

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

## **PUBLIC HEARINGS**

6:00 P.M. (7)AB CU-8-05 Kenneth & Michelle Bahringer – 3780 Cari-Adam Dr. –  
Build a New Home in a C-1 Zoning District.

## **NEW BERLIN PLAN COMMISSION**

**November 7, 2005**

### **MINUTES**

The public hearing relative to the request by Kenneth and Michelle Bahringer for a conditional use to build a new home in a C-1 zoning district located at 3780 Cari Adam Drive was called to order by Mayor Chiovatero at 6:02 P.M.

In attendance were Mayor Chiovatero, Mr. Sisson, Mr. Gihring, and Alderman Ament. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Ron Schildt, Transportation Engineer; Eric Nitschke, Storm Water Engineer; City Attorney, Mark Blum. Mr. Felda, Mr. Teclaw, and Mr. Barnes were excused.

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

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

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

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

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

Attorney James Gatzke, Representing Applicant – The application is based on the fact that the proposed home site is in the conservancy area. It has been placed there because that places the home site in line with all the neighboring home sites. It is the appropriate set back. It was always a consideration that the development of this site, which is the last site for development in Rustic Ridge, would have the home going in this location. The second request is for the accessory building to be placed in front of the home site. It will be done so with materials that are consistent with the materials used for the home, and it is also being done to remove as much as we possible can, any structures or improvements from the conservancy area. We are moving the garage outside of the conservancy area and placing it in front of the home. The builder, designer, and applicants are here tonight if there are any questions.

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

Mayor Chiovatere asked for questions from the Commissioners.

Mr. Sisson – Questioned the descriptions on the site plan distributed in the Plan Commissioner's packets. What are A and B which were cut off on the copy and what is meant by a "Healthy House" cut?

Rick Schneider, Coventry Homes – A= Mound Field, B = Pool Deck. A Healthy House cut means there are not trees right next to the house. This is not good for the foundation or the house itself. There should be at least a 15-20' cut around the house. C= The house itself. D= Driveway or paved area. E= Area needing cutting for outbuilding.

Mayor Chiovatere asked if there were any further questions from the Commissioners, seeing none.

Mayor Chiovatere closed the public hearing at 6:11 P.M.

6:01 P.M. (2)OA R-12-05 Sunny Slope Retail – 3333 S. Sunny Slope Rd. – Rezone from Rm-1 to B-2.

## **NEW BERLIN PLAN COMMISSION**

**November 7, 2005**

### **MINUTES**

The public hearing relative to the request by Brian Kliesmet/Brad Knab for Sunny Slope Retail for a rezoning at 3333 S. Sunny Slope Road from Rm-1 to B-2 was called to order by Mayor Chiovaturo at 6:11 P.M.

In attendance were Mayor Chiovaturo, Mr. Sisson, Mr. Gihring, and Alderman Ament. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Ron Schildt, Transportation Engineer; Eric Nitschke, Storm Water Engineer; City Attorney, Mark Blum. Mr. Felda, Mr. Teclaw, and Mr. Barnes were excused.

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

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

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

David Sahar, 11919 W. Verona Ct, West Allis – I am one of the owners of the Village Glen complex which abuts this property. It seems there is a driveway that completely encircles the building. Will vehicles be able to drive completely around or will there be vehicles strictly in front of the structure? What type of businesses would be allowed in this structure?

Mr. Agbaji – This is their conceptual lay-out and it does show a circular driveway with most of the parking in front. The type of businesses that would be allowed would be general businesses allowed within the B-2 districts.

Mr. Sahar – Would these be more retail or would they be more office type? What sort of hours would they be allowed to keep?

Mr. Agbaji – It would be more retail, banks, etc.

Mr. Sahar – So, these are things that would be closed in the early or late evening?

Mr. Agbaji – He did say bank and retail stores. The drive through is meant for a bank, I believe. I don't know who he has negotiated with to lease space.

Agi Nickolou - We are considering several banks and the rest would be retail such as dry cleaners, hair salons, etc.

Mr. Sahar – How many retail stores would there be?

Mr. Nickolou - The sum of 12,000 sq. ft. Some stores can be 2,000 sq. ft., some can be 4,000 sq. ft. Different stores have different requirements or needs. We do not have a lease with anybody yet.

Mr. Agbaji – The parking will determine who would occupy the building. If a tenant comes who uses most of the space, then the rest of the tenants are restricted to those who would not use as much parking.

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

Mayor Chiovarero asked if there was anyone wishing to speak in opposition?

Ned Sahar, 12645 Scarborough Ct. – I did not come to speak in opposition, quite honestly. I am trying to keep an open mind about this project. I just now saw the plan. The biggest part that concerns me is the drive-around parking lot that seems to encircle the building. I would not have as much concern if it were strictly retail stores with parking in front, but you are talking about banks having people driving around at all hours possibly using Tyme machines, etc. I would be concerned about the distance between the tenants at Village Glen's windows and that lot. I think there would be concerns about lights and traffic. I know when Village Glen was approved several years ago, one of the things the City required was that each building have a residential look in order to accommodate the people to the West, and also to have more of a single-family residential look facing Sunny Slope Road. Given the fact that the City was fairly strict there, I am a little bit concerned about detracting from that residential look with this proposed project.

Obviously, my preference would be that it stay residential, but I guess you have to be open to other options. Like I said, I wasn't prepared to speak in opposition, but I am somewhat alarmed about the traffic flow around that building. I would have to check around New Berlin to see how many complexes there are where the traffic flows completely around like that next to multi-family units. I can't think of any that I have seen. I would be less concerned if the parking were limited to the front side of the building. If it is going to completely encircle the building, I really envision myself writing in opposition to it.

David Sahar, 11919 W. Verona Ct, West Allis – Village Glen units are strictly residential. The way the traffic flows and the way the garages are set up it would be impossible to shed any light on any adjoining buildings, but yet the City was very strict with screening before we got an occupancy permit. I think this is critical. We are not going to be able to rent units with vehicles driving through in the middle of the night and shedding light through windows. We understand that the surrounding area is basically commercial, and we don't oppose it, however, my brother and I are concerned about the traffic flow around the structures.

Mayor Chiovarero – I can assure you that the Plan Commission will take all those things into account.

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

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

Lou Cass, Landscape Architects – I represent the developer. In addressing the concerns of the lights shining off the property, we will have a planting buffer to minimize that. Most bank tenants that we have looked at, their hours are from 9:00 A.M. – 5:00 P.M. We have designed the circular drive to offer the drive-thru. There is an ingress and egress straight across from Jewel Osco. We have adequate buffers all around the building.

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

Mayor Chiovarato asked for questions or comments from the Commissioners.

Alderman Ament – On Page 3 of the staff report says this project conforms with the Master Plan and GDMP Land Use, yet on Page 4 it says it does not. Is that because the Future Land Use Plan identifies this area as Mixed Use Residential?

Mr. Agbaji – That is correct.

Alderman Ament – On Page 5, number (4)-8. Would this be the responsibility of this developer and no one from the West?

Mr. Agbaji – They will have to provide to accommodate drainage as it comes from the two vacant parcels through their property. They will account for their own detention and drainage and also provide so the drainage can come through. It will be a simple analysis during Use Approval.

Alderman Ament – I would be concerned that if we did extend this business district down Sunny Slope, that is one concern by itself, but beyond that the mixed use residential purpose is to create a buffer between residential and business, and we would be changing the intent and allowing the business district to encroach on that buffer.

Mr. Gihring – I agree with Alderman Ament. I don't like the idea of commercial business creeping down a road that is not really intended for that. However, because of the Jewel Osco straight across the street, the composition of the neighborhood has already changed. The details of the site and landscaping and lighting can be discussed later, correct?

Mr. Agbaji – You have the details of the actual site engineering and spec building. The tenants would be reviewed on a case by case basis.

Mr. Gihring – When I saw the drawings, my initial reaction to the driveway that runs all the way around the building was that it looks like a fast food place. I would be opposed to see something like that.

Mayor Chiovarato – The concern brought up by people in opposition was the fact that if they have a drive-thru that they would have a Tyme Machine which would be a 24 hour access. Other than that, a bank is usually open 9:00 A.M. to 5:00 P.M. I would think most of the retail outlets would probably close around 9:00 P.M. Correct me if I am

wrong Olofu, but when the Jewel Osco development came in, wasn't it decided that the property would be developed for retail commercial use. If that is so, why didn't we address it in the Master Plan at that time?

Mr. Agbaji – Our Future Land Use Map has a disclaimer that the lines on the map are not actual hard boundaries, so the boundaries are not set in stone. You want to have consistent zoning, rather than spot zoning. This is not a spot zoning because you can see it is consistent with the adjacent, adjoining properties. As long as we provide enough buffer, it is left up to the Plan Commission.

Mayor Chiovaturo – I know the decision is the Plan Commissions, but those are all residences that have basically been up for sale since Jewel Osco was built. The concern was in order for the approval to get through for Jewel Osco, the residences would be vacated as residences and brought into a development such as shown here tonight.

Ms. Jones – We have met with people over the past few years that wanted to do something with maybe one home or one of each of those homes. We have always tried to stress, when meeting with people, is the idea of coordination there. It is a busy intersection and some of the things this project is doing, such as lining up the access points with the Jewel Osco, coordination of storm water and traffic are examples of what we hoped would happen on a staff level. Screening is always something we look at and there are always options for the Plan Commission to investigate.

Mr. Agbaji – We have Park Central Subdivision which is part of National Highlands to the East of Jewel Osco. Park Central Blvd. is already in and we have two 8 unit multi family buildings going in. The hope was to get something that finishes this corner together with Jewel and the medical office on the other side.

Mr. Gihring – Is there any future plans located straight to the West of this one?

Mr. Agbaji – The lot is under the same ownership as the vacant one. Warehouse Shoes was sold to Micheals and he now owns the two lots and is tied to the one that has frontage on National Avenue.

Mr. Gihring – But it is still two different lots and two different zonings.

Mr. Agbaji – Yes.

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

Mayor Chiovaturo closed the public hearing at 6:36 P.M.

6:03 P.M. ( )GK PG-741 Zoning Ordinance Revision – Floodplain Zoning Ordinance.

## **NEW BERLIN PLAN COMMISSION**

**November 7, 2005**

### **MINUTES**

The public hearing relative to Zoning Ordinance Revision-Floodplain Zoning Ordinance was called to order by Mayor Chiovatero at 6:36 P.M.

In attendance were Mayor Chiovatero, Mr. Sisson, Mr. Gihring, and Alderman Ament. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Ron Schildt, Transportation Engineer; Eric Nitschke, Storm Water Engineer; City Attorney, Mark Blum. Mr. Felda, Mr. Teclaw, and Mr. Barnes were excused.

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

Mr. Kessler and Mr. Nitschke gave a brief presentation describing the request.

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

Holly Weissenberger, 4001 S. Elm Drive – What does that do as far as determining if you are or are not in a floodplain? Does the City have any control?

Mr. Kessler – The ordinance defines the process. The process has always existed and the ordinance will not change it. We had a flood insurance study done for the City in 1987 and as a result of that, we have flood insurance rating maps. There are map panels that identify sections of the City with floodplains mapped. If you were to come in, we would look at that map and determine your elevation by your address.

Ms. Weissenberger – I am familiar with the map panels. I was put into a floodplain back in 1996 and I was able to get a flood elevation survey and work with FEMA and get a LOMA. I am not sure with what you are doing now, if I won't eventually end up back in a floodplain.

Mr. Kessler – This will not undue that map amendment that you went through.

Al Meyer, 3930 S. Elm Drive – What is the ordinance? A revision of what? How can it be changed or added to if no one understands what the initial situation is?

Mr. Nitschke – This ordinance is pulling together what DNR has been working on for some time. It is causing the municipalities to go through and work with the floodplains at a municipality level. If you go through the ordinance, it pulls together everything that we have already been doing or working with the State or FEMA to do and puts everything

into one document that then goes to a municipal level.

Mr. Meyer – That is not identifying anything.

Mayor Chiovero – I think the question is, is the City going to help or hurt anyone who is currently in the floodplain?

Mr. Nitschke – The City is going to be able to work with residents that are in the floodplain, residents that have property in the floodplain, but do not believe their homes are in the floodplain with this ordinance. The City will still have to work through DNR and FEMA. This ordinance does not give the City the ability to directly remove or place somebody in the floodplain. It still must go through the process that is laid out not only in the ordinance, but what is currently happening through DNR and FEMA.

Mr. Meyer – I have gone around and around with you people on previous occasions. I have even heard where the amount of rainfall has nothing to do with the determination on whether you are in a floodplain or not. That, in my mind, approaches insanity. Death Valley is below sea level, it doesn't rain there. At one point in time Observatory Road, which incidentally is the highest part of New Berlin, was in this floodplain. I have lived at my address for 44 years and never flooded. I am currently on the fringe of a floodplain. The average rainfall in the last 60 years is 3" per month. That has no bearing on any of this. FEMA now tells me the reason they haven't moved on it is because of "Katrina". They are short staffed in Chicago.

Mayor Chiovero – We need to get a copy of the ordinance to you so you can read it.

Mr. Meyer – Ordinances mean nothing.

Mayor Chiovero – But, it does. You have to understand it. We are being required by DNR and by other agencies to adopt an ordinance within our city. All we are doing is matching their ordinance to ours.

Mr. Meyer – You ought to tell these folks that this is a voluntary thing that the City of New Berlin has entered into.

Mr. Kessler – It is a requirement per the State code.

Mayor Chiovero – The State code is requiring us to do this ordinance. I would encourage you to get a copy of this ordinance to read.

Mr. Meyer – As I told you once before, the Federal people wouldn't know that Poplar Creek even existed within the city limits of New Berlin. It's a drainage ditch at utmost. The Federal people are calling this a navigable waterway and the great Engineering Department is backing that criteria. I was told by the Alderman that if wasn't for the graciousness of the Federal government that will allow me to have flood insurance, that I would never be able to sell this home. It wasn't in a floodplain when I moved there. I've never flooded. Yet, this bureaucracy is now stating that I am now in a floodplain.

Mayor Chiovero – I understand your issue along with Alderman Ament, Mr. Nitschke, and Mr. Kessler. This public hearing is on the ordinance. Unfortunately, it is not specific to your area, and we cannot be answering your questions unless they pertain to the

ordinance.

Mr. Nitschke - The ordinance does not change the ability that residents have to work through the system. It lays out the process for filing for certain floodplain distinctions, filing for a LOMA, or to remove one's dwelling out of the floodplain. The municipality works with the residents to move through the process instead of the municipality saying the process begins at DNR.

Mayor Chiovero – This can actually help the residents because they have the City of New Berlin working with them.

Greg Labinski, 4021 S. Elm Drive – I am neighbors with a lot of these people. I am up on the hill a little more. Now you want to build a new subdivision down the road with 19 or 20 homes. Are those homes going to be in this floodplain? Are the houses on the other side of Woelfel Road going to be in floodplain when they start to develop that, or is it all going to get pushed back toward us?

Mr. Nitschke – Those homes were required to be built outside of the floodplain. The developer was also required to do a floodplain analysis to assure they were not adversely impacting the flood elevations in the area.

Mr. Labinski – Houses that were done way back when, before this floodplain and now all of a sudden, they are in it! What is going to stop you guys from all of a sudden popping all of these houses into the floodplain?

Mr. Nitschke – It is not the city that is putting people in or out of the floodplain. It is DNR.

Mr. Labinski – Aren't you suppose to work hand in hand? Has anyone ever really gone through Poplar Creek and taken a good strong look at it. The only time I ever saw a lot of water in it, is winter and spring. After that, it drops down to 6" of water.

Mr. Nitschke – There was originally a floodplain analysis done on Poplar Creek and City staff members at that time did not agree with it. It had more homes in the floodplain than what are currently there, so the city hired it's own floodplain consultant to reanalyze the floodplain at that time and managed to get that approved by FEMA. That is why the FEMA maps show an update in 1996. That is what currently stands at FEMA.

Mr. Labinski – So what will happen when the new homes go in down by the Sanctuary.

City Attorney Blum – Sir, I need to stop you here. What you are doing is discussing specific areas of the city and whether they are or are not in a floodplain and that is not what we are agendized to deal with this evening. The issue before the Plan Commission tonight is hearing comments from the public about the Floodplain Ordinance, which is a document which we have been required by the State to enact which deals with floodplain issues. We are not talking about specific floodplain sites. That is not on the agenda. The Plan Commission is not allowed to discuss those. I have been letting that go because I understand that there is some inner relationship, but those issues are not on the agenda tonight and we can't discuss them further without violating the open meetings law. We are happy to hear comments about the text of the ordinance and that is where we need to maintain our focus.

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

Mayor Chiovero asked if there was anyone wishing to speak in opposition?

Vern Bentley, 3450 S. Johnson Road – I am against this ordinance. These people came here to find out if this ordinance is going to affect them. They have been coming to meeting after meeting for years now because they are in the floodplain. They are trying to figure out how to get out of the floodplain. Now you are talking about a zoning ordinance that they don't understand and I don't understand either. Is it going to help them? Is it going to hurt them? It says nothing here. You are having a public hearing on nothing. Can't you come up and make a presentation and explain if there is going to be changes in the floodplain or how it could affect getting out of the floodplain? What you have here tonight is a public hearing on nothing.

Mayor Chiovero – I believe we tried to explain what this is for. There is an ordinance that we are required by State Statutes and DNR to enact as a City Ordinance. A lot of the wording is written by DNR and we are required to use it. The ordinance has been on our website for about two months for public review.

Mr. Kessler – This ordinance talks about the development standards within floodplains. If someone were to petition the city to develop a building within a floodplain, it talks about the standards by which the site could be developed. If you are currently part of a floodplain, it doesn't change it. If you are on the edge, it doesn't change it. If you want to petition to be removed, this ordinance talks about the process by which you can do that and the FEMA and DNR involvement. That is all it does.

Mayor Chiovero - Am I right in saying that this ordinance helps the residences in that the city is now within this loop to work with these folks?

Mr. Kessler – It brings it down to the local level. It puts the management and the administration onto the city, rather than the city having to refer it to the DNR and FEMA. It doesn't take away the obligation that final approval rests with the Federal government and the DNR, but it puts us in a better position where we can work with the individual property owner and leverage our resources and our local expertise with the DNR and FEMA.

City Attorney Blum – This ordinance does not change who is in a floodplain, it does not change the process. The point of this ordinance does not establish what the floodplain boundaries are in the City of New Berlin, is that correct Mr. Kessler?

Mr. Kessler – No, it does not.

City Attorney Blum – It talks about, if you own a piece of property and you want to engage in activities that are within the floodplain, it tells you what process you must go through, and what can and what cannot be done. Is that also correct?

Mr. Kessler – Yes, that is correct.

City Attorney Blum – On Page 4, Item #5 it talks about removal of land from floodplain, and it says, "Compliance with the provisions of this Ordinance shall not be grounds for

removing land from the floodplain unless it is filled at least 2' above the regional or base flood elevations". Is that what it says?

Mr. Kessler – Yes.

City Attorney Blum – That regional or base flood elevation is established by FEMA and the State DNR. Is that correct?

Mr. Kessler – Correct.

City Attorney Blum - The City of New Berlin has nothing to do with establishing those standards?

Mr. Kessler – Correct.

City Attorney Blum – Thank you.

Holly Weissenberger, 4001 S. Elm Drive – Can you make any comment on development that goes on, whether it be a road, new subdivision, or anything else that would prompt FEMA or DNR to have the Army Corp. of Eng. redo a map to put me back in the floodplain. Can you promise me that you are not going to approve some sort of development that is going to throw me back in.

Mr. Kessler – I cannot make a statement that that may never happen, and I don't know the specifics of your situation.

Ms. Weissenberger – To the best of knowledge, what triggered the change back in 1996, from what I was told by the City, was that there had been some road work done North of me that prompted the changing of the floodplain map to include the Observatory Heights Subdivision.

Mr. Nitschke – The areas where FEMA and DNR are going to revisit the floodplain come into effect when it is not a mapped floodplain. What is described as a Zone A which has not had an engineering analysis done, and whether it be the State or FEMA who wants to have an analysis done, that is when the floodplain boundaries most often tend to change. When you have a mapped area, like the area you are in, that is where the floodplain boundaries, especially with the models that were used in the mid '90's, they tend to be tied down much tighter because of the updated mapping models that were used. So, your question about knowing if you are always going to be in that floodplain or if in five, ten, or however many years, you will be pulled out, right now the item that tends to shift the floodplains the most is the fact if the floodplain has never been modeled in engineering terms.

Ms. Weissenberger – You are telling me that we have never been modeled because we are not Map C or Map X?

Mr. Nitschke – On Elm Drive in Observatory Heights you were modeled with the 1996 model. When you have delineated cross sections of the floodplain, there is an actual analysis that was done for the area. That is what I was referring to before when there was the original modeling that was done, and the city did not agree with it, thinking it was too liberal and had our own modeling done. That is what brought the floodplain back.

Mayor Chiovero – Again, we are off the agenda. There will be a special Plan Commission next Monday, November 14, 2005 to work through the ordinance. This public hearing is for any comments the public may have. You are welcome to e-mail me or call me on the phone if you have any other concerns or questions.

Mayor Chiovero asked three times if anyone else wished to speak in opposition, seeing none.

Mayor Chiovero asked three times if anyone wished to speak in favor, seeing none.

Mayor Chiovero asked for comments from the Plan Commissioners?

Mr. Gihring – By reading the information provided by staff, it looks like what is happening is the State legislation is requiring us to adopt the new floodplain ordinance.

Mr. Kessler – It is not the legislation, it is the DNR.

Mr. Gihring – The ordinance seems to have a lot of wording in it that shifts the responsibilities away from the DNR and to the local municipalities. For example, Floodplain administration including reviewing new developments, performing site visits, taking care of mapping, field conditions, writing reports and getting things signed off by the DNR. All those things that used to be done by the DNR, are now required to be done by the city.

Mr. Kessler – Some of the information was already required as part of our submittal requirements if a floodplain was on a particular piece of property under a development proposal. Other things related to the actual monitoring of what happens in the floodplain areas are now our responsibility as well as collecting the information to support any map changes.

Mr. Gihring – Does this amount to a big or little change in staffing or budget requirements?

Mr. Kessler – A lot of it we do, some of it we don't. We will have to re-tool and absorb these new tasks. We don't deal with a lot of floodplains in new development. Once again this is for properties that somebody wants to do something in the actual floodplain. Nine times out of ten, even if there is a floodplain on a piece of property under development review, they are not doing anything in the floodplain. We direct them out of that.

Mr. Gihring – Because of the changes in the approval process, is there anything that would cause us a problem in getting things done on time because of the extra steps in the process, as far as approvals?

Mr. Kessler – I am assuming you are referring to something like a subdivision application. In a situation like that and very case specific, we may condition the approval of the plat contingent upon FEMA approval of a particular floodplain study. I am fairly comfortable in saying that we can condition the approval of a particular plat pending other regulatory agency approval such as the DNR and FEMA.

Mr. Gihring – They have some different uses permitted in floodplains that we don't have in our ordinances now. It seems a little bit more liberal than what we have.

Mr. Kessler – If you want to change some of the uses permitted, it would need to be approved by DNR and FEMA. They are somewhat more liberal in their use tables. Staff feels that DNR are the experts, and much of what was already allowed as a permitted use, we allowed in our own ordinance as a conditional use.

Mr. Gihring – Is the flood storage districts a new district that we would have to add?

Mr. Kessler – Yes, this would have to be a zoning district that we would add on a case by case basis similar to what we do with the conservation districts like rezoning it to C-3. We would apply that same logic under the flood storage districts.

Mr. Gihring – Is this related in any way to detention ponds?

Mr. Nitschke – It is not in relation to detention ponds, but it is in relation to the cuts and fills on a property or set of properties. The ground elevations in the area, if a certain development had to cut to balance out a fill they were doing in the floodplain, the flood zone district may go into effect at that point as far as a storage district so that in a future development or expansion on that site, they would not be allowed to fill in that area that they had tried to balance out the floodplain on. It is aiming to locking in an area as far as storing flood waters. It doesn't have to be a pond. Shallow areas, depressions, low spots between hills can be a flood storage district.

Mr. Gihring – It would be a more restrictive zoning area that would help preserve flood storage areas.

Mr. Nitschke – Correct.

Mr. Gihring – So we could actually design flood storage areas adjacent to creeks?

Mr. Nitschke – Correct. Right now what we have been doing with any development that has the potential to fill in a floodplain, the flood storage district really has been to balance out cuts and fills in the immediate area so as not to increase the floodplain elevation more than .01 feet in any given area. You will find that same language in this ordinance. This basically puts a zoning district over it now, instead of an internal policy.

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

Mayor Chiovaturo closed the public hearing at 7:12 P.M.

## **NEW BERLIN PLAN COMMISSION**

**November 7, 2005**

### **MINUTES**

Privilege of the Floor

The Plan Commission Meeting was called to order by Mayor Chiovero at 7:35 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Gihring, and Alderman Ament. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Ron Schildt, Transportation Engineer; Eric Nitschke, Storm Water Engineer; City Attorney, Mark Blum. Mr. Felda, Mr. Teclaw, and Mr. Barnes were excused.

Motion by Mr. Sisson to approve the Plan Commission Minutes of October 3, 2005. Seconded by Alderman Ament. Motion passes unanimously.

Plan Commission Secretary's Report – None

### **CONTINUED ITEMS**

1. (4)AB PG-950 Small Road – Cul-de-sac. (Tabled 8/8/05)

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

Transportation Engineer Ron Schildt addressed the additional research that was done including the traffic and license plate survey in regard to the temporary cul-de-sac under consideration.

Motion by Mr. Sisson to forward to the Common Council recommendations from the Board of Public Works and Plan Commission to install a temporary cul-de-sac on W. Small Road based on numerous neighborhood meetings, traffic studies completed by the City Engineering Department and the following specifications based on additional staff research:

- 1) Temporary cul-de-sac to be installed at the west end of W. Small Road between the approved Stone Fire Pizza entrance and the residence located at 15230 W. Small Road.
- 2) Temporary cul-de-sac to include a barricade across the street with a designated turn-around area.
- 3) Estimated cost of temporary cul-de-sac up to \$15,000, including culvert pipe, gravel and signage. See findings for estimate breakdown.
- 4) A trial period of one (1) year to determine the effectiveness of the temporary cul-de-sac.
- 5) Official notification shall be given to the school district and local bus companies regarding the temporary cul-de-sac prior to the closure.
- 6) Direct DCD staff to design the temporary cul-de-sac.

Seconded by Alderman Ament. Motion carried unanimously.

2. (1)OA R-1-04 Carleton Point Condominiums – 13050 W. Cleveland Ave. –  
Rezone from I-1 to Rm-1/ PUD for a 48 unit condominium complex.  
(Public Hearing 3/1/04, Tabled 4/5/04, 8/2/04)

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

Motion by Alderman Ament to allow Donald Murn, Attorney for the applicant of the project, to present additional information explaining the request. Seconded by Mr. Gihring. Motion carried unanimously.

Motion by Mr. Gihring to table to request to rezone the property located at 13050 W. Cleveland Avenue from I-1, Institutional District to Rm-1/PUD, Multi-Family Planned Unit Development Overlay District until the applicant satisfies all the items listed below:

- 1) Applicant has not submitted a Traffic Impact Analysis (TIA) to date. Staff sent letters on January 21, February 16, March 22, and July 22, 2004 notifying the applicant to submit a TIA. Pursuant to Section 275-58 C (2) (c) Plan Commission shall not take action on any rezoning without a Traffic Impact Analysis. Applicant will now have until November 11, 2005 to submit the TIA. If one is not submitted, the Plan Commission will recommend denial of the petition at the December 5, 2005 Meeting.
- 2) Plan Commission shall discuss the proposed PUD Ordinance, and the following points shall be discussed:
  - a) Density of Project
  - b) 120' buffer required between Single Family and Multi-Family zoning districts.
  - c) PUD expiration date.
  - d) Stormwater issues regarding on-site and off-site construction and how this ties in with this development.
  - e) Public Hearing request and recommendation which dealt with the building height, the preservation of existing vegetation along the East property line, and the overall building layout and architecture.
- 3) A new public hearing may be required if significant changes are made to the PUD and the plans that were submitted at the March 1, 2004 Public Hearing.
- 4) Engineering and the Parks, Forestry and Recreation Department approval will be required for a design of a storm water detention and or a combination of detention and a controlled release to the open ditch along Cleveland Avenue. The design must be submitted, reviewed and approved prior to approval of this project to ensure that the project will work on the site as proposed. Developer's Agreement that determines the overall project shall be executed prior to issuance of Zoning Permit. Sequencing of the construction schedule shall be address in the Developer's agreement and the proposed PUD. Staff would like to see off-site pond in place prior to commencement of any grading work on this site.

- 5) The 50' Gas main Easement running through the "North" part of the site has extensive grading proposed within it. Cut of +/-8.0' is shown within this utilities easement. A letter of approval from the Gas Utility Company is required for all the types of disturbances taking place within the boundaries of the Easement prior to issuance of Zoning Permit.
- 6) Submittal of a revised tree survey with the road and building layout that reflects the approved density is required during the Use, Site and Architectural approval process. Submitted survey does not show the number and list of all trees and sizes.
- 7) Landscaping plan must meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. A +/- 30' tree preservation easement along the East property line will need to be established. This easement will allow for protection of mature existing trees as well as a screening to remain between this project and the existing neighbors. Tree replacement schedule must be submitted with landscaping.
- 8) Clearly label all Wetlands and areas to be preserved, untouched, on both the site and grading plans. The Wetlands shall also be displayed on the Plat of Survey. A detailed legal description and supporting wetland report is required to forward to DNR for concurrence. This can be on the Plat of Survey or adjoining sheet as a chart with all bearings and distances displayed and number to a corresponding line segment.
- 9) Provide revised site plan that shows the Limits of Disturbance (LOD). Orange construction fencing shall be placed around the delineated Wetlands and potential preservation areas on site. These plans shall also include the erosion control plans and construction staging plans.
- 10) Satisfaction of all staff concerns identified in a letter dated October 31, 2005.

Mr. Gihring requested that the applicant return with a plan showing the height and density being decreased and the buffer restored, preferably to 120 feet, as well as addressing all other issues listed.

Seconded by Alderman Ament. Motion carried unanimously.

3. (7)NJ R-4-05 Crossroads Community Church – 4315 S. Moorland Rd. –  
Rezone from R-3 to I-1.(Public Hearing 6/6/05, 7/11/05)

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

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 4315 S. Moorland Road from R-3 to I-1.

Seconded by Mr. Gihring.

Motion by Mr. Sisson to amend the motion to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 4315 S. Moorland Road from R-3 to I-1 effective upon approval of a building permit for Crossroads Community Church to build the proposed structure for which preliminary plans have been submitted.

Amended motion seconded by Mr. Gihring.

Motion by Alderman Ament to allow person from the audience to speak.  
Motion fails for lack of second.

Motion as amended passes with Mr. Sisson, Mr. Gihring, and Mayor Chiovero voting Yes; and Alderman Ament voting No.

4. (5)OA R-8-03 Elmwood School Parcel – 5150 S. Sunny Slope Road – Resolution to update Future Land Use Map.

Motion by Mr. Sisson to approve the resolution to amend the Future Land Use Plan and Map to correctly reflect the rezoning action taken in Ordinance #2222 to rezone the property located at 5150 S. Sunny Slope Road from I-1 to R-4.

Seconded by Mr. Gihring. Motion carried unanimously.

5. (2)OA U-74-05 Pro HealthCare Park – 2950 S. Sunny Slope Rd. – Waiver Request for Parking Lot Lighting Plan.

Motion by Mr. Sisson to approve the request for a waiver to deviate from Section 275-60(I) of the City of New Berlin Municipal Ordinance subject to approval by the Transportation Engineer.

Seconded by Mr. Gihring. Motion carried unanimously.

## **NEW BUSINESS**

6. (7)AB CU-8-05 Kenneth & Michelle Bahringer – 3780 Cari-Adam Dr. – Build a New Home in a C-1 Zoning District.

Motion by Mr. Sisson to approve the request for a Conditional Use Approval for a single-family dwelling including the accessory structure in the front yard within the C-1 Zoning District located at 3780 Cari-Adam Drive subject to the application, plans on file and the following conditions:

- 1) A plat of survey shall be submitted with the application for a building permit. The plat of survey shall show the recorded boundaries of the 20,000 sq. ft. area that may be disturbed, including buildings, septic location and driveway locations.
- 2) This application does not cover any buildings or structures. Applicant shall apply and obtain appropriate building, plumbing and electrical permits as required by code.
- 3) Building plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per State of Wisconsin Dept. of Commerce Safety and Buildings Division and the Wisconsin Uniform Dwelling code as part of the building permit process.
- 4) Erosion control shall be installed within 24 hours after beginning the excavating.

Seconded by Mr. Gihring. Motion carried unanimously.

7. (5)AB U-83-05 T-Mobile – 12660 W. Beloit Rd. – Co-location and Out-Building.

Motion by Mr. Sisson to approve the request for Use, Site and Architectural Approval for T-Mobile to co-locate 9 antennas at 140' to the existing 300' guyed tower and erect a new equipment shelter at the WVCY transmission station located at 12660 West Beloit Road subject to the completeness of the application, the plans on file, and satisfaction of the following concerns identified by staff:

- 1) Equipment shelter shall be designed to accommodate communication equipment for future providers.
- 2) Per Section 275-53B(1)(11) All existing nonconformities and outstanding code violations shall be identified, resolved, and remedied.
- 3) Building plans shall be signed and stamped by a registered architect or engineer per Wisconsin Enrolled Commercial Building Code (Comm. 61.31 responsibilities).
- 4) Building plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per State of Wisconsin Dept. of Commerce Safety and Buildings Division and the Wisconsin Enrolled Commercial Building Code (Comm. 61.70 Certified municipalities and counties).
- 5) Apply and obtain appropriate building, plumbing and electrical permits.

Alderman Ament questioned if there would be a health issue having that many antennas in one area. Ms. Jones said FCC regulates the equipment on towers. Also, at one time a sub-committee gathered health facts regarding antennas. There seems to be no conflict with the extra antennas on the tower.

Alderman Ament said property owners have complained that the over abundance of antennas has made it somewhat of an eyesore and that WVCY, the property owners, need to be a better neighbor by keeping their property tidier. Mayor Chiovatero spoke of the 12 foot swath through the woods that needs to be cleaned up, and of the complaint that the radio station is transmitted into nearby homes through computers, along with the need for proper screening of the site.

Motion to approve seconded by Mr. Gihring.

Motion by Alderman Ament to table the request for Use, Site and Architectural approval for T-Mobile to co-locate 9 antennas at 140' to the existing 300' guyed tower and erect a new equipment shelter at the WVCY transmission station located at 12660 West Beloit Road.

Motion fails for lack of second.

Further discussion followed on the best procedure to accomplish remedying the problems discussed earlier.

Ms. Jones said there are several different issues causing the problems. One is the the cutting of trees by WE Energies. We would need to see if their policy is to

reinstate grass in their easements. The second issue is the interference the neighbors are experiencing in their homes. A code compliance letter was written to Tony Kim, our Code Compliance Officer, about this time last year from Mrs. Gebhardt. The City along with WVCY worked diligently to respond to this letter. Ms. Jones said that WVCY has sent people out to look at Mrs. Gebhardt's computer and phones and installed, according to the letter, some equipment to help with the problem she is experiencing. A lot of time has been spent assisting with this issue. As far as screening, perhaps the new proposed landscaping can be located somewhere to screen these property owners more.

The City Attorney said if when the WVCY tower was originally approved with screening requirements, then we have the basis for an enforcement action. However, if it was approved and there was no such requirement placed on them, I don't know if there is a general requirement that would apply to require them to have screening at this point. The Telecommunications Act under which we would have to review these kinds of applications severely limits the basis on which the City can make decisions about approving this or not. Unless our original approval of WVCY had something in it that said if there was interference, they would correct it, that traditionally is an FCC issue. We can deal with the land use, site, and screening issues, but I do not know where we have the authority, nor are we equipped to tell them to power down their antenna and put filters on to limit interference. While I would like to help Mrs. Gebhardt, I don't know if we have the ability or the authority to try to make those kinds of restrictions to the interference problem.

As far as the landscaping, again, we are now looking at T-Mobile's screening with this application. The balance of the site isn't something we have the ability to deal with in terms of this application except to send the message to the landowner that we cannot approve any additional co-location.

Alderman Ament said he felt the best way to resolve and remedy all existing nonconformities and outstanding code violations is to put the whole thing on hold and tell WVCY that it is tabled until violations are fixed as it states in Condition #2 of the staff report. The City Attorney asked staff if there are code violations. Ms. Bennett said this is a general condition. The City Attorney asked what code requirements are there that say there has to be trees or screening for this particular antenna site. Mr. Gehring said in Section 275.41, which is the telecommunications section of the Zoning Code, there is a section covering landscaping for new sites. This is now, I don't know what it was when previous buildings were built.

Mayor Chiovatero said the largest non-conformity is that it is located less than 1,500 feet from a residence, but we cannot move the tower. That non-conformity will never be corrected. I am looking for some bushes to cover up the big path that WE Energies cut, putting the bushes on the WVCY property.

Alderman Ament asked about it falling under a nuisance. City Attorney asked if he wanted the city to hire an expert to determine if there is interference and prove that it is coming from that tower and bring enforcement action under the nuisance theory? That would be the potential enforcement issue that is outside of this particular application.

Alderman Ament said there are no nonconformities that we know of, there

are no outstanding code violations that we know of, and we apparently have no choice since the federal government said we have to allow them, so we don't really have a decision, do we?

City Attorney said the only other decision we have, is if we want to research what the original approval was and if there is something on the original approval which required some screening, that we then could pursue that. In that case, we would have a situation where the existing structure upon which these people want to co-locate is not in conformity with our ordinances. That would be the reason to table this item.

Ms. Jones drew attention to Sec. 275-42(2)c(1) – Page 275-133 Additional requirements, antennas and satellite dishes. Could that apply here? Perhaps we can observe some of the communication Mrs. Gebhardt has had with the FCC and resolve this issue. It seems it is going to come up each time something happens at that site.

The City of Attorney said we can table this to look at all the outstanding issues.

Alderman Ament asked if we could have the FCC look at this and determine if it is a nuisance? City Attorney said local nuisance regulations are yours to enforce. You have to prove that they are the source of the nuisance and it is, in fact, something that would annoy someone of the average sensibility, and that attempts have been made to correct this through contacting these people and they have basically, ignored the request to correct the situation. Again, in order for the City to pursue that beyond the municipal court level we would need an expert to identify that the source of the interference is their tower, and the situation that has resulted in a direct linkage to this particular operation. That may seem to be obvious and perhaps it may be, but you can't prove it unless you have someone with experience in telecommunications and transmission facilities that the City would hire to make that proof. The Council would have to decide if they wanted to engage in that kind of enforcement action.

Mr. Gihring asked when WE Energies cut down the trees, was there a requirement on them to replant anything? If there was, that would be a violation that would need to be remedied under Condition #2 of the staff report.

City Attorney said that is not on the agenda tonight. We are looking at the application for T-Mobile. The point here is that staff has heard all the comments and will investigate all the issues that have been raised.

Jeff Fowle, representing T-Mobile, said he is aware of some of these issues, but not of others. My guess is that a lot of the issues center around, not us as the applicant, but the owner of the site. As to the urgency of the situation, we are trying to be good applicants so we have no objection to the action you are suggesting, but we would ultimately like to get approval on this site because the way we interpret your ordinance, we don't have other opportunities to put a structure in this part of the City of New Berlin because of your strict requirements for co-location. If we are denied here, you are denying T-Mobile service in that part of the City.

Upon voting original motion by Mr. Gihring for approval fails with Mr. Gihring and Mr. Sisson voting Yes and Alderman Ament and Mayor Chiovaturo voting No.

Motion by Mr. Gihring to table the request for Use, Site and Architectural approval for T-Mobile to co-locate 9 antennas at 140' to the existing 300' guyed tower and erect a new equipment shelter at the WVCY transmission station located at 12660 West Beloit Road to allow staff to investigate outstanding issues.

Seconded by Mr. Sisson. Motion carried unanimously.

8. (4)NJ S-163-02 The Conservancy – 13150 W. Janesville Rd. – Final Plat.

Motion by Alderman Ament to table the request for a 67-lot (7 outlot) final subdivision plat for the Conservancy of New Berlin located at 13150 W. Janesville Road with a letter of extension on file by developer to extend review time period by 60 days, for the following reasons:

- 1) A signed copy of the 60-day letter of extension shall be submitted to the Department of Community Development prior to the Plan Commission meeting.
- 2) Resolve all planning, engineering, utility, and technical requirements / concerns outlined in the letter to the applicant dated October 28, 2005.
- 3) All lots shall meet the requirements of the R-3/PUD, I-1/PUD, and R-3 District.
- 4) Remove the building envelopes from the plat as discussed during October 18, 2005 meeting.
- 5) Resolve any concerns with the City regarding the City Well sites #11 and #12 prior to approval of the final plat. All paper work shall be completed prior to approval.
- 6) A final copy of the Homeowners Association Covenants shall be submitted for review.

Seconded by Mr. Gihring. Motion carried unanimously.

9. (4)NJ PG-955 Vacation of Road Reservation area in Karrington Woods.

Motion by Mr. Sisson to recommend to the Common Council approval of the resolution vacating and discontinuing the temporary emergency access easement for Karrington Woods Subdivision with the following comments:

- 1) This action is required by Chapter 275-15D(8)(a)[3] and Wisconsin Statutes.
- 2) The Official City Map shall be amended accordingly.
- 3) Sean and Theresa Modlinski located at 13636 W. College Avenue have requested the removal of the requirement that the Karrington Woods Subdivision have an emergency access roadway from Sunbury Road to College Avenue. The request is based on the fact that the Karrington Woods Subdivision now has a secondary roadway connection out of the subdivision through the newly completed adjacent subdivision, The Conservancy of New Berlin.

- 4) When the City removes the emergency access requirement and vacates the easement, Karringotn Woods LLC will quit claim Outlot 1 of Karrington Woods to Sean and Theresa Modlinski and Karrington Woods LLC will remove the asphalt temporary roadway and restore the lands on Outlot 1 and Lots 42 and 43 of Karrington Woods at its costs.

Seconded by Mr. Gihring. Motion carried unanimously.

10. (2)AB LD-11-05 Carl and Jacquelyn Koupus – 14511 W. Dianne Dr. – Se ¼ Sec. 11 – Three-Lot Land Division.

Motion by Mr. Gihring to recommend to Common Council approval of the Certified Survey Map for the property located at 14511 W. Diane Drive subject to the application, plans on file and following conditions:

- 1) The accessory structure shall be removed or relocated prior to the City signing the CSM.
- 2) Applicant shall correct all drafting errors identified by Staff prior to signing of the final CSM.
- 3) A final copy of the CSM shall be submitted to and received and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- 4) The new address shall be 14445 W. Dianne Drive.
- 5) The front set back for Lot 2 shall be 40'.
- 6) A right-of-way and plumbing permits shall be required for work within the right-of-way for sewer or water laterals to connect to the mains.
- 7) A culvert permit from the City shall be required for Lot 2.
- 8) Payment of \$2,137.60 in Public Site, Open Space & Trail fees required before the City shall sign the CSM.
- 9) Payment of any unpaid special assessments as determined by the City if required.

Seconded by Mr. Sisson. Motion carried unanimously.

11. (3)OA LD-12-05 Gerald Timmers – 19925 W. Pinecrest Ln. – Two-Lot Land Division.

Motion by Mr. Sisson to recommend to Common Council approval of the Certified Survey Map for the property located at 19925 W. Pinecrest Lane subject to the application, plans on file and following conditions:

- 1) Applicant shall be required to execute a conservation easement that further strengthens the development requirement guidelines outlined in § 275-37 D (3) (c) or the primary environmental corridor rezoned to C-1, Conservancy District. The 20,000 square feet of buildable area shall be established and recorded at time of Building Permit via a stake out survey.
- 2) A resolution that updates the Master Plan and Future Land Use Plan shall be adopted prior to signing or CSM.
- 3) Where the "Wetlands" cross any lot line show distances along each lot line from the adjacent lot pipe in both directions to the point where the Wetlands intersect the lot line.

- 4) Also where the "Primary Environmental Corridor" crosses the lot lines show the point of intersection along the lot lines from the adjacent lot pipe in both directions.
- 5) Applicant shall correct all drafting errors identified by Staff prior to signing of final CSM.
- 6) All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- 7) Payment of \$2,137.60 for the new lot in Public Site, Open Space and Trail fee shall be paid before the City shall sign the CSM.

Seconded by Mr. Gihring. Motion carried unanimously.

12. (5)OA U-4-04 South Phase Kasco PUD – 14300 W. Howard Ave. – Request for modification of condition of approval granted by Plan Commission on 3/7/05.

Motion by Alderman Ament to deny the request by the developer of Phase III of The Preserve at Deer Creek PUD (Kasco PUD) located at 14300 W. Howard Avenue to reconsider Condition #4 of approval granted by the Plan Commission on March 7, 2005 to allow for the issuance of only two (2) Building Permits at this time.

Seconded by Mr. Sisson. Motion fails with Alderman Ament voting Yes and Mr. Sisson, Mr. Gihring, and Mayor Chiovatero voting No.

Motion by Mr. Sisson to approve the request by the developer of Phase III of The Preserve at Deer Creek PUD (Kasco PUD) located at 14300 W. Howard Avenue to reconsider Condition #4 of approval granted by the Plan Commission on March 7, 2005 to allow for the issuance of only two (2) Building Permits at this time subject to:

- 1) Occupancy Permit will not be granted for the two buildings until all the public improvements (Howard Avenue to Sunny Slope Road) are constructed, inspected and accepted by the City Engineer.

Seconded by Mr. Gihring. Motion passes with Mr. Sisson, Mr. Gihring, Mayor Chiovatero voting Yes and Alderman Ament voting No.

#### **CONSENT AGENDA ITEM**

13. (7 )NJ PG-946 New Berlin West High School – Sewer Service Area Boundary Change Request (Tabled 2/7/05)

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

Motion by Mr. Sisson to remove from the agenda the request by the School District to adjust the MMSD unplanned current Sewer Service Area line (boundary) to only include the New Berlin West High School property located at 18695 W. Cleveland Avenue for the following reason:

- 1) This item has been on the pending list since the applicant requested the item to be tabled on February 2, 2005. No new materials have been submitted to date regarding this request.

Seconded by Alderman Ament. Motion carried unanimously.

## COMMUNICATIONS

14. Communication To: Plan Commission  
Communication From: Nikki Jones, Planning Services Manager  
Re: 2006 Plan Commission dates.(PG-790)

Plan Commissioners were asked for questions or concerns about the Plan Commission dates planned for 2006.

15. Communication To: Plan Commission  
Communication From: Greg Kessler, Director of Community Development  
Re: Milwaukee Journal Sentinel, October 16, 2005, "With No One Willing to Foot The Bill, Sidewalks Leads to a Dead End".

Plan Commissioners acknowledged receipt of this communication.

16. Communication To: Plan Commission  
Communication From: Nikki Jones, Planning Services Manager  
Re: Tabled Item – Alternative Transportation Recommendation/Moorland Road Sidepaths (PG-293)

This communication is a follow-up to a communication that went to Common Council regarding the sidepaths on Moorland Road.

## ADDENDUM ITEMS

17. (7)AB U-61-05 New Berlin West High School – 18695 W. Cleveland Ave. – Request for Modification of Condition of Approval Granted by Plan Commission on 9-12-05.

Motion by Alderman Ament to approve the request by New Berlin West Middle & High School located at 18695 W. Cleveland Avenue for a modification of condition #4h. of the approval granted by Plan Commission on September 12, 2005 to read as follows:

- 1) "The developer shall dedicate the northern 5-feet along CTH D to Waukesha County for public right-of-way purposes prior to occupancy being granted by the City."

Seconded by Mr. Sisson. Motion carried unanimously.

18. (7)AB U-35-05 Ronald Reagan Elementary School – 4225 S. Calhoun Road - Request for Modification of Condition of Approval Granted by Plan Commission on 7-11-05.

Motion by Alderman Ament to approve the request by Ronald Reagan Elementary School located at 4225 S. Calhoun Road for a modification of condition #5d. of the approval granted by Plan Commission on July 11, 2005 to read as follows:

- 1) "The developer shall dedicate the east 40.25 feet along Calhoun Road to the City of New Berlin for public right-of-way purposes prior to occupancy being granted by the City".

Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Alderman Ament to adjourn the Plan Commission meeting at 10:35 P.M. Seconded by Mr. Gihring. Motion carried unanimously.