

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

Correction:

\* Item #1 and Item #2  
Motion corrected from  
Alderman to Mayor

## **PUBLIC HEARING**

6:00 P.M. ( )GK PG-741 Zoning Ordinance Revisions – Maximum Height for  
Hotels and Motels. (Public Hearing 9/15/08)

## **NEW BERLIN PLAN COMMISSION**

**JANUARY 5, 2009**

### **MINUTES**

The public hearing relative to the granting of a height credit for hotels was called to order by Mayor Chiovaturo at 6:01 P.M.

In attendance were Mayor Chiovaturo, Mr. Sisson, Mr. Christel, Alderman Ament, Mr. Felda, Ms. Broge, and Ms. Groeschel. Also present were Greg Kessler, Director of Community Development; Jessica Titel, Associate Planner; Nicole Hewitt, Storm Water Engineer; 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.

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

Mr. Kessler explained the purpose of the public hearing is to receive comments from all interested persons with respect to revisions to Section 275-34(D)(3) of the Zoning Ordinance. The City Attorney's suggested modification reads: "Hotels and motels may exceed the maximum height requirement of 55 feet. If the eligibility for a height credit are satisfied as set forth herein. A credit of one hotel floor may be granted for each level of underground parking and/or for the dedication of permanent open space in an amount of not less than two times the square footage of the floor space added. In no event shall a credit be granted in excess of two floors and not to exceed 22 feet. Lands which are designated as environmental corridors, isolated natural resource areas or conservancy land shall not be eligible for purpose of calculating the credits set forth herein".

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

Vernon Bentley, 3450 S. Johnson Road – Will the new code clear up the different interpretations of Ordinance 2128 where it seemed like nobody could figure out exactly how many floors it meant?

Mr. Kessler – Yes, this would provide a distinct height limitation.

Mr. Bentley – I think this is a benefit to the Developer with all the variables that have been added for hotels.

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

Mayor Chiovero asked if there was anyone wishing to speak in favor of this ordinance revision?

Vernon Bentley, 3450 S. Johnson Road – I am in favor of this. It will make it easier for the Developer and the City when they get together to put a development together.

Rhoda Flagg, 3180 S. Thornapple – Yes, I would also like to commend everyone for finally getting something in writing that really spells out what we are hoping to achieve. I am in favor of this.

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

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

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

Mayor Chiovero closed the public hearing at 6:10 P.M.

**NEW BERLIN PLAN COMMISSION**

**JANUARY 5, 2009**

**MINUTES**

**PRIVILEGE OF THE FLOOR**

The Plan Commission Meeting was called to order by Mayor Chiovero at 6:10 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Christel, Alderman Ament, Mr. Felda, Ms. Broge, and Ms. Groeschel. Also present were Greg Kessler, Director of Community Development; Jessica Titel, Associate Planner; Nicole Hewitt, Storm Water Engineer; and Mark Blum, City Attorney.

Motion by Ms. Broge to approve the Plan Commission minutes from December 1, 2008. Seconded by Mr. Sisson. Motion carried unanimously.

**PLAN COMMISSION SECRETARY'S REPORT** – Mr. Kessler gave notification of the next three upcoming meetings for the Comprehensive Plan update. Neighborhood “D” meeting will be held January 14, 2009 at 6:00 P.M. at the Community Center, Neighborhood “J” meeting will be held January 28, 2009 at 6:00 P.M. at the New Berlin Public Library, and Neighborhood “G” and “H” meeting will be held February 4, 2009 at 6:00 P.M. at New Berlin West High School in the Idea Lab.

**CONTINUED BUSINESS**

1. (4)JT LD-10-08 Small Road – Irgens Development – 15200 – 15230 W. Small Rd. – Se ¼ Sec. 27 – One-Lot Land Division. (Tabled 12/1/08)

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

Motion by Mr. Christel to recommend to Common Council approval of the one-lot certified survey map (CSM) for the properties located at 15200 & 15230 W. Small Road subject to the application, plans on file and the following conditions:

- 1) Applicant shall correct all drafting errors and requested changes identified by Staff on the final CSM prior to the City signing.
- 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 shall work with Staff to prepare a temporary easement document for the proposed cul-de-sac associated with the development of this parcel (see File #U-66-08) prior to the City signing the CSM. Applicant shall also provide a legal description for the easement area. Easement shall be recorded with Waukesha County Register of Deeds. Applicant shall place the temporary easement document number on the face of the CSM.

Seconded by Mr. Sisson. Motion passes with \*Mayor Chiovatero, Mr. Christel, Alderman Ament, Mr. Sisson, Mr. Felda, Ms. Groeschel voting Yes and Ms. Broge voting No.

### **NEW BUSINESS**

2. (4)JT R-13-08 Small Road Office Building – 15200 and 15230 W. Small Rd. – Rezone from R-4 to O-2. (Public Hearing 12/1/08)

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the properties located at 15200 & 15230 W. Small Road from R-4 to O-2.

Seconded by Mr. Christel. Motion passes with \*Mayor Chiovatero, Mr. Christel, Alderman Ament, Mr. Sisson, Mr. Felda, Ms. Groeschel voting Yes and Ms. Broge voting No.

3. (4)JT U-66-08 Small Road – Irgens Development – 15200 & 15230 W. Small Rd. – 56,000 Sq. Ft. Office Building.

Motion by Mr. Sisson to approve the Use, Site and Architectural for construction of a new two-story office building located at 15200 & 15230 W. Small Road including a waiver of the buffer yard setback encroachment along the southeastern portion of the parking lot subject to the application, plans on file and the following conditions:

- 1) General:
  - a) See attached Plan of Operation submitted by the applicant.
  - b) 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.
  - c) Applicant shall apply for and receive individual Sign Permits for any signage prior to installation or modification, even if signage is temporary.

- d) Each tenant will require a re-occupancy permit. Approval will be based, in part, on available parking as each tenant applies for occupancy.
  - e) Applicant shall have an approved Development Agreement prior to issuance of Building Permits.
  - f) Dumpsters and mechanical equipment shall be properly screened from the street and public view in accordance with Section 275-56.G of the Zoning Code. Applicant shall provide details on the dumpster enclosure materials.
  - g) As part of the planning process for this facility, green and sustainable concepts will be included from the United States Green Building Council (USGBC) in their LEED program V2.2 for New Buildings. Applicant has submitted a list to Staff identifying the possible LEED criteria they may be able to incorporate into their project. Applicant shall submit a letter to Staff prior to the issuance of the Zoning Permit identifying the possible LEED criteria they will be able to follow.
  - h) Parking lot lighting shall be turned down in designated areas after hours to reduce the impact on surrounding residential properties. Applicant shall submit plan showing designated area prior to issuance of Zoning Permit.
  - i) Existing homes on both properties are served by private wells and septic systems. Applicant shall obtain appropriate permits and properly abandon all existing private systems.
  - j) Proposed parking lot encroaches into the required buffer area along the east property line. Applicant shall revise plans to maintain the 25-foot bufferyard required in Section 275-56.F.
  - k) The applicant will be required to adhere to the City Tree Replacement Schedule listed in Section 275-54.B of the Zoning Code. Staff has met with the applicant and is working with them to minimize the number of trees that will be removed and to determine any landscape fee required.
- 2) Utilities:
- a) Applicant shall extend water main on Small Road to relocate the existing hydrant to serve the new cul-de-sac area.
  - b) Prepare as-builts of the completed infrastructure per the Developer's Handbook.
  - c) The 8" gate valve should move from the west hydrant and service lateral to just the service lateral. A hydrant on a private service will be considered a private hydrant.
  - d) Building shall have a dedicated water meter room. The City prefers to have access from the exterior of the building.
- 3) Storm Water:
- a) Applicant shall address all technical stormwater issues identified in a letter dated December 19, 2008.
  - b) SWMP Maintenance Agreement is required; City of New Berlin boilerplate agreement is available online.

- c) Applicant shall submit a copy of the WDNR NOI permit.
  - d) Pond Outfall protection is required
  - e) Overflow spillway detail is required
  - f) Completed Chapter 13 checklist shall be submitted prior to issuance of Zoning Permit.
  - g) Stormwater ponds shall be certified prior to construction and prior to occupancy. If ponds are used as sedimentation basins, they will need to be certified to confirm no sedimentation has occurred during construction.
- 4) Traffic Engineering:
- a) A concrete sidepath is required along the entire frontage of Small Road typically located 1-foot from the ROW line. Connections to existing sidepaths in the area shall be made.
  - b) The installation of a cul-de-sac on Small Road is required.
  - c) A single-unit truck (SU-design vehicle) shall be able to negotiate the parking area as required by Zoning Code Section §275-57 G (5).
  - d) Remove berm between driveway and temporary cul-de-sac.
  - e) Cross-section and additional construction detail needed for cul-de-sac construction.
  - f) Driveway location is right where the 4 major drive aisles converge. This creates a 5 approach intersection, which could cause safety and operational problems. Consider an alternate location/configuration or possibly 2 driveways into the site.
- 5) General Engineering:
- a) Applicant shall address all technical engineering comments outlined in the letter dated December 19, 2008.
  - b) Stakeout survey stamped by RLS showing proposed building and dimensions to various lot lines will be required at time of building permit application.
  - c) A ditch shall be required along Small Road. A culvert under the driveway entrances is required with metal flared end sections.
  - d) The retaining wall at the West end of the parking lot next to parking stalls shall require a guard rail.
- 6) Building Inspection:
- 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) Erosion control shall be approved, permitted, installed and inspected prior to any commencement of any site work or issuance of building permits.

- f) Applicant shall obtain razing permits prior to removal of existing structures.
  - g) Sewer and water impact fees of \$2204.00 and \$809.00 shall be charged as a condition of the obtaining the Zoning Permit. These fees are based on a standard 5/8" x 3/4" water meter size. If the water calculations for the structure will require a larger meter, the increase in fees due will be charged at time of building permit.
- 7) Fire:
- a) Fully Sprinkle Building.
  - b) Stand pipes shall be required in stair cases.
  - c) Fire Alarm notification system throughout building shall be installed.
  - d) Install Knox Box.
  - e) Monitor Fire Flow.

Seconded by Mr. Felda. Motion passes with Alderman Chiovero, Mr. Christel, Alderman Ament, Mr. Sisson, Mr. Felda, Ms. Groeschel voting Yes and Ms. Broge voting No.

4. (1)JT U-71-08 Cutting Edge Concrete Design – 13007 Forest Drive – Concrete resurfacing/repair company.

Motion by Mr. Felda to approve the request to allow Cutting Edge Concrete Designs to reoccupy a legal non-conforming business building on the property located at 13007 W. Forest Drive subject to the application, plans on file and the following conditions:

- 1) Section 275-48C(2) addresses the non-conformity of this site. This section states, "Change to other non-conforming use. The Plan Commission may approve a change of use to a use not otherwise allowed in the underlying zoning districts if the Plan Commission finds that the new proposed use will be no more injurious than the previous use or will decrease the extent of the nonconformity. If the Plan Commission approves such a change of use, it shall be authorized to impose conditions it deems necessary to reduce or minimize any potentially adverse effect upon other property in the neighborhood, and to carry out the general purpose and intent of this chapter. Any condition imposed must relate to a situation created or aggravated by the proposed use and must be roughly proportional to its impact." It appears from the information the applicant has provided that they will not be any more intense than the previous business.
- 2) The proposed use of this property is mainly warehouse space with occasional office use. The warehouse will store all necessary supplies for their business. The employees typically do not work at the site and will go there in the morning to load supplies and in the afternoon to unload supplies. Majority of the office work is conducted off-site.

- 3) Inside warehouse space is used for storage of all necessary supplies. There shall be absolutely no manufacturing, repairing, etc. performed in the warehouse.
- 4) One pick-up truck will be stored during the off-business hours. The truck is off the premises most of the day hours. The applicant is planning to store the truck indoors much of the time.
- 5) Frequency and duration:
  - a) Hours of operation will be from ~ 7:30 AM to 3:30 PM Monday thru Friday. Employees will be off-site during most of the business hours. They will stop in the morning and afternoon to load and unload supplies.
- 6) Total Number of employees is limited to:
  - a) Total employees: 3, the owner and 2 part-time employees.
- 7) This tenant will not be able to sublet this building.
- 8) No semi-truck or large truck deliveries shall be made on site.
- 9) No retail sales or customer traffic on site.
- 10) Meet all applicable building and fire codes.
- 11) No outside storage is allowed, with the exception to one truck associated with this business.
- 12) Per Section 275-57.B(4), property owner shall remove all unregistered and inoperable vehicles being stored on the property. Property owner shall provide proof of ownership and current registration for any vehicles that will remain.
- 13) Application does not include any exterior or interior building modifications.
- 14) Permits are required from the Department of Community Development for any exterior alterations or modifications.
- 15) Apply for and obtain appropriate building, plumbing, and electrical permits, as required for any interior building modifications or alterations. Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 Plans)
- 16) Employee parking shall be contained on site.

Seconded by Mr. Christel. Motion carried unanimously.

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 6:41 P.M.  
Seconded by Ms. Broge. Motion carried unanimously.