

PUBLIC HEARINGS

6:00 P.M. (7)NJ RZ-09-07 Richard H. Mercier – Approx. 4700 S. Sovereign Dr. – Rezone from R-4, O-2, and C-2 to R-4, O-2, and C-2 to Delineate the Wetlands.

**NEW BERLIN PLAN COMMISSION
FEBRUARY 1, 2010
MINUTES**

The public hearing relative to the request by Richard Mercier to rezone the property located at 4700 S. Sovereign Drive from R-4, O-2, and C-2 to R-4, O-2, and C-2 to Field Delineate the Wetlands was called to order by Mayor Chiovaturo at 6:07 P.M.

In attendance were Mayor Chiovaturo, Mr. Sisson, Mr. Christel, Ms. Groeschel, Mr. Felda, Alderman Ament, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; Corliss Tischer, Code Compliance Specialist; Nicole Hewitt, Storm Water Division Engineer; Mark Schroeder, Director Parks, Recreation & Forestry; and Mark Blum, City Attorney.

Mayor Chiovaturo explained the procedure for a public hearing saying that he would ask for questions for clarification and then ask three times for anyone wishing to speak in favor of the application and then three times for anyone wishing to speak in opposition of the application.

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

Ms. Jones gave a brief presentation describing the request and indicated the location.

Mayor Chiovaturo asked three times for questions or comments for the purpose of clarification, seeing none.

Mayor Chiovaturo asked if there was anyone wishing to speak in favor of this application.

William Standeford, 4635 S. Delphine – Can you explain what you are trying to do when you say you want to delineate the wetland?

Mayor Chiovaturo – They are going to stake out the wetland. Someone has to go out to the property and field delineate it. Once it has been done those coordinates are put on to a map. Tonight they are just confirming those locations and permanently putting them on the map.

Ms. Jones – If you look at the zoning comparison map that is being presented, the left shows the current zoning or how it exists on our maps today. Years ago someone at a desk looking at aerial photos saying this might be wetland, or this might not be. Now the applicant has actually hired a wetland biologist to go out and walk the property and put flags down. Then a surveyor comes in and adds that data to an actual survey. The surveyor prepares this information and submits it to the city. They also submit all of this information along with a very detailed report on soils, wildlife, and habitat which also goes to the DNR and Army Corps of Engineers. Those two groups have reviewed this and provided the City with concurrence letters that they are comfortable with the work that was prepared.

Mr. Standeford – When they started building on all four corners, wasn't this supposed to be a buffer?

Ms. Jones – That is a separate parcel. Ms. Jones showed the parcel on the map. It is a separate owner and a separate project.

Mr. Standeford – If they wanted to build something there, they could just cover up the creek and the wetlands.

Ms. Jones – This is an outlot. (Ms. Jones indicated the location on the map) The outlot parcel is indicated in yellow. There is a separate parcel that fronts Beloit Road. Years ago in 2001 when they created the land division to create two separate lots, this one was named an outlot because there were so many environmental issues on it. Rather than dealing with everyone of those issues then when they weren't sure what would happen there, they called it an outlot and listed several conditions that need to be met if this person ever wants to build a home or do anything, they have to go through all those steps. This is the very first step that they would take.

Mr. Standeford – After this, they can ask the City to build there?

Ms. Jones – They would need to make a formal request to remove the outlot status and the information they would need to supply is listed on the face of the Certified Survey Map. Likely, the Plan Commission and the Common Council would need to review that data showing that they have met it, and then proceed with removing that outlot status. There is quite a bit of work that would need to be done before anything could happen there.

Mr. Standeford – Once this is done, than it could happen?

Ms. Jones – You would need to contact the owner, but this is the first step.

Mr. Standeford – Once it is removed, then he could build something there?

Mayor Chiovero – He is not removing anything right now. He is delineating the wetlands. The wetlands have grown and the developable areas are minimized.

Mr. Standeford – He took a chance to buy the property and now he's stuck with it.

Ms. Jones – He has owned the property for quite a while.

Mr. Standeford – I know, we have been there for a long time. Now he is stuck with it, and now he wants to get it changed.

Mayor Chiovero – We don't know what the intentions of the owner are. No application has been filed.

Edward Belter, 4670 S. Hearthridge Drive – When does he want to do this delineation, as far as time?

Mayor Chiovero – Right now is the delineation. He had a field biologist check the wetlands. He knows the exact boundaries of the wetland. That is what this is, just to put those boundaries onto a CSM and make them permanent.

Mr. Belter – He has that done already? That is what is on the screen?

Mayor Chiovero – Correct.

Ralph Heun, 17765 W. Saturn Drive – When was this walk around survey to locate the swamp done?

Ms. Jones – Natural Resource Consulting identified those areas on August 1, 2005. They submitted their report to the City in September of 2005. We have a concurrence letter on file from the DNR dated October 10, 2005. Those letters are good for five years.

Mr. Heun – It seems that the wetlands have grown from 2005.

Ms. Jones – The letters are good for five years. You may contact the DNR if you have any questions.

Mr. Heun – How do we know the wetlands have grown? Was the previous one done in about 1990?

Ms. Jones – It was done in 2005. That is the latest one.

Mr. Heun – If that wetland has grown from the latest one as compared to the previous one, we have no idea what we are even talking about right now.

Ms. Jones – I can tell you that right here in the letter from the DNR, it says “our wetland concurrence is valid for five years unless site conditions change to warrant a new wetland delineation to be conducted”. I can also tell you that the DNR is no longer going to be issuing the concurrence letters for projects like this where the gentleman doesn’t require any other DNR permitting. They will be working with private consulting firms and coming forward with this information. I have been dealing with them on several other wetland delineations and we have requested letters.

Mr. Heun – Has the DNR said also how many deer are walking around the area? They can’t seem to get that figured out right in the state either. I would be very suspicious about what they said five years ago.

Ms. Jones – They have been in area with the Children’s Hospital project. Both of the creeks on the property are both navigable. The homeowner is very aware that there are a lot of environmental features on the land.

Mayor Chiovero asked three times if there was anyone else wishing to speak in favor of this application, seeing none.

Mayor Chiovero asked three times if there was anyone wishing to speak in opposition of this application, seeing none.

Mayor Chiovero asked for comments or questions from the Plan Commissioners.

Alderman Ament – It shows the primary and secondary environmental corridors, but does it also include the isolated natural resource area on that map?

Ms. Jones – This property only has Secondary Environmental Corridor. (Ms. Jones read the SEWRPC definition of Secondary Environmental Corridor and Isolated Natural Resource Area).

Alderman Ament – Would whatever is on there include any one or all of these?

Ms. Jones – The only one that our maps are identifying is Secondary Environmental Corridor. (The green hatching on the map).

Alderman Ament – Should the applicant ever come forward with a development proposal, I would assume those C-1, C-2, Isolated Natural Resource, and Environmental Corridor Areas would all be required to be in a conservation easement?

Ms. Jones – We would evaluate to see what would need to be preserved at that time. That is a condition of that older CSM. To remove outlot status, they would need to field verify the Primary or Secondary Environmental Corridors at that time. They could choose to have their own biologist go out there or they could request SEWRPC to do that work.

Alderman Ament – Even though the City requires this, the DNR is really the one who has the

authority over this in the end, correct?

Ms. Jones – Environmental Corridors are planning concepts by SEWRPC. That is where the Environmental Corridors come from. The wetland and shoreland areas are regulated typically by the DNR.

Alderman Ament – This is something that he is required to do before he does anything else, correct?

Ms. Jones – Correct. I could read the whole list. There is A-F list of items that he would need to do on this property before he could come back to request anything else to be done. He had done this wetland delineation and wanted to provide this information to the City. This at least will provide good information as of 2005 and update the City's Zoning Maps to more accurately reflect additional wetlands. You can see that there is much more wetland out there than our current map shows.

Alderman Ament – Obviously, what he has done here so far even though it goes back to 2005, substantially increases the amount of wetland on that parcel.

Ms. Jones – Correct, and it provides us with more current and better data than what I have right now.

Alderman Ament – If he comes in with some sort of request or proposal, seeing as it was almost five years ago, will he be required to do another delineation or will that be determined at that time?

Ms. Jones – Typically, after five years we would request that they communicate with the DNR and get either a letter or e-mail suggesting they are still comfortable. We have had a couple cases where they contact the DNR and the DNR has issued an extension of their approval. Since we are not to October of 2010, I did not make that request at this time.

Alderman Ament – There again that would be under the authority of the DNR?

Ms. Jones – It is one of their policies. The five year is not really in their handbook or DNR rules. It is a policy they have and The City of New Berlin has always abided by that policy.

Alderman Ament – Thank you.

Ms. Broge – In your estimation, given the time that has elapsed since 2005, what is the potential that the wetland areas have expanded?

Ms. Jones – I am not an expert in that area and probably can't provide you with that kind of information, but when looking at those areas, this area is a bit higher than some of the lower areas where you see some of the wetland being picked up. They would have to do the work and science behind it to show that information. I am only able to look at grading and topography. There is that little bit of difference, plus you can see that there is the tree line and more growth in this area. (Ms. Jones referred to map). An expert biologist would need to do that.

Ms. Broge – To assure the residents that spoke tonight, we are not changing any of the current zoning, this is just for wetland delineation. My question would be, if and when the proposed zoning would go through, can you denote on that map what areas would be developable?

Ms. Jones – (Ms. Jones referred to the map) Potentially, any of the areas that aren't the green color. The C-2 area would not be developed. They would need to maintain 30' setbacks from those areas. The R-4 Single-Family Residential or the O-2 Office pocket would need a wetland crossing to get to it. I took pictures at the end of Sovereign Drive looking south. That is probably where some sort of extension of road or driveway would be. That is where the conditions of the outlot status would come in as far as looking at the culvert, detailed access road infrastructure,

storm water, grading plans for any extension of Sovereign Drive. They would have to do a lot of work to have the outlot status removed.

Ms. Broge – I am very familiar with that area. How would Sovereign Drive ever be expanded? What is the potential for it to turn into a thru street? I am sure that is what the residents are concerned about.

Ms. Jones – That would be to Mr. Mercier and his engineers. We have met with him since 2001 on and off as he evaluates his future plans. He would have to figure how he could engineer that and how he could bring utilities into that site. As you see on the survey they have done, there is a 60' right-of-way and the finger of wetland comes right into it along with that creek. They would need to apply for a permit from the DNR to cross the wetland which is not necessarily easy to get.

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

Mayor Chiovero closed the public hearing at 6:27 P.M.

6:01 P.M. (4)JT CU-09-09 Waters Wood Recycling Services, LLC – 6600 Crowbar Rd. –
Operate a Green Initiative Processing Site for Clean Wood Waste.

**NEW BERLIN PLAN COMMISSION
FEBRUARY 1, 2010
MINUTES**

The public hearing relative to the request by Randy Johnson c/o Johnson Sand & Gravel for a Conditional Use for a Green Initiative Processing Site for Clean Wood Waste located at 6600 Crowbar Road was called to order by Mayor Chiovatero at 6:27 P.M.

In attendance were Mayor Chiovatero, Mr. Sisson, Mr. Christel, Ms. Groeschel, Mr. Felda, Alderman Ament, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; Corliss Tischer, Code Compliance Specialist; Nicole Hewitt, Storm Water Division Engineer; Mark Schroeder, Director Parks, Recreation & Forestry; and Mark Blum, City Attorney.

Mayor Chiovatero explained the procedure for a public hearing saying that he would ask for questions for clarification and then ask three times for anyone wishing to speak in favor of the application and then three times for anyone wishing to speak in opposition of the application.

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

Ms. Titel gave a brief presentation describing the request and indicated the location.

Mayor Chiovatero asked for questions or comments for the purpose of clarification.

John Hebert, 6015 S. Aberdeen Drive – You talked about the 100 vehicles a day. There is a fare amount of truck traffic that already goes in and out of that site. How does this apply on a cumulative basis?

Ms. Titel – Based on traffic numbers that we have collected over the years, it would be a 2.9% increase over the course of the day of the traffic that is currently on National Avenue. We have been keeping a record. We have been placing the City's traffic counter out on National Avenue. Those numbers and the charts were included in your packets.

Paul Stieff, 19985 W. National Avenue – I live to the east of this. I want to clarify one thing about what the City said. They said where this property will be, I trust they meant where it is proposed?

Ms. Titel – Yes.

Mr. Stieff – Thank you. Could someone give me a definition of clean wood?

Ms. Titel – I would have to defer to the applicant.

Ms. Jones – There is a definition in the Plan of Operation. It says, clean wood waste (construction wood pallet waste, pallets, brush waste, logs, wood chips, etc.) It talks about biomass materials. I would ask the applicant if there is anything they would like to add if the Plan Commission wants to hear more.

Ms. Titel – If you have anything else to add please come to the podium

Mr. Stieff - Have the construction materials been stripped of any asbestos or fiberglass particles?

Ed Waters, Applicant - There would be no demolition wood waste brought in. It would be all clean.

Mr. Steiff – Back when the property across the way was delineated as a quarry, we asked what level would nuisance trucking be considered off a site. That level was placed at 400 because Valley Sand & Gravel over on this side was allowed 400, so this other side was allowed 400 as well. I was wondering that if combined with the quarrying operations, plus this operation on this property if it was going to exceed 400 trucks per day which was delineated at that time as the level of nuisance? It doesn't matter to me if it is 180 trucks coming off part of this property and another 400 coming off somewhere else, the net results is all I care about. I have a feeling all 580 of them are going to go right past my house. A nuisance is a nuisance.

Ms. Titel – We would have to defer to the owner of the property on how much truck traffic is currently at Johnson Sand & Gravel site. I also want to look at their permit and files here for Johnson Sand & Gravel to see if that limit was listed in their permit. I would be happy to provide the Commission with that information at the next meeting.

Randy Johnson, Johnson Sand & Gravel – I don't believe anywhere in our permit we are restricted as far as truck traffic. I have never found it. I don't believe the City has anything on file.

Ms. Titel – I don't believe so, but I would have to take a double look through the files again.

Mr. Steiff – So we have a property where we essentially have no idea how traffic is coming to or from it?

Ms. Titel – No, we do traffic counts, but we don't limit the maximum of traffic on sites. As far as I know we do not have a number of maximum truck loads to come off that site, but I will check the files.

Mr. Steiff – It was 400 trucks a day for the one north of there. That was definitely determined. That was based on what the City told me was allowed Valley Sand & Gravel on the property down here at the corner.

Ms. Titel – I will take a look.

Mr. Steiff – There is a big long list of Conditional Uses in a quarry. I was wondering how this got out of the Plan Commission. Could you tell me which one of those in that table allows this to be a potential Conditional Use?

Ms. Titel – This is a unique use. Our Zoning Code tables don't address every possible use that could come forward. When we get uses that are not specifically listed in here, we have to make a judgment call and figure out what the proper approval process would be if there is one. Uses undertaken in the Quarry do require Conditional Use Permits.

Mr. Steiff – I believe the wording says, "and like uses". It doesn't say just any use, it says ones similar to the ones in this table. I don't see anything in there that is similar to this use. I don't see anything in that table that is remotely close to what they are proposing here. That disturbs me a great deal because by allowing far a field from what is in that table, we are opening ourselves up to someone else saying you let them do it, you have to let me do it. I have seen people use that argument here. I know it can be done. I have had that argument used against me while I have been here, so I know that it does and will occur if we let people do it. The reason it disturbs me as much as it does is that if we are talking about a fuel processing plant, then we have to consider that any fuel processing plant can go in.

Ms. Titel – This is not fuel processing, this is wood waste that is being chipped into smaller chips. There are no chemicals involved. The end product is the chips of wood.

Mr. Steiff – What is the end use?

Ms. Titel – It gets shipped to the Port of Milwaukee.

Mr. Steiff – For use as?

Ms. Titel – For use as bioenergy.

Mr. Steiff – That is a fuel. This is a fuel processing plant.

Ms. Jones – When we met with this applicant, it was a very different use. We tried to fit it in as a use, and we looked at it as more of a recycling operation. Rather than filling that area with product, they are going to recycle the material and continue to use it.

Mr. Steiff – There is recycling allowed of mineral product. This is not a mineral.

Ms. Jones – That is something that the Plan Commission can evaluate as part of this. If there was a location to do recycling of material, this might be that location and that is what the applicant is requesting.

Mr. Steiff – What concerns me is the stretch that occurs in order for that to happen. That is what I want to have as clearly understood as I can is. If the City does allow this, how are they intending to stretch it without opening ourselves up to other concerns? The reason I bring this up is that this is fuel processing. They are going to transport this to Port of Milwaukee to be sent to foreign ports for use for power plants.

Ms. Titel – That is correct, but they are not making an end product. There is no difference from what has come in except that it gets chipped up into smaller pieces.

Mr. Steiff – A fuel processing plant. You are making fuel. You are processing a raw material into fuel. Other raw materials that can be put into fuel are natural gas. A natural gas liquification plant. A coal processing plant would be a reprocessing plant for fuel. A breeder reactor to take uranium and turn it into uranium for a nuclear power plant would be a fuel processing plant just like this one. An ethanol plant takes corn waste and turns it into a fuel. A nuclear fuel processing plant is also taking a material and turning it into another material. This particular property has a natural gas pipeline running through it. They could take the natural gas and compress it and liquefy it on that property because you let them do this. I want the City to tighten this stuff up and to think about this a little bit more expansively so that we don't back ourselves into having a nuclear processing plant down there because somebody can come in here and say we let them put a fuel processing plant in under a Conditional Use, how is this different? That is exactly what I would be asking. How is it different? It is a fuel processing plant. I want you to give due consideration if you're opening the door for this just because you want to be nice to somebody, or you don't think it's all that bad of a use, or it might be useful to have this, or it is a recycling thing. I am not opposed to recycling, what I am opposed to is opening it up to all these other uses that might be very undesirable for the people in this town. Thank you for your time.

James Flagg, 3180 S. Thornapple Lane – Where is this wood coming from? Is it coming from New Berlin? Is it coming from Chicago? Is it coming from Madison? 180 trucks a day is a lot of wood. It is going to bring all the diseases around the area here to New Berlin. I don't want that.

Mr. Waters – It would only be coming from a 15-20 mile radius.

Mr. Flagg – 180 trucks a day is a lot of wood.

Mr. Waters – Maximum trucks bringing wood in at full capacity would be 40-70 trucks a day. The amount of trucks going out at the same time would be 25 trucks a day. Maximum number that we would ever ship in or out would be 100 trucks per day.

Ms. Titel – The 100-180 trips are in and out. Each truck counts as two trips. The number of trucks coming into the site would be 50-90.

Mr. Flagg – I would be very opposed to wood coming in from out of State. Thank you.

Wally Klingensmith, 5800 S. Oxford Drive – I and my family have to access National Avenue from Glengarry Road which is to the east of where this proposed plant is. We already have a hard time getting onto National Avenue at that intersection. It is a dangerous intersection. My sons, who drive a Toyota Corolla don't have much of a chance against a gravel truck or an 18 wheeler loaded with woodchips or wood pellets. I would like to know what is going to be done with the additional traffic to make that intersection safer. It is not safe now and it certainly won't be safe by putting another 180 trucks per week on the road. That is a concern. The second concern I have is what is going to be done to make sure that treated wood which contains arsenic, chromium, copper, etc. is not being processed by that grinder. Those are noxious substances and I think anybody living down wind of that better wear a respirator mask most of the time unless you are doing something to make sure that the treated wood does not get in.

Mr. Waters – Every load that comes in will be inspected at the time that it is dumped. Any wood that is not acceptable will be taken out and moved to a proper processing facility, whether it be a landfill or a C&W processing site.

Mr. Klingensmith – What approximate weight and volume would be in a load?

Mr. Waters – Somewhere between 3 and 4 tons depending upon the size of the truck bringing it in.

Mr. Klingensmith – Is a human being going to stand there and watch every piece of wood that comes out of that truck?

Mr. Waters – Yes.

Mr. Klingensmith – How will that human being verify that some or a great percentage of that wood is not treated wood?

Mr. Waters – There will be a visual inspection.

Mr. Klingensmith – I would contend that is not adequate.

Mr. Waters – I am not sure what else we can do. Generally most of that stuff is quite visible.

Mr. Klingensmith – Is this going to be brand new wood that is green colored or is this going to be wood that has been around the block for 20 or 30 years?

Mark Vincent, Waters Wood Recycling – The intention here is to work with persons or corporations or companies who are certified as being green enough to be doing this. We are not going to be just saying anybody that comes in, can dump. We will be arranging with a contract and expect that each supplier will have that kind of standing which will be on file with us. We will also be training whoever works in the yard to be above standard in their understanding of what kind of wood is coming in and to be empowered to turn them away. That is our intention.

Mr. Klingensmith – I think you can make that statement much more easily than you could guarantee that it won't be in there. I think it is one thing to say it and it is another thing to do it.

Mr. Vincent - I think our appeal here is the opportunity to try to do it.

Tom Pacholski, 20835 W. Glengarry Road – This summer I had the privilege to cut up a couple

of elm trees with a friend that had a large mulcher/shredder machine. I believe it was a 10 horse power which is big for residential use. After I helped him cut it up, he took the wood and jammed it into the machine. I could not stand being around that machine because it was so loud and obnoxious. This unit I was talking about was a 10 horse power. How many horse powers is this mulcher machine you are talking about?

Mr. Vincent – It is a 700 horse power machine. The decibel level is 80 decibels at 50 feet from any direction.

Mr. Pacholski – Would there be a sound proof building built around it?

Mr. Vincent – No, everything would be done outside.

Mr. Pacholski – I live right across the road. I am constantly complaining to the City about the New Berlin Police Department in the pit in the spring shooting guns. Our family constantly wakes up to gun shots ringing through our bedroom. We have talked to various people, and these people have no respect for us people along that area as far as the sound levels. I am very concerned. I am opposed to it. It is very upsetting to me because this would be affecting residential people. You have a pit in the back. Why don't you put that equipment back there? I think you will find out real quick that the neighbors wouldn't be too happy about dust and dirt and pollution. I don't want it. I am dealing with those gun shots going off. It is driving our family crazy. I wish New Berlin would have their police shoot inside of a building like every community and respect the neighbors. Thank you.

Marie Michaels, 20015 W. National Avenue – Why does the truck traffic have to come off of Crowbar Road and then onto National Avenue? Why couldn't it go on to Racine Avenue? We have that beautiful roundabout interchange coming off of I-43 that the trucks would easily be able to get on and off. There is already a lot of truck traffic there. It is designed well. Traffic flows well in that area. I travel it almost every day. Why do the trucks have to take Crowbar Road to National Avenue vs. I-43 to Racine Avenue and then into the gravel pit?

Ms. Titel – The gravel pit that is fronting on Racine Avenue on the east is owned by a different property owner. I believe there is no safe access between the quarries. Tans Drive is not identified as a truck route. If trucks wanted to get to Racine Avenue, they would have to go south on Crowbar Road and take Tans Drive over to Racine Avenue. That is not identified as a truck route. National Avenue is identified as a truck route and a County Highway for this type of use. They don't have a direct access to I-43 off of Crowbar Road.

Ms. Michaels – I realize that. Why couldn't there be some sort of access road that would be built between the quarries?

Ms. Titel - They are owned by two different owners. I am not sure what the grades are and if it is even feasible to build a road between the quarries.

Ms. Michaels – As far as inspection of the sites where the wood would be coming from, what would protect us from the Emerald Ash Bore? How would we make sure that none of that wood is infected with that or down the road if there were any other pests that would be a risk for coming into our community?

Mr. Waters – The DNR has a program that we have to abide by for any Emerald Ash Bore. It cannot be removed from the County from where it is found. Our intention is anytime we deal with Emerald Ash Bore and anything of that nature, we will grind down to 1"- before we transfer from that site, which at that point will kill the bug. Tests have been done by the DNR and Forestry Dept. Anything that would be outside of Waukesha County would not be coming to this site. It would be a separate site. If the Emerald Ash Bore is found within Waukesha County, we would grind on-site and delivery directly to the port.

Ms. Michaels – I also have the concern about noise control. We do frequently hear the fire practice with the gun shots. I shoot guns myself, so I am not going to complain too loudly about that, but I do not want to hear anything that will create additional noise. Are you going to provide us with new windows if we have too much noise?

Mr. Waters – I have worked around these machines for the last 15 years. If you are 50 feet away, you can carry on a conversation in a normal voice. They are not that loud.

Mary Hiebl , 20160 W. National Avenue – I too live on National Avenue. How many letters of notification of this public hearing were sent?

Ms. Titel – Eleven notices were sent.

Ms. Hiebl – To whom?

Ms; Titel – Do you want me to list each one?

Ms. Hiebl – Please.

Ms. Titel - The notices are measured within a 600 ft. boundary from the property line. The following are the eleven property owners that received notices: Jayson & Carrie Madderom, (2) John & Mary Madderom, (2) On Point Investment, (5) S & J Development.

Ms. Hiebl – I notice that you are mentioning a Madderom. It sounds as if these may be empty properties that you are sending notices to just because it is within 600 feet but there is not a residence within 600 feet. Is that so?

Ms. Titel – We have to send notices to all properties within 600 feet.

Ms. Hiebl – Whether there is a residence on them or not?

Ms. Titel – That is correct.

Ms. Hiebl – So you sent them to empty properties?

Ms. Titel – We send them to whoever is within 600 feet of the property boundary.

Ms. Hiebl – So the Madderom property, for example, is an empty property?

Ms. Titel – I am not sure.

Ms. Hiebl – Could you check that? Therefore, a number of these letters were sent to vacant properties. The proposed load-in and load-out route is only National Avenue. Loads out will operate under WISDOT raw force products and as such, cannot use the Interstate System. National Avenue will be used exclusively as a route to 1711 Car Ferry Road and is at least a 40 mile round trip route. With that info, since residents along National Avenue will be greatly affected, were letters sent to anyone along National Avenue?

Ms. Titel – We did the 600 foot notification requirement as required by the State Statutes.

Ms. Hiebl – All of National Avenue through New Berlin to the eastern limits of National Avenue is the trucking route. That is in the documentation that was presented to me from Waters.

Ms. Titel – That is a requirement above the City that those trucks aren't allowed on the Interstate.

Ms. Hiebl – That is right because they are operating under raw force products and WISDOT Permit.

Ms. Titel – That is the information that I have also.

Ms. Hiebl – The current zoning of this parcel is Q-1, right?

Ms. Titel – That is correct.

Ms. Hiebl – This request is for a Conditional Use in the Q-1 District for a wood processing facility to truck in clean waste wood, pallets, brush waste, logs, wood chips, etc. right?

Ms. Title – Correct. We answered that question earlier, would you like certification?

Ms. Hiebl – I would like a reiteration, please.

Mr. Vincent – Our plan is not to receive directly from individuals who simply come and say they want to drop off wood, but to work with municipalities and their processes for certifying their wood is clean and other suppliers such as a tree company or landscaper or someone who is following practices prescribed by law and who are at that standard or above. We expect that at that first level there is compliance. We are inspecting as it comes in on top of that.

Ms. Hiebl – I understand that this is a one person operation based on the Executive Summary, right? You have to rely on the integrity of the supplier because with the one man operation in the quarry, it is going to be impossible for that person to monitor. How possible is it going to be to monitor?

Ms. Titel – One employee for this use, not for the entire quarry.

Ms. Hiebl – To check for cleanliness and whether it follows your expected guidelines is almost an impossibility once it reaches the quarry and is ready to be ground.

Mr. Waters – We don't anticipate 10 or 20 trucks coming in at one time. It will be 4 -7 trucks spread out throughout the entire 10 hour day. With that being said, the amount of trucks that would come in at one time, one operator would be able to check in the truck, visually inspect, once that one has dumped, the next one would dump as well.

Ms. Hiebl – It has already been stated here at the podium that a visual inspection is inadequate, at best. Even if every piece is inspected, what system will be used to check for arsenic, cadmium, lead, etc. in any of the wood products? In building my house, the City required that my lintels had to be laced with arsenic. Is that still a City requirement?

Ms. Titel – I don't know.

Ms. Hiebl – Could you check that out, please?

Ms. Titel – What was the name of that piece?

Ms. Hiebl – Mudsill.

Ms. Hiebl – Why are these wood pellets being shipped and being sold overseas for foreign power plants, rather than used domestically. There is a huge and growing market for these as biofuels. Is it possible that the clean wood is really contaminated wood? For example, coated with lead paint from building demo, etc. that could not legally be marketed for sale domestically? That is a question that is raised. You can sit here and tell us, but we don't have a sense of an adequate inspection and monitoring system for this. You can tell me repeatedly, but it is a long stretch. Someone already asked this question, but how extensive is the area from which this wood would come? Metro Milwaukee? A five county area? Commercial only from the suburbs? I think you said it would be 20 miles?

Mr. Waters – 15-20 mile radius.

Ms. Hiebl – I read somewhere, it is either in a report from you or in the Executive Summary that this wood processing facility will be one of many in southeastern Wisconsin. Do you already know where the others will be?

Mr. Waters – No, not yet.

Ms. Hiebl – Do you know how many others you will have?

Mr. Waters – Could be a possibility of 10-15.

Ms. Hiebl – All marketed as green?

Mr. Waters – Yes.

Ms. Hiebl – The Executive Summary states that wood drop off would not be open to the public. Is that true? It would be commercial?

Mr. Waters – That is correct. And municipal.

Ms. Hiebl – If so, how is that rectified with Waters Wood Recycling Services, LLC which states, “receiving waste materials from customers and disposal contractors”. Disposal contractors? Who are they? What kind of clean wood do they provide?

Mr. Waters – The disposal companies are the roll off companies that would put their dumpsters at construction sites or pallet recyclers and that sort of thing.

Ms. Hiebl – They can dump anything in there.

Mr. Waters – No, clean wood only. That would be part of our contract.

Ms. Hiebl – That is part of your contract, and you have to rely on their integrity and honesty.

Mr. Waters – As we check them and if we see there is an issue with that is not being followed, we would be cutting them off.

Ms. Hiebl – We have already stated a number of times the questionability of the monitoring. Additionally, Waters Wood Recycling Services LLC states, “Waters will work with the City of New Berlin to reduce or eliminate the cost of their existing recycling center by offering Waters site as a replacement for residential drop off of clean waste materials, thereby allowing the sale of the City’s tub grinder, support equipment, and all related labor costs. Now, what used to be just commercial, is now going to be a replacement for the recycling center, and we will now allow residents to drop off material there and the recycling is going to be moved and transferred to the quarry.

Ms. Titel – No, that is not part of this application. That is a future issue that they may work with the City with.

Ms. Hiebl – That is something that we need to be on guard for because that could inch in the back door along with this request.

Ms. Titel – That is not part of this request. The public will not be invited to drop off their wood at this site. As of right now, it will not be replacing the City of New Berlin’s Recycling Facility.

Ms. Hiebl – I found it very unusual that the documentation was attached to the Executive

Summary. What should one believe?

Ms. Titel – That was provided by the applicant.

Ms. Hiebl – Right, but it does call into question what is going to really happen.

Mr. Waters – I had put that in there just as an offer to try to help out the City. Afterwards, we thought about it and realized it was not a good idea. There is too much traffic going in and out of the gravel pit. In essence, I put that in there by mistake. It is my fault. I apologize.

Ms. Hiebl – Alright, but what is the possibility for the future? Can that creep in after this is approved?

Ms. Titel – We could add that condition. It would be another Conditional Use if that were to come forward in the future.

Ms. Hiebl – I would like to know what this body would think of having waste recycling in the quarry, particularly those on the west side?

Ms. Titel – That is not part of this application.

Ms. Hiebl – But it is something that could creep in the back door.

Ms. Titel – You can't predict the future.

Ms. Hiebl – That just emphasizes my point. It is now stated that you have residential drop off, disposal contractors drop off, and customer drop off. It leaves the reader, the resident, and the taxpayer to wonder what we are to believe? This project is touted as a green initiative. How much is green? How does that balance with the non-green elements infused into this operation? A maximum of 180 additional trucks daily added to the already allowable 400, which is questionable. That is a lot of diesel spewing trucks adding to air pollution. Add to that other traffic which does not come from the quarry. Additionally, volumes of CO2 added to the atmosphere, not only with the operation of the trucks, but also with the operation of the shredder. The minimum round trip projected distance for the loads out alone is 40 miles. This will require 3-4 semis making 4-5 round trips daily, 160 – 200 miles of travel down National Avenue. The Executive Summary doesn't state the site distance as traveled with incoming waste, but we have heard from the applicant that it will be 15-20 miles. There must be a lot of construction going on within 15-20 miles radius because every other week you are waiting for 2,500 tons for the grinder to go into operation. Is that right?

Ms. Titel – That is a maximum capacity.

Ms. Hiebl – It is stated in the Executive Summary that is when the grinder would go into operation. I don't know where you are going to get 2,500 tons of construction wood within a 15 mile radius. That too, is questionable. Waters Wood Recycling makes the statement, "Wood when burned as fuel in appropriate facilities is carbon neutral as opposed to coal or other fossil fuels". Water Wood Recycling LLC could legitimately make the claim that the process is carbon neutral and thus green under the following conditions: They would chip wood which would be burned and at the same time they would purchase unwooded acreage and plant and grow trees that incorporate carbon dioxide from the atmosphere in the same amount as their chipped wood releases when burned. If, for every ton of wood burned, they converted bare acreage to a planted forest containing an equal tonnage of sequestered carbon in the form of living trees, then the statement Waters makes would be true. It would also be true if some other carbon sequestering process were being run simultaneously with the burning of their wood pellets except there is no other economically or thermally dynamically feasible carbon sequestering process known at present. As written, Waters statement is not even close to the truth. In their statement they contrast the burning of wood chips in appropriate facilities. If they are sent off shore to a

foreign company, how do we control the appropriate facility? They contrast the burning of wood chips in appropriate facilities to the burning of fossil fuels such as natural gas and coal. In terms of carbon neutrality, the burning of fossil fuels is precisely as carbon neutral as the process they propose to operate, which is to say it is not carbon neutral at all, and thus it is not a green element. I do see green in this project, but it is in the form of green backs. What about noise? The grinder is projected to be 80 decibels at 50 feet. Does anyone here know the decibel volume of the Police Dept. shooting in the north quarry? Presumably, it is less than 80 decibels, and I can carry on a conversation during their shooting. If you want to get an earful of what the residents think of that noise that we have been putting up with for years, just risk asking any west side resident what they think of it. You will get an earful. Anyone near the quarry, will at one time or another be downwind from the grinder just as we all currently are downwind from quarry shooting. It is deplorable. Truck noise traveling on National Avenue. Every empty truck box is a noisy clang machine as it travels over the deteriorating roadway on National Avenue. Full trucks are noisy as they gear up the slopes and gear down to stop lights. There is no gear breaking ordinance in the City of New Berlin. Air Pollution. The dust suppression system is a mister. How effective is that? Wood dust is a known carcinogen. Nasel, sinus, esophagus, GI track, lungs, stomach. Is this possible? There will be wood dust for four days a week, for an undetermined time ten hours a day. This request is not for a temporary Conditional Use, but it is ongoing. To me, that means there is no end date in site. Could this wood dust be carcinogenic? Yes. What about the hours of operation? It is proposed that from 7:00 A.M. on Monday to 5:00 P.M. on Saturday this is going to operate. Who is going to enforce that? Right now we at least get a reprieve on most Saturdays. Some Saturdays until noon. Now, it is extended from 7:00 A.M. Monday to 5:00 P.M. Saturday. That is quite an injustice. What about expansion in the future? What about moving the City Recycling all the way out there so that the City can generate revenue from the cost of doing the recycling here and of the equipment and manpower that is needed.

Ms. Titel – Again, that is not part of this application.

Ms. Hiebl – It is a possibility though in the future for expansion. I know what you are saying, Jessica, and I appreciate that. Once a Conditional Use Permit is granted, what is the process for simply doubling the capacity? Who will enforce that? This is probably the first question I should have asked instead of dredging everyone through this lengthily questioning. Where in Chapter 275 Zoning Code does it clearly state that this facility is an approved Conditional Use in a Q-1 Zoning District?

Ms. Titel – There are many uses that exist that are not listed in our Zoning Code. We do the best to work with what we have and that is why we asked for a Conditional Use for this to air on the side of caution, and set up a public hearing to allow residents the opportunity to speak and ask questions.

Ms. Hiebl – I would read from Chapter 275 Zoning Code, Page 259.82, the Use Summary Table for Q-1 District, Table 275-31-1 sets forth the uses allowed within the relevant zoning district, the abbreviations used in the table are described in Chapter 275.32(C) and are summarized in the legend following the table. They list Principle, Accessory and Conditional Uses. Principle Use – Silviculture. Conditional Use – Outdoor storage. Conditional Use – Wireless communications. Conditional Use – Asphalt and ready mix plants as an accessory to active quarrying. Conditional Use – Excavation. Conditional Use – Mineral extraction. Conditional Use – Mineral processing as an accessory to quarry operations. Conditional Use – Mineral storage as an accessory to quarry operations. Conditional Use – Peat and soil removal. Conditional Use – Quarrying. Conditional Use – Utilities. Thus ends the itemization on the Conditional Uses allowed within a quarry within the Q-1 District. This is definitely a recycling process. Billed as green and thus have redeeming value, we don't believe it. We wonder how the City can even pass this through the Planning Department and get to a public hearing when this is not listed in this use table. We have had enough. I am aware that no action will be taken on this tonight, so I am anxious to hear future Plan Commission discussions and outcomes on this decision and how the Plan Commission is going to stretch to allow this when they have in their very document, what is allowed as a Conditional Use. I am also aware that if approval is made in error, any person may

obtain a contested case hearing under Wisconsin Statutes on the City's decision. This is not a threat, but a statement of fact from Chapter 275 Zoning Code. Thus, I end my questioning, and thank you.

Randy Johnson, Johnson & Gravel – I don't know if the Planning Department is aware of it, but there is a wood grinding operation going on right now on New Berlin Redi Mix's property. Maybe you can check on the history of that operation. It is the same basic operation of what is going on a stone's throw from this building in the City's own yard. Also, to clarify, the shooting range is on property owned by New Berlin. That is not on the property where this Conditional Use is being proposed.

Paul Stieff, 19985 W. National Avenue – Are these trucks intended to be covered or is the material exposed?

Mr. Waters – The trucks coming in will be tarped and the trucks going out will be enclosed. There will be nothing exposed.

Mr. Stieff – Is that done in the fashion that the trucks are tarped coming into the existing quarry and the trucks are tarped going away from it? I have been asking the City for 20 years to cover the trucks and I have never seen a truck stopped for not having a tarp on it yet. I have little faith in that being enforced. Does anyone know the rational behind them not driving on the Interstate? Is it a safety issue related to driving on the Interstate? Is it because of the spread of disease by driving on the Interstate? What is the rational for not letting trucks with raw forest materials drive on the Interstate?

Mr. Waters – It has to do with the weight. It is a State permit and Interstates are federal highway.

Mr. Steiff – You told us that you were going to grind the stuff to one inch if there were Ash Bore. That would probably take care of the Ash Bore issue, but I don't think it would take care of the Gypsy Moth issue. What is going to be happening while they are coming into the property. I'm not too worried once it is in a bag and going to a foreign port. I guess it is not good to be exporting Emerald Ash Bore all over the world, but I am a little more concerned for my property when it is coming into the property. I am wondering how you are going to keep Emerald Ash Bore out of the orchard across the way. How are you going to keep Gypsy Moths away from my house and my neighbor's houses? What plan do you have in place to provide that protection?

Mr. Waters – Anything that we do with any type of infested wood would be in compliance with U.S. Federal Dept. of Agriculture and also with the DNR.

Mr. Steiff – It somehow gets covered and there is a biologic barrier to prevent it from getting out of a truck driving past my house onto my property or do I take it that somehow the federal standards are not sufficiently strict enough to prevent that from happening?

Mr. Waters – Again, if it is a quarantined area, we cannot remove it from that County. Right now it has been found in Milwaukee County, so that would have to stay in Milwaukee County. If it is found in Waukesha County, then there are sites that will be set up for that. So far that hasn't been developed because it has not been found in Waukesha County yet.

Mr. Steiff – That is the Emerald Ash Bore, that is not the Gypsy Moth.

Mr. Waters – Correct.

Mr. Steiff – Is there a plan for dissemination of Gypsy Moths?

Mr. Waters – No, I was not aware that it was still an issue.

Mr. Steiff – It is an issue to the orchard that is across the street from me. His livelihood depends

on not having Gypsy Moths eat his trees. It is an issue to me as well as a person that has Maples and things.

Mr. Vincent – Because of our commitment to this kind of compliance, this is something that we will double check and make sure we have an answer to that.

Mr. Steiff – Thank you. What is the maximum time that this material can be stored on the site?

Mr. Waters – There is no real time line. Any type of green waste, like the brush waste, if we grind that while it is still relatively fresh, that will start to decompose if we let it sit for 60-90 days or whatever it would take. Once we grind it we will be removing it within 24 hours.

Mr. Steiff – So, stuff could sit there for two to three months? I guess I don't understand your inspection plan for something like Gypsy Moths. I don't see how a visual inspection is going to be very effective against a Gypsy Moth infestation. If there is Gypsy Moth larva or eggs on something that is let sit there for three months, they are going to hatch and then you have a big pile of Gypsy Moths flying around my neighborhood. That concerns me.

Mr. Waters – Again, that goes back to certifying where it is coming from. If the tree is infested with Gypsy Moths when the tree service took it down, they would have to make us aware of it.

Mr. Steiff – You put a lot of faith in those guys. What plan does the City have for inspecting this property for biologic factors and for heavy metals?

Ms. Titel – We have our Code Compliance person that does routine inspections at the quarry site. Each quarry also has a Reclamation Plan. Our Code Compliance person inspects for compliance with that.

Mr. Steiff – This isn't a quarry operation.

Ms. Titel – It is in the quarry.

Mr. Steiff – I understand it is in the quarry, but I would be very surprised if there is, for example, a Gypsy Moth or Emerald Ash Bore inspection requirement in a quarry.

Ms. Titel – We don't have that requirement that I am aware of.

Mr. Steiff – I would like that to be a requirement of this project, but if we are going to rely on existing inspection techniques, it is not going to work, is it?

Ms. Titel – Like the applicant stated, the State has rules in place already for these type of pests. There are quarantine areas and there are rules for transporting that material.

Mr. Steiff – That is true, but in order for it to be a Gypsy Moth area, they have to meet a certain density, and I just as soon my neighborhood didn't reach the density to become a quarantined area because of this project.

Ms. Jones – I think it is probably something we need to contact the DNR on to find out what some of their rules are, and if they have inspection type individuals on their staff that we would be able to contact. This is a new use. People are trying to do some of these green type businesses and it is a learning curve for all of us. I think we have raised a lot of really good questions here tonight that I think we can now do some additional research.

Mr. Steiff – There is an awful lot of reliance on the players. We have to assume that the players are going to play by the play book, and I don't see a good method without spending a lot of money, that the City is going to be able to ensure compliance on this. It takes two Emerald Ash Bores or one pregnant one to get an infestation going. Only one has to slip by before we have a

problem. It may be a mute point, it may be here before we know it anyway. With a no end date in sight, how many vectors like this will we have to deal with being brought in from other areas to a single site and doing it over and over again. I would like to see this thing have to be re-permitted at some future time. Was there any intention of not giving this a permanent date?

Ms. Jones – I don't understand your question?

Mr. Steiff – This project has no end date. A quarry has a fixed end date, ten years or twelve years or something like that. This project has no end date.

Ms. Titel – This would be a permanent use on the site and once the quarry is fully reclaimed or once the end use is decided, this user will either stay or go depending on what happens in the future at that quarry.

Mr. Steiff – The recourse, if it becomes a nuisance, becomes problematic if it doesn't have to come back before the board. If it doesn't have to come back before the board, I am going to guess that the task of getting it revisited would be steep on the citizen's part vs. if they had to come back and ask for it again. If someone has a liquor license, they have to come back every year to renew it, and there is a reason for that because their facility might be problematic. I can see a lot of potential problems with this. I see that the City is not ignorant, but naïve. It's a new project, like you said. The City doesn't exactly know what is going on. Approving a project forever, when we don't know what the down sides are seems to be problematic. I know once something gets done, it is a lot harder to put the breaks on it then if it has to be re-permitted at a future date. I was just wondering if that is a possible condition that could be put on a project like this? Thank you.

Karen Pacholski, 20835 W. Glengarry Road – Do you have other locations in the area?

Mr. Waters – Not at this time.

Ms. Pacholski – Where you operated these machines for the past 10 years, where are they located?

Mr. Waters – I work with the manufacturer of the grinding company that demos all around the mid-west.

Ms. Pacholski – Is this something new to the mid-west?

Mr. Waters – No. There are a number of sites around like this.

Ms. Pacholski – Where?

Mr. Waters – Waukesha County has a site out in Genessee. There is a site in Sheboygan. There is a site right over here by New Berlin Redi Mix.

Ms. Pacholski – That you operate?

Mr. Waters – No. Not that we operate.

Ms. Pacholski – The noise decibel level is 80 decibels. Is that when the motor is running or is that when you are shoving stuff through it?

Mr. Waters – That is as materials are going through it.

Ms. Pacholski – Can we go to another area and hear these in operation? In Washington County?

Mr. Waters – I could arrange something.

Ms. Pacholski – I would like to hear what the residents feel about the operation in that area. Have you had any feedback from the residents in that location?

Mr. Waters – Not that I am aware of, but I am not involved in those operations.

Ms. Titel – We could try to contact the municipalities were these sites are located and see if we can get some feedback. I am not promising anything that they might give me, but I will certainly look into it.

Ms. Pacholski – How do I get that information so we could be more hands on to know what would be coming?

Ms. Titel – I can place it on the website if you like, or you can call our office anytime. I would be happy to meet with you to share that information.

Ms. Pacholski – OK, thank you.

Mayor Chiovatero – This is the reason we have public hearings, to see what the concerns are and to see what some of the potential problems could be for the residents in the area or the City as a whole. All of the comments and questions are being recorded and made note of for further investigation. This is the first time this has been brought to us and we are looking at it with the input of the residents and the area. I certainly appreciate all the comments, but again there seems to be a lot of accusations or mistrust on what is being applied for, but I can assure you that the City will do whatever we can do to try to condition this and that these concerns are covered and taken care of. I think that the applicant is becoming more aware of these comments and will be fully able to answer the questions as will our Staff.

Ralph Heun, 17765 W. Saturn – It appears to me that this might be part of the Mill Valley complex. Am I right?

Ms. Titel – This is under separate ownership.

Mr. Heun – According to our zoning, this is all going to be part of it, no matter who owns it.

Ms. Titel – This piece was not included in the Mill Valley study.

Mr. Heun – Car Ferry Drive appears like it is right down by the water. How many times is a ship going to come in to haul this stuff out of here?

Ms, Titel – About seven times a year.

Mr. Heun – Is this stuff going to be in bags or containers? How are you going to handle it?

Mr. Waters – It will be shipped in bulk.

Mr. Heun – OK, seems to me that maybe the City of Milwaukee might want to have this grinding site right next to where you are going to be storing this stuff.

Mr. Waters – We will have some in the City of Milwaukee.

Mr. Heun – Why don't we have it all down in the City of Milwaukee? Then you don't have to spend all this money with all those trucks going back and forth. You are going to burn an awful lot of diesel fuel. EPA might not like you putting particulates in the air. Why don't you try to find a place where you can grind it up, store it, put it in the boat and you won't need 40 trucks running back and forth.

Mr. Vincent – That is very sensible. That is one of the reasons we are looking for multiple, local kinds of sites so that it is widely spread and it is hauled in one direction, not back and forth. If you have multiple sites around feeding into the place where the production would take place, then you are not hauling from Milwaukee to here and back to Milwaukee or from Racine up to here and back over. That is why we want to eventually spread these out and be able to have multiple sites.

Mr. Heun – But if you start the first one down by your boat and it works out good, then you can go out and get satellite locations.

Mr. Vincent – The simple answer to that is that given the rate that municipalities approve these, the first one may actually be in Milwaukee.

Mr. Heun – You have an LLC Corporation. I'm not sure what that means. Is that something about limiting the amount of exposure that the owners get? How are you capitalized? Who is backing you up? Where do you have all this money? Why don't you get everything in that local area, cut your expenses, and then as you grow, go out and get other places. This is just a suggestion. It seems to be that you are doing an awful lot of running back and forth at 4 miles to the gallon with 80 trucks. You might even be contributing to global warming.

Tom Shallow, 6125 S. Moorland Road – Have you looked for any other uses for that wood such as particle board, flooring, any reuse besides the fuel? Is New Berlin checking out for beetles at the recycling center? I took mulch out of there for my parents. Are we checking that out?

Ms. Jones – We would need to verify that with the Recycling Group.

Vern Bentley, 3450 S. Johnson Road - What financial benefit is this going to give to New Berlin taxpayers?

Mr. Vincent – Anytime you answer a financial question, you have the very tangible figure and what other economic benefits. The intention is to create a new place of employment. There are suppliers in the area, all of whom we should be able to reduce their costs because what they are now putting into landfills as clean wood. That would also be true for the City of New Berlin if we arrange an agreement that some of the clean wood that is currently being landfilled or has a cost to its disposal would now be a reduced cost, so that is the plan.

Mr. Bentley – What are we talking about as far as landfill? What costs are going to save for us there?

Mr. Vincent – The average landfill costs is \$41.00/ton. Any dollar under that that we charge for accepting that wood is a cost savings.

Mr. Bentley – Yes, but are you trucking anything from New Berlin?

Mr. Vincent – That would have to be an agreement that we would form with the City of New Berlin so if there is an agreement there that we are receiving wood from the municipality that would otherwise be landfilled, then yes it would be a cost savings.

Mr. Bentley – We have no contract. I have been told we need more businesses and more development to offset our taxes and help our community. I don't see where this particular business is going to help the taxpayers of New Berlin. I don't see any financial benefit.

Mr. Vincent – The only answer I have at this point is that there is cost savings for those within the municipality that have a charge assessed for taking the same material to a land fill. It is reduced cost.

Mr. Bentley – Let me use an example. A hotel will pay property tax, and a room tax. Are you going to be paying property taxes? Are you renting the property from Mr. Johnson? You're

renting the property. Will any of that be increased on their property to come to us or will it still be taxed under Quarry?

Ms. Titel – That would be up to the City Assessor's Office. They determine the tax assessment.

Mr. Bentley – Are most of the trucks coming in there coming in through I-43 to Racine?

Mr. Waters – There is no way of knowing what direction the incoming trucks would be coming from.

Mr. Bentley – They could be coming from any direction?

Mr. Waters – Yes.

Mr. Bentley – In this particular case, Racine Avenue and National Avenue are both County Highways. We pay County tax to maintain them. Has anyone talked to the County about this plan?

Mr. Waters – No, we haven't.

Mr. Bentley – You are putting more traffic on their roads. Can you give me an approximate route of how those trucks are going to leave the quarry and go to Milwaukee.

Mr. Waters – Right down National Avenue to the City of Milwaukee.

Mr. Bentley – Wasn't the discussion during the Comprehensive Plan to reduce traffic on National Avenue and Moorland Road? With this prospective business increasing through the years, it will create more traffic. I believe the City Center is only about 10% built out so if that builds out another 90%, aren't we going to have more traffic? You are taking traffic counts in the immediate area, but you are not taking traffic counts all the way down National Avenue through the City of New Berlin. All these people, residents and businesses are going to be affected. Am I right?

Ms. Jones – Both Waukesha County and the City do their own traffic counts throughout the City. I don't have that information with me here tonight. That is something that the County and the City do. We have maps that are updated by the County. We could find out what those traffic counts are for you throughout that highway.

Mr. Bentley – Traffic counts are nice when you look at numbers, but when you look at the actual impact on the residents and the businesses and the other vehicles on the road, the traffic counts don't mean much. A good example of that is the intersection of Moorland Road and Greenfield Avenue. They built a big intersection and they have had 2,000 accidents there every year. It's a great intersection but you have fatalities and accidents. You have the same thing going on here. I realize that before you mentioned that recycling is not part of this application, but most of us look at the big picture. If the recycling should happen to move out into that area, for about two years Park & Rec has been looking for a place for a sports complex in Malone Park, and that would be the perfect place. Earlier it was mentioned about a safe access out of this quarry. The quarry should have a Reclamation Plan. We all know that quarries will be closing up after a period of time. That is why a Reclamation Plan is done. In this particular quarry about 10-12 years ago we had Midwest Power wanting to come in there. We have batch plants in there, we have the operation from the quarry, and now we have this. Because this quarry keeps initiating more businesses into it, why aren't they building a safe access to go in and out of it especially if this new one coming in is going to be long term?

Ms. Titel – The access goes out on Crowbar Road for this side of the quarry.

Mr. Bentley – It goes out on Crowbar Road, but then where does it go?

Ms. Titel – It goes up to National Avenue.

Mr. Bentley, Exactly. About 10-12 years ago there was a discussion about putting a possible casino in that area. In that particular discussion, they said if a casino went in there, they would make their own entrance to the freeway. Why aren't we making them do the same thing now? If they are doing this, they should be putting in an access. That is not actually a quarry any more, it is a business park. There was another question that came up before about inspection of what your product is going to do. It is nothing personal with you, but we learned from the past. Not too many years ago Zignago purchased Parkview Quarry. That quarry was already dug into the water table. He trucked contaminated material from 103rd & Layton Avenue into that quarry. If it wouldn't have been that the neighbors caught him doing it and it was found to be contaminated, we could have had our water table contaminated. You can see why we have concerns. If the City is going to be responsible for these Conditional Use Permits, will they also make periodic inspections? Can they set up some kind of schedule before this permit is issued? I realize this is going to be more manpower. The City has a problem with their budget to begin with, with furloughs, etc., but somebody has to make periodic inspections because we as residents really don't trust them since we went through that Zignago situation.

Ms. Titel – We do have a process in place where our Code Compliance Specialists does do periodic inspections of the quarry.

Mr. Bentley – Are they scheduled?

Ms. Titel – Yes, we need permission to access the site.

Mr. Bentley – I would like to know if there are periodic inspections of the Zignago Park View Quarry. Some of these quarries are supposed to have inspections, but it seems like they kind of go away after a period of time.

Ms. Jones – Each quarry that we have a reclamation plan for is visited by our Code Enforcement person. There are also reports that are submitted to the DNR at the end of each year that address some of those issues. We will have to look into the specifics of the Zignago one.

Mr. Bentley – How close is this operation going to be to the Johnson Quarry Park?

Ms. Titel – (Ms. Titel referred to the map on the screen) The park is up here and this is where the site will be.

Mr. Bentley – Eventually, with the progress of this park along with more residential traffic and their business improving with more trucks going in and out, couldn't this end up to be a safety issue after a period of time? Your traffic counts won't mean much now. Are you going to take them annually? If you do and have a problem, who is going to suffer? The business or the residents going to the park?

Ms. Titel – We do take traffic counts. The access point into the park and into the quarry are different access points.

Ms. Jones – (Ms. Jones referred to the map on the screen) Jessica indicated this is the area they are looking at. This is Crowbar Road. This is I-43. This is National Avenue. This is where Quarry Park is. The freeway divides those two properties. Are you talking about traffic that comes into the quarry, out of the quarry, up Crowbar Road, and up to National Avenue along with the park traffic? Is that what you are talking about?

Mr. Bentley – Yes. If the incoming trucks are coming in on I-43 and go up Racine Avenue and National Avenue to Crowbar Road and the outgoing trucks are go the same way to go out ES, you are still going to have conflicting traffic somewhere where the park entrance is. These are

just some concerns that we are having when we look at traffic counts and we are not sure of where we are or what we are doing with them.

Mary Hiebl , 20160 W. National Avenue – Regarding the weight limits, I was in touch with the County today. The County does not have weight limits on National Avenue. Each load is projected to be 30,000 lbs. That does not include the truck weight. The truck weight allowed by State Statutes is 80,000 lbs?

Mr. Waters – The permits that we would acquire is what would raise that to 98,000 lbs.

Ms. Hiebl – You could have 98,000 lbs. traveling down National Avenue?

Mr. Waters – Yes.

Ms. Hiebl – Is the State Statute 80,000 lbs.? Your permit will exceed that?

Mr. Waters – Most of the recycling equipment out there are run by these permits.

Ms. Hiebl – National Avenue reconstruction was just finished around November to the tune of \$7.5 million. Earlier than that, I believe it may be 10-13 years ago National Avenue was reconstructed all the way to Crowbar Road. Now we are going to have 98,000 lb. trucks traveling on it. There is an infrastructure cost there to consider. The 98,000 lbs. includes the gross vehicle weight?

Mr. Waters – Yes.

Ms. Hiebl – You are speaking of the inspection of the quarries periodically and you have a Code Enforcer. What qualifications does the Code Enforcer have to be able to do this actively?

Ms. Jones – Her job mainly is to look at the reports from year to year, observe what she sees on the site as far as fill areas, making sure it is consistent with the Reclamation Plans that have been submitted to the Ctiy.

Ms. Hiebl – I do believe it was as recent as August of 2009 that the Johnson Quarry was shut down for awhile for a violation.

Ms. Jones – I would have to check our records.

Ms. Hiebl – On the back of the Executive Summary it indicates that in order to run this operation, there is a dotted line on here. The dotted line represents the building of a road?

Ms. Titel – The dotted line is the access. (Ms. Titel referred to the map).

Ms. Hiebl – Does the dotted line represent road construction?

Ms. Titel – It is an existing access road.

Ms.Hiebl – A question was asked up here a couple of times of why the traffic isn't going straight through the quarry through to Racine Avenue. One answer that is given is that it is a different owner. I believe that is Carity Enterprises that owns what is know as Mill Valley.

Ms. Titel – I believe so.

Ms. Hiebl – I haven't looked within the last week, but I do know that at the entrance to that quarry, known as Mill Valley, on the left hand side of the entrance is a Johnson Sand & Gravel sign also. Johnson Sand & Gravel is in some kind of partnership with Carity Enterprises, so working together to build an access road all the way through might be a possibility. I first of all don't

understand how this Conditional Use can even be approved because of what is listed in the Code as a Conditional Use and what we are proposing here is not a Conditional Use. An additional comment on that, there is a lot of fill going on in the quarry because Mill Valley is eventually going to become a business park. I have noticed that the gravel trucks that are loaded with fill are traveling great distances because they are filling that with hundreds of thousands of yards of fill. They are traveling greater and greater distances west and they have no problem. I don't know what the gap distance is between Johnson Sand & Gravel and the Carity Enterprises. Perhaps it is possible to have a road there. That would lessen a lot of grief. It would make life easier for Plan Commissioners and City Staff because there is usually a wrangle about the truck traffic on National Avenue.

Ms. Titel – I believe the issue is the grades and having a safe access point, but I will check into that for the next meeting.

Ms. Hiebl – One of the two gentlemen up there mentioned earlier that there is a lower cost for the wood that will be taken into this processing facility then one has to pay for dumping into landfills. Is that lower cost an enticement for unscrupulous suppliers to dump questionable waste into your project?

Ms. Titel – They have addressed that by looking for qualified suppliers that would enter their site.

Ms. Hiebl – Yes, but the lower cost can be a great enticement. What is your cost to the suppliers for dumping? You said it was about an average of \$40.00 to a landfill. I thought it was less than that. I thought the State of Wisconsin was rather inexpensive for dumping into a landfill. I thought it was \$10.00. What will you be charging suppliers to supply you over there?

Mr. Waters – We are in the process right now of setting our pricing table. Some of it will be based on volume. Some of it will be based on type of wood. We don't have a published price table at this time.

Ms. Hiebl – OK, but you indicated earlier that it will be less than \$40.00 since you referenced that landfills charge \$40.00.

Mr. Waters – If it is not less than \$40.00 then we will have no reason for anyone to bring the wood supply that we seek.

Ms. Hiebl – You have to have a monetary enticement which again brings up the question I mentioned before. Thank you.

John Hebert, 6015 S. Aberdeen Drive – Reference was made to the 98,000 lb. weight limit. I seem to remember some sort of rules in the State of Wisconsin during the free season. Are you familiar to what I am referring to?

Mr. Waters – Yes, the frost laws.

Mr. Hebert – What does that mean? What do those frost laws mean in terms of the summer and winter hauling capacities for your operation?

Mr. Waters – Frost laws are generally for the Secondary Class B Roads.

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

Mayor Chiovarero asked three times if there was anyone wishing to speak in favor of this application, seeing none.

Mayor Chiovarero asked if there was anyone wishing to speak in opposition of this application.

Wally Klingensmith, 5800 S. Oxford Drive – As has been brought up by a few of those that spoke tonight, I live just a little ways north of the quarry where the police fire their weapons for practice. I have been in my house for about ten years. I tried for the first five years to get that stopped. I called everybody I could think of in the City. I called the New Berlin Police Dept. They are surely, arrogant, and will not get out of there. It is like living in Bagdad when they are firing those weapons. If this goes in, I have zero confidence that when it becomes a problem, we will ever be able to get that stopped either. I have lived next to that quarry long enough to know that this body here is not going to do anything about this when it becomes a problem. That is my comment. I am opposed to it.

Vernon Bentley, 3450 S. Johnson Road – I see no financial benefit to the City and I heard a lot of negatives tonight. I am not in favor of this application. If anybody else is not in favor, this is the time to give your name and address and have it documented.

Rhoda Flagg, 3180 S. Thornapple Lane – I join those who oppose this operation. I don't see any benefit for it except for the business itself. I am opposed to it. I don't want anymore trucks on the highways. We paid dearly, time and money, to get those roads repaired. We don't need them deteriorated. Thank you.

Paul Stieff, 19985 W. National Avenue – I am opposed to it for a variety of reasons; biological issues, damage to our roads, lack of revenue to the City coming out of this, lack of any plan for quality inspection of this type of facility that the City has put forward, and just the general nature of having to put up with trucks from Johnson Sand & Gravel for 23 years that I have lived there without much consideration from the City or anyone else as to what impact that has on the people on National Avenue. In addition to that I am not real pleased with the City's enforcement of traffic laws relating to the quarry operations there, and I am pretty displeased with the revolving door of businesses down at this piece of property and proposed businesses. Lastly, I am still waiting for the park that was promised years ago and the City paid \$860,000 for finished grading on an unbid contract. Those kind of things have left a rather poor taste in my mouth with regard to this property and I just as soon that it remained fallow as long as possible. Maybe someone else will buy it along the way and do something reasonable with it.

Karen Pacholski, 20835 W. Glengarry Road – I am opposed to the operation being done on that property. I don't believe the City of New Berlin takes a voice in what the people say. I just want you to know that we would like a park there. We were promised that 16 years ago. I don't know when it's coming. Sixteen years we have been waiting for our park. Thanks.

Tom Pacholski, 20835 W. Glengarry Road – We are right on Glengarry Road and National Avenue, so we get to deal with all the traffic. We have an average sized family with seven children. All of our kids are driving now. I am concerned. Our family goes in and out of our home a lot. We are quite active. Please don't allow those trucks, the dust, and the dirt and the traffic. We have brought it up about the shooting. We call it the war zone. The times that they shoot and the noise levels when those guns are firing is like living in a war zone. We don't want this machinery or equipment. I don't believe this idea of 80 decibels. I have never heard a grinding machine that is 80 decibels. I know there is going to be noise. We live almost in a funnel. We can pick up sounds very easily when the wind is drifting through there. We are opposed to this. Don't go into this. It would be really bad for the area.

Marie Michaels, 20015 W. National Avenue – I also am opposed to it based on primarily the truck traffic. When I moved here originally sixteen years ago there was traffic, but nothing compared to what we have now. Nothing compared to the truck traffic. I do not walk on National Avenue even though they have pretty wide walk areas only because I fear for my life because of the truck traffic. They don't see you when you are walking on National Avenue. I have almost been hit by a truck once and that is when I stopped walking on National Avenue. They didn't see me and I was well along the side of the road. I was not walking on the line. I was three or four feet on the side of the road. Based on the additional traffic that this would bring, I am opposed to it along

with the noise.

Sandy Lavin, S64 W2200 W. National Avenue – I am right on the New Berlin line by the Town of Vernon at the end of Crowbar Road. Additional traffic on that road would not be a good thing. You can hear the noise of the trucks already and like everyone is saying because of the safety factor.

James Flagg, 3180 S. Thornapple Lane – I own property in Vernon. We are about $\frac{3}{4}$ to 1 mile away from this quarry. We know when semis go down the freeway, we can hear them. Are they going to come in from Hwy. 164 coming down National Avenue also into Crowbar Road? They probably will. That will be going through Vernon also and we would like to know if the Town of Vernon has been notified of this property change?

Thank you.

John Hebert, 6015 S. Aberdeen Drive – Mayor Chiovatero, ladies and gentlemen of the Plan Commission, I am either getting senile or it has been a long time since I have been up here because there are a lot of faces I don't recognize. As you have probably picked up on, there is a lot of bad blood between the City and the residents on the west side of New Berlin. It goes back a long time. I am going to take a few minutes to bore you with some of that history to help frame what is going on into a context. I purchased our house about 20 years ago. At that time, the quarry on the north side of the freeway, the one that is supposed to become a City park was owned by Cal Kristopherson. I didn't really want to live near an active quarry, but the quarry I was told was farmed out. Low and behold, a few years later Randy's Dad who was a true entrepreneur steps in and says they can get more gravel out of here and this quarry suddenly became active. I wasn't real happy with that but life happens. You have heard some of the problems that have occurred over the years. You have heard about the shooting in the quarry. That is not the property in question. That is the north side. I had requested under Mayor Wysocki's term for the variance or Conditional Use Permit that allows the shooting range. Nobody has ever been able to produce one. All these things have added up. What these things have done is undermined the residents belief and confidence to actively police and enforce it's ordinances. The feelings are strong and deep against any additional activity in the quarry districts. You have heard some very good objections. A lot of money has been spent on infrastructure. I am not an engineer, but 98,000 lbs. of truck traffic going down National Avenue which has recently been rebuilt sounds like a lot of weight to me. As a taxpayer, I resent that. I went to the County's website before I came today and looked at the taxes on the 35 acres that is income producing property of the Johnson Quarry, and it looked like the taxes ran about \$3,000 a year. I have a house which is not income producing property and my taxes run closer to \$4,000 a year. These things kind of all build up. Some of the things that weren't talked about tonight were, for example, the assurances. When the north quarry was built, there was going to be an acceleration ramp. Well, there was an acceleration ramp built, but is sure as heck wasn't big enough for any of those trucks to accelerate. Because they couldn't accelerate, they never bothered to stop. Not all of them, but anybody who lived out there can tell you of seeing trucks just come on out and going right on through. The other problem we have is with police enforcement. One day I am coming east on Glengarry Road off County Trunk U and there is a truck ahead of me and he is moving. Glengarry Road has a speed limit of 35 m.p.h. I backed off when I hit over 50 m.p.h. and he was entering the residential area. I called the Police and the Police came out and I had the identifying information. They went and talked to the truck driver. I was willing to testify, but they talked to the truck driver. Over the years, the residents of the west side feel like we are on the wrong side of Racine Avenue. We don't count. We are not getting equal enforcement. When a new business is proposed for the quarry, we look at all the broken promises. What we see is another broken promise in the making. I am going to ask you to deny this for some very good reasons above and beyond the emotions and the anger that has built up. I am going to ask you to deny this because it does seem like a big stretch of the Quarry Zoning. Yes, our City staff does a marvelous job in terms of trying to interpret the Code. They all work hard. I am a Civil Servant. I know how hard we work. I am sure that our City Staff works hard. I have had very pleasant dealings with our Zoning Enforcement people. The problem that you run into is our enforcement in many areas is very haphazard. When I called Zoning Enforcement,

they responded with a speed which I could not believe in terms of a problem in our subdivision. I was impressed. It caught me totally off guard. It was the next day or two days later and they were there, but the only way they know sometimes is if somebody is there to tell them. These operations, where you have a quarry, are self policing. Self policing doesn't work. We all know that. I realize that Randy tries to do his job to the best of his ability, but I don't believe Randy knew when the soil that was stored on the site was contaminated from a Milwaukee area. That contaminated soil became a point of contention because he wasn't allowed to do that on his Quarry Zoning. The City doesn't have the time or the resources to actually regulate and adequately enforce these operations, so please I am against this and I hope you will deny it. Thank you.

Mary Hiebl, 2160 W. National Avenue – Obviously, I stand in opposition to this. Some of you might question why we even live out there and put ourselves into this situation with the quarries and the truck traffic. Before I purchased property out there in 1989, I did a thorough study. I studied the West Side Open Space Document which was newly minted. The West Side Open Space promised that the quarries would be reclaimed and made into parks. At that time when I purchased property out there, the north quarry was non-existent. It was empty, nothing was happening. It wasn't being used. The impact of the south quarry was minimal to non-existent. Since that time a lot has happened. Just recently since 2005 there has been a temporary Conditional Use in the south quarry for Trierweiler. There has been a temporary Conditional Use in 2007 for Zignago for road projects. Now we are coming up in 2010 for an ongoing Conditional Use for this wood processing facility. My biggest objection and my biggest request is that there is a Use Table within this zoning document and that Use Table doesn't even reference what this is. This is clearly wood recycling. Wood recycling under it's best is totally extraneous to quarrying, even as a permitted use and much more so as a Conditional Use. I don't understand how this body, if it intends to pass this Conditional Use, under what circumstances it feels it can do that. Thank you for your time.

Mayor Chiovatero asked three times if there was anyone else wishing to speak in opposition of this application, seeing none.

Mayor Chiovatero asked for comments or questions from the Plan Commissioners.

Alderman Ament – The phone call I received earlier was to relay a message from a supervisor from the Town of Vernon, Kurt Barikmo. He was heavily involved in some of these things with the quarry years ago. He is opposed to this operation due to the traffic issues on Crowbar Road. He wanted me to pass this on.

According to the Staff Report, this is to be an on-going operation. I find that troublesome. I would hope that if this does get approved, there is some time frame put on this so it can be re-evaluated. I was not aware of the fact about not being able to use the Interstate. One of the suggestions was to try to work something out where they could come out on Racine Avenue and go directly to the freeway, but that is not possible. In that light, not only is this traffic going to be a problem here, but also for the residents all the way down National Avenue to the east side. I am not aware of any of the Alderman in that area being aware of it. Years ago we identified the City Center as something that we were going to try to develop, although it has been slow in coming, something that would be an attraction that would generate a tax base. It was going to be pedestrian and bicycle friendly area. If all of these big trucks are going to be zooming down National Avenue back and forth, six days a week, I would sure like to find out from somebody what effect that is going to have on the idea of the City Center.

Ms. Titel – I would like to make a clarification. The trucks that are required to take National Avenue are only the ones that will be hauling out the processed wood chips. That does not occur during the entire operation. I wanted to bring up the point that not all the trucks are required to take National Avenue for every trip.

Alderman Ament – I understand, but one half of the 180 trucks is still a lot of trucks in that area.

Another issue I have is the consistency with the quarry Restoration Plan. Is this consistent or will it require them to amend that quarry operation plan? The way I always understood it is that the quarry plans are designed to phase out the quarry operation and to restore them.

Ms. Titel – If this use is the intended final use of this property once the property has been restored, they would be required to do an amendment to their Reclamation Plan in order to add this as their final use for that area.

Alderman Ament – But, they wouldn't for this?

Ms. Titel – Yes, for this use if this was the final use. They are not certain that this is the final use that they are looking for at that location.

Alderman Ament – After it is reclaimed?

Ms. Titel – That is correct.

Alderman Ament – That drives to my point that the idea of a Reclamation Plan is to reclaim it. Some years ago we had some batch plant applications, which I was in favor of because it related to the quarry operation. I don't see where this is related to the quarry operation. Somebody mentioned that this is like having a pit with an industrial park built into it. There are going to be a lot of things going on here. I don't see how this is related. I have a problem with that. I would like to see the connection. I would hope if this passes, we would have none or at least limited hours, especially in the morning on a Saturday.

Ms. Titel – The hours they are proposing are within the allowable hours in the Johnson Sand & Gravel Reclamation Plan.

Alderman Ament – But, they would have to amend that plan if this is approved. The truck traffic is a problem to begin with on Saturdays and we are going to add this to that. That is my concern. I realize Crowbar Road is being used for truck traffic now. Do we have a traffic count as to what the current truck traffic is?

Ms. Titel – I believe there were some counts on Crowbar Road in 2004, 2005, 2007, 2008, and 2009.

Alderman Ament – What are we roughly looking at per day in 2009?

Ms. Titel – That is on Page 14. 2009 traffic counts are shown as 1,052 on Monday, 2,488 on Tuesday, 2,516 on Wednesday, 2,122 on Thursday, 1,040 on Friday, there are no numbers on Saturday. In 2008 the numbers on Saturday were 915. Weekday average of all of them is 2,375.

Ms. Jones – Keep in mind though that total includes cars, trucks, and semis shown in the breakdown in your Staff Report.

Ms. Sisson – That was also when Racine Avenue was closed down for construction.

Ms. Titel – Before the construction in 2007 the average on Crowbar Road was 1,344, the average in 2008 was 992, the average in 2007 was 1,264.

Alderman Ament – The construction on Racine Avenue skews the numbers, similar to what it did on Greenfield Avenue when we were looking at that issue. That is a combination with cars. This is going to be heavy trucks and semis that are added to that total. I didn't break that down and I apologize for that.

Ms. Titel – The breakdown is in your report.

Alderman Ament – I didn't break it down with these additional trucks because I wasn't sure about the number of trips and where they were going and the fact that they will be using National Avenue at least for the traffic going down to Milwaukee, not necessarily coming in. I wasn't aware of that so I don't have that all figured out. It was mentioned about the County. The County is not aware of this potential traffic on their road? I would think they should be made aware of it if any of this traffic will be using Racine Avenue, the access route and the traffic signals and the effect on that.

Ms. Titel – I have not personally contacted them, but I will do that.

Alderman Ament – Assuming that for some reason this was approved, would this require them to modify or amend the Plan of Operation that they have or would this be part of that?

Ms. Titel – This would be that.

Alderman Ament – There was another reference to us having to have permission or schedule an inspection.

Ms. Titel – It would be scheduled with the property owner because of access to the site and getting around in there. Our vehicles are not equipped to drive through the entire quarry.

Alderman Ament – I understand that it does say in 275.65 (18) under Right of Entry that no person may refuse entry or access onto a nonmetallic mining site. You are saying they are not refusing, it just has to be scheduled.

Ms. Titel – They have always been very cooperative and willing to allow us to visit the site.

Alderman Ament – Do you know if the Alderman for the district is aware of this?

Ms. Titel – Yes, I did send him a separate e-mail and he did get the Staff Report.

Alderman Ament – As much as I would like to support this like the batch plants, I just don't see the connection here. It will take answering some of these questions at our next meeting. Will you make sure you have answers that were not available tonight?

Ms. Titel – Yes, I will prepare answers.

Alderman Ament – It will be nice to have an idea how many loaded trucks are going to be going down past our City Center. If I recall correctly, I assume you are talking about 18-36 per hour?

Ms. Titel – The ones that are being shipped out to the port are required to stay on National Avenue. This will occur approximately every other week depending on how much material they accumulate and how often they process. There would be 10-20 semi loads daily during the shipping out of that process.

Alderman Ament – That would be about every two weeks?

Ms. Titel – Yes.

Alderman Ament – Thank you.

Ms. Groeschel – Could we get a recommendation about the Emerald Ash Bore and any risks that we should be aware of from DNR?

Ms. Titel – I can certainly check into that. We have been working with the DNR to look at any permits that may be necessary for this site. The applicant has been working with the DNR.

Mr. Felda – This would be for the two gentlemen that are proposing this. It is in regard to the noise level which is an issue for many of the people in the audience including ourselves regarding the 80 decibels at 50 feet. 50 feet is probably to the back of the room. I am not quite sure if 80 decibels is like a bus going by or what that would be. I don't know if anybody here knows what 80 decibels is in comparison to. Would this operation be year round or would it stop in the winter time due to snow and ice?

Mr. Waters – There would be limitations in the winter because of the cold weather.

Mr. Felda – Would you say 8 months out of the year?

Mr. Waters – Probably 9.

Mr. Felda – You plan to have a trailer on site and one person pretty much runs the whole operation from what I read in the Staff Report?

Mr. Waters – Yes, just for when the trucks are coming in, but when the processing gets done then a crew will come with the equipment.

Mr. Felda – That is what I wanted to get at. You are going to have X amount of material piled up ready to go through the machine that does all the breaking down of the material. Let's say you have all the material ready to process on a Monday morning. About how long does it take to process the material that you are going to ship down to the lake front in terms of days or weeks, or just that day? Can you briefly explain this?

Mr. Waters – Once we get to full operation, if we have what we believe to be 25,000 tons stock piled of bulk material, it would take approximately four days to grind it down.

Mr. Felda – Then you said within 24 hours it would be removed from the site?

Mr. Waters – Yes, we would start removing. It would take about another four days to remove it.

Mr. Felda – Once you fire up the machine, is it running constantly?

Mr. Waters – Ten hour days, yes.

Mr. Felda – So you are looking at under two weeks?

Mr. Waters – Yes.

Mr. Felda – Thank you.

Mayor Chiovatero – Is the product that is ground the end product?

Mr. Vincent – For Waters Wood Recycling Services it truly is the end product which means it could be used for mulch assuming it all checks out for clean wood. It could be used for domestic product if and when a truly domestic market place does develop, which is something we would really like to see. We would like to be in existence for when that domestic market place does develop. In the mean time, the arrangement that we have is to be able to provide this as raw material for pelletizing. Currently, the only real market for that is for industrial power in Europe.

Mayor Chiovatero – When you say pelletizing, is that turning into pellets or is this considered the pellet.

Mr. Vincent – This would not be the pellet. It would become raw material for a pelletizing operation.

Mayor Chiovaturo – You are not making end product, you are making the raw material that would continue on.

Mr. Vincent – It could have several types of applications. The intention is this. One of the things we know from the ethanol market is if there is just one application for the product and there is a major price change, then you have an investment that is lost and jobs that are lost. We want to be more savvy than that and be able to answer questions like this in years to come.

Mayor Chiovaturo – In other words, there could be an opportunity in the future for other uses for this product.

Mr. Vincent – Absolutely. Let's say somewhere down the line someone wants to put in a new school system that is going to be built and there is an exploration of using biomass, not stripping ground bare in order to provide that, but using recycled materials to provide that kind of power, then it makes eminent sense to draw from these kinds of places to provide that for that particular plant where you are not driving 40, 80, 100 miles to move the material from where it is produced to where it is consumed.

Mayor Chiovaturo – To add to what Mr. Felda was saying, as you are grinding this it is probably being fed into the trucks that will haul it away, right? You are not going to make a pile of it and then take the pile and fill the trucks up, or is that how it works?

Mr. Waters – We will have to stock pile it because in order to load the trucks out fast enough, we will stock pile it and then screen it as we load the trucks.

Mr. Sisson – Since Alderman Ament commented on the batch plant which we allowed to operate in this location and for the benefit of those who don't remember, that batch plant was operating to supply the road construction at the round-about at I-43 and Moorland Road. The difference between that and this is that had a start and stop date. This one, based on what I have read, does not have a stop date. It is going to continue as long as there is a demand for it, I suppose. The other difference is that when we permitted that batch plant, the trucks went down National Avenue only to Moorland Road and then they turned south. In this particular case they are going straight through the City and on. I did have a question from your Plan of Operation. You said that the use of these permits requires the trucks when loaded to remain off the federal Interstate system. What about when they are empty?

Mr. Waters – When they are empty they can come back on the Interstate system. It would be only going down to Milwaukee when the trucks would be on there, coming back they would be coming on I-43.

Mr. Sisson – I think that is a mitigating circumstance. On the rare chance this thing comes back to us you ought to call that out. We are counting 100-180 trips and really half of that will be on I-43. That is still not going to satisfy those people who live on National Avenue between Racine Avenue and Crowbar Road. There were at least two of those people here this evening.

Mayor Chiovaturo – There definitely has been a lot of concerns and situations brought up that need to be looked at. I certainly appreciate the public that came out and gave us their comments because it is important to the Plan Commission as well as to the Staff to make sure we cover all concerns and questions.

Ms. Broge – I think traffic is a huge issue. Even with half the numbers that you were talking about, you are still talking 90 trips to go all the way downtown. If you look at New Berlin, National Avenue is quite wide. I can't even imagine taking those same trucks all the way down to Milwaukee, through West Allis, etc. I have to believe that those communities would also have an issue with this traffic, especially since their streets are much narrower than ours here in New Berlin. I am also looking at it from a taxpayer perspective. What do the taxpayers in New Berlin

get from this? I am struggling to understand what the relationship is between Waters Wood Recycling and Johnson Sand & Gravel? Are you leasing space from Johnson? You are an LLC so where is your business run out of? I think we will be talking later about a grocery store coming into New Berlin and that is very tangible. You can say they will be hiring a certain amount of people and can talk tax dollars. I'm struggling with what the tax payer from New Berlin is going to reap from this enterprise. We could look at an expansion of those Conditional Use Permits if and in fact there is a benefit to the taxpayer.

Mr. Vincent – I think that is a question we can be happy to try to supply. It was not a question that we were asked as we prepared this application, but if that is one that you would like to see, we would be happy to do that. It would benefit everyone to have that knowledge.

Mr. Waters – I would like to clarify the truck traffic issue on the loaded trucks going down to Port of Milwaukee. There would only be approximately 20 trucks per day, four days a week going one way every other week. The 80 -90 trucks is not what is going down National Avenue. It would be a maximum of probably 20 trucks, four days in a row every other week. They would be coming back on I-43.

Mayor Chiovatero asked for further questions or comments from the Plan Commissioners, seeing none.

Mayor Chiovatero closed the public hearing at 8:50 P.M.

6:02 P.M. (3)NJ RZ-09-06 Judith Berthelsen – 2250 S. Springdale Rd. – Rezone from R-1/R-2 & C-2 to R-1/R-2 & C-2 to Field Delineate the Wetlands.

**NEW BERLIN PLAN COMMISSION
FEBRUARY 1, 2010
MINUTES**

The public hearing relative to the request by Brian Lennie c/o Bonestroo to rezone the property located at 2250 S. Springdale Road from R-1/R-2 & C-2 to R-1/R-2 & C-2 to Field Delineate the Wetlands was called to order by Mayor Chiovaturo at 8:50 P.M.

In attendance were Mayor Chiovaturo, Mr. Sisson, Mr. Christel, Ms. Groeschel, Mr. Felda, Alderman Ament, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; Corliss Tischer, Code Compliance Specialist; Nicole Hewitt, Storm Water Division Engineer; Mark Schroeder, Director Parks, Recreation & Forestry; and Mark Blum, City Attorney.

Mayor Chiovaturo explained the procedure for a public hearing saying that he would ask for questions for clarification and then ask three times for anyone wishing to speak in favor of the application and then three times for anyone wishing to speak in opposition of the application.

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

Ms. Jones gave a brief presentation describing the request and indicated the location.

Mayor Chiovaturo asked for questions or comments for the purpose of clarification.

Rob Ruta, 21560 W. Lincoln Avenue – My property is just to the east of there. I don't understand what they want to restructure. Could I get a better description of what they are doing?

Ms. Jones – (referred to drawing and aerial photo) This area where the cursor is on the screen is where there was an existing pond. The applicant wanted to clean out the pond. There was junk and trash and trees that had fallen into the pond. The contractor and she did not obtain the appropriate permits and in doing so went into some very sensitive lands. That is why this application is before us tonight. The pocket of wetland (shown on the map) is very close to where the pond is. She did some encroaching in that sensitive area. They hired a wetland biologist to walk the property and defined the line where it was suitable for residential type property vs. where it was suitable to qualify as a wetland either by species or soils. They have redefined where the wetlands are on the property. As far as impacting your exact property, there is no activity occurring in that area. The activity occurred in this area (Ms. Jones referred to map) where she had some fill piles that you may have seen. There has been a stop work order on the parcel since late November when we were notified and immediately started working with the DNR.

Mr. Ruta – Years ago I think this property was a licensed game farm. I believe the pond flows into Poplar Creek.

Ms. Jones – There is an unnamed tributary that is connected to an unnamed tributary that eventually connects, you are correct. The DNR and Army Corps of Engineers are on top of that. There is some serious work that has been occurring by those agencies with this person.

Mr. Ruta – Do they want to dredge the pond out?

Ms. Jones – That was her original intent. She is no longer doing that. She has basically stopped any work and needs to restore it, and replace anything that was taken away. Had she asked for

permits to do this beforehand, she may not have received them.

Mr. Ruta – Would you have to get it rezoned to actually take care of that pond?

Ms. Jones – Since she had activity on the site, whether she asked for it beforehand or she did what she did and didn't ask for it, the City of New Berlin along with the DNR is requiring that she do that because there is activity. We want to know where the wetlands are today to make sure that areas of encroachment are restored. She is working with several agencies to restore the work that has been done. It is very unfortunate.

Mr. Ruta – Thank you.

Mayor Chiovero asked three times for further questions or comments for the purpose of clarification, seeing none.

Mayor Chiovero asked three times if there was anyone wishing to speak in favor of this application, seeing none.

Mayor Chiovero asked three times if there was anyone wishing to speak in opposition of this application, seeing none.

Mayor Chiovero asked three times for comments or questions from the Plan Commissioners, seeing none.

Mayor Chiovero closed the public hearing at 8:58 P.M.

**NEW BERLIN PLAN COMMISSION
FEBRUARY 1, 2010
MINUTES**

PRIVILEGE OF THE FLOOR

The Plan Commission Meeting was called to order by Mayor Chiovatero at 9:10 P.M.

In attendance were Mayor Chiovatero, Mr. Sisson, Mr. Christel, Ms. Groeschel, Mr. Felda, Alderman Ament, and Ms. Broge. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Jessica Titel, Associate Planner; Amy Bennett, Associate Planner; Corliss Tischer, Code Compliance Specialist; Nicole Hewitt, Storm Water Division Engineer; Mark Schroeder, Director Parks, Recreation & Forestry; and Mark Blum, City Attorney.

Motion by Alderman Ament to approve the Plan Commission minutes of December 7, 2009. Seconded by Mr. Christel. Motion carried unanimously.

Motion by Mr. Christel to approve the Plan Commission minutes of January 4, 2010. Seconded by Mr. Felda. Motion passes with Alderman Ament and Ms. Broge voting present.

PLAN COMMISSION SECRETARY'S REPORT – Ms. Jones reported that there is an attempt being made to set up a special Plan Commission Meeting/Workshop with the developer that is trying to do the Multi-Family Development in City Center. Date and time will be forwarded to Plan Commissioners.

SPECIAL PRESENTATIONS

1. () PG-516(f) Comprehensive Plan – Amendments
Park Plan – Carolyn Esswein
Storm Water Plan – Nicole Hewitt

Park Plan -

Mark Schroeder, Director of Parks, Recreation & Forestry and Carolyn Esswein, PDI gave a short presentation on the update of the Park & Open Space Plan. The meeting was then opened up for questions.

Alderman Ament - On Page 3, the park names "Historic Orchard" and "Freewill" are listed under accomplishments. I didn't see about the acquired transfer of "Fire Station Historic Park".

Mark Schroeder – Right now it is shown in the short term goals in the back. It has been accomplished and could be moved there now.

Alderman Ament – Under "Malone "Park", I didn't see resurfacing the parking lot.

Mark Schroeder – Table 2 on Page 3 was looking at the period of 2003-2008. That is also another accomplishment that was a goal when we started this process.

Alderman Ament – One of the things on Page 4 that I am going to have an issue with and I will try to address it as much as I can now. In this document it talks about the survey that was done in 2008. I have some serious questions about the format and who they were sent to. In this document it shows that this was sent to 3000 randomly selected City residents, however in the minutes from your meeting of September 22, 2008 it says that City Staff sent letters to community organizations. My problem is if you send a blank survey that is open ended to organizations, they can run off copies and tell all their members to send one in. It is not necessarily a representation

of the community at large. I have issues about relying on that survey. It seems like the response is from targeted people that have certain interests. I think there are some correlation things that cloud the results.

Mark Schroeder – The Park Commission felt pleased about the variety of input that we received in several different formats. The amount and variety of public input is one of the biggest differences in the process between 2003 and today. We utilized what we felt was a professional organization at the University of Wisconsin-Milwaukee that does these type of surveys for a living in their Center for Urban Initiatives and Research. They came up with the language and phraseology in the questions on the survey, so we feel confident in this. We had much more public input then we did in the previous editions of the Plan.

Alderman Ament – You have pointed out that no one has ever looked at the survey results, and you are depending purely on UWM's process. In my mind it seems like the results could lean more toward somebody that wants something that maybe a lot of other people don't want to help pay for. One of the things that sticks out is the sports complex. I will save more conversation on this for the public hearing.

Mark Schroeder – Just to clarify, the copy of the survey was on-line and the report was prepared by analyzing the data. We have copies of the 1,000 + responses, but we have not had staff look at them because we paid UWM to do that.

Ms. Esswein – The survey is in the back of the document. The highest rated questions are usually about preserving open space, preserving woodlands, and a mixed reaction on the trails. That would be coming more from residents than recreation groups.

Alderman Ament – I didn't see anything that anyone was relating this to the cost to do and maintain. We heard about how good sidewalks are, but we have had major issues with the cost with maintaining the few we already have. These are things that will play into our overall tax issues that we will be facing. I looked at the public meetings, but noticed that a good share was done by the Park & Rec Plan Committee which is just three members. I wouldn't think there was a lot of input. I would like to get a copy of the sign-in sheet from the September 22 meeting to get a better feel of who showed up.

Mr. Christel – There are a lot of hours and peoples work in this Plan. I'd like to congratulate Ms. Esswein for pulling it all together for us. I think we have a much more businesslike approach this time and look forward to the upcoming meetings. I would encourage looking back on the other meetings because we have already covered a lot of this ground concerning the survey.

Storm Water Plan

Nicole Hewitt, Storm Water Division Engineer gave a short presentation on Addendum #1 to the Storm Water Management Master Plan which paralleled the Comprehensive Plan process. The meeting was then opened up for questions.

All Plan Commissioners have been provided with a CD containing the full plan document of the Comprehensive Plan. The Comprehensive Plan Amendments will be a Public Hearing before the Plan Commission on March 1, 2010

CONTINUED BUSINESS

2. (3)AB RZ-09-05 Buzzell – Approx. 18845 W. Norwood Dr. – Rezone from R-1/R-2 and C-2 to R-3 and C-2. (Public Hearing 12/7/09)(Tabled 1/4/10)

Motion by Alderman Ament to table the request to rezone the property located at 18845 W. Norwood Drive from R-1/R-2 and C-2 to R-3 and C-2 per the applicants request.

Seconded by Ms. Broge. Motion carried unanimously.

3. (3)AB LD-09-07 Buzzell – Approx. 18845 W. Norwood Dr. – Ne ¼ Sec. 5 -Two-Lot Land Division. (Tabled 12/7/09, Deferred 1/4/10)

Motion by Alderman Ament to table the request for a two lot land division at 18845 W. Norwood Drive per the applicants request.

Seconded by Ms. Broge. Motion carried unanimously.

4. ()CT PG-280 Sign Ordinance Revision – Sign Code Amendment Regarding Residential Signs. (Deferred 1/4/10)

Motion by Mr. Christel to recommend to Common Council to set a Public Hearing date for the March 29, 2010 Plan Commission meeting regarding the adoption and amendments to 275-42 G (3) (c) (Fence Maintenance), 275-61 G (Signs permitted in all zoning districts without a permit) of the City's Zoning Code to regulate "signs" and "displays" on primary or accessory residential structures and 275-70 Definitions, for clarification.

Seconded by Mr. Sisson. Motion carried unanimously.

5. (3)NJ UA-09-64 Judith Berthelsen – 2250 S. Springdale Road – After-the-fact Grading.(Tabled 1/4/10)

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

Motion by Alderman Ament to approve the after-the-fact site grading and filling plan located at 2250 S. Springdale Road subject to the application, plans on file, and the following conditions:

- 1) Prior to the issuance of the Zoning Permit, the applicant shall receive approval of the wetland delineation rezoning. A separate application is on file (#: RZ-09-06).
- 2) Applicant shall adhere to all necessary permits and conditions required by the WDNR prior to any future work at this site. Any future filling and grading at this site will require approval by the Plan Commission prior to commencement of such work.
- 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 for the purpose intended. The material shall be free from sod, stumps, logs or other organic matter, all types of refuse including construction refuse, fragments of concrete larger than two feet in any dimension and other such material in the judgment of the Director as unsuitable."
- 4) No additional clearing, grubbing, grading or filling until a Zoning Permit has been issued.
- 5) Erosion control permit and erosion control measures shall be applied for, approved, permitted, installed and inspected. Erosion control measures shall remain in place until the site is stabilized.
- 6) Applicant will need to follow all regulations outlined in Section 275-55 of the Zoning Code for filling and grading.

Seconded by Mr. Christel. Motion carried unanimously.

NEW BUSINESS

6. (1)JT CU-09-08 Kids in Motion – 14135 W. Greenfield Ave. – Family Entertainment Center. (Public Hearing 1/4/10)

Motion by Mr. Christel to approve the Conditional Use Permit to operate an indoor playground in the B-1 Zoning District, along with Waiver Request #1, located at 14135 W. Greenfield Avenue subject to the application, plans on file and the following conditions:

WAIVER REQUEST #1: Applicant is requesting waiver of 43 parking stalls from Zoning Code Section 275-57A(3). Based on Table 275-57-1, the current tenants within the building require a total of 185 parking stalls and the proposed Kids in Motion requires an additional 56 parking stalls (1 stall per 3 patrons plus 1 per employee). The property contains a total of 198 parking stalls. See attached letter from the applicant.

- 1) Planning:
 - a) Plan of Operation:
 - Applicant is proposing to operate an indoor playground for young children in a 14,800 sq. ft. existing tenant space at the Greenfield Plaza. Activities inside the building include: laser tag, indoor play equipment, indoor rock climbing, arcade games, craft area and private party rooms. Food will be available for purchase.
 - Hours of Operation: 9:00 AM to 8:00 PM Monday through Thursday, 9:00 AM to 9:00 PM Friday through Saturday and 11:00 AM to 6:00 PM on Sunday.
 - Number of Employees: 8 initially
 - b) Based on the submitted plan of operation and the parking calculations, the maximum capacity shall be limited to 145 patrons at any one time.
 - c) All future tenants for this property will be reviewed on a case-by-case basis. The number in the waiver request is based on the uses currently in the building and a basic office or retail (1 space per 200 square feet required) use in the spaces that are currently vacant. Any new/proposed use that requires more parking spaces may be denied based on lack of parking.
 - d) Employee and customer parking shall be contained on site.
 - e) Dumpsters shall be properly screened from the street and public view in accordance with Section 275-56 of the New Berlin Zoning Ordinance.
 - f) All signage, whether temporary or permanent, shall require that a sign permit application be applied for and approved by the Department of Community Development prior to installation.
 - g) No outside storage shall be allowed.
 - h) Application does not include any exterior modifications. Separate permits would be required.
 - i) The applicant is not proposing to serve alcohol at this facility. An amendment to the Plan of Operation and Conditional Use Permit shall be required if the applicant chooses to serve alcohol in the future. This would require another public hearing.
- 2) Building Inspections:
 - a) Building plans shall be signed and stamped by a licensed architect or professional engineer per the Wisconsin Enrolled Commercial Building Code (Comm.61.31).
 - b) Building plans shall be approved by the State of Wisconsin Dept. of Commerce Safety and Buildings Division (Comm. 61.70).
 - c) Apply and obtain appropriate building, electric and plumbing permits.
 - d) Building shall meet all applicable building and fire codes. Fire Extinguishers are required.

Seconded by Ms. Broge. Motion carried unanimously.

7. (1)AB R-1-04 Carleton Point Condominiums – 13050 W. Cleveland Ave. Rezone from I-1 to Rm-1/PUD and C-2/PUD for a 40-Unit Condominium

Complex with a Planned Unit Development Overlay and Wetland Delineation .
(Public Hearing 1/9/06, Tabled 2/6/06, 10/2/06, 3/5/07, 5/4/09). (Public Hearing
1/4/10)

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 13050 W. Cleveland Avenue from I-1, Institutional District to Rm-1, Multi-Family Residential / C-2, Shoreland Wetland /PUD, Planned Unit Development Overlay District. This is to establish a PUD overlay district for a 40-Unit Condominium Development and to identify the field delineated wetlands.

Seconded by Ms. Groeschel. Motion carried unanimously.

Motion by Alderman Ament to extend meeting time by 30 minutes. Seconded by Mr. Christel. Motion passes with Mr. Sisson voting No.

8. (7)NJ RZ-09-07 Richard H. Mercier – Approx. 4700 S. Sovereign Dr. – Rezone from R-4, O-2, and C-2 to R-4, O-2, and C-2 to Delineate the Wetlands.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at approximately 4700 S. Sovereign Drive from R-4, O-2 and C-2 to R-4, O-2 and C-2 to field delineate the wetlands.

Seconded by Mr. Christel. Motion carried unanimously.

9. (4)JT U-09-71 Matty's – 14460 W. College Ave. – Parking Lot Expansion.

Motion by Alderman Ament to approve the construction of a parking lot addition, along with Waiver Requests #1 and #2, located at 14460 W. College Avenue subject to the application, plans on file and the following conditions:

WAIVER REQUEST #1: Applicant has requested a lighting waiver from Section 275-60.I of the Zoning Code. The applicant is proposing reduced lighting levels to minimize the impacts on surrounding residential properties.

WAIVER REQUEST #2: Applicant has requested a waiver from Section 275-57.A(7)(a), which requires 9' x 19' parking stalls. Due to site width constraints and in order to meet the required bufferyards, the applicant is proposing 9' x 18' parking stalls.

- 1) The parking lot shall be installed and striped as depicted on the submitted plans.
- 2) The applicant shall submit an application by April 30, 2010 for a one-lot Certified Survey Map to combine the two existing parcels.
- 3) Approval of the Landscaping Plan and payment of all installation and maintenance sureties are required prior to issuance of the Zoning Permit. Landscape plans shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the City's Zoning Code. A Registered Landscape Architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to installation of any materials.
- 4) The applicant will be required to adhere to the City Tree Replacement Schedule listed in Section 275-54.B of the Zoning Code.
- 5) All customer parking shall be contained on site.
- 6) Applicant shall submit the area calculations for the existing gravel area and the proposed paving area to show that there is no increase in impervious surface.
- 7) Erosion control shall be approved, permitted, installed and inspected prior commencement of site work or issuance of building permits.

Seconded by Mr. Christel Motion carried unanimously.

10. (3)NJ RZ-09-06 Judith Berthelsen – 2250 S. Springdale Rd. – Rezone from R-1/R-2 and C-2 to R-1/R-2 and C-2 to Field Delineate the Wetlands.

Motion by Alderman Ament to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 2250 S. Springdale Road from R-1/R-2 and C-2 to R-1/R-2 and C-2 to field delineate the wetlands.

Seconded by Mr. Felda. Motion carried unanimously.

11. (2)NJ LD-10-01 Sendik's New Berlin Plaza – 3600 S. Moorland Rd. – One-Lot Land Division.

Motion by Mr. Sisson to recommend to the Common Council approval of a one-lot Certified Survey Map (CSM) for the property located at 3600 S. Moorland Road subject to the application, plans on file and the following conditions:

- 1) Applicant shall correct all drafting errors identified by Staff prior to signing of the final CSM.
- 2) A final copy of the CSM shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- 3) Applicant and/or new property owners shall apply and obtain appropriate building, plumbing and electrical permits prior to any construction.
- 4) All easements shall be shown on the face of the CSM.
- 5) Applicant shall verify the CSM Numbers shown on this CSM as they do not match those on the City's GIS/LIS.
- 6) Applicant shall dedicate 17 feet of right-of-way along south side of Coffee Road to the City of New Berlin as shown on the submitted CSM.
- 7) The City's Pedestrian and Bicycle Facility Plan, as part of the City of New Berlin 2020 Comprehensive plan, indicates both on-road & off-road trails are planned along Coffee Road. This construction is planned to take place in 2011. However, due to the new driveways planned from this development to connect to Coffee Road, changes to the planned roadway geometrics will be needed to accommodate the development. The following notations shall be made:
 - a) Burger King Parcel (Parcel 1 of CSM 2928 or 21-314) shall be required to provide 10-foot sidewalk and Utility easement across the entire frontage along Coffee Road. A separate recorded agreement shall be prepared to dedicate the land.
 - b) Cross-access easements shall be shown or added for all surrounding parcels.
 - i. Burger King
 - ii. Taco Bell
 - iii. National City
 - iv. McDonald's
 - v. M&I Bank
 - vi. FastTrack

Seconded by Alderman Ament. Motion carried unanimously.

12. (2)NJ UA-10-02 Sendik's New Berlin Plaza – 3600 S. Moorland Rd. – Parking Expansion and Building Addition.

Motion by Mr. Felda to approve the Use, Site and Architecture for construction of a parking lot expansion and building addition, including the waiver requests, to be located at 3600 S. Moorland Road subject to the application, plans on file and the following conditions:

Waiver Request #1: Applicant is requesting a waiver from Section 275-56F(3), Minimum Required Bufferyard, that requires a 25' bufferyard from the east property line. The applicant is proposing a bufferyard of 15'.

Waiver Request #2: Applicant is requesting a waiver from Section 275-57A(7)(f)[3], that requires parking areas, including aisles, to be set back a minimum of 10' from the base setback line and a minimum of 5' from other lot lines. Applicant is requesting a zero-lot line parking setback from an internal lot line towards the Burger King parcel since they are under common ownership. Applicant is also requesting a waiver along the Coffee Road parcel line to go down to a minimum of a 7' setback at the far west end of the new parking area.

- 1) Plan of Operation:
 - a) Hours of Operation: 7:00 AM to 9:00 PM (and may vary slightly depending on individual tenants).
 - b) Number of Employees: approximately 70 full-time and 80 part-time to operate the grocery store.
 - c) Employee and customer parking shall be contained on site.
 - d) All future tenants for this property will be reviewed on a case-by-case basis. Any new/proposed use that requires more parking spaces may be denied based on lack of parking.
 - e) No outside storage of vehicles, items or materials shall be permitted on the property without a plan for screening. A plan shall be submitted for any cart corrals and or additional dumpsters.
 - f) The name of the plaza will be changed to Sendik's New Berlin Plaza.
 - g) Dumpsters shall be properly screened from the street and public view in accordance with Article VIII Section 275-56 of the New Berlin Municipal Ordinance. Tenants shall be responsible for storing their dumpsters behind their tenant bays or in designated dumpster enclosures where applicable.
 - h) All temporary signs shall also require an application to be filed prior to installation.
 - i) The front windows shall not be blocked and shall allow pedestrians to see into the store or display windows as recommended by the City Center Development Plan and City Center Design Guidelines to the maximum extent practicable for a grocery store.
 - j) Bike stands, benches, and trash receptacles shall be architecturally integrated. The plaza area shall incorporate coordinated planters. This would also serve as an outdoor gathering space.
 - k) Applicant shall coordinate with City Staff to explore the possibility of a unique entryway for site entrances.
 - l) Applicant/plaza owner shall provide a list of each tenant, use, square footage, and number of employees to update City files prior to the issuance of the Zoning Permit.
 - m) A separate Liquor License will be required through the Clerk's Office.
 - n) Approval of the landscaping plan and payment of all sureties and any tree replacement fees are required prior to issuance of the Zoning Permit. Landscape plans shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. This includes a tree inventory and replacement schedule or fee in lieu of planting additional trees. A registered landscape architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to installation of any materials. Credits to the tree replacement fee shall be coordinated with the Director prior to the issuance of the Zoning Permit.

- o) Applicant shall verify the location of any roof-top or ground mounted units (such as HVAC) that might be planned for this building to ensure they are screened from the right-of-way.
 - p) Temporary displays on sidewalks for Sendik's shall be allowed. Sendik's has a tent and sells hot dogs. In addition, they display flowers.
- 2) Engineering:
- a) Grading Plan shall be provided indicating.
 - i) Proposed drainage patterns /contours;
 - ii) No impact to surrounding properties;
 - b) Revised detailed Storm Water Management Plan shall be provided incorporating concepts outlined in the report.
 - c) Provide detailed storm water calculations to achieve the following:
 - i) Discharge from site to existing County system post development 25-year storm shall be less than or equal to pre-development 25-year storm.
 - ii) 40% TSS removal based on email from the DNR on January 22, 2010.
 - iii) Post 100-year peak flows less than or equal to pre 10-year peak flow.
 - iv) Applicant shall meet MMSD Chapter 13 requirements.
 - v) Note that if items ii through iv can not be achieved on-site, then a fee-in-lieu of could be applied to buy into SP-2 pond.
 - d) Storm Water Management Maintenance Agreement shall be registered with Waukesha County Register of Deeds and a copy provided to the City. City boilerplate agreement shall be used.
- 3) Transportation:
- a) Applicant shall pave existing gravel shoulder on the north side of Coffee Road which will serve as a bypass lane. Paving shall extend 50 feet east and west of the middle entry driveway on Coffee Road.
 - b) Lighting plan does not follow City standards. See Zoning Code §275-60 I. The development light levels can be higher than the requirements for average foot-candles, but must be equal to or lower than the average-to-minimum and maximum-to-minimum ratios in the zoning code.
 - c) Applicant shall show areas where curb and gutter is being used and show a curb detail on revised plans. Drive aisle width is calculated from edge of pavement (not face of curb). Parking stall depth can include curb pan dimension.
 - d) Show signing plan for development. No left / right turns signs shown, especially at driveways, for certain parking aisles.
 - e) Permit required at time of permanent driveway construction.
 - f) Cross access to the Burger King Lot shall be established. A separate recorded agreement shall be prepared to dedicate the land prior to the issuance of a building permit.
- 4) Building Inspections:
- a) Building plans shall be signed and stamped by a licensed architect or professional engineer per the Wisconsin Enrolled Commercial Building Code (Comm.61.31).
 - b) Building plans shall be approved by the State of Wisconsin Dept. of Commerce Safety and Buildings Division (Comm. 61.70).
 - c) Apply and obtain appropriate building, electric and plumbing permits.
 - d) The building shall be fully accessible from the parking lot to the interior elements (Comm. 63.1101 and ICC/ANSI A117.1).
 - e) An occupancy inspection of the facility where Sendik's is locating will be required by the City of New Berlin Inspection Division.
- 5) Streets and Utilities:
- a) The building addition shall require a dedicated water meter room with exterior access.

- b) Applicant shall coordinate with the Fire Department to determine if an additional fire hydrant will be required for the building addition.
 - c) The two easternmost laterals shall be abandoned at the main.
 - d) Install a grease trap for the Sendik's portion of the development.
 - e) Install a cleanout or an inspection manhole just inside the property line.
 - f) Connect to the existing westernmost lateral stub at the property line after verification of structural integrity.
- 6) Applicant shall meet with the Fire Department and meet all applicable fire codes.

Seconded by Mr. Christel. Motion carried unanimously.

Motion by Mr. Felda to extend the meeting time by 30 minutes. Seconded by Mr. Christel. Motion carried unanimously.

13. (2)JT SG-10-01 Sendik's New Berlin Plaza – 3600 S. Moorland Rd. - Sign Package.

Motion by Ms. Broge to approve the three (3) monument signs and wall signs, along with Waiver Request #1, for Sendik's New Berlin Plaza located at 3600 S. Moorland Road subject to the application, plans on file, and the following conditions below:

Waiver Request #1: The applicant is requesting a waiver from the City's Sign Requirements under Section 275-61 for monument sign height, square footage and the number of signs.

- 1) Pursuant to Section 275-61.l(c)(2), "The monument sign shall not exceed eight feet (8') in overall height above the mean lot grade and shall be set back entirely outside the base setback line". The applicant is proposing to have three monument signs at the entrance drives (1) on Moorland Road, (1) on National Avenue and (1) on Coffee Road to be 13-feet tall.
- 2) Pursuant to Section 275-61.l(c)(3), "Monument signs shall not exceed 32 square feet in face area per side". The tenant face area of each monument sign is proposed at approximately 37.5 square feet (7.5' x 5').
- 3) Pursuant to Section 275-61.l(2), "Only two signs may be permitted per business. Businesses with multiple street frontages and buildings exceeding 10,000 square feet may submit an application to DCD for a possible third sign combination." The applicant is proposing the tenant name "Sendik's" on the three monument signs and on a wall sign, for a total of 4 Sendik's signs. Since the new name of the development is now "Sendik's New Berlin Plaza," it is not counted towards the maximum number of signs and is considered the center name for the Master Identification Monument Sign. The applicant is also proposing two wall signs for Goodwill being re-located within the new building addition and the possibility of their name also on the three monument signs, for a maximum total of 5 signs. The applicant has not made a final decision on whether or not "Goodwill" will have a sign on each monument sign. The Zoning Code permits up to three signs for this tenant since it is over 10,000 and has two street frontages.
- 4) Pursuant to Section 275-61.l(4), "The master identification monument sign shall not contain the names of individual tenants or occupants of the building." The applicant is proposing to list up to 7 tenants on each monument sign. Due to the center's setback from Moorland Road and the numerous buildings in front of the center, it is difficult to see the tenant's wall signs.
- 5) Due to existing site conditions such as the speed of traffic, size of the site, scale of the buildings, staff supports and recommends approval of the waiver.
- 6) The Plan Commission has the authority to grant this waiver pursuant to Section 275-52(C), which states "The Plan Commission may waive or modify any or all of the other requirements of this article if it determines that:

- a) The site or activity in question will have no appreciable off-site impact;
- b) Compliance with the requirement(s) is impractical or impossible due to site conditions or other circumstances beyond the control of the applicant; or
- c) The specific requirement is not necessary for a particular site to ensure compliance with the requirement of this chapter.

Seconded by Ms. Groeschel. Motion carried unanimously.

COMMUNICATION

14. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development RE:
National Avenue Corridor Plan – UWM/APW Class (PG-143-file 7)

Plan Commissioners acknowledged receipt of this communication.

15. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: Memo dated November 3, 2009 from Todd Ambs, Water Division Administrator
regarding Implementation Plan, Wetland Delineation Workload Reduction. (PG-520)

Plan Commissioners acknowledged receipt of this communication.

ADJOURN

Motion by Ms. Groeschel to adjourn the Plan Commission meeting at 11:19 P.M. Seconded by Ms. Christel. Motion carried unanimously.