

PUBLIC HEARINGS

6:00 P.M. (7)NJ R-7-04 James French – 4461 S. Sunny Slope Rd. – Rezone from R-4 to I-1.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

AUGUST 2, 2004

MINUTES

The public hearing relative to the request by James French for a rezoning at 4461 S. Sunny Slope Road from R-4 Low-Density Single Family Residential to I-1 Institutional was called to order by Mayor Wysocki at 6:03 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Teclaw, Mr. Felda, Mr. Barnes. Also present were Greg Kessler, Director of Community Development; David Haines, Planning Services Manager; Olofu Agbaji, Associate Planner; Nikki Jones, Associate Planner. Mr. Sisson and Mr. Gihring were excused.

Mr. Haines 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.

James French, the applicant presented additional information explaining the request.

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

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

Ted Haasch, 14000 W. Sun Valley Drive – I own the property directly South of the subject property. I think this is a very unique situation as far as land use. I have no objections at all. I think something of this nature is needed in the area. It will make very good use of the land. None of the neighbors I talked to had any objections. I have collected a list of the names of neighbors in favor.

Tony Hirschfeld, 13355 W. Armour Ct. – I live in Sommerset Gardens across the street. I also have signatures from people who are in favor. I got a very positive response. As a mother of two young children there are not a lot of day care options in the City of New Berlin. I think the use of this land would be perfect, especially in my subdivision where there are a lot of small children. I don't think we need any more houses here. Houses and condos would create too much traffic.

Todd Bushberger, owner of the property. I used to live in Sommerset Gardens so I am familiar with the neighbors. They approached me and asked me what I was going to do with that property and suggested that it would be perfect for a day care center. I had never given that a thought but I did some research and found that there is a big demand. The neighbors got signatures from most of the south side and the majority of homeowners on the east side also. That is why I am trying to get the property rezoned to I-1. I have been in touch with Tony Goodyear at the High

School and they are in favor also and he said if anyone has questions, feel free to contact him.

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 Plan Commission.

Alderman Ament – If this was left as R-4 and developed as residential, how many homes would we be looking at?

Ms. Jones – I can't say for sure right now. It depends on the road configuration.

Alderman Ament – When you look further into that could you also give us a rough idea on the traffic for comparison. The traffic peak time of a day care and the high school will be pretty much the same.

Mr. Felda – Will there be hours of operation on Saturday and Sunday also?

Mr. Bushberger – That is one option that we will leave open. A lot of people work on weekends. If the demand is there, I would definitely look into it. I am working with some day care professionals and will be considering their suggestions.

Mr. Teclaw – Are those four structures shown gone?

Ms. Jones – Yes, that was a farmstead that has been torn down.

Mr. Barnes – I would like to talk more about the traffic. Your report shows the a.m. peak hour having 216 trips. I was wondering when that is as compared to the peak arrival time at the high school. Please give us further information on that in the next report.

Ms. Jones – Yes, a traffic analysis would be requested.

Mayor Wysocki asked for further questions, seeing none.

Mayor Wysocki called the public hearing closed at 6:17 P.M.

6:01 P.M. (4)DH R-8-04 City of New Berlin – 6600 S. Crowbar Rd. – Rezone from  
M-2 to Q-1.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

AUGUST 2, 2004

MINUTES

The public hearing relative to the request by the City of New Berlin for a rezoning at 6600 Crowbar Road from M-2 General Industrial to Q-1 Quarrying and Extractive District was called to order by Mayor Wysocki at 6:17 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Teclaw, Mr. Felda, Mr. Barnes. Also present were Greg Kessler, Director of Community Development; David Haines, Planning Services Manager; Olofu Agbaji, Associate Planner; Nikki Jones, Associate Planner. Mr. Sisson and Mr. Gihring were excused.

Mr. Haines read the public hearing notice and stated there was proof of publication.

Ms. Haines 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?

John Herbert, 6015 S. Aberdeen – Looking at the map, it appears that the I-43 is designated as Q-1 and I am not sure what the designation to the East and the West of the parcel shown would be?

Mr. Haines – The entire area is zoned quarry.

Shari Bosmans , 14200 W. Howard Avenue – The road that is indicated by Racine was apparently constructed due to the power plant, and was not there previously. What will be done with this road? It is my understanding that there is no quarrying truck operations allowed on Crowbar Road.

Mr. Haines – The right-of-way for the road was dedicated when the CSM for the property was approved, however, there is a developers agreement and I know it was not constructed as a public road. I am not sure if the road will be kept or vacated.

Mayor Wysocki – Isn't there a batch plant there that the road is in conjunction with?

Mr. Haines – Yes, it is used as a driveway for the Johnson site.

Ms. Bosmans – It is my recollection that the road was there before the batch plant was approved. The road was not there when the M-2 zoning went in and there is some questions stated by staff at the time of construction of the road that have seemed not to been what is considered standards. I believe there was at one time a cease and desist order on the construction of that road.

Mayor Wysocki – We will get that information so the Plan Commission has it available at its next meeting.

Mary Hiebl, 20160 W. National Avenue – What activity has occurred within this zoning district since Midwest had planned to build a power plant?

Mr. Haines – Activity associated with quarrying operations at the Johnson site.

Ms. Hiebl – So what happened to the activities that have occurred in the past years, what have they been doing on that site?

Mr. Haines – Stock piling some material and possibly doing some restoration.

Ms. Hiebl – Do you know what they might be stock piling?

Mr. Haines – Earth.

Ms. Hiebl – The reason I ask is there are many trucks going by with concrete and asphalt. We can't walk on that property, so I wonder if anyone really knows what is being stock piled.

Mayor Wysocki – We will have to check on it.

Ms. Hiebl- Under whose ownership is this current M-2 parcel?

Mr. Haines – Johnson Sand & Gravel.

Ms. Hiebl – Is this parcel currently included in the documented reclamation plan?

Mr. Haines – Yes. Just to clarify, it is owned by S & J Development Company which I believe is Johnson Sand & Gravel.

Ms. Hiebl – Is there an official document for the reclamation plan?

Mr. Haines – Yes.

Ms. Hiebl – What are the city's long range plans for this parcel of land?

Mr. Haines – Business Park.

Ms. Hiebl – The business park that is in your study right now for Johnson Sand & Gravel extends beyond so is it the intent for the business park to go all the way from Racine to Crowbar?

Mr. Haines – Yes, that is part of the reclamation plan for Johnson Sand & Gravel site for it to be a business park. What the CDA is studying is just on the New Valley Sand & Gravel site.

Ms. Hiebl – I don't know at what stage the business park is with the CDA but if this reverts back to Q-1 what activities will be allowed in this area?

Mr. Haines – The activities that are permitted within the mining district.

Ms. Hiebl – This will fall then under the same plan of operation that now exists.

Mr. Haines – It will follow under the same kind of operation as Johnson Sand & Gravel.

Andrea Frank, 21420 W. Orchard Drive – You said that there is a quarry reclamation plan on file for this M-2 site, is that correct?

Mr. Haines – It is for the entire Johnson Sand & Gravel site.

Ms. Frank –It includes the M-2 site?

Mr. Haines – Yes.

Ms. Frank – Isn't a reclamation plan designed and required for a site zoned quarry and this is not zoned quarry, therefore there would be no plan for the M-2 site.

Mr. Haines – The reclamation plan that we have on file includes the parcel. It was done at the same time the power plant was being proposed.

Ms. Frank – That is not my recollection. If this is rezoned Q-1 for quarry with the new quarry laws in the State of Wisconsin, is not another public hearing required to do a reclamation plan for this site?

Mr. Haines – I have not discussed that with the City Attorney.

Ms. Frank – So at this time the City does not know if there is a valid reclamation plan for this site nor do you know if you need to have another public hearing once this is zoned Q-1 to have a valid reclamation plan. Is that correct?

Mr. Haines – I will check into whether or not a new reclamation plan is necessary.

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

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

John Hebert, 6015 S. Aberdeen – As many of you know, I am definitely in favor of this. It is my understanding that the zoning was tied to the power plant and when the power plant went away, the zoning was supposed to go. This was the impression we were given in conversations with city officials. Be that right or wrong, I am anxious to have the zoning returned to quarry for the simple reason that we don't want to leave the door open for another power plant proposal to come waltzing in. Let's eliminate that possibility so that if another power plant is proposed, they would have to apply for a rezoning with another public hearing and another chance for us to say no. As it is now, they come in with the zoning there, we can't say no.

Shari Bosmans , 14200 W. Howard Avenue – When this property was listed in the paper, the boundaries included C-1. If you were to draw a line directly South up to Tans Drive, the original notification included that C-1 land that you see in this parcel. Neighbors filed a petition asking for a majority vote. At the time the petition was presented to the Council, somewhere the proposal was changed to take out the C-1 from the request to change to M-2. There was no reallocation of that change ever posted. I am for the change back to Q-1. My question is if it was originally noticed incorrectly, why must the City go through all these hoops when it may not have been rezoned to M-2 in the first place.

Andrea Frank, 21420 W. Orchard Drive – This month marks the fourth year since Midwest Power publicly announced to turn Johnson Quarry site on Crowbar Road into a power plant which ultimately let to the New Berlin Common Council approving the land division and rezoning the old quarry to M-2. Much time has passed and many events have occurred since then including the abandonment of plans by Midwest Power and El Paso Corp. for the power plant in New Berlin or Muskego. Now it is time to reflect on the lessons we have learned and move toward consideration of more desirable present and future uses of the site. To that end, I urge you to carefully ponder the ramifications of rezoning a property whose deceased owner had a history of illegally dumping at several of his quarry sites. I urge you to ask yourselves, what is the most appropriate zoning category for this Crowbar Road property, an illegal and unremediated dump site. I am not making this up. I'd like to site for you three different instances of illegal dumping by Robert Johnson in his quarries.

In March 2001 the New Berlin Citizen reported that Bob Johnson dumped tires and old drums of oil on his quarry North of I-43. The City of New Berlin later purchased this property from Bob Johnson and turned it into a park. The accusation that Johnson dumped hazardous waste there was made by the ex-wife of Cal Castopherson. It was Cal who originally sold the land north of I-43 to Johnson to quarry. Although Cal's ex-wife was a creditable source of knowledge about this dumping, the City of New Berlin refused to investigate her revelations about hazardous wastes at that site. Instead the City made a sweet deal with Johnson and paid a pretty penny for a property which really should be called New Berlin Quarry Dump Park.

A year after that, the New Berlin Citizen reported dumping of hazardous waste at Johnson's North quarry. An area resident who worked at Kat's Deli on Prospect Hill reported the following incident of apparent hazardous waste dumping at Johnson's South quarry on Crowbar Road to Alderman Paul Lincoln Schueble. She wrote on April 13, 2002, I work at a New Berlin business in the Prospect Hill area. On Thursday, March 21<sup>st</sup> about 9:00 a.m. a gentleman came into the business and asked me where he could find a public phone. I offered him the use of mine. He said he was calling a 1-800 number. He made a call and said he needed to wait and make another call in 15 minutes. I asked him if he was working in the area and he told me he was working at the Johnson Sand & Gravel and he was in charge of the removal of hazardous waste and had tags to tag the trucks as they left the site. He needed to have someone bring him out some more tags. He was not driving a truck removing waste, he said he was "in charge" of the removal of the hazardous waste and the ground around it but also said the containers had not been leaking. He said the waste was being stored there. He was driving a white van with some markings on the side but was unable to see it from where I was. He said he was working on the driveway (referred to by Shari Bosmans) but had no idea of what the driveway was to be used for. I informed him of where I lived and that I had some knowledge of the proposed power plant and was interested in what he was doing. He made a second telephone call and left offering me no more information. I have been in touch with the DNR and they said they have no records of any type of permits for the storage or transfer of hazardous waste from that site. It is my hope that you and the City of New Berlin can come to my aid with knowledge of exactly what was being stored there and in what quantity, how long it has been there, and if it had leaked to cause the removal of the dirt around the waste site.

It turns out, after investigation that the soil came from a public works excavation in a highly contaminated area of the Milwaukee River Valley. While the DNR did eventually investigate the incident, they did not issue a citation to Johnson because the waste had already been moved to a landfill by the time an inspector arrived. There are many unresolved peculiarities about this dumping incident. Alderman Ament was told only six loads of contaminated soil were taken from Johnson Quarry but Waste Management manifested and billed the City of Milwaukee for 30 truck loads, 557 tons. Michaels Pipeline, a soil excavator at the City of Milwaukee public works site said in a letter to the City of New Berlin that the material from the Milwaukee excavation site that was taken to Johnson's New Berlin Quarry was found to be contaminated and the material was removed from Johnson's to a site by Waste Management. However, the DNR report said that soil testing done by Giles Engineering showed the soil was non-hazardous. If it was non-hazardous, why didn't Johnson keep the soil and why did the City of Milwaukee pay to have 30 dump truck loads of soil taken from the Johnson site on Crowbar to a Waste Management landfill. The entire testing and handling of this contaminated soil is questionable. The soil initially had a strong petroleum odor but it was never tested for petroleum products. Too few soil samples were taken to get an accurate result and the soils sat out in the open much too long before the samples were taken. The soil was tested by Giles Engineering and APL Laboratories, companies which had an invisible track record for environmental testing. The quality of their lab testing was so bad that the DNR audited Giles and APL advised "If the data shows contamination can accept it, do not accept if necessary to have an accurate result. If no detect or low detect do not accept for site closure or extended contamination."

So did Johnson store contaminated soil at this Crowbar Road quarry? Most likely he did or else

why would the City of Milwaukee pay extra to have 30 dump loads of soil sent from Crowbar to Waste Management Landfill. Was all the contaminated soil dumped at Johnson removed? I guess we will never know. What we do know is that Bob Johnson was caught dumping other wastes into his quarry during a deposition he gave while he was being sued for selling a contaminated site in the Bluemound East Industrial Park that is near Goerke's Corners which was an old quarry Johnson had mined and filled in. Let me read from the certified copy of the lawsuit to let you better understand just what happened. Defendant, Robert Johnson is a 50% owner of Johnson Sand & Travel Trucking Company. As part owner of this company, Mr. Johnson would contact individuals and locate sites for which he could obtain sand and gravel quarrying rights. Generally quarrying rights were obtained through a lease. In approximately the mid 1980's it was agreed that Johnson Sand & Gravel could mine sand and gravel on the 30 acre parcel located on Bluemound Road and pay a royalty based upon the amount of sand and gravel removed from the site. Mr. Johnson estimates during the mining process, he removed about 15,000 truck loads or 300,000 tons of materials from this parcel of land. After the land had been mined for three years, Mr. Johnson and three others informed Bluemound East Industrial Park Inc. to purchase this piece of land for development. Mr. Johnson was a shareholder and secretary of Bluemound East Industrial Park. Essentially, the property was purchased by Bluemound East Industrial Park in the same condition as it was at the conclusion of mining operation of Johnson Sand & Gravel. The sale of the 30 acre parcel in Bluemound East Industrial Park was completed in 1987. At that time Bluemound East Industrial Park began the backfilling process and leveling off to make it suitable for a subdivision. It was personally overseen by Mr. Johnson. Bluemound East Industrial Park then put in the curbing and road systems and started selling lots. In 1990 plaintiffs, Ronald and Carol Marenda decided to purchase a building in which to run their business. Because they could not locate a building in the appropriate size and right price range, Marenda's made a decision to build a building rather than buy an existing building. They began to search for a lot. In the search, Mr. Meranda learned what was available in the industrial park from his builder. Mr. Meranda placed a telephone call to Robert Johnson and set up an appointment to meet with Mr. Johnson. Within a day or two they met at Johnson's office. Mr. Meranda told Mr. Johnson the type of building he wanted to build and the size of lot. He then personally accompanied Mr. Meranda to view it. The two of them walked and talked about the lot. First Mr. Meranda asked Mr. Johnson if the lot was a suitable location for a building and Mr. Johnson said it was. He specifically asked Mr. Johnson if the soil was disturbed during the mining process and Mr. Johnson represented that it was not. Mr. Meranda recalls the following, Question: Was there any more conversations about the lot while you were Mr. Johnson that day? Answer: Yes, I asked about the condition of the soil. I asked him if it was virgin soil or if this was all filled in and he said it was all virgin land. Question: What do you recall by how you framed that question? Answer: It was pretty specific, I said, is this virgin soil or was this filled in? It was virgin soil because I know some quarries are dug deep and some are just skimmed.

In 1992 the first phase of the building on the lot. During the spring of 2000 the Marandas began building the second phase of the building. When the builder began excavation for the foundation, they encountered waste and debris beneath the ground. The waste started about three feet below grade and went down from there. The debris consisted of a large quantity of fire hose, automotive battery, oil filter, refrigerators, tanks, and lumber. When contacted, Mr. Johnson directed the builder to haul the waste to a dump site owned by Mr. Johnson. When asked about the true condition of why he would have sold to the Marandas, Mr. Johnson admitted that he provided false information to Mr. Maranda. Lets go back for a moment to the statement I just read. Mr. Johnson directed the builder to haul the waste to a dump site owned by Mr. Johnson. What dump site could that be? Well, lets look at the deposition that Bob Johnson gave under oath when he was questioned about this. Mr. Johnson says, I think at the time I discussed it, I said, Look if you want, we'll haul some stone in here for filling up the hole and all you have to do is push it in the hole. I said, we were willing to meet you half way on this thing and he said, you are paying for all of this. Question: Did you also offer to haul the waste away? Answer: No I didn't haul a pound of that away. Question: Did you offer to allow the construction company? Answer: Yes Question: At one of your sites? Answer: Yes Question: Where was it dumped? Answer: I think it was down on Crowbar Road in New Berlin . Question: What kind of pit is that?

Answer: Sand & gravel. Question: So, it's a gravel pit? Answer: Right. Question: And you took the waste to the gravel pit? Answer: No, not all of it. Question: The construction company was allowed to dump the waste in this gravel pit for you? Answer: Yes, not all of it. Question: Where did the other stuff go? Answer: I have no idea. Question: Approximately how many loads did they dump in your pit? Answer: I have no idea, about 20 maybe 25. Question: Is that pit licensed to accept waste? Answer: Yes. Question: Is it licensed to accept hazardous waste? Answer: No. Question: You said the Crowbar Road Pit, that's a gravel pit, right? Answer: Yes. Question: Is it a landfill also? Answer: No. Question: You are not permitted to haul waste and dump it into a gravel pit, are you? Answer: Yes. Question: Mr. Johnson, are the 20 loads of dirt still there? Answer: I am sure they are there. Question: Do you know where they are? Answer: No. Question: What I'm saying is are those 20 loads just sitting there? Answer: Oh God no. Question: You just mixed it in with the other stuff? Answer: Correct.

Unfortunately, Bob Johnson died before this case went to trial. After he died it went into his estate and probate and it was settled out of court in favor of the party who had sued Mr. Johnson. The sad part of this is, and I am very disappointed to say this, that at the time I discovered this lawsuit was in progress while I was doing research regarding the Midwest Power Plant, I urgently informed Mayor Wysocki and Alderman Harenda about this dumping in May 2002. I have a copy of a fax I sent to the Mayor dated May 17, 2002, subject: lawsuits against Johnson. I faxed him eleven pages. The origin facts I sent to Ken Harenda and copied Mayor Wysocki and the attorney who was handling citizen power issues with the power plant. These fifteen pages were also faxed on May 17, 2002. The subject was illegal dumping of solid waste at Johnson on Crowbar Road. I wrote, here are the materials we discussed per our phone conversation. A short summary of the situation was included. The most recent law suit scheduled for jury trial in Waukesha Circuit Court in June presents a matter of utmost urgency for the City of New Berlin. While the Maranda's were excavating their addition to their business in 2000 a substantial quantity of solid waste material which has been dated to the period when Johnson owned the property, was discovered. In a deposition by Johnson, Johnson swore under oath that the waste material was dumped in our Crowbar Pit in New Berlin. In addition, the original complaint states that additional solid and hazardous material remains on Maranda's property. This is an outrageous situation particularly in conjunction with the more recent complaint of contaminated waste storage at Johnson's Crowbar operation and the deed restriction regarding operating a sanitary landfill on either of his quarries. As Alderman in this quarry district, I strongly urge you to meet with the Mayor to take the following actions: 1) An official letter from the City of New Berlin to the DNR asking for a full and immediate investigation of the illegal dumping of solid waste at the Crowbar Road quarry sited above and reopening of the previous DNR investigation of storage of contaminated material at Johnson Quarry. 2) An injunction of Johnson for bringing in more fill into either of his New Berlin sites until an appropriate investigation is conducted and the extent of the illegal dumping and potential contamination is identified and any waste materials are removed from the site. 3) A public hearing to give a free and open voice to Johnson's past quarry ruses. 4) Revocation of Johnson's condition use permit. Thank you for your assistance and immediate attention to this critical matter.

Unfortunately, neither the Mayor nor Alderman Harenda did anything to follow up on this matter. So gentlemen, we find ourselves in a position of rezoning a parcel of land that was used as an illegal dump site and which contains contaminated fill by a man who has a history of improperly filling past quarries and then selling lots to unsuspecting people in business parks. Please deliberate long and hard before you decide your next course of action. Should this be zoned back to quarry from M-2. Should it be zoned conservancy. Maybe the whole site should be C-1 or C-2 to protect future property owners from unknown types of contaminated materials. Thank you.

Mayor Wysocki asked three times if there was anyone else wishing to speak in favor of the rezoning, 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 Plan Commissioners.

Alderman Ament – We need to know where we stand with the reclamation plan along with the post mining land use plan to determine if that is in anyway current or if they would need to file for another post mining land use plan. In the packet there is reference that the site intends to operate for several more years. If this is tied in with the entire project with New Valley, does that mean that will be shortened up along with that? If I recall correctly, the New Valley was going to continue for about two or three years.

Mr. Haines – As far as New Valley goes, it all depends on what CDA does and the property owners as far as how long they continue to mine it.

Alderman Ament – That C-1 section along Tans is not part of the rezoning?

Mr. Haines – No.

Alderman Ament – The biggest thing is that Reclamation Plan and what they are going to have to do. I would like to see that information before the next packet goes out if it is possible.

Mr. Teclaw – I would also like to see that Reclamation Plan and I would like the City Attorney to give us an opinion on the questions about the roadway and such. Also for the staff, is there an opportunity at this time to do an investigation?

Mr. Haines - This is going to be something to discuss with the City Attorney. This is a city initiated rezoning so I don't know how we can require property owners to do something when they are not initiating the rezoning. As far as investigation on the site, Planning Division doesn't have the resources to do an environmental investigation so that would be up to Council to decide if they want to hire someone to investigate.

Mayor Wysocki asked for further questions, seeing none.

Mayor Wysocki called the public hearing closed at 6:54 P.M.

6:02 P.M. (3)DH R-3-04 Gerald Timmers – 19925 W. Pinecrest Ln. – Rezone from R-1/R-2 to R-3. (Tabled 3/1/04, 4/5/04)

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

AUGUST 2, 2004

MINUTES

The public hearing relative to the request by Gerald Timmers for a rezoning at 19925 W. Pinecrest Lane from R-1/R-2 Rural Estate Single-Family Residential and C-2 Shoreland Wetland to R-3 Suburban Single-Family Residential and C-2 Shoreland Wetland was called to order by Mayor Wysocki at 6:54 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Teclaw, Mr. Felda, Mr. Barnes. Also present were Greg Kessler, Director of Community Development; David Haines, Planning Services Manager; Olofu Agbaji, Associate Planner; Nikki Jones, Associate Planner. Mr. Sisson and Mr. Gihring were excused.

Mr. Haines read the public hearing notice and stated there was proof of publication.

Ms. Haines gave a brief presentation describing the request.

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

Andrea Frank, 21420 W. Orchard Drive – I am not clear where this is in relation to Greenfield Avenue and Davidson Road.

Mr. Haines – (Indicated property location on map)

Mary Hiebl, 20160 W. National- When was this zoned R-1/R-2?

Mr. Haines – I don't know when it was initially rezoned. I believe this area was previously zoned R-2 and then when the zoning code was updated, the R-1 and R-2 were combined.

Ms. Hiebl – So our Land Use Plan has it as R-1/R-2. The question I have is why when it is zoned R-1/R-2, why do we always rezone it to something different. Why doesn't R-1/R-2 work and why can't it stay R-1/R-2?

Mr. Haines – The applicant wishes to subdivide the property and the only way to do that is if Plan Commission and Council grant him a rezoning.

Ms. Hiebl – He wants to rezone it to R-3? What will the allowance be then as opposed to R-1/R-2?

Mr. Haines – There would be a smaller lot size. Uses would be basically the same.

Ms. Hiebl – So there would be a greater density with R-3?

Mr. Haines – Yes.

Ms. Hiebl – What are the lot sizes of the adjacent properties?

Mr. Haines – 1 to 1-1/2 acre

Ms. Hiebl – Thank you.

Mayor Wysocki – The proposed lot sizes would be 1.6 acre and 5 acre lot?

Mr. Haines - Yes

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

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

Dennis Miller, 19955 W. Greenfield Avenue – I want to go back to the meeting in May. I got the consensus from watching that if he filled all the criteria, there was no problem. He has had this property for 33 years and at the time he couldn't build on the other lots because of the septic laws which changed. I guess I don't understand how you can change 1 acre lots to 5 acre lots. He is right on the end of the street so there are no other houses that can go back there so I can't see how that would even be a detriment.

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 Plan Commissioners.

Mayor Wysocki – I want it to be known for the record that there is an attached document of signatures in which there is support to approve this rezoning.

Alderman Ament – What is the lot size of the old R-2?

Mr. Haines – 1 ½ acres.

Alderman Ament – Once it is rezoned to R-3, he can propose 20,000 lots.

Mr. Haines - (Discussion on conservation subdivision concept shown on map)

Mr. Teclaw - I believe Mr. Gihring made reference as to those lands being identified in the Park & Open Space Plan. Can you give us a history or update on that? It sounds like this area of land with the environmental features and conservancy is identified to be preserved through Park & Open Space guidelines.

Mr. Haines – Staff Report, page 6, item #9 explains that the environmental corridor on the property is designated as proposed city ownership in the Park and Open Space Plan.

Mr. Teclaw – Could you show us the boundaries on the park site?

Mr. Haines – There are no specific boundaries of where a future park site is, its just saying in this general area.

Mr. Teclaw – I see it would not be consistent with the GDMP. I assume that is based on the five acre lot size and the designation of country residential.

Mr. Haines – Correct.

Mr. Teclaw – If this were rezoned, can you contrast the number of lots that would be allowed with the current situation vs. if it were rezoned?

Mr. Haines – That is something I drew as a concept based on discussions that we had with Randall Arndt. As far as how many lots could be developed, the zoning code right now says 25% of the lot area can count as C-2.

Mr. Teclaw – Are they looking to modify the C-2 boundary also?

Mr. Haines – Yes, the C-2 boundary is required by code to be wherever there is field delineated wetland. The city would be looking to initiate a rezoning.

Mr. Teclaw – But that is not part of this rezoning petition at this time?

Mr. Haines – Yes, what you see on this diagram is the proposed zoning and this is the new proposed boundary line between the C-2 wetland and the R-3 residential.

Mr. Teclaw – Going from R-1/R-2 to R-3 really multiplies the density ten fold. Is that an approximation of the differential?

Mr. Haines - In general, yes.

Mr. Teclaw – Our Master Plan is set up for the West side of the City based on the five acre density. Is any consideration being given when rezoning to R-3 that ten fold density and the impact it would have.

Mr. Haines – Plan Commission and Council still have their subdivision approval control.

Mayor Wysocki - You have a parcel in its entirety of 6.6+ acres and conceivably we could do this, you could put 1.6 acres for the existing home site leaving 5 acres. However, in order to build a home on that five acres the problem is within our code, that you can only use to 25% of C-2 and from your calculations would only bring it up to 4.44 acres but even though there would still be the additional half acre of C-2 land. In other words, you would still have a five acre lot but in interpreting whether or not you can build on it, you fall short by one half acre in terms of conservancy. Technically, you still have a five acre lot.

Mr. Haines – Yes, that is correct.

Mayor Wysocki – So the rendering you gave us on the proposed zoning on Page 9, does that essentially give us the 1.6 and 5 acres.

Mr. Haines – That is what he would have to come forward and propose.

Mr. Felda – I have to agree with the Mayor on the size. It is 6.6 acres. He wants to sell his property which is 1.6 acres, that leaves 5 acres left. Is there a buildable site on the remaining 5 acres that you could put a single family home with well and septic? He meets the minimum proposal for West of Calhoun, why are we making this so difficult.

Mr. Haines – As far as the buildable site, as far as I can tell by looking at the setbacks, I think there is enough buildable land for a house. I don't know where the appropriate place for the mound system would be, a soil test would be done in the CSM process.

Mr. Felda – The land is there, it didn't disappear. You have done your 4.4 acres but there really is 5 acres there.

Mr. Haines – Yes.

Alderman Ament – The wetland delineation was done by Ellis Thomson. Have they contacted SEWRPC?

Mr. Haines – The wetland delineation has been forwarded to the DNR and the environmental corridor delineation has been forwarded to SEWRPC. We have not seen the response from either. We will be issuing a recommendation.

Mr. Teclaw – # 5 and 6. The proposed zoning is a spot zone. A variance in the lot size would not be granted since there is no hardship. Can you explain those?

Mr. Haines – This would be a R-3 zoning that is surrounded on three sides by R-1 and R-2. None of those other house lots are 5 acres. This would not be applicable for any kind of variance by the board of adjustment. I do not see what the hardship is.

Mayor Wysocki – Just for my clarification. Although this could be categorized as spot zoning, the 1.6 ace lot would be similar to the remaining lots in that entire subdivision.

Mr. Haines – Correct.

Mayor Wysocki called the public hearing closed at 7:24 P.M.

NEW BERLIN PLAN COMMISSION  
NEW BERLIN CITY HALL COUNCIL CHAMBERS

AUGUST 2, 2004

MINUTES

The Plan Commission was called to order by Mayor Wysocki at 7:31 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr. Teclaw, Mr. Felda, Mr. Barnes. Also present were Greg Kessler, Director of Community Development; David Haines, Planning Services Manager; Olofu Agbaji, Associate Planner; Nikki Jones, Associate Planner. Mr. Sisson and Mr. Gihring were excused.

Motion by Alderman Ament to approve the Plan Commission Minutes of June 23 and July 12, 2004. Seconded by Mr. Felda. Motion carried unanimously.

Plan Commission Secretary's Report -

Second Plan Commission Meeting on August 25, 2004 at 6:00 P.M. – Agenda to include Conservation Subdivisions with Randall Arndt and discussion of date for Transportation Master Plan Meeting in September.

CONTINUED ITEMS

5. (3)DH R-4-99 Deer Creek Hotel & Conference Center – 1401 S. Moorland Road. Three-year extension for Deer Creek Inn & Conference Center Planned Unit Development Overlay District Ordinance No. 2128.

Motion by Mr. Barnes to recommend to Common Council approval of three year extension from the date of the expiration of the first extension for Deer Creek Inn & Conference Center PUD Overlay District, Ordinance #2128, located at 1401 S. Moorland Road, subject to the following condition:

- 1) The Developer shall apply for razing permits and demolish any residential and/or accessory structure that has been or will be vacant for any 12 month period either during the current agreement or the approved extension.

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

6. (5)OA U-4-04 South Phase Kasco PUD – 14300 W. Howard Ave. – Condominiums. (Tabled 3/1/04)

Item remains on Table.

7. (1)OA R-1-04 Carleton Point Condominiums – 13050 W. Cleveland Ave. – Rezone from I-1 to Rm-1/ PUD for a 48 unit condominium complex. (Public Hearing 3/1/04, Tabled 4/5/04)

Item remains on Table.

8. ( )DH PG-516-4 Transportation Master Plan (Public Hearing 5/3/04)

No Action.

9. ( )DH PG-942 Development Review/Administrative Permits

Motion by Mr. Barnes to adopt amendments to the Plan Commission Bylaws regarding the issuance of Administrative Permits.

Seconded by Mr. Felda. Motion carried unanimously.

Motion by Alderman Ament to recommend to Common Council to set a public hearing at the September 13<sup>th</sup> Plan Commission meeting for consideration of amending Chapter 275 Zoning, regarding the issuance of Administrative Permits.

Seconded by Mr. Teclaw. Motion carried unanimously.

NEW BUSINESS

10. (4)OA U-44-04 Marcus Theatre Corporation – 5200 S. Moorland Road – Exterior Architectural Alterations.

Motion by Alderman Ament to approve of the request for Use, Site and Architectural Approval for exterior architectural alteration to Marcus Theatre located at 5200 South Moorland Road, subject to the application, plans on file and the following:

- 1) Approval is granted for exterior architectural alteration only. Prior to issuance of the Zoning Permit, approval of the exterior architecture and materials for construction by the Architectural Review Committee is required. Applicant shall.
- 2) Submittal of material samples for review and archiving is required prior to issuance of Building Permit.

Seconded by Mr. Teclaw. Motion carried unanimously.

11. (4)NJ CU-5-04 New Berlin Plastics, Inc. – 5725 S. Westridge Drive – Material storage silo. (P.H. 7/12/04)

Motion by Alderman Ament to approve the use, site and architecture for the construction of a silo/above ground storage tank located at 5725 S. Westridge Drive subject to the application, plans on file, and the following conditions:

- 1) Per section 275-411(2) of the Zoning Code the applicant shall apply for a separate Conditional Use Approval for the second silo.
- 2) Foundation plans shall be submitted for the silo at the time of building permit.
- 3) Plans shall be stamped and signed by a registered architect or engineer.
- 4) Plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per Wisconsin Department of Commerce.
- 5) Apply and obtain appropriate building, plumbing and electrical permits.

Seconded by Mr. Teclaw. Motion carried unanimously.

12. (7)OA R-6-04 Joseph Ziegler – 19485 W. Coffee Rd. – Rezone from R-1/R-2 to R-3. (P.H. 7/12/04)

Motion by Alderman Ament to recommend to Common Council adoption of an ordinance that denies the rezoning of the property known as Joseph Ziegler located at 19485 West Coffee Road from R-1/R-2, Rural Estate Single Family Residential District to R-3, Suburban Single Family Residential District for the following reasons:

- 1) The proposed rezoning is not consistent with the Growth and Development Master Plan Update as required by Section 275-22 F (2) (a). GDMP States that “*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) This will be an extension of the existing subdivision.
- 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; No impact statement submitted.”
  - a) The applicant has not addressed the potential impacts.
  - b) A perc test has not been submitted.

Seconded by Mr. Teclaw. Motion carried unanimously.

13. (2)NJ LD-9-04 Norman Kowalski – 2791 S. 152 St. – Sw ¼ Sec. 11 – Two-Lot Land Division.

Motion by Alderman Ament to recommend to Common Council denial without prejudice of the Certified Survey Map for the property located at 2791 S. 152<sup>nd</sup> Street for the following reasons:

- 1) This land division does not meet the lot width dimensions of the R-4.5 Zoning District as required by the Zoning Code. The minimum lot width is 100’ in the R-4.5 district. The land division proposes a 97.5’ width.
- 2) Per Section 235-31B of the Subdivision Code, drainage plans shall respect existing drainage patterns and accommodate and address all drainage impacts of the proposed development. Development of this parcel would increase the drainage to the neighbors by the construction of 2 new houses. This is a wooded area, which predominantly drains south through the middle of the neighbor’s lot and close to his house and then Southeast through many Acredale Road residents’ back yards. While one house on a 195’ wide lot could theoretically keep a 50’ +/- wide wooded buffer area along the South side lot line to minimize drainage impacts and maintain a natural low spot, the construction of 2 houses would require almost all the trees on the front 2/3 of the lots to be cut and the area to be graded out to achieve positive drainage. There is also a potential for drainage from the neighbor to the North being blocked.

- 3) Per Section 235-26B(1)(C) of the Subdivision Code, the applicant has not demonstrated how he can provide positive drainage to protect the proposed houses and adjoining properties from damages of storm water runoff. The existing ditch along the West side of S. 152<sup>nd</sup> Street is unsatisfactory for the anticipated increase in drainage. A ditch would be necessary. The difficulty in doing this is the actual centerline of pavement for 152<sup>nd</sup> Street is offset 10' from the center of the ROW towards the West, and there is a line of power poles 6' off the West edge of pavement, leaving no room within the ROW to construct a ditch. The City may need to obtain 10' wide drainage and electric easements along the length of 152<sup>nd</sup> Street and may need to move the power poles or relocate the road.
- 4) There is a 1.5' discrepancy as to where the lot lines actually are located. The CSM is showing multiple property pipes at lot corners. This has not been resolved.

Seconded by Mr. Felda. Motion passes with Mayor Wysocki abstaining.

14. (2)NJ LD-8-04 National Regency – 13750 W. National Ave. – One-Lot Land Division.

Motion by Alderman Ament to recommend to Common Council approval of the Certified Survey Map for the property located at 13750 W. National Avenue subject to the plans on file and following conditions:

- 1) Applicant shall correct the vicinity map prior to the City signing the CSM.
- 2) All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.

Seconded by Mr. Teclaw. Motion carried unanimously.

15. (7)NJ U-41-04 Walgreens – 3855 S. Moorland Rd. – Modifying the Parking Lot.

Motion by Mr. Teclaw to approve the use, site and architecture for the construction of Walgreen's modified parking lot located at 3855 S. Moorland Road subject to the application, plans on file, and the following conditions:

- 1) Curb and gutter shall be used for all parking areas. Show on revised plans. Drive aisle is calculated from edge of pavement (not face of curb). Parking stall depth can include curb pan width.
- 2) Last Parking stall at the north side of the proposed change is too close to the opposite stall from the bank parcel. If vehicles pull all the way in at both locations their bumpers will hit. One stall has been eliminated in the re-design to alleviate this issue.
- 3) Radius for vehicles coming from National Avenue and attempting to get to the drive-thru needs to be enlarged to accommodate the turning radius.
- 4) Similar to condition #2, the southern stall in the bank of seven, and the western stall in the bank of three are very close together, and bumpers could potentially hit. Slide the bank of three stalls a few feet to the east.
- 5) Prior to the issuance of the Zoning Permit, applicant shall submit to the City a signed reciprocal parking agreement with Associated Bank.
- 6) Prior to the issuance of the Zoning Permit, applicant shall verify there are no conflicts with the utilities.
- 7) Applicant shall apply for electrical permits for relocating the light fixtures.
- 8) Apply and obtain appropriate building, plumbing and electrical permits when required to do so by code.

Seconded by Mr. Barnes. Motion carried unanimously.

16. (5)OA U-42-04 Citgo – 15815 W. National Ave. – Exterior Architectural Changes to Building and Canopy.

Motion by Alderman Ament to approve the request for Use, Site and Architectural Approval for exterior architectural alteration to Citgo Gas Station subject to the application, plans on file and the following:

- 1) Applicant shall submit material samples for review and archiving.
- 2) Prior to issuance of the Zoning Permit, approval of the revised exterior architecture and materials for construction by the Architectural Review Committee is required.
- 3) Architectural Review Committee requires that the building be revised to provide a higher percentage of brick on the structure. Submittal of a revised architectural rendering that shows more brick on the exterior of the building is required. The elevation shall call out all the material for construction. This shall be approved prior to issuance of Building Permit.
- 4) All necessary permits must be obtained from the Building Inspection and Zoning Department prior to commencement of any construction at this site.
- 5) Building plans shall be stamped and signed by a registered architect or engineer (Comm 61.20 Responsibilities).
- 6) Building plans shall be approved by the Wisconsin Dept. of Commerce (Comm 61.70 Certified municipalities and counties. (5)(c) 3.
- 7) Erosion Control Permit required prior to Building Permit. Erosion control measures shall be in place prior to issuance of Building Permits.

Seconded by Mr. Teclaw. Motion carried unanimously.

17. (5)OA SG-40-04 Citgo – 15815 W. National Ave. – Monument Sign and Wall Sign.

Motion by Alderman Ament to approve new signage for Citgo Gas Station located at 15815 W. National Avenue subject to the application, plans on file and the following:

- 1) Prior to issuance of the Sign Permit, approval of the monument base materials for construction by the Architectural Review Committee is required.
- 2) 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 Article VIII Chapter 275-61 of the New Berlin Municipal Code.
- 3) The monument sign base must be constructed of the same material as the principle building. Address numerals must be placed on the base.
- 4) Dumpster must be properly screened from the street and public view in accordance with New Berlin Municipal Code Article III Section 275.56 (G). Location of dumpster enclosure must be clearly designated and the materials for construction including thickness of the concrete slab must be indicated on the plan. Enclosure must match or enhance the exterior architecture of building, and must be built to accommodate both solid as well as recyclable waste dumpsters.
- 5) Submittal of an updated landscaping plan is required for this site. Plans shall be submitted to the Department of Community Development by August 16, 2004.
- 6) The internally illuminated monument sign face dimensions shall not exceed: 4' in height and 8' in width = 32 square feet. The monument sign shall read "CITGO" in blue letters on a white cabinet. The gas price board shall be red with white lettering.
- 7) The internally illuminated LED dimensions shall not exceed: 2.5' in height and 8' in width = 20 square feet. The LED must meet the requirements of section 275-61 (l) (1) (g) of the Zoning Ordinance.

- 8) The internally illuminated canopy sign face dimensions shall not exceed: 2' in height and 15' in width = 30 square feet. Canopy sign shall read "CITGO" in individual blue channel letters mounted directly to the canopy façade.
- 9) All signs, including monument sign shall be turned off outside normal business hours.
- 10) A payment of \$303.00 is required per calculations below:  
Monument Sign Face: 4' x 8' x 2 sides = 64 sq.ft. x \$3.00/sq.ft. = \$192.00  
Canopy Sign Face: 2' x 15' x 1 side = 30 sq ft x \$3.00/sq.ft. = \$90.00  
LED Face: 2.5'x 8' = 16 sq.ft. x 2 side x \$3.00/sq.ft. = \$96.00  
Less Application Fee (\$75.00) = \$303.00

Seconded by Mr. Teclaw. Motion carried unanimously.

18. (4)OA CU-4-04 Texas Roadhouse – 15425 Rock Ridge Rd. – Restaurant. (P.H. 7/12/04)  
Motion by Alderman Ament to table the application for Conditional Use Approval for the construction of Texas Roadhouse restaurant at 15425 West Rock Ridge Road for the following reasons:
  - 1) Applicant is yet to submit revised plans that address all the issues raised by staff.
  - 2) A Traffic Impact Analysis (TIA) for this project has not been submitted as required. Plan Commission will not take action regarding this Conditional Use Permit without a Traffic Impact Analysis.

Seconded by Mr. Teclaw. Motion carried unanimously.

19. (7)AK U-38-04 Azizsons – 18480 W. National Ave. – Installation of Overhead Door in Place of Window.  
Motion by Alderman Ament to approve the request by Azizsons for an after the fact architectural change (addition of a garage door) to the exterior of the building located at 18480 W. National Avenue subject to the application, plans on file and the following:
  - 1) Applicant shall be required to apply for a building permit from our Inspection Services Department no later than 15 days after receiving their Zoning Permit.
  - 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.

Seconded by Mr. Teclaw. Motion carried unanimously.

20. (2)NJ R-9-04 John & Cheryl Globig – 2240 Foxglove Ct. – Rezone from R-4/C-2 to R-4/C-2. Set Public Hearing for September 13, 2004.  
Motion by Alderman Ament to forward to Common Council to set a Public Hearing at the September 13, 2004, Plan Commission meeting regarding the petition to rezone the property located at 2240 Foxglove Court from R-4 and C-2 to delineate the boundaries of R-4 and C-2 on the site.

Seconded by Mr. Barnes. Motion carried unanimously.

21. ( )NJ PG-227 Extraterritorial Plat – Rolling Meadows – Town of Vernon – Extraterritorial Plat.  
Motion by Alderman Ament to recommend to Common Council No Objection to the Town of Vernon Extraterritorial Plat with the following comments:

- 1) Applicant shall change the name of the Subdivision. The City of New Berlin already has a subdivision named Rolling Meadows. This is in conflict with state statues section 236.20(3) Name, location and position. Per Section 236.20(3), which states, "The name of the plat shall be printed thereon in prominent letters, and shall not be a duplicate of the name of any plat previously recorded in the same county or municipality."
- 2) The lots in this subdivision are proposed to be ~ 1 acre each. However, the City of New Berlin requires 5-acre lots in the un-sewered areas.

Seconded by Mr. Felda.

Motion by Alderman Ament to amend the Motion of No Objection to include a line at the end of Condition #2 to read "We request the town to reconsider the one acre lot size to a lot density of 5 acres in consideration of water resource concerns for the entire region."

Seconded by Mr. Felda. Motion for amendment carried unanimously.

Motion by Alderman to approve the Motion of No Objection as amended.  
Seconded by Mr. Felda. Motion carried unanimously.

22. ( )DH PG-944 M-1 and M-2 Parking Lot Setback Amendment

Motion by Alderman Ament to recommend to Common Council to set a public hearing at the September 13<sup>th</sup> Plan Commission meeting for consideration of amending Chapter 275 Zoning, regarding the parking lot setback in the M-1 and M-2 Zoning Districts.

Seconded by Mr. Barnes. Motion carried unanimously.

CONSENT AGENDA (One motion and second will approve all of the following items listed. Any item may be pulled from the list and handled separately.)

Motion by Mr. Barnes to approve consent items #23, 24. Seconded by Mr. Felda. Motion carried unanimously.

ZONING PERMITS

23. (4)AK RO-30-04 Damaske Electronics – 6270 S. Martin Road – Electronic service for home entertainment equipment.

The request by Damaske Electronics for electronic service for home entertainment equipment located at 6270 S. Martin Road has been reviewed and conditionally staff approved by the New Berlin Plan Commission subject to the application, the plans on file and the following:

- 1) As this was an after the fact application, a double fee was charged.
- 2) Hours of Operation: M-F; 8:00 AM to 6:00 PM, Sat; 9:00 AM to 4:30 PM, Sun; Closed
- 3) Property owner shall be required to clean up the trash and junk on the site. Including getting rid of all the miscellaneous trash to the north and east of the building. Please see to it that this is done by Wednesday August 4, 2004.
- 4) No exterior signage is allowed for this business. Any future signage shall require that an application first be applied for.

- 5) 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.
  - 6) No outside storage shall be permitted on this property. The property owner shall see to it that the outside storage of trucks and other miscellaneous items are removed from the site or applied for by Wednesday August 4, 2004.
  - 7) Employee and customer parking must be contained on site.
  - 8) Designated areas for parking shall be restriped, repaired and resealed. This shall be completed by Tuesday August 31, 2004.
  - 9) Permits are required from the Building, Inspection, and Zoning Departments for any interior and exterior alterations or modifications. Apply for and obtain appropriate building, plumbing, and electrical permits.
  - 10) Building must be maintained per Chapter 201 of the Non-residential Property Maintenance Code.
  - 11) Building must meet all applicable building and fire codes. A Fire Extinguisher is required per the fire inspector.
24. (7)NJ RO-31-04 TDS Metrocom – 16924 W. Victor Rd. – Office.

The request by TDS Metrocom for an office located at 16924 W. Victor Road has been reviewed and conditionally staff approved by the New Berlin Plan Commission subject to the application, the plans on file and the following:

- 1) Applicant shall correct all outstanding permits by August 1, 2004. Permit to correct electrical violations was issued to Current Electric in October of 2000. Contractor has not called for final inspection to see if those violations were brought into compliance.
- 2) Overnight parking of trucks/vans at this site will not be allowed. Workers shall take all trucks home at night.
- 3) Landlord shall repair, re-pave and re-seal the parking area on the west side of the building by August 1, 2004.
- 4) All outside storage including plastic barrels, crates, etc. shall be removed from the site by August 1, 2004. No outside storage shall be permitted at this site.
- 5) Employee and customer parking must be contained on site.
- 6) 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.
- 7) Building plans shall be stamped and signed by a registered architect or engineer.
- 8) No Dumpster or screening and or enclosure plans have been approved by the Department of Community Development for this development, therefore no outside storage of dumpster or wood pallets shall be permitted. Dumpsters shall be stored inside each tenant's rental space. Except on collection day, per instructions of the current building owner.
- 9) If the applicant wishes to store dumpsters outside, the applicant shall submit plans. 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.
- 10) Apply for and obtain appropriate building, plumbing, and electrical permits when required to do so by code.
- 11) Permits are required from the Building, Inspection, and Zoning Departments for any interior and exterior alterations or modifications. Apply for and obtain appropriate building, plumbing, and electrical permits.
- 12) Building must be maintained per Chapter 201 of the Non-residential Property Maintenance Code.
- 13) Building must meet all applicable building and fire codes. Fire Extinguishers are required.

CONSENT AGENDA (One motion and second will approve all of the following items Listed. Any item may be pulled from the list and handled separately.)

Motion by Mr. Barnes to approve consent items #25-29. Seconded by Alderman Ament. Motion carried unanimously.

STAFF APPROVED

25. (7)OA SG-35-04 City of New Berlin Concerts in the Park – 16280 W. National Ave. – Temporary Sign.

The request by City of New Berlin Concerts in the Park for a temporary sign located at 16280 W. National Avenue has been reviewed and conditionally staff approved by the New Berlin Plan Commission subject to the application, the plans on file and the following:

- 1) A City of New Berlin Temporary sign announcing concerts in the park shall be installed at Malone Park from June 9, 2004 through July 26, 2004.
  - 2) 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 Article VIII Chapter 275-61 of the City of New Berlin Municipal Code.
  - 3) The temporary sign face dimensions shall not exceed:  
3'0" in height x 5'0" width = 15 square feet in area
  - 4) The temporary sign face shall read "Concerts in the Park – Malone Park Gazebo – Casper Drive – Thursdays: June 19 – July 24 – Times: 7:00 – 8:15 P.M. – Free Admission" in black on a white background.
  - 5) The temporary festival sign shall be removed by July 26, 2004.
  - 6) The temporary sign face shall not be illuminated.
  - 7) Building Permits are required per Article III Section 275-25 of the City of New Berlin Municipal Code.
  - 8) Electrical Permits are required per Article III Section 275-25 of the City of New Berlin Municipal Code.
26. (4)OA SG-36-04 CSE Promotional – 5400 Westridge Dr. – Sign Face Change.

The request by CSE Promotional for a sign face change located at 5400 Westridge Drive has been reviewed and conditionally staff approved by the New Berlin Plan Commission subject to the application, the plans on file and the following:

- 1) Per Section 275-53B(1)(11) all existing nonconformities and outstanding code violations shall be identified, resolved, and remedied. Applicant shall be required to meet all the conditions of Zoning Permit # RO-25-04 approved by Plan Commission on July 12, 2004 in its entirety.
- 2) The monument aluminum sign face shall read "CSE" and "Promotional and Workwear Solutions" in black on a light brushed grey background.
- 3) Overall monument sign face shall not exceed 144' in width x 2.6' in height for a total of 32 square feet. The overall height of the sign shall not exceed 8'.
- 4) 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.
- 5) Payment of \$117.00 is due per the following calculations:  
Sign Face: 12' x 2.6' = 32 sq.ft. x 2 sides = 64 sq.ft.  
64 square feet x \$3.00/ sq. ft. = \$192.00

Less application fee: (\$75): \$117.00

27. (5)OA SG-37-04 Sportsman's Warehouse – 15470 W. Beloit Rd. –  
Temporary Construction Sign.

The request by Sportsman's Warehouse for a temporary construction sign located at 15470 W. Beloit Road has been reviewed and conditionally staff approved by the New Berlin Plan Commission subject to the application, the plans on file and the following:

- 1) The temporary development sign shall be removed upon installation of the permanent monument sign for this development or upon full lease of the property.
  - 2) The sign face shall not exceed 8' in width x 6' in height for a total 48 square feet.
  - 3) Sign shall include the following: Future Home of: SPORTSMAN'S WAREHOUSE, E. M. Constructions, and G. A. Architects.
  - 4) 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.
  - 5) Payment of \$57.00 is due prior to issuance of Sign Permit per the following calculations:  
Sign Face: 4' x 8' = 32 square feet x \$3/square foot = \$144.00  
Less application fee: (\$75): = \$69.00
28. (7)NJ SG-38-04 Mexican Accent, Inc. – 16675 W. Glendale Dr. – Wall Sign  
and Monument Sign.

The request by Mexican Accent, Inc. for a wall sign and monument sign located at 16675 W. Glendale Drive has been reviewed and conditionally staff approved by the New Berlin Plan Commission subject to the application, the plans on file and the following:

Wall Sign:

- 1) The wall sign shall be located as identified on the plan submitted.
- 2) The wall sign shall read, "MEXICAN ACCENT, INC." in black flat letters and "MANNY'S" in white letters with black trim. Sign will be non-illuminated.
- 3) The sign face shall not exceed 12'0" in width x 3'0" in height for a total of 36 square feet.
- 4) Applicant shall remove both ground signs along Glendale Drive prior to the installation of the new wall sign.
- 5) 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.
- 6) \$108.00 is due per the following calculations:  
Sign Face: 12'0" x 3'0" = 36 square feet  
36 square feet x \$3.00/ sq. ft. = \$108.00

Monument Sign:

- 1) The monument sign shall be located outside of the ultimate right-of-way of Glendale Drive.
- 2) The monument sign face shall read, "MEXICAN ACCENTS, INC. – FOOD PRODUCTS – MANNY'S" in white writing on a red background. Sign will have some yellow design work around the border. Sign shall be constructed of a non-illuminated aluminum cabinet. The base will be constructed of the same brick as the building.

- 3) The sign face shall not exceed 4'3" in width x 7'3" in height for a total of 31 square feet.
  - 4) The overall height of the sign shall not exceed 6'.
  - 5) Applicant shall remove both ground signs along Glendale Drive prior to the installation of the new monument sign.
  - 6) 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.
  - 7) \$111.00 is due per the following calculations:  
Sign Face:  $4'3" \times 7'3" = 31$  square feet  
31 square feet x 2 sides = 62 sq. ft. x \$3.00/ sq. ft. = \$186.00  
Less application fee:  $(\$186.00 - \$75.00) = \$111.00$
29. (1)OA U-40-04 M & R Pressure Washing – 14306 W. Gatewood Dr. – Home Occupation – Pressure Washing.
- The request by M & R Pressure Washing for a pressure washing home occupation located at 14306 W. Gatewood Drive has been reviewed and conditionally staff approved by the New Berlin Plan Commission subject to the application, the plans on file and the following:
- 1) Plan of Operation
    - a) This Zoning Permit is issued as a temporary use approval at this location only. Approval will be granted for a one-year probationary period through August 2<sup>nd</sup>, 2005 with hours of operations as stipulated in the Plans of Operation. Applicant will be required to reapply to the Plan Commission for continued operation and a decision will be made following an evaluation of the existence of the business. Application for annual operation at this location must be filed with the Department of Community Development by June 24<sup>th</sup>, 2005 to be on the August 1<sup>st</sup>, 2004 Plan Commission meeting agenda.
    - b) Per Section 275-53B(1)(11) all existing nonconformities and outstanding code violations shall be identified, resolved, and remedied.
    - c) Business hours of operation shall be limited to 8:00am-8:00pm Monday-Friday.
  - 2) Home Occupation shall be conducted in accordance with Chapter 275-42(G)(4) of the City of New Berlin Zoning Ordinance in its entirety, including:
    - a) Every Home occupation shall be subject to periodic, unannounced inspection by the Zoning
    - b) Administrator in response to complaints or to ensure compliance with this ordinance.
    - c) Home Occupation shall meet all applicable building and fire code safety requirements.
    - d) An Occupancy Permit is required from Building Inspection and Zoning Department. All conditions must be met prior to issuance of an Occupancy Permit.
  - 3) The only business conducted inside the home office shall consist of scheduling jobs, running invoices, paying bills, filing, and receiving and making phone calls.
  - 4) No more than one nonresident employee shall be employed by a home occupation per Section 275-42(G)(4) of the City of New Berlin Municipal Code. The non resident employee shall not be allowed to park their car at the property or on the street and then take the work van out to different sites.
  - 5) No outside storage shall be permitted for this business. No home occupation nor any storage of goods, materials, or products connected with a home occupation shall be allowed in any accessory building or detached garage.
  - 6) No Sign Permits shall be issued as such no sign is allowed for this business.
  - 7) The business shall be conducted in 20% or less of the overall living space of the residence.

COMMUNICATIONS

30. Communication To: Plan Commission  
Communication From: David Haines, Planning Services Manager  
RE: "Transfer of Old Landfill Gets New Interest", Journal Sentinel, July 14, 2004.

Plan Commissioners acknowledged receipt of this communication.

31. Communication To: Plan Commission  
Communication From: David Haines, Planning Services Manager  
RE: Area Conservation Subdivisions

Plan Commissioners acknowledged receipt of this communication.

Motion by Alderman Ament to adjourn the meeting at 9:35 P.M. Seconded by Mr. Teclaw. Motion carried unanimously.