

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

PUBLIC HEARINGS

6:00 P.M. (4)AB R-8-05 Wildwood Preserve – Approx. 5611 S. Calhoun Rd. – Rezone from A-2, C-2, R-3, R-1/R-2 to A-2, C-2, R-1/R-2.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

SEPTEMBER 12, 2005

MINUTES

The public hearing relative to the request by Mark Wimmer for Wimmer Brothers for a rezoning at approx. 5611 S. Calhoun Road from A-2, C-2, R-3, R-1/R-2 to A-2, C-2, R-1/R-2 was called to order by Mayor Chiovero at 6:03 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Barnes, Mr. Felda. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Anthony Kim, Code Enforcement; Eric Nitschke, Storm Water Engineer, Ron Schildt, Transportation Engineer. Mr. Gihring arrived at 6:30 P.M. Mr. Teclaw and Alderman Ament 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.

Mark Wimmer, representative for the project presented additional information explaining the request.

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

Joe Russ, 16800 W. Shadow Drive – Does this fall under the new conservation subdivision that was just implemented?

Ms. Jones – No, it was determined by the City Attorney that it would be reviewed under the old code. The conceptual plan came in and was deemed the first step in the process.

Mr. Russ – But, it was rejected when there was a moratorium going on, and then the new code was applied, that's interesting. On the first draft last year I noticed that there were some phantom lots (Phase II) along Calhoun Road. I notice that some of those lots are now incorporated into this plan, others are not. Are there any surprises down the road ?

Mr. Wimmer – All of the other lands along Calhoun Road are in private ownership. All lands that are within this area are 100% included in this plat. All lands owned by Trees on The Move, all lands owned by Wimmer Bros., everything.

Mr. Russ – Previously some of those lots were owned by a group called Calhoun Properties. What are the size ranges of the houses to be built and what is the price range on the lots and houses?

Mr. Wimmer – The lot prices will range approx from \$190,000 - \$200,000. The size that is proposed, which would be put in place by deed restriction, is 2,400 sq. ft. for one-story homes and 3,400 sq. ft. for multiple story homes with a minimum two-car garage and a maximum of three and one half car garage whose doors will not directly open to the front public roadway.

Paul Schueble, 19890 W. Julius Heil Drive – What is the legal reason for considering this under the old subdivision ordinance? The last one was denied and this deals with new lands, different owners, and different configuration of the land.

Ms. Jones – The discussion that Mr. Kessler had with the City Attorney and myself was that there was a conceptual site plan that had been through the process using the old code, and the developer had done substantial work on that as well as worked on the rezoning throughout the moratorium. It was deemed that there was enough work completed with the intent to apply to a preliminary plat, but at that point in the process there was a moratorium.

Mr. Schueble – That was denied for reasons that the work that was done was not...

Ms. Jones – Are you talking about the rezoning? That is what we are talking about tonight. The rezoning was denied, but the conceptual plat was reviewed separately from the rezoning.

Mr. Schueble – The conceptual plat has changed though, right?

Ms. Jones – It has changed somewhat, yes.

Mr. Schueble – Under the new code, it would have to be changed considerably. I have a bit of a problem with this, as did the last speaker. Both the new code and the old code are supposed to be consistent with the Master Plan for maximum allowable gross density of 1-5. From what I understand, what is proposed for this conceptual plan is 40 lots on 178 acres which is less than 1-5, therefore it is not consistent with the Master Plan. Is that consistent with your understanding of what is the maximum allowed?

Mr. Wimmer – The total acreage involved here is approx. 183 acres. There are 40 parcels, five of which contain existing homes and 35 lots will be added. That differential between dividing by five, coming up with the total, is actually the difference of the density calculation allowed under the old code vs. the new code. We have larger lots with these, but under the size lots that we are doing, which is an acre which is again larger than the new code requirement, they allow for density bonus because of the amount of open space.

Ms. Bennett – We have a chart on the screen that describes density calculations for the proposal. It will take you through, basically what Mr. Wimmer has described. 178.78 acres divided by five, the open space required, and then down to the density bonuses for the proposal. They are actually allowed 43.34 lots. They are proposing 40 lots.

Mr. Schueble – The point of confusion is one, that it is considered under the old code, and two, the maximum allowable gross density is very clearly stated in the Master Plan. In the old code we had wetland acreages which were subtracted out from the total before the density calculation. Therefore, if you had a lot of wetland or conservation areas being subtracted out, you could with a density bonus, get yourself back up to a 1-5 density. Similarly with the new code, but still according to the Master Plan, in no way are we to exceed a maximum of 1-5 gross density. This is not in conformance with the Master Plan. These resource protections are to protect neighboring properties. If neighboring properties were harmed by the overtaxing of the local aquifer, and we had exceeded our maximum allowed density, would those neighboring properties have subject for a law suit based on our violation of our own Master Plan?

Ms. Jones – Tonight is the discussion on rezoning. I want to make sure we stay on that topic. Some of these other issues like the lots and the density can be discussed, but our focus should

remain on the zoning discussion.

Mr. Wimmer – I would like to address two false statements that were made. The first is that the old code did not provide for reduction of acreage due to wetlands or environmental features. That is a component of the new code. The old code had a whole different approach to this, and as part of the Master Plan, it provides for West of Calhoun, the statement of either you use one type of zoning which is 1-5, or the code encourages going to a conservation subdivision promoting open space that would be commonly owned in a preservation of the open space area. There you got a density bonus. I know that is what the code states and I know it has been gone over extensively by everyone connected with this.

Mr. Scheuble – Even though it is a rezoning, is it not the fact that the actual preliminary plat proposal would be consistent with what came with the application? There is a pretense that this plan is what would subsequently follow from the rezoning. Consistency with the maximum allowable gross density should be considered before a decision is made.

Art Marquardt, 17940 W. Beres Road – I am not in support or in opposition to this rezoning. I am appreciative of the changes that have been made to the previous proposal including all the lands that are owned by the developers in that area. I also think the idea of 183 acres with 40 homes in a neighborhood that is really a high density neighborhood is a step up in size of homes and provide definite curb appeal to people who can't afford to be in there, but would like to be near there. The current plan puts several of these houses right across the street from me. If I was doing the design, I would have put those houses on 100 ft. lots facing Beres Road so that it would look like the rest of the neighborhood, but this is a very good alternative to that because we will have buffer to Beres Road and it will look pretty much as it does now to us. We will have the trees, a buffer berm, and a nice neighborhood street that is cul-de-saced for our kids to play on. That basically locks up that whole section of New Berlin from Calhoun Park west to Martin, preventing these properties from staying vacant long enough for sewer and water to end up there and become part of Westridge Industrial Park. I would much rather see 40 upscale homes in my neighborhood than wait five years and see that turned into industrial or commercial.

Mike York, 17670 W. Jacqueline Drive – This plan looks a lot better than the last ones that came through. If I am going to have neighbors, this is the kind of neighborhood I would prefer.

Ken Harenda, District 4 Alderman , 19400 W. Vista Drive – In May 2004, Waukesha County had submitted a letter to Wimmer Bros. and copied the City of New Berlin regarding the potential for private sewer treatment systems on this development. At the time, because of the existing tree nursery operation on this property, there was a number of questions regarding the ability of the soils on this site to be able to utilize a private system. I had contacted the County and talked to Alice Slusher and asked Mike Rodomski to make comments because they have the over site for approval of septic systems along with the State of Wisconsin. There were questions that because of the soils in the area and the number of lots, there might not be enough land that would perk out for potentially supplying 40 new lots.

Mike Rodomski, Waukesha County - I had a chance to speak to Todd Stair from Aaron Environmental Services about the design of the subdivision. What he presented to me was very preliminary, but one of the things we talked about was placement of the private sewer systems in the development. Several of them would be off lot private sewer systems. Todd presented me with a plan where there would be three clusters with off lot private sewer systems. The mound systems in those locations would be in the areas you have designated as open space. ( Discussion on location of mound systems on map)

Mr. Wimmer – When we started this subdivision, the County asked us to get clarification on the question of developing within a nursery, the fact that there are sites where trees have been removed. We received a determination by the State and we have now gone out and redone quite a few of our borings. The purpose of Mr. Stair meeting with the County was specifically to take a

look at what additional things do we need. We believe that it is totally feasible.

Mike Rodomski, Waukesha County – When I met with Todd Stair, he indicated that there is more work that needs to be done, more soil borings to further define areas that were shown as proposed locations for the private sewer systems. As stated earlier, many of the systems would be aerobically treated and grouped together. If it is planned properly, it could be worked out. In reference to some of the concerns we had earlier with some of the testing that was done, because it is a nursery there is a lot of tree spade holes that were left or filled in. We had the State on-site waste specialists out at the site and a plan for overcoming some of those obstacles did develop. Any sites that would be placed over those tree spade holes would have to be addressed. I know this is the rezoning phase, but this site brings about some challenges because of the soils and because of the tree farm operation and all of those issues would have to be addressed before we are satisfied with placing an on-site sewer system on the site.

Alderman Harena - There was some discussion at staff level of some of the concerns we have had regarding special assessments and putting in sewers and water mains in other parts of the City. We are getting to the point where the special assessments can be quite pricey. It was floated as a potential since this area is in the ultimate sewer service area within our plans to have the development pay and put in sewer mains along Calhoun Road to possibly tie into this development if sewers were brought out to this area. I am not for that. I don't think it's a good idea at this point in time plus with changes in technology and potentially, if sewers never got to this area, it would be a waste of money. I know Mr. Wimmer doesn't want to put money into infrastructure that may never be used.

Vernon Bentley, 3450 S. Johnson Road – I am questioning the process more than the development. Earlier Nikki said that we have to remain on the agenda and that is what the City Attorney always reminds us of, but yet it seems you are accepting this plan because of the conceptual plan from the past. Normally, we are told to stick to the agenda or the rezoning. Do not use the conceptual plan. One of the reasons for that is that later on the lot design could change. An example being the public hearing for Crossroads Church on Moorland Road. There were certain issues we could not talk about which brought up the other point that technically, the church should never have shown us a picture of their beautiful church because it had nothing to do with zoning. On the Poplar Creek conservation subdivision, the entire Poplar Creek was rezoned R-1/R-2, 100 and some odd acres because of movements of lots and just earlier the gentlemen said they were going to do more soil borings to define location of lots in this area and it could change the conceptual plan. My question is why are we using the conceptual plan in this particular case, when normally in a public hearing we are told we can't use that?

Ms. Jones – Any time we do a rezoning, the applicant is required to show some sort of a sketch plan of their idea. They are required to submit something, no matter how detailed, so we have some idea of what we might see there in the future. This sketch was derived from a concept plan that started a long time ago.

Mr. Bentley – Throughout all the public hearings for this project, the conceptual plan has changed many times down the line. We are going back to the old codes and ordinances, but yet this whole plan changed and normally we don't even use a conceptual plan when we do rezonings.

Cindy Wright Kau, 5160 S. Calhoun- I have questions about the conservancy part of this subdivision. I have seen a lot of conservancies change in the City. We had a conservancy that got mowed over. Is there a time frame for this kind of thing? What kind of conservancy are you going to leave there?

Mr. Wimmer – Under the City's zoning district, it calls for this subdivision to have the open space placed in a conservation zoning. That zoning conceptually could be changed by an action by the City, however, we have gone one step further and indicated that we will record against all of the

open space in the subdivision a preservation easement which would prohibit use of it in any way that is dissimilar to the whole concept that we are going into this with. This Commission, in fact, had an opportunity to work with a preservation easement that I think was one of the first in the City, that we wrote and placed on the lots in Woodshire Subdivision. As you are aware, we placed it on the land, the petition came from the homeowner as to being able to encroach within that preservation area, and not only were there the teeth of the rezoning, but also the teeth of the recorded document that cannot be changed unless there is consensus among all of those parcels that are a privy to it, which would be the 40 parcels, but also the City.

Cindy Wright Kau – Are you going to keep the trees or are you going to mow it down to put in a holding pond which is nothing but a cess pool?

Mr. Wimmer – The preservation easement would be placed upon the site. There will be storm water management ponds that will be developed within the open space areas just as any other subdivision must have storm water management facilities. Those facilities are not only to deal with run off from the site, although there is very little impervious area, but that water needs to be treated not only so that the volume that runs down stream is not increased, but that the quality of that run off is in good shape as it enters into the Muskego water shed so that metals, sediments, etc. settle out and clear water is sent down stream. You are really asking two questions. The conservation area will be forever put into a conservation area. It will be maintained as a natural area.

Cindy Wright Kau – I have not seen any holding ponds that actually run into any of the creeks. The creeks around here have been drying up, but these holding ponds are still holding water. We have two in our neighborhood that are just mosquito and geese havens. I don't understand when you say it is going to run into the creek. How is it going to run into the creek? The dirt is too high around it.

Mr. Wimmer – The facilities are designed in a variety of ways. These will be dry basins. During the vast majority of time they will be in a prairie type of grass and whenever a storm would occur, water would collect in them and then slowly move out in a course of 24-48 hours. It is not intended for them to be wetlands.

Cindy Wright Kau – Like the one on Beloit Road by the Industrial Park, they planted the weeping willows around it and they mow it. It is not moving water, it is standing water. In fact, in your notices you even say don't leave standing water around your yard because you will have mosquitos with the West Nile issue, but yet you have this holding pond that is stagnant water that gets mossed over and is very nasty.

Mayor Chiovatero – The storm water ponds are regulated by authority other than the City.

Cindy Wright Kau – But we are telling them to put them in.

Mayor Chiovatero – We are mandated for them to put them in.

Ms. Bennett – The storm water management plan will be up for review when the preliminary plat is submitted. When they come back with the proposed lots for the preliminary plat, we will have the storm water management plan.

Joe Russ, 16800 W. Shadow Dr. - I want to clarify something for myself and everybody else here. I am not a lawyer, so I am not exact on the procedure, so correct me if I'm wrong. Step one of this process is for rezoning, step two is the platting. According to the fact that we never got past step one on the first try because it was never passed, but we are going under the old code because of step two. Am I missing something, or is that the way things are going?

Ms. Jones – As I explained earlier, in speaking with the City Attorney, step one for this project

started with the conceptual subdivision plat which we looked at in 2003.

Mr. Russ - In step one, the rezoning is to be approved, or is that step 2?

Ms. Jones – In this case, he is choosing to do the rezoning next so he can get the zoning in place, because as you know, he cannot build single family homes where he would like to right now.

Mr. Russ - Having step one being the conceptual plan that would have had to be approved somewhere, and the plan has changed numerous times, so I am confused how we got from step one to step two.

Ms. Jones – After the meeting tonight, I will prepare an e-mail to the City Attorney asking him to provide me that documentation and I will put it on the Website so that you can read his legal opinion.

Mr. Russ - Thank you, Nikki.

Mr. Wimmer – When we came in, we came in with a conceptual plat which was reviewed by this body. We then went back and started the rezoning process. When the City went forward with it's moratorium on development of these types of subdivisions and identified those subdivisions that were exempt from that moratorium, it exempted not only this subdivision, but two or three subdivisions that were at some point along the way. The rezoning was turned down without prejudice with one point of change to allow approval. Based on that, the attorneys have come back and said that this is still part of that overall process. The layouts are somewhat different, but the general area of where the lots are have never changed. We may have moved the road east or west, but the lots still remain primarily where they are. I believe that is the rationale that said we were exempt from that moratorium. We were in the midst of the process, and it was anticipated that we were going to come back after we corrected the one thing that the Alderman who voted at Council had initiated.

Paul Schueble – Was there a preliminary plat actually submitted prior to the rezoning?

Ms. Jones – It is a conceptual plat.

Mr. Schueble – Those are not binding as in a case such as Thomson/Polzin who submitted a preliminary plat in a timely fashion in order to get under the old code.

Ms. Jones – The zoning needs to be in place.

Mr. Schueble – I understand. That was Mr. Russ's point which I thought was very good. The other question that I have concerns what Alderman Harenda raised as far as the plan by MMSSD to plan for the ultimate service area. That was supposed to be done in accordance with our adopted Master Plan which would prohibit sewer out in this area. I have a map showing how the gravity flow systems would work and where the interceptor sewers would go. If, indeed, the ultimate sewer service area was ever to be enacted and gravity flow systems which would be required by developers handbook for any proposed subdivision, that would go down to an interceptor system which would go right through your land. If Plan Commission considers moving ahead at this time while it is still in flux whether ultimate sewer service area will be opened up where sewer would actually be required, what could happen is you could get the rezoning for this, hold back on the development of the preliminary plat, have the adopted ultimate sewer service area plan, and then come back with a plan that has much higher density. This is a possibility if the sewer service area plan moves forward. This is something to think about, since he is not bound by this sketch map. This is the same reason why this sketch map should not qualify for him being able to come under the old ordinance.

Mr. Wimmer – The rezoning that we are asking for is, as you can see, the current zoning being the yellow and mustard color, are existing residential zoning areas. That accounts for approximately 63 acres. What we are doing is reducing the total amount of existing residentially zoned land to approximately 45 acres. We are rezoning it to R-1/R-2 which requires lots of a certain size, a certain width, and that is all we are doing. When you take a look at the proposed zoning, you can see where the cluster lots are in the upper right hand corner, below what we are taking out of R-1/R-2 and making A-2, both in the lower corner as well as in the upper left hand corner. In effect, with this rezoning we have throttled ourselves to a X number of lots because of the configuration of exactly what we are rezoning. If, in fact, we followed the logic, the only way that we would be able to add more lots to this area once sewer would come through, would be to rezone back from R-1/R-2 to an R-3 or something less. We all know that is simply not going to happen. The zoning that we are asking for is the best insurance that there is no more lots than what we are proposing.

Mr. Schueble – The R-1/R-2 and the five acre density was contingent upon the fact that sewer was not available. If sewer does become available, the whole game changes. It is hard to predict, at this time, what actually would happen.

Mayor Chiovaturo – We need to go back to questions about the rezoning.

Mr. Schueble – There would be some benefits from going along with this idea of rezoning this particular land the way it is configured as there would be permanent restrictions in the future. Mr. Schueble read State Statute 236.293.

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

Mayor Chiovaturo asked three times for anyone wishing to speak in favor, seeing none.

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

Joe Russ, 16800 W. Shadow Dr. – It is a shame that we are back doing this again. The previous rezoning was approved by this Commission twice, Council sent it back once because the developer didn't have the wetland delineation, then Plan Commission approved it again, it went back to Council who rejected it because it was R-3 west of Calhoun. I am still perplexed as to how it can come under the old code. That is one of my objections, that it should be under the new code. It seems like something was backwards with the process. The cart was in front of the horse, or next to the horse, but it wasn't behind the horse on this one. As far as a conservation subdivision, this area already resembles a conservation subdivision. There are clusters of housing in and around a tree farm, which is just what Randall Arendt told us a year ago in his study that we spent just under \$20,000 for. All Wildwood does is nibble away at the open space we have left, like a cookie, eat part of it and come back the next day to eat another part of it and eventually you don't have what you had before.

There are other issues. Traffic. According to information from the City's Website, traffic on Small Road, Moorland Road, and Grange Ave. has increased 100% between 1991 and 2000. On the corner of Calhoun Road and National Avenue it has increased 44%. That has occurred without a lot of development in this area. Now we are adding development, so expect those numbers to go up. Wildwood Subdivision will bring more traffic through Sun Shadow West Subdivision as drivers look for shortcuts. You are already having traffic problems on the East part of Small Road between Moorland Road and Beloit Road where you have residents complaining about the amount of traffic and want a cul-de-sac put in to stop the flow. As soon as residents complain, will you keep putting in cul-de-sacs? You will risk driving through one-way streets as in Waukesha. Learn from your mistakes in overdeveloping an area. If the roads cannot handle the traffic, you will create more problems. There is also visibility issues. The road off of Small Road is still in a bad location. It is going to be at the base of a hill, visibility coming down Small Road ,

particularly from Muskego, will be very bad. I know because I bicycle through there and I have to flag cars past me if I am on the hill. As far as extending Shadow Drive across Calhoun Road, the road might be platted out there, but it is in a bad spot. You come under the bridge at I-43 and look up there, you cannot see what is pulling out, fast or slow, until you get almost on top of the hill. I have lived in New Berlin almost 38 years, so I know these roads and I know this area.

Water. If anybody is looking at their lawn lately who hasn't watered it, you will notice we are having somewhat of a drought. I know they say the recharge will be better than before. You have to have something to recharge it. For the last three years, we have been below average rainfall. Sometime down the road, it is going to come back to get us. You might have enough water now, but when we start drawing more out and we don't have it, where are we going to be? Just look at the water levels in the pond at Calhoun Park today. It is down about a foot if not more. You might remember a few years ago, the water experts in New Berlin said putting a new well in for Westridge would not affect residents in that area. After they put the well in, many residents had their well go dry. Water is becoming a bigger issue. In this past Sunday's paper there is a front -page article about two candidates for County Executive and their concerns over water. Keep in mind that our former County Executive moved to Milwaukee County, which doesn't have a water problem.

The Conservancy Area. Another part of my problem, besides the traffic and the water, is that there is a woodland area. The conceptual plat shows a road going through it. There are not a whole lot of trees there to begin with. All those trees should be kept. That is the complaint I had about the first draft.

In closing, I ask that you reject this rezoning, citing the issues I just mentioned. Residents move to an area because they like it for what it is when they see it, not for seeing more subdivisions and traffic in the future.

Sandy Halstead, 5150 S. Mars Drive – I am opposed for the rezoning proposal for the Trees On The Move property because I am extremely concerned about the water supply in this area. We have had drought conditions last summer and this summer. Calhoun Creek is almost dry and the pond in Calhoun Park is down about 18". I have not heard of any recent studies done on the water tables in this area, but people say they are down. According to an article in yesterday's Journal/Sentinel, the water shortage in Waukesha County is a primary issue for the candidates for Waukesha County Executive. In the article it states, "Water shortages loom outside the basin in Waukesha County areas where residential growth has left underground aquifers nearly depleted." We should find out if we have enough water to supply homes that already exist on the west side of Calhoun Road, before we consider adding a large development of 40 homes.

I also have concerns about added traffic in this area and more development will only mean higher taxes for all of us in New Berlin. The yearly property tax for a single family home will not cover the cost of one child in a public school for one year. I am not against development in New Berlin, and currently, there is plenty of it. Development on the west side of Calhoun Road should be considered very carefully to protect the resources and beauty of this area. I cannot think of one benefit there would be to New Berlin to rush into a development of this size in this area.

Mary Hiebl, 20160 W. National Avenue – I concur with many of the objections and concerns that people have expressed this evening. Therefore, I am requesting that the rezoning be rejected tonight. In addition to that, I have other issues. Currently, within the City there are recently approved development projects totaling 848 living units. These are a combination of single-family homes, condos, and apartments. The additional major development projects under consideration within the City are a total of 115 units, excluding Wildwood. Regardless of the way this is painted, reconfigured, and whitewashed, this is definitely urban sprawl. This development proposal currently before the City seems grossly out of sink with needs and wants. This seems, and is, a classic example of sprawl, land consumption, and population mismatch. Please, as Commissioners, consider all of these items which have been expressed tonight and look at the

Website to see what is already proposed. Why is there a need to add more when these people tonight have already expressed these concerns?

Paul Scheuble, 19890 W. Julius Heil Dr. – My major concern is that this proposal will exceed our Master Plan allowances. You will set a precedent here. Our Master Plan, which our code is to be in concert with, says maximum allowable gross density is not to exceed one house per five acres. Let's not loose site of the one good tool we have to control development on the west side of town. If you do the 1-5 gross density, it will be a few houses less, but you will not compromise our Master Plan. The other consideration is the sewer and complications in the future. The idea of the woodlands, global warming, and maintaining as many trees as we can to purify the air needs to be considered. This should not be another subtle, little incrementally lost opportunity for a better quality of life in New Berlin. I really appreciated having a good rural business such as Trees On The Move and what they provided such as vegetation for the community, the clean air, open space, aquifer recharge, things that many of the higher density developments adjacent to that are dependent upon. The more impervious surface we do, the more demand on the water table, the closer we become to a non-sustainable water supply. I think we should be very careful about approving these kinds of rezonings until the groundwater study is done by the Regional Planning Commission.

Michael Wright, 5160 S. Calhoun Road – There is a sign outside of New Berlin on both sides that says National Arbor Day, a lot of trees... I don't see it. Everywhere I look trees are getting cut down, thrown away, for what? Here we have a tree farm turning into a subdivision. I planned to live here a long time.

Dave DeAngelo, 5925 S. Calhoun - I am against this rezoning because of the property taxes for the adjacent, existing neighbors. I bought my acre and a half for \$170,000 and my last reassessment went up \$50,000.00 in the last two years. If this development happens, it's going to go up a lot more, I'm sure.

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

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

Mayor Chiovaturo closed the public hearing at 7:22 P.M.

6:01 P.M. (4)OA R-5-05 James Gatzke – 13900 W. Brook Hollow Ct. – Rezone from R-3/C-1/C-2 to R-3/C-1/C-2. – Delineate Wetlands.

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

SEPTEMBER 12, 2005

MINUTES

The public hearing relative to the request by James Gatzke for a rezoning at 13900 W. Brook Hollow Ct. from R-3/C-1/C-2 to R-3/C-1/C-2 was called to order by Mayor Chiovero at 7:24 P.M.

In attendance were Mayor Chiovero, Mr. Sisson, Mr. Barnes, Mr. Felda, Mr. Gihring. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Anthony Kim, Code Enforcement; Eric Nitschke, Storm Water Engineer, Ron Schildt, Transportation Engineer. Mr. Teclaw and Alderman Ament 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 Chiovero asked three times if there were any comments or questions for the purpose of clarification, seeing none.

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

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

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

Mayor Chiovero closed the public hearing at 7:27 P.M.

6:02 P.M. (7)AB R-9-05 New Berlin West High School – 18695 W. Cleveland Ave. –  
Rezone from I-1 to I-1/C-2. – Delineate Wetlands.

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SEPTEMBER 12, 2005

MINUTES

The public hearing relative to the request by Anthony Petersen of Ruekert-Mielke for New Berlin West High School for a rezoning at 18695 W. Cleveland Ave. from I-1 to I-1/C-2. to delineate wetlands was called to order by Mayor Chiovarero at 7:27 P.M.

In attendance were Mayor Chiovarero, Mr. Sisson, Mr. Barnes, Mr. Felda, Mr. Gihring. Also present were Greg Kessler, Director of Community Development; Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Anthony Kim, Code Enforcement; Eric Nitschke, Storm Water Engineer, Ron Schildt, Transportation Engineer. Mr. Teclaw and Alderman Ament 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 Chiovarero asked if there were any comments or questions for the purpose of clarification?

Vern Bentley, 3450 S. Johnson Road – (Referencing Map) Is that going to remain C-1 or will it be delineated?

Ms. Bennett – (Referencing Map) That is proposed to be C-2 Shoreland/Wetland. Currently the entire property is zoned I-1. There are no identified C-1 or C-2 areas.

Mr. Bentley – That is going to be identified as C-2?

Ms. Bennett – Correct.

Mr. Bentley – There is an issue with the School District that has been going on for three years. The land has been filled in and the people in Thornapple Subdivision are getting flooded out. That area is supposed to be changed or redone. The School District has not been responding to the people's flooding problems. When that area was filled in during 1990, it was done by volunteers with free soil, and I don't believe they even had a permit. I attended a school board meeting when Ruekert-Mielke made their presentation about that area and the gentlemen making the presentation mentioned the permit. After he got through speaking, I asked him if I could have a copy of that permit and he said it's in our basement somewhere. I asked him if he had ever physically seen it and he said no. I don't know if you are delineating any of those wetlands in that area, but that is a sore spot with people and the School District. I am questioning how much you plan to leave as wetland. That, technically, was all a big low, conservancy area before it was all filled in. The School District put a building on there, which the Council approved and probably shouldn't have.

Mayor Chiovarero – That is still a huge concern to the City. Later on the agenda there will be discussion on an expansion to the high school. We received a letter on Friday saying they will fix it. It will be a basis to get an approval of the expansion.

Mr. Bentley – I have relatives who own land in that area. All of us will be watching to see what happens tonight with the delineation.

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

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

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

Vern Bentley, 3450 S. Johnson Road – I am not really in opposition to this project, but I want to have it documented that it was mentioned tonight and this area gets taken care of before the wetlands are delineated. The residents in Thornapple need to have the flooding eliminated.

James Flagg, 3180 S. Thornapple Lane – I have lived in this subdivision for 42 years and I have seen a big change on that property. There are two areas of C-2, one at the top and one at the bottom of the map, and there is a big pipe in between. The pipe is not big enough to take care of what is happening. If something is not done, that area will remain as it is, wet. If you walk down there now, you can't get back of the soccer field to get the ball out of the water. That water is so polluted, you cannot walk back there. I would hate to see any kid go in that pond and get that water on him. It is only about 20-30 ft. in diameter, but it is polluted.

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

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

Mayor Chiovero closed the public hearing at 7:36 P.M.

6:03 P.M. (3)NJ R-10-05 Michael R. Roman – 18715 and 18635 W. Greenfield Ave. –  
Rezone from R-1/R-2/C-2 to R-1/R-2/C-2 – Delineate Wetlands.

NEW BERLIN CITY HALL COUNCIL CHAMBERS

SEPTEMBER 12, 2005

MINUTES

The public hearing relative to the request by Michael Roman for a rezoning at 18715 and 18635 W. Greenfield Ave. from R-1/R-2/C-2 to R-1/R-2/C-2 to delineate wetlands was called to order by Mayor Chiovarero at 7:36 P.M.

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

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

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

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

Howard Kuenzi, 18551 W. Greenfield Avenue – I would like to know what areas will be delineated?

Ms. Jones – (Indicated on map) The green area on the map is zoned Shoreland/Wetland. The only area that they can build a single family home on is right here.

Mr. Kuenzi – Where will the house be?

Ms. Jones – (Indicated on map) Right now, the current house is on this parcel. The future home could go any where within this area as long as it met the setbacks.

Jason Richards, 18575 W. Greenfield Avenue – He would only be able to build one single family home?

Ms. Jones – Yes, one single family home could be built on the newly created lot outside of the wetlands.

Mr. Richards – Where can I find the details on the setbacks. I live just east of this property.

Ms. Jones - The front and rear setbacks are both 50'. The side setback from your property line would be 25'. He is also required to be 30' off of the wetland boundary.

Mr. Richards – If this rezoning goes forward, would he need to come forward with a building plan?

Ms. Jones – If he sold the lot or decided to build his new home there, they would come for a building permit.

Mr. Richards – Would it be all his decision where he would place it on the lot?

Ms. Jones – Staff does play a role in that. The building plan is routed to an engineer who looks at the grades on the property to make sure it slopes correctly. This lot is in an area where it will have septic and well, so he will need to allow for those areas also. There will be a lot of factors that play a part .

Mr. Richards – Is there any requirement as far as how many trees in the area need to be kept? I don't blame someone for wanting to do what they want to do on their own property, but like anyone else, I am concerned how it will affect the look and feel of my property.

Ms. Jones – Generally no, not for a land division. More so with a subdivision. I know we work with applicants on preserving trees. We do have certain criteria.

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

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

Vernon Bentley, 3450 S. Johnson Road - Eric was kind enough to bring me a letter from James Benfield addressed to the Mayor assuring us that the storm water issue will be taken care and I appreciate this information. Thank you.

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

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

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

Mayor Chiovero closed the public hearing at 7:50 P.M.

NEW BERLIN PLAN COMMISSION  
NEW BERLIN CITY HALL COUNCIL CHAMBERS  
SEPTEMBER 12, 2005  
MINUTES

Privilege of the Floor

The Plan Commission was called to order by Mayor Chiovero at 7:50 P.M. .

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

Motion by Mr. Barnes to approve the Plan Commission Minutes of August 8, 2005. Seconded by Mr. Sisson. Motion carried unanimously.

Plan Commission Secretary's Report - We have a sketch plan for a conservation subdivision under the new codes, and we will be organizing a site walk for Plan Commissioners during September.

CONTINUED ITEMS

5. ( )GK PG-741 Zoning Ordinance Revision – Floodplain Zoning Ordinance.

Motion by Mr. Gihring to table the Floodplain Zoning Ordinance discussion. Seconded by Mr. Barnes. Motion carried unanimously.

Motion by Mr. Barnes to forward to Common Council to set a Public Hearing date for the November 7, 2005 Plan Commission Meeting regarding adoption of the DNR Model Floodplain Ordinance and associated changes to Section 275-38 (Flood Hazard Overlay Districts) and Section 275-13.1D(1) and (5) and Section 275-13.1G(1) and (2) (Zoning Districts) of the City of New Berlin Zoning Ordinance.

Seconded by Mr. Sisson. Motion carried unanimously.

6. (4)OA U-25-05 Michael Byrne – 5600-5900 Moorland Rd. – Westridge Development East.(Tabled 6/6/05, 8/8/05)

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

*Waiver Request* – Applicant requests a waiver to deviate from the City's tree replacement requirements under Table 275-54-1 to allow trees to be planted off-site at a City designated location. Payment in lieu of replacement trees shall be approved by the Director of Community Development and the funds remitted prior to issuance of Building Permit.

Motion by Mr. Sisson to approve the waiver request to deviate from the City's tree replacement requirements under Table 275-54-1. Seconded by Mr. Felda. Motion carried unanimously.

Motion by Mr. Felda to approve the Use, Site, and Architectural for the construction of two multi-tenant office/warehouse buildings located at approximately 5600 South Moorland Road subject to the application plans on file, satisfaction of all engineering concerns and the following conditions:

- 1) Applicant shall adhere to Article VIII, §275-54 Natural Resource Protection in its entirety. Tree inventory of existing trees greater than 4" (wooded area around south building) is required prior to issuance of Zoning Permit. The Director of Community Development shall approve the payment in lieu of replacement trees and the funds shall be remitted prior to issuance of Building Permit.
- 2) Applicant shall obtain DNR and all other regulating authorities permits for creek, wetland and floodplain crossings. DNR Chapter 30 Permit shall be on file prior to issuance of Zoning Permit.
- 3) Building Permit for the south building will not be issued until FEMA has approved the floodplain analysis done by the developer. Only construction of the creek crossing will be allowed. No clearing, grubbing or site work shall be allowed. Proper erosion control measures must be in place to protect the creek during construction of North building.
- 4) Waukesha County access approval shall be on file prior to issuance of Zoning Permit. All road improvements (acceleration and deceleration lanes) and all pavement markings on Moorland Road shall be installed at the onset of construction.

- 5) All topsoil removal, grading, cuts and fills North and South of the creek, wetland and floodplain shall be approved and supervised by the Department of Community Development (Engineering). Earth moving shall be kept to a maximum of 90 days at which time all stock piles shall be seeded and stabilized with proper erosion control measures at the perimeters accordingly.
- 6) Plan of Operation
  - a) A developers agreement shall be executed prior to cleaning, grubbing, grading and/or utility/infrastructure work commencing.
  - b) Per Article VIII, §275-24 All future tenants shall be required to apply for and receive a Zoning Permit from the Department of Community Development prior to leasing or occupying space within this development. All future tenants will be reviewed on a case-by-case basis for adequacy of parking and may be denied for lack of parking.
  - c) Signage for this development will require a separate application, review and Permit from the Department of Community Development (Planning) prior to installation. An Overall Coordinated Sign Standard shall be established and approved by the City of New Berlin as outlined in Article VIII Section 275-61.
- 7) Architectural Plan
  - a) Exterior architecture must be approved by the Architectural Review Committee prior to issuance of Zoning Permit.
  - b) All mechanicals including air-conditioning units and other rooftop mechanical units must be properly labeled and screened from public view.
- 8) Site Plan/ Engineering
  - a) Submittal of a revised set of plans that address all the comments outlined in the staff letter.
  - b) Revised plans shall show construction Limits of Disturbance (LOD) as required by Article VIII, §275-54 (A) of the City of New Berlin Municipal Ordinance.
  - c) All environmentally sensitive areas (around the creek and wetlands) shall be additionally screened with "orange construction fence" and marked on all construction plans as no touch areas. These areas must be outside the limits of disturbance (LOD).
  - d) A plat of survey stamped by a Wisconsin Registered Land Surveyor tying down proposed buildings to lot lines is required for each building permit.
  - e) Buffer requirements to the residential lands East of this area must be provided as required by Article VIII, §275-57 of the City of New Berlin Municipal Ordinance in its entirety.
  - f) Public utility easements for sanitary sewer and water shall be provided.
  - g) An ingress-egress easement for a possible future road connection through parcel to east shall be provided.
- 9) Stormwater
  - a) Applicant shall be required to meet the MMSD Chapter 13 and the City of New Berlin Stormwater Ordinance in its entirety. Site drainage, grading and stormwater plans must be approved by the Stormwater Division Engineer prior to issuance of Zoning Permit.
- 10) Transportation
  - a) A letter from Waukesha County approving the plan of proposed improvements within the County ROW shall be on file with the City of New Berlin prior to any permits being issued by the City.
  - b) Lighting plan was submitted, but should only include the parking, circulation and pedestrian areas in the illumination calculations. Plan shall show light pole layout with a chart showing the illumination levels and photometric summary information. At a minimum, give average footcandle value, average to minimum ratio, and max to min ratio.

- c) Drive aisle widths are to be, at a minimum, 24-feet wide from edge of pavement to edge of pavement (i.e., do not include curb & gutter in required width).
- 11) Landscaping Plan
  - a) Overall landscaping plan must be approved by the Department of Community Development (Planning) prior to installation. All landscaping sureties shall be provided prior to issuance of Building Permit. Landscaping sureties shall be coordinated with staff during overall approval and tied to each individual Building Permit.
- 12) Building Inspection/ Fire:
  - a) Building must meet all applicable building and fire codes. Building must be fully sprinklered. Monitor fire flow.
  - b) Knox box required.
  - c) Apply and obtain appropriate building, plumbing and electrical permits from the Building Inspection and Zoning Department prior to commencement of any construction at this site.
  - d) Building plans shall be stamped and signed by a registered architect or engineer (Comm 61.20 Responsibilities).
  - e) Building plans shall be approved by the Wisconsin Department of Commerce (Comm 61.70 Certified municipalities and counties) (5) (c) 3.
  - f) Erosion control to be approved, permitted, installed and inspected prior to issuance of Building Permit. This shall include catch basin silt protection. Applicant must observe construction best management practice.
  - g) Applicant must remove mud, dirt and stone from all paved areas daily. Entire site must be kept free and clear of all trash and construction debris daily.

Seconded by Mr. Sisson. Motion carried unanimously.

#### NEW BUSINESS

7. ( )NJ PG-741 & PG-10 Wetland Rezoning Discussion

Motion by Mr. Barnes to allow the Plan Commission the option to take action the same night as the public hearing when rezonings concern wetland delineation.

Seconded by Mr. Sisson. Motion carried unanimously.

8. (4)OA R-5-05 James Gatzke – 13900 W. Brook Hollow Ct. – Rezone from R-3/C-1/C-2 to R-3/C-1/C-2. – Delineate Wetlands.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the re-delineated wetland on the Gatzke property located at 13900 W. Brook Hollow Court from R-3/C-1/C-2 to R-3/C-1/C-2 districts.

Seconded by Mr. Felda. Motion carried unanimously.

9. (7)AB R-9-05 New Berlin West High School – 18695 W. Cleveland Ave. –Rezone from I-1 to I-1/C-2. – Delineate Wetlands.

Mr. Barnes said that there is a letter on file from Dr. Benfield indicating that they would clear up the existing storm water problems. Ms. Bennett indicated there would further discussion on the storm water under Item #13 concerning the use approval for the gym and auditorium additions.

Motion by Mr. Gihring to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 18695 West Cleveland Avenue from I-1 to I-1 and C-2.

Seconded by Mr. Sisson. Motion carried unanimously.

10. (3)NJ R-10-05 Michael R. Roman – 18715 and 18635 W. Greenfield Ave. – Rezone from R-1/R-2/C-2 to R-1/R-2/C-2 – Delineate Wetlands.

Motion by Mr. Barnes to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 18715 & 18635 W. Greenfield Avenue from R-1/R-2/C-2 to R-1/R-2/C-2.

Seconded by Mr. Sisson. Motion carried unanimously.

11. (3)AB CU-7-05 D & L Grading, Inc. – 1820 S. Johnson Rd. – 1,000 Gallon Diesel Fuel Tank.(Public Hearing 8/8/05)

Motion by Mr. Sisson to approve the installation of a double-walled, 1000-gallon diesel fuel tank with leak detection and spill protection located at 1820 S. Johnson Road subject to the application, plans of file and the following conditions:

- 1) Plan of Operation -
  - a) 1000-gallon, aboveground, fuel tank shall be installed next to an existing 1000-gallon, aboveground fuel tank on an existing 20' x 20' concrete slab.
  - b) Fuel scheduled to be delivered once per week.
  - c) Existing 6' high century fence with locking gate surrounds the existing concrete slab.
  - d) 6" steel, concrete-filled bollards surround the fence for collision protection.
  - e) Existing shed shall be removed.
  - f) Above-ground tank shall be located a minimum of 50' from the ordinary high water mark of Poplar Creek and its tributaries per Section 275-35-2.
  - g) Aboveground fuel tank shall be reviewed under separate permit though the City of New Berlin Fire Department.
- 2) Building Inspections –
  - a) Plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 Plans)
  - b. Plans shall be approved by the City of New Berlin Fire Department and the Department of Community Development Inspection Division per State of Wisconsin Dept. of Commerce Safety and Buildings Division per Wisconsin Enrolled Commercial Building Code. (Comm 61.70 Certified municipalities and counties.)
  - c. Apply and obtain appropriate building, plumbing and electrical permits.

Seconded by Mr. Gihring. Motion carried unanimously

12. ( )NJ PG-951 New Berlin Industrial Park Redevelopment Plan – Forwarded to Plan Commission by Community Development Authority (CDA).

No Action

13. (3)AB U-61-05 New Berlin West High School – 18695 W. Cleveland Ave. – Gym and Auditorium Additions.

1. *Waiver Request:* Applicant requests all Planning, Engineering and Building Inspection permit and application fees.

Motion by Mr. Barnes to forward to Common Council for review of the waiver request for all Planning, Engineering and Building Inspection permit and application fees to be waived for New Berlin West High School located at 18695 W. Cleveland Avenue. Seconded by Mr. Sisson. Motion carried unanimously.

2. *Waiver Request:* Applicant requests a waiver to deviate for the City's requirement under Sec. 275- 57(6) that requires the minimum parking space to be 9' wide and 19' long. Applicant proposes 9' x 18.'

Motion by Mr. Felda to allow the waiver to deviate from the City's requirement under Sec. 275-57(6) to allow the smaller proposed parking spaces. Seconded by Mr. Sisson. Motion carried unanimously.

3. *Waiver Request:* Applicant requests a waiver to deviate from the City's parking requirements under Table 275-57-1 Applicant proposes a total stall count of 634. The minimum code requirement is 645 spaces.

Motion by Mr. Sisson to allow the waiver to deviate from the City's parking requirements for a fewer parking stall space count. Seconded by Mr. Felda. Motion carried unanimously.

Motion by Mr. Sisson to approve the request for Use, Site and Architectural Approval to remodel and construct a gymnasium and auditorium to New Berlin West Middle & High School located at 18695 West Cleveland Avenue, subject to the application, plans on file and the following conditions:

- 1) Plan of Operation
  - a) 113,839 square foot gym with basketball courts, volleyball courts, indoor track, weight room and locker area with a total seating capacity of 2200 people.
  - b) 42,182 square foot auditorium with a seating capacity of 750 people.
  - c) Administrative and existing music area will be renovated with the existing music area being converted into a guidance area and a large instructional classroom. The administrative area and front entrance will be reconfigured for security updates.
  - d) The current population of teachers, support staff and students will not increase with the additions.
  - e) Landscape plans shall meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety. A registered landscape architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to issuance of Zoning Permit.
  - f) A minimum 10' buffer is required adjacent to residential property per Sec. 275-56F(3)(a). Verify on revised plans.
  - g) The school district shall work to limit the use of both the gymnasium and auditorium to large functions as this will help with parking.
- 2) Architectural Plans
  - a) Exterior architecture must be approved by Architectural Review Committee prior to issuance of Zoning Permit.
- 3) Engineering – Storm water
  - a) New Berlin rainfall depths shall be used. Please see NB SWMMP or Bulletin 71.

- b) Applicant shall submit a letter indicating that funding source is available to complete outstanding storm water improvements prior to issuance of the Zoning Permit.
  - c) Applicant shall submit completed plans for storm water improvements prior to issuance of the Zoning Permit.
  - d) Applicant shall submit verification that all regulatory (DNR) permits associated with the storm water improvements have been granted and have not expired prior to issuance of the Zoning Permit.
  - e) All pre-existing and proposed storm water improvements to the soccer field and related areas shall be completed and accepted prior to occupancy being granted on the building expansions.
  - f) A submerged outlet shall be installed in the wet pond. Please see NB Developer Handbook for an example detail.
  - g) Please verify overland flow paths. This shall include the emergency spillway discharge from pond 1.
  - h) Applicant shall verify if the auditorium expansion discharge to the existing 15 inch clay pipe that discharges to Cleveland. If so, please show existing and future flows along the Cleveland Ave ditch.
  - i) A detailed maintenance plan for all storm water facilities shall be provided.
  - j) The existing 24-inch storm sewer on sheet 11 and 16 is shown as an 18 inch on sheet 5. Please make correction.
  - k) Please show off-site contours of property to the north to verify that all storm water flows stay onsite.
  - l) Flow path between Inlet 21 and Inlet 20 is 360 ft. The allowable overland flow length in paved areas is 300 ft.
  - m) Please verify spot elevations along south property line. No flow shall be allowed to discharge off-site to the south from West's property.
  - n) Please verify Total Runoff Volumes for pre and post conditions in the Introduction.
  - o) Please verify total area of infiltration area in relation to the total site area.
  - p) State in the Storm water Management Plan parameters for complying with NR -151 and the measures taken to meet NR-151 requirements.
  - q) Provide pond and infiltration basin drain down times for the 2 and 100-year storm events.
  - r) One additional inlet shall be provided at Inlet 7/7a.
  - s) Provide soil boring report for review.
- 4) Engineering – Transportation
- a) A letter from Waukesha County approving the plan of proposed improvements within the County ROW shall be on file with the City of New Berlin prior to any permits being issued by the City.
  - b) Deceleration lanes with 100-feet of storage, acceleration lanes and bypass lanes are required at all three driveway locations. These shall be installed per Waukesha County standards.
  - c) Signing & marking plan is required.
  - d) Traffic signal plans are required for the west driveway and shall be installed as part of the initial construction. Signal needs to be in place prior to occupancy, pending on Waukesha County requirements.
  - e) Lighting plan does not follow city standards. See Zoning Code Section 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. Calculations are only made on the parking, pedestrian and circulation areas of the pavement.
  - f) Don't mix perpendicular & angle parking at western driveway. Parking should not begin until past the maximum driveway queue.

- g) Proper queue stacking distance needs to be provided at driveways. Based on the TIA numbers, at least 200-feet of throat distance needs to be provided in 2006 prior to other drive aisles intersecting the driveways (east & west) to avoid conflict during a typical weekday traffic operation. Even more is needed by 2016.
  - h) Ultimate ROW for CTH D is 130-feet (65-feet on each side of the centerline). Existing ROW is 60-feet on this side. The School district shall dedicate the northern 5-feet along CTH D to Waukesha County for public right of way purposes prior to any building permits being issued by the City. (Section by athletic fields is okay).
- 5) Engineering – Utility
- a) Applicant shall address all Utility technical concerns identified in a letter dated September 6, 2005.
- 6) Fire Department
- a) Building shall be fully sprinklered, extension.
  - b) Monitor fire flow.
  - c) Class I standpipes.
  - d) Fire alarm system extension.
  - e) If city water is extended in the future, fire hydrants will be required at that time.
- 7) Inspection Division
- a) Building plans shall be stamped and signed by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 Plans)
  - b) Building plans shall be approved by the State of Wisconsin Dept. of Commerce Safety and Buildings Division per Wisconsin Enrolled Commercial Building Code/ (Comm 61.70 Certified municipalities and counties.)
  - c) Apply and obtain appropriate building, plumbing and electrical permits.
  - d) Erosion control shall be approved, permitted, installed and inspected prior to any commencement of site work or issuance of any building permits.

Mayor Chiovero said Mr. Benfield has submitted a letter assuring us that the storm water issues will be resolved. Mr. Barnes said the architectural concerns can be addressed by the Architectural Review Committee.

Seconded by Mr. Barnes. Motion carried unanimously.

14. (6)AB U-62-05 Dr. Torres Medical Office Building – 12555 W. National Ave. Medical Office Building.

1. *Waiver Request:* Applicant requests a waiver to deviate from the City's parking requirements under Sec. 275-57(6) that requires the minimum parking space to be 9' wide and 19' long. Applicant proposes 10' x 18' stalls to maintain green space requirements, reduce the amount of retaining walls needed and to allow for the 15' buffer area along the south property line.

Motion by Mr. Barnes to allow the waiver to deviate from the City's requirement under Sec. 275-57(6) to alter the size requirements of parking spaces. Seconded by Mr. Gihring. Motion carried unanimously.

Motion by Mr. Barnes to approve the request for Use, Site & Architectural Approval for construction of a multi-tenant medical office building, subject to the application, plans on file and satisfaction of the following conditions:

- 1) Plan of Operation
  - a) Two-story, medical office building with approximately 18,000 sq. ft.
  - b) All future tenants will be reviewed on a case-by-case basis for adequacy of parking and may be denied for a lack of parking.
  - c) Approval of the landscaping plan and payment of all sureties are required prior to issuance of 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. A registered landscape architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to issuance of Zoning Permit.
  - d) Applicant shall add plantings to the west side of property along proposed retaining wall to soften the effect.
  - e) Approval of the exterior architecture and materials for constructions by the Architecture Review Committee prior to issuance of the Zoning Permit.
- 2) Engineering – Development
  - a) Side setback to building from East side lot line is shall be 25' to overhang. The plan shows 23.5' from the east property line. Applicant shall move building to the West or reduce length of building.
  - b) All retaining walls and curb shall be at least 5' from side lot lines. Keep curb 3' from wall. Curb shall be moved East.
  - c) Lower parking lot grades in Southwest corner of parking lot from 905' to 904' maximum grade and along West edge of drive to eliminate need for the South 90' of the proposed retaining wall there (see marked up grading plan).
  - d) Add another proposed catch basin at the parking spot just South of the dumpster.
  - e) 25-year and 100-year event pond elevations shall be shown on grading plan.
  - f) A proposed gutter pan across the West driveway access to the frontage road shall be shown, not a curb and gutter section.
  - g) A discrepancy appears between the utility plan and the pond outlet structure detail as to whether the diameter of the proposed downstream pipe is 12" or 18".
  - h) Building stakeout plat of survey, stamped by RLS, shall be required at time of building permit application. Show whether building is parallel to any lot line.
  - i) The developer is removing rows of existing trees along both side lot lines. Additional trees are needed along the West lot line. Grading to East lot line shall be allowed with the understanding that the existing trees there will be relocated, and replaced if any die.
  - j) Private storm sewer easement from funeral home to East is required for pond discharge.
  - k) Payment in lieu of street lighting installation shall be submitted prior to issuance of the building permit.
  - l) Meter room details shall to be worked out with Water Utility.
    - 1) An area large enough to work on water meters. The size of the room shall vary depending on the meter size and the number of water meters going in the building. Utility department shall approve size of room once it is specified.
    - 2) Area is to be unobstructed with water softeners, vacuum cleaners, garbage cans, etc. Room shall not be used for cleaning, supply storage or storage area.
    - 3) Room shall have adequate heating and lighting.
    - 4) The Utility prefers a floor drain in the room.

- 5) The Utility Department requires a key to a locked water meter room.
- 3) Engineering – Storm Water
    - a) Double inlets shall be required at low points.
    - b) The outlet structure details shall be provided and submitted prior to MMSD Ch 13 submittal.
    - c) The pond drain down time for the 100-year event shall be included in the Storm Water Management Plan.
    - d) The pond grading plan appears to have an additional contour (785.5) that shall not be located on the safety shelf. Please revise plans accordingly.
    - e) Final plans and calculations shall be P.E. stamped. Storm Water Management report shall be stamped prior to Ch 13 submittal.
    - f) Maintenance plan shall be signed prior to MMSD Ch 13 submittal.
    - g) Please show the location of the pyramat on the plans. The matting shall be extended to the back of curb.
    - h) A drainage easement for the pond's storm sewer discharge shall be required. Please provide documentation of easement agreement between property owners.
    - i) The landscaping plan shall not have plantings in the emergency spillway.
    - j) The landscape plan shall not have any plantings within the 100-year pond elevation, and shall not have trees located within the interior side slopes of the pond. Landscaping on the berm shall be allowed to screen the pond, but the maintenance cost associated with such plantings shall be the responsibility of the owner.
  - 4) Engineering – Transportation
    - a) Lighting plan does not follow city standards. See Zoning Code Section 275-60 I. Average foot candles is lower than requirement. Plans shall be revised prior to issuance of the Zoning Permit.
    - b) Developer shall be required to follow National Avenue Lighting Plan. Two (2) City Standard pedestrian poles and luminaires shall be required at 80-foot spacing. A letter of credit for \$12,000 shall be submitted to the City, prior to issuance of the building permit, which will be cashed when the City's lighting construction project takes place.
    - c) Drive aisle widths for one-way operation are to be 24-feet wide from edge of pavement to edge of pavement (i.e. do not include curb & gutter in required width), where 90 degree parking is adjacent to the one-way lane (redesign area by entrance).
  - 5) Engineering - Utility
    - a) Any building or building tenant that proposes a kitchen for food preparation on-site, independent from any individual living unit or apartment, shall require and show on plans an exterior in-ground type grease trap tank and an MMSD type sampling manhole . Both shall be furnished and installed in accordance with City Standards and Requirements. An interior style grease trap will not be allowed in these situations.
    - b) Pay Water Impact Fees and Pay Sanitary Sewer Impact Fees for each buildable lot created based upon Chapter 267 requirements. Pay Water Impact Fees and Pay Sanitary Sewer Impact Fees based upon equivalent domestic water meter size required for Each Building for domestic service, including lawn sprinkling meter capacity (if and when installed), in accordance with City Code in effect at time of Plumbing Permit Issuance.
    - c) Prepare As-Built Drawings of completed infrastructure in accordance with Development Handbook Requirements.

- d) Applicant shall address all Utility technical concerns identified in the letter dated August 31, 2005.
- 6) Building Inspections
  - a) Building plans shall be signed and stamped by licensed architect or professional Engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 Plans)
  - b) Building plans shall be approved by the State of Wisconsin Dept. of Commerce Safety and Buildings Division per Wisconsin Enrolled Commercial Building Code. (Comm 61.70 Certified municipalities and counties.)
  - c) Apply and obtain appropriate building, plumbing and electrical permits.
  - d) Erosion control shall be approved, permitted, installed and inspected prior to any commencement of site work or issuance of any building permits.
  - e) Dumpster enclosure detail shall be submitted.
  - d) Retaining wall detail shall be submitted, including materials and color.
- 7) Fire
  - a) Fully sprinklered.
  - b) Class I standpipes in staircase.
  - c) Monitor fire flow.
  - d) Knox box required.
  - e) Fire hydrant within 150' of sprinkler connection.

Seconded by Mr. Sisson. Motion carried unanimously.

15. (5)OA LD-8-05 SAB Real Estate Ventures – 4320 S. Moorland Rd. – Sw ¼ Sec. 23 – Two-Lot Land Division.

Motion by Mr. Sisson to recommend to Common Council approval of the Certified Survey Map for a two lot land division of the property located at 4320 South Moorland Road subject to the application, plans on file and following conditions:

- 1) The CSM must show future reservation of Adell Avenue for public road purposes.
- 2) Based on the Plan Commission's decision if the extension of Adell Avenue should exist, the applicant shall adjust plans to show houses can be placed at the back of the lots and what direction the front of the houses shall face. The 30' access easement off Moorland Road is to be vacated upon the extension of Adell Avenue.
- 3) Preliminary location of "house foundations" and preliminary grading plan is required prior to city signing CSM. Please use one-foot (1.0') contours using USGS datum for both proposed and existing elevations. Indicate the yard grade or possible garage slab elevations of the foundations for each home as well as how the drainage for each lot will sheet flow and in what direction.
- 4) Access Permit for Moorland Road will be required from Waukesha County D.O.T. and review by the City of New Berlin Transportation Engineer. The proposed location of the access on Moorland Road is on the down slope of Moorland Road and provides limited sight distances from the driveway location up the slope on Moorland Road.
- 5) The ultimate right-of-way for Moorland Road shall be dedicated to the county at this time.
- 6) Approval of availability of adequate public infrastructure must be obtained from the Utility Division Engineer or City Engineer prior to City signing CSM. The Utilities Engineer shall approve the locations of sanitary sewer and water laterals for each lot. If the utilities are located within the county right-of-way, notification to the county for working in their right-of-way and connecting to the services will be required. Clean-outs are required every one hundred feet, (100') for both sanitary and storm sewer connections.

- 7) Water laterals shall be placed as required to accommodate the proposed land division at time of construction of the water main OR installed prior to City signing CSM. Connection should be required for any construction occurring on the proposed new lots.
- 8) T-Turn-Around for all lots accessing Moorland Road shall be shown as a requirement with a statement written on the face of the C.S.M. mandating the turn-around for safety when accessing Moorland Road.
- 9) The CSM shall show the access point approved by the county prior to signing of CSM.
- 10) The Storm Water Engineer will review the drainage for all the sites and decide if storm sewer will be required or if the individual houses will be allowed to drain on grade, and whether the sump line shall daylight or stop and release on grade. The City of New Berlin Ordinance requires that when a sump crock does not connect to a storm sewer, the discharge from the sump crock must be from the front foundation wall of the house. Storm sewer currently exists in the Moorland Road right-of-way.
- 11) Any and all existing structures are to be razed. Razing permits are required.
- 12) Applicant shall correct all drafting errors identified by Staff prior to signing of final CSM.
- 13) All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- 14) Payment of \$2,137.60 per 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.

16. (5)OA U-64-05 The Preserve at Deer Creek Condominiums – 3929-4081 Fohr Dr. – Six Four-Unit Ranch Style Condominiums.

Motion by Mr. Felda to approve the request for Use, Site and Architectural Approval for The Preserve at Deer Creek condominium development located at 3929-4081 South Fohr Drive subject to the application, plans on file and the following:

- 1) There shall be no deviation from the grading plans approved by Plan Commission on November 9, 2004, for Kasco South Phase PUD U-4-04. Any deviation will require an amendment of the condition of approval by the Plan Commission. This approval is granted under the condition that the applicant shall meet all the requirements of Zoning Permit # U-4-04 granted by Plan Commission on November 9, 2004 in its entirety.
- 2) Applicant shall also meet all the requirements outlined in the developer's agreement entered into with the City of New Berlin as it relates to acceptance of public infrastructure prior to issuance of Building Permit. No Building Permits will be issued for this development until all the public improvements as identified in the Developer's Agreement (Howard Avenue to Sunny Slope Road) are constructed, inspected and accepted by the City Engineer.
- 3) A proposed wood deck at first floor elevation of the four family (4-family) units may have some merit and not more than ten feet, (10.0') from the back of the buildings. If steps are to be installed down to grade from the wood decks they shall be against the foundation wall, parallel to the wall, of the units.

- 4) The proposed grading plan dated July 29, 2005 and received on August 3, 2005 does not meet the minimum grading plan requirements of the Developer's Handbook. The slope criteria between the buildings and the slopes running across the back of buildings should be revised to reflect the plan sets with revision dates of 3/14/05. The minimum slope standards for overland drainage are at (1.5%). This requirement means that there can only be sixty-six feet, (66.0') between each one-foot, (1.0') contour, thirty-three feet, (33.0') for each half-foot, (1/2') contour, etc. Please review the current proposal and make the necessary changes.
- 5) The Engineering Department will allow sidewalks and small wood decks outside of the building envelope on the side of the proposed four family (4-family) units only. The grading plan of 3/14/05 should not need to change significantly to add these features. Please show these features with the grading plan from 3/14/05 as a base.
- 6) The proposed temporary hammerhead T-turn around at the southeasterly location of Fohr Drive is currently proposed in the combined driveways for the last two condominium units at building number twenty-one (# 21). Please review the location of the hammerhead it may be possible to move the location further to the "East" just out of the driveway location for the Condo-unit.
- 7) Address all engineering comments prior to issuance of Zoning Permit.
- 8) Stormwater Utility
  - a) Developer will be required to meet the requirements of MMSD Chapter 13 and the City of New Berlin Storm Water Management Ordinance in its entirety.
- 9) Inspection Division
  - a) Any bedroom or sleeping room in basement level must have required egress window.
  - b) Erosion control shall be applied for, approved, installed and inspected prior to any on site grading or excavation.
  - c) All Building Permit applications will require stake out survey with setback distances from lot line, back of curb and neighboring buildings.
  - d) Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm 61.31 plans)
  - e) Building plans shall be approved by the State of Wisconsin Department of Commerce, Safety and Buildings Division per Wisconsin Enrolled Commercial Building Code. (Comm 61.70 Certified Municipalities and Counties).
  - f) Apply and obtain appropriate building, plumbing and electrical permits.
- 10) Fire Department
  - a) Separate rooms required for water meters, fire riser and alarm panels with direct exterior access for each building. Common area access only. No access through tenant space.
  - b) Fire Hydrant must be within 150' of sprinkler connection or each Building.
  - c) Building must be fully sprinklered. Monitor fire flow.
  - d) Alarm system required in each building.
  - e) Alarm system must be monitored.
  - f) Knox boxes (key boxes) required for each building.
  - g) Fire department will require unabated access to sprinkler control room, alarm panel and knox box. Submitted plans fail to reflect this.
- 11) Landscaping Plan
  - a) Submittal of a revised landscaping plan is required. Landscaping plan must meet all the requirements of Article VIII Section 275-53 through 275-56 of the Municipal Ordinance in its entirety.

- b) Approval of the landscaping plan and payment of all sureties are required prior to issuance of Zoning Permits. A registered Landscape Architect shall stamp plans. Landscaping Plan to be approved and signed by the Department of Community Development prior to installation of any material.

Recommendations from the Architectural Review Committee included alterations are to be made to the entranceway and anchor the two bays on both sides by bringing them down to the ground.

Seconded by Mr. Barnes. Motion carried unanimously.

17. (7)OA U-65-05 Beloit Road Facility – 16100 W. Beloit Rd. – 160,000 Sq. Ft. Multi-Tenant Building.

Motion by Mr. Barnes to table the request for use, site, and architectural approval to construct a multi-tenant spec building at 16100 West Beloit Road, for the following reasons:

- 1) Detailed Storm Water Management Plan required for this development.
- 2) Applicant is required to submit an endangered resource study/ report for butler garter snake on this site.
- 3) Detailed storm sewer and alternative utility plans are required.
- 4) Applicant shall address all Engineering concerns outlined in staff correspondence (attached) dated August 24, 2005.

Seconded by Mr. Sisson. Motion carried unanimously.

18. (3)OA U-66-05 Calhoun Road and Rogers Drive Multi Tenant Building – 1920 S. Calhoun Rd. – 145,704 Sq. Ft. Multi-Tenant Building.

Motion by Mr. Gihring to approve the use, site, and architecture to construct a multi-tenant spec building at 1920 South Calhoun Road subject to the application, plans on file and the following:

- 1) Detailed Storm Water Management Plan required for this site.
- 2) Submittal of a letter asking the Utility Division Engineer to contact MMSD regarding the available sewer capacity based on the proposed use of the building.
- 3) Please address all Engineering concerns outlined in staff correspondence dated August 24, 2005.

Architectural concerns to be further reviewed by Architectural Review Committee. State approved plans and approval by MMSD of approved storm water management plan would be needed before early start would be considered.

Seconded by Mr. Felda. Motion carried unanimously.

19. (7)NJ U-71-05 Crestview Commercial Building – 16850 W. Observatory Rd. – Commercial Building.

Motion by Mr. Barnes to table the request for Use, Site & Architectural approval for the construction of Crestview multi-tenant commercial building located at 16850 W. Observatory Road, subject to the application, plans on file, and the following concerns that shall be addressed by the applicant:

- 1) Plan of Operation/Site Plan
  - a) Applicant shall better define the hours of operation, deliveries, and expected number of tenants.

- b) Plans indicate 7 tenant areas, however, it is uncertain if there will be adequate parking for that many tenants. Parking for a spec commercial building is usually determined as one space per 200 square feet of building space. The applicant provides for 51 spaces and the building requires at least 26 spaces at minimum. Parking would need to be carefully monitored.
  - c) The proper B-2 building and parking setbacks shall be used. If the number of tenant bays goes down, applicant may want to consider leaving the 8 parking spaces on the east side of the building as "additional green space/ anticipated future parking spaces" if needed in the future by a tenant.
  - d) Applicant shall submit a copy of the shared access easement to the City for review with the revised plans. Applicant shall verify if the agreement allows cars to back up into the property to the west.
  - e) Drive aisles shall be measured and parking spaces shall show dimensions of 9' x 19' as required per Section 275-57.
  - f) Applicant shall submit the final approved grading, storm water and utility plan for the condo project with the revised plans as this is required for adequate review.
  - g) The landscaping shall follow Section 275-60. In particular, sub section (F)(3) discusses buffering and screening with regard to the condos and dumpster enclosure.
- 2) Engineering
- a) The site development plan is only at 1"=40'. There is no separate pavement plan. The plan does not show any dimensions from the parking lot to the National Ave. or Observatory Road ROW. The building and parking lot are not proposed to be parallel to either ROW line, and it appears that the back of curb is less than the 10' minimum required in the zoning code along both streets. Show distance from curb to ROW line on plans.
  - b) Parking lot curb and gutter section may be reduced to 18" wide if developer desires.
  - c) Sidewalk along East side of building needs to be 8' wide because parking stalls are adjacent to sidewalk. Verify with Transportation Engineer.
  - d) The site development plan neglects to show that there would be posts from the canopy over the Western most door of the proposed building which would end up in the middle of the sidewalk. This is also near the handicap parking. Show posts. Resolve accessibility issue.
  - e) Show on the site development plan that the proposed dumpster and parking stalls East of the building are not within the 8.85' wide common access easement (the other 21.15' wide part of the total 30' wide common access easement is on the neighbor's property.)
  - f) The proposed dumpster is within the buffer area for the duplexes behind this property. Resolve.
  - g) Show green space calculations on site development plan.
  - h) Plans do not indicate if proposed building will have gutters and downspouts. To minimize the amount of drainage that will run off site onto neighboring parking lot to the East, developer shall connect all downspouts directly to storm sewer. Show on plans. Also, developer will revise grading plan to show with more proposed spot grades that drainage from the most Easterly parking spots in front of the building will not bypass the storm sewer and drain instead to East lot line. Or another catch basin at the East lot line shall be designed.

- i) The landscape plan shall be revised to show no proposed plantings that will exceed 3' in height within the 60'x60' vision triangle at the street intersection and also a 30' x 30' vision triangle at each driveway access to not only see traffic but also any approaching pedestrians on the sidewalk. Verify with Transportation Engineer.
  - j) Reduce the width of the flare at the end of the driveway access on Observatory Road so it does not encroach over the side lot line extended. Use curb and gutter for driveway also within the ROW.
  - k) A stakeout plat of survey stamped by RLS will be required with building permit application.
  - l) Check with Transportation Engineer regarding necessary revisions to the site lighting plan and for changes to the lighting and landscape plan for National Avenue.
  - m) Check with Storm Water Engineer regarding any water quality features that may be necessary on this site.
  - n) Check with Utility Engineer regarding water meter room requirements, permits that may be necessary for utility work in ROWs, and any sewer or water capacity fees that may be required. See attached water meter room requirements from Water Utility. A meter room has not been added to the plans.
- 3) Inspection
- a) Building plans shall be stamped and signed by a registered architect or engineer.
  - b) Building plans shall be approved by the Wisconsin Department of Commerce.
  - c) Apply and obtain appropriate building, plumbing and electrical permits.
  - d) Erosion control permit shall be obtained and the installation inspected prior to the issuance of any building permits.
  - e) Top building elevation on page A2.0 is reversed. Sheet A2.1 has corrected elevation designations.
  - f) The National Avenue corridor light poles should be used on National. Applicant shall verify if they are to be run down the east side of Observatory Road to the end of the property. Site plans do not include the appropriate photo-metrics.
  - g) Dumpster enclosure is right at the east lot line. Typically we would ask for a minimum 2' setback from the property line as we would a 6' tall fence. Dumpster enclosure shall be relocated to be located outside of the buffer area, or request a waiver from Plan Commission to have it located within the buffer with some discussion of a portion of the landscape buffer/plantings being placed on the condo project. A better location may be on the west side of the building off the Observatory entrance as this would keep the dumpster away from the condos. Applicant shall verify if this can be done with regard to the overall grading, utility, and storm water plans for this project.
  - h) Some of the plantings in the vision triangle are listed at 3' to 5'. The maximum per code would be 3' high in the vision triangle. Applicant shall follow Section 275-56C(15)(a).

Seconded by Mr. Sisson. Motion carried unanimously.

20. ( ) NJ/RS PG-516(4) Smart Growth – Transportation Element – Discussion.

Motion by Mr. Barnes to re-affirm the decision of the Plan Commission that the Ultimate Right-of-Way for Calhoun Road is 130' from Greenfield Avenue to Small Road.

Seconded by Mr. Sisson. Motion carried unanimously.

21. (7)AB U-77-05 Chuck and Terri Perkins – 20810 W. Barton Rd. – Build a Home On A Property With An Existing Home.

*Waiver Request.* Applicant requests a waiver to deviate from the City's wetland delineation requirements under Section 275-37B(4)(b) of the Zoning Code because of the location of the proposed home within a previously disturbed area outside of the wetland area.

Motion by Mr. Barnes to approve the waiver request to deviate from the City's wetland delineation requirements. Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Mr. Barnes to approve the request to construct a new principle dwelling unit while residing in the existing structure at 20810 W. Barton Road subject to the application, plans on file and the following conditions:

- 1) A Razing Permit must be obtained from Building Inspections and Zoning Department for the existing building upon the issuance of a Certificate of Occupancy. The existing principle structure must be razed 60 days from the date a Certificate of Occupancy is issued.
- 2) Waukesha County Department of Health approval for a septic system or Permit for a new system is required prior to issuance of Building Permit.
- 3) Apply and obtain appropriate building, plumbing and electrical permits.
- 4) A wetland delineation is required at such time that a land division or land assembly with adjacent properties to create a conservation subdivision is applied for as part of a coordinated effort.

Seconded by Mr. Sisson. Motion carried unanimously.

22. (4)AK U-79-05 Michael Wilson – 14800 Grange Avenue – After-the-fact Overall Grading Plan.

Motion by Mr. Felda to table the after-the-fact request to bring in fill into the backyard of the applicants property located at 14800 W. Grange Avenue until staff has had the opportunity to review grading plans and the following concerns listed below by staff:

- 1) Section 275-55 (4) "Fill" requires Plan Commission Approval of any earth disturbances including the bringing in of fill onto a property. This application was submitted as a result of a complaint.
- 2) Applicant shall install erosion control measures (silt fencing) immediately.
- 3) Applicant shall cease all further operations including any further grading of the property and no more fill shall be brought onto the property until Plan Commission has given their final approval.
- 4) Applicant shall continue to work with staff to submit plans that meet the requirements set forth in Section 275-55 "Grading and Drainage" of the New Berlin Zoning Ordinance.

Seconded by Mr. Sisson. Motion carried unanimously.

23. ( )NJ PG-293 Alternative Transportation Sub-Committee – Recommendations to Common Council.

Motion by Mr. Gihring to approve the suggestion for the extra pavement and proposed changes to the Alternative Transportation Plan for Calhoun Road as identified in the draft meeting minutes of the Alternative Transportation Sub-Committee of the Plan Commission dated September 6, 2005.

Seconded by Mr. Felda. Motion carried unanimously.

Motion by Mr Gihring to recommend to Common Council approval of the recommendation by the Alternative Transportation Sub-Committee to finish segment #31 as identified in the original Alternative Transportation Plan and the overall plan /system for pedestrian safety for off road facilities with sidepaths on both sides of Moorland Road south to Mark Drive and north to Coffee Street with the following options/phasing plan as identified by Ron Schildt, the Transportation Engineer:

Phase I: Completion of sidepath on the east side of Moorland Road from Mark Drive to National Avenue. Sidepath can be installed as a curb walk within the existing ROW, but ROW acquisition may be desirable due to safety concerns. (Phase I - \$35,000)

Phase II: Completion of sidepath on the west side of Moorland Road from Mark Drive to National Avenue. Sidepath can be installed as a curb walk within the existing ROW, but ROW acquisition may be desirable due to safety concerns. (Phase II - \$25,000)

Phase III: Completion of sidepath on the west side of Moorland Road from National Avenue to Coffee Road. Sidepath can be installed as a curb walk within the existing ROW, but ROW acquisition may be desirable due to safety concerns. (Phase III - \$50,000)

Total Cost \$110,000 for all three phases.

Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Mr. Gihring to request DCD staff to request that if Waukesha County converts any auxiliary lanes on Moorland Road to live traffic lanes that the County would provide for another off road facility.

Seconded by Mr. Sisson. Motion carried unanimously.

#### COMMUNICATIONS:

24. Communication To: Plan Commission  
Communication From: Greg Kessler, Director of Community Development  
RE: "Review and Update of Regional Land Use and Transportation System Plans For Southeastern Wisconsin" SEWRPC, April 2005.

Plan Commissioners acknowledged receipt of this communication.

25. Communication To: Plan Commission  
Communication From: Nikki Jones, Planning Services Manager  
RE: WAPA News, Summer 2005

Plan Commissioners acknowledged receipt of this communication.

26. Communication To: Plan Commission  
Communication From: Nikki Jones, Planning Services Manager  
RE: Master Plan Completion Plan (PG-516)

Ms. Jones presented a memo outlining the progress on the Master Plan Completion Plan. The Economic Development and Transportation elements have been completed. We are currently working on the Housing element.

27. Communication To: Plan Commission  
Communication From: Greg Kessler, Director of Community Development  
RE: "WAPA Legislative Update" by Jordan K. Lamb, DeWitt Ross & Stevens S.C., August 15, 2005.

The Plan Commissioners acknowledged receipt of this communication.

28. Communication To: Plan Commission  
Communication From: Greg Kessler, Director of Community Development  
RE: "From Washington" The American Planning Association's Update on Legislative & Policy Issues, August 23, 2005.

The Plan Commissioners acknowledged receipt of this communication.

29. Communication To: Plan Commission  
Communication From: Greg Kessler, Director of Community Development  
RE: Planning Mid-Year Update

This memo gave statistics on projects and permits provided by the Planning Staff.

#### PENDING

33. (4)AK U-29-04 William Luterbach – 5400 Westridge Dr. – Dock Doors. (Tabled 7/11/05, 8/8/05)

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

Motion by Mr. Gihring to approve the requested screening at 5400 Westridge Dr. based on revisions. Seconded by Mr. Felda. Motion passes with Mayor Chiovaturo, Mr. Gihring, Mr. Felda, Mr. Barnes voting Yes and Mr. Sisson voting No.

Motion by Mr. Sisson to adjourn the Plan Commission Meeting at 10:03 P.M. Seconded by Mr. Barnes. Motion carried unanimously.