



September 19, 2019

Nikki L. Jones  
Deputy Director  
City of New Berlin Department of Community Development  
3805 S. Casper Drive  
New Berlin, WI 53151+

Subject: Conditional Use Application Booster Pumping Station for the Waukesha Water Utility

Dear Ms. Jones:

In my letter dated August 31, 2019, the Waukesha Water Utility (WWU) indicated its intent to submit a request for approval of a Conditional Use Permit of a Utility (CUP) for the Booster Pumping Station (BPS) and Storage Facilities located in Section 18 Township 6 North, Range 20 East, Waukesha County, Wisconsin on the southwest corner of S. Racine Avenue and S. Swartz Road in the City of New Berlin (City). We had requested that such a CUP application be considered in parallel with and in the alternative to the requested rezoning. Subsequent, to that letter, I have been advised that the City would not entertain a CUP request while the rezoning was pending. Therefore we are hereby withdrawing the rezoning application and submitting the following CUP application. This application is being submitted within 45 days of the November 4, 2019 Plan Commission meeting and we request that this application be considered at that meeting.

We are requesting prompt review and consideration of this application because, as we previously indicated, construction must start no later than early next spring to meet our Consent Order deadlines. At this time, there is no "alternative site" that is ready to go, because we have been discussing this site with the City over the last two years. Exploring other site options, acquiring rights of use, redesigning the facilities for another site along with the engineering and permitting would seriously jeopardize the ability of Waukesha to meet its court-ordered deadline. While we continue to disagree with the City's determination that the BPS is not an essential service and therefore a permitted use, we are submitting this CUP to move this project forward in a manner consistent with the City's determination.

We also want to highlight that in further response to the concerns expressed by community stakeholders we have revised the project by lowering the reservoirs by 10 feet, and increasing the landscaping plan, in accordance with the recommendations of the Architectural Review Committee thereby minimizing aesthetic impacts and keeping the height within the 35 foot height limitation for the CUP.

We are submitting the following forms for your review and approval:

- City Development Application Form
  - (1) One for Conditional Use
- City Developer's Deposit Development Review/Finance Form
  - (1) One for Conditional Use

As attachments to the above forms, the following documents are submitted:

- Plan of Operation Report
- Drawing set including site plans, utility plan, grading and stormwater plan, landscaping plan, and architectural floor plans and elevations.
- Architectural building elevations in color
- Architectural renderings in color
- Site lighting plan
- Geotechnical report for the subject site
- Stormwater Management Plan: Booster Pumping Station
- Site plan in color
- Landscape plan in color
- Master Plan Update for Minooka Park, Waukesha County, July 2018

The full Wetlands and Waterways application was submitted on April 23, 2019, to Nicole Hewitt and Tamara Simonson at the City of New Berlin. If additional information is needed, it will be provided upon request.

WWU meets the approval criteria as laid out in Section 275-27(C) as follows:

- 1) Approval of a conditional use. Recommendations and decisions on conditional uses should be based on consideration of the following criteria:
  - a) Whether the proposed use corrects an error or meets the challenge of some changing condition, trend, or fact;

*The trend of decreased water levels and increased radium in the St. Peter's sandstone aquifer is a challenge that effects the entire region of southeastern Wisconsin. As indicated in the Southeastern Wisconsin Regional Planning Commission (SEWRPC)'s Planning Report No. 52, removing the City of Waukesha from a groundwater source to a Lake Michigan water supply is needed for the region, including the City of New Berlin, to preserve the health of the aquifer that serves communities in the region and the wetlands and water ways in the region.*

*The conditional use approval of the subject site and facilities are an essential part of the system need to supply Lake Michigan water to the residents of the City of Waukesha. The City of Waukesha needs an alternative public water supply because the water from its deep wells contained unacceptable levels of radium. The City is under a court order to resolve the radium issue by 2023. The solution of using Great Lakes water has been approved by the Wisconsin Department of Natural Resources and approved by the governors of the eight states that are part of the Great Lakes Compact.*

- b) Whether the proposed use is consistent with the health, safety, or general welfare of the general public;

*The proposed use of the subject site is to provide, safe drinking water for the health, safety and general welfare of the general public as described in the previous section. This portion of the project in New Berlin involves two primary structures, a Booster Pumping Station (BPS) and two Water Reservoirs. The structures and location are shown on the attached drawing set, site plans and architectural plans. The BPS and Water Reservoirs are essential components of a system designed to deliver drinking water from the City of Milwaukee to the Waukesha Water Utility and then to the public.*

*The location of these facilities is also consistent with the general welfare. The facilities are located within an area designated as county park land but as of yet is undeveloped. The location of these facilities is not only consistent with the proposed plan for Minooka Park, they are specifically located on the Minooka Park Master Plan Update prepared for Waukesha County in July 2018.*

- c) Whether the proposed use will protect the natural environment, including, but not limited to, air, water, stormwater management, wildlife, and vegetation.

*The entire Program to provide water to the City of Waukesha, including the subject site and proposed Booster Pumping Station and Storage Facilities, has been included with an Environmental Impact Statement prepared by the Wisconsin Department of Natural Resources (WDNR). The staff findings are that the overall Program and the subject have met the state requirements of protecting the natural environment, including, but not limited to, air, water, stormwater management, wildlife, and vegetation. The state requirements are consistent with the City of New Berlin Code.*

*A Wetland and Waterway Permit Application has been prepared for review by WDNR and the United States Army Corp of Engineers (USACE). That application has been reviewed by both entities. The Program has evaluated avoidance alternatives, and minimized impacts to the fullest extent practicable. No wetlands or waterways will be impacted by the BPS facilities in Minooka Park.*

*In addition, a review of the WDNR Natural Heritage Inventory database and desktop and in-field survey, showed no threatened, endangered, or Federally-listed species within the in the vicinity of the subject property.*

*The trees in the vicinity of the project are not high value trees, but the project was sited and designed to avoid the removal of any trees.*

*Grading and stormwater management will be undertaken to comply with applicable DNR codes in Wis. Admin Codes NR 151.12 and the 10 foot wetland setback defined in Section 275.36 D.(3) (a) for P-1 Districts. Details of these plans are shown in the attached Grading, Erosion Control, Sanitary and Stormwater Piping Plan (BC7).*

2) Changes to the use. In acting on a conditional use, the Plan Commission/CDA shall consider the stated purpose of the proposed use and shall approve the petition only if it finds that the applicant has provided substantial evidence as that term is defined in Wis. Stats. § 62.23(7) that the use will meet the following criteria for approval:

- a) Adequate public facilities and services (including sewage and waste disposal, water, gas, electricity, schools, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

*The daily activity at the site will be minimal and impose minimal demands on public services. The building will be fully automated and controlled from WWU's SCADA system at their administrative office. The daily activity at the site will typically only involve two operators at the site Monday through Friday to perform routine maintenance and to check on the facilities for a duration varying from between an hour to four hours, a once a week visit by the WWU Operations Manager and chemical deliveries once every few weeks. Potable water service will be provided by the Water Supply Pipeline for Milwaukee and wastewater and stormwater will be treated on site, creating no burdens on public facilities.*

- b) Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of the City to provide them;

*This is not a commercial or residential development that will increase the need for roads, schools, and other public services. The existence of the BPS and reservoir and the presence of one or two employees for a few hours a day will not place any additional burden on the ability of the City of New Berlin to provide services, and will have no measurable impact on traffic. It is not a facility that will result in increasing demands on schools.*

- *Electricity and natural gas will be supplied from We Energies with dedicated service feeds for the site.*
- *The Booster Pumping Station will be fenced in and includes continuous camera surveillance by the WWU. Police Department support is anticipated to be minimal.*
- *A hydrant is located on site and will be inside the fence to be used for the fire protection for this property only and a fire suppression system is designed to meet City of New Berlin Fire Code. Fire Department support is anticipated to be minimal.*

- c) The proposed development has taken into account impacts on surrounding properties or the natural environment, including traffic, air, water, noise, stormwater management, soils, wildlife, and vegetation;

*The proposed development has taken into accounts on the surrounding properties and the natural environment. As set forth in response to Section 1(c) above, this project has been subject to extensive environmental review by the DNR and other agencies. This aspect of the project has been sited and designed to avoid or minimize all environmental impacts. Additional descriptions are noted in the accompanying Plan of Operation.*

*In addition, as noted above, site has changed since originally designed, and the project has been revised to lower the water storage tanks by 10 feet to further minimize and mitigate aesthetic impacts to the surrounding neighbors.*

- d) The land is suitable for development and will not cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas; and

*The land is suitable for development. A geotechnical report has been completed for the subject site and it was concluded that the land is suitable for development and will not cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas. See attached report. This information was also included in the Wetland and Waterway Individual Permit Application prepared for WDNR and USACE.*

*In addition, as noted above, there are no threatened or endangered species on site, and a stormwater and erosion control plan has been submitted and will be implemented.*

- e) The proposed use will not be used to legitimize a nonconforming use or structure.

*Waukesha is not seeking to legitimize an existing nonconforming use or structure. The subject site is owned by Waukesha County Department of Parks and Land Use and leased as farm land. The site is located within the City's planning area and is zoned as P-1, Park and Recreation District. These structures should be considered an Essential Service that is a permitted use in P-1 Districts. However, since the City has taken a different position, Waukesha is submitting this application as a Conditional Use in a P-1 District in accordance with New Berlin City Code Chapter 275, Article IV, Zoning. Utilities meeting the height requirements are permitted as conditional uses.*

WWU respectfully requests your review of the information above and supporting documents to obtain a conditional use for the subject property.

WWU understands the application fee to be \$2,433.40. The fees were established based on the total square footage of structures located on the property which include the building at 16,323 SF and the reservoirs at 69,237 SF for a total of 85,560 SF.

A check in the amount of \$1,933.40 is included for the CUP and a check in the amount of \$500 is included for Developer's Deposit for a Conditional Use. If you have any questions or concerns, please feel free to contact me at (262) 409-4440 or Catharine Richardson at Greeley and Hansen at (262) 290-2254 or [crichardson@greeley-hansen.com](mailto:crichardson@greeley-hansen.com).

Yours very truly,

*Waukesha Water Utility*



*Daniel S. Duchniak, P.E.  
General Manager Waukesha Water Utility*

CRV

- Encl. (1): City of New Berlin Permit Application, 1 copy, [Development-Application-Form\_2019\_09\_19.pdf]  
(2): City of New Berlin Developer's Deposit Development Review/Finance Form, 1 copy, [Developer's Deposit Development Review\_2019\_09\_19.pdf]  
(3): Plan of Operation Report, 7 copies, [Plan of Operation Report\_2019\_09\_19.pdf]  
(4): Drawing Set including site plans, utility plan, grading and stormwater plan, landscaping plan, and architectural floor plans and elevations, 7 copies at full size, [New Berlin Permit Set.pdf]  
(5) Architectural building elevations in color, 4 copies at 11" x 17" and 1 copy at full size, [Arch Elevations\_color\_2019-09-18.pdf]  
(6) Architectural renderings in color, 4 copies at 11" x 17", [BPS Renderings.pdf]  
(7) Site lighting plan, 7 copies at 11" x 17", [BPS Lighting Plan.pdf]  
(8) Geotechnical report for the subject site, [BPS Geotechnical Report.pdf]  
(9) Stormwater Management Report: Booster Pumping Station, 1 copy, [BPS SWMP\_2019\_09\_19.pdf]  
(10) Site plan in color, 4 copies at 11" x 17", [BPS Site Plan\_color\_2019\_09\_19.pdf]  
(11) Landscape plan in color, 4 copies at 11" x 17", [BPS Landscape Plan\_color\_2019\_09\_19.pdf]  
(12) Master Plan Update for Minooka Park, Waukesha County, July 2018, [Minooka Park Master Plan Update.pdf]

C: File