

PUBLIC HEARING

6:00 P.M. (4)NJ/AB CU-2-05 New Berlin Pizza Buffet & Family Entertainment Center –
5320 S. Moorland Rd. – Restaurant and Entertainment Center. – (Plan
Commission conceptual discussion 3/7/05)

NEW BERLIN PLAN COMMISSION

NEW BERLIN CITY HALL COUNCIL CHAMBERS

APRIL 4, 2005

MINUTES

The public hearing relative to the request by David Church of D.C. Investment Real Estate for New Berlin Pizza Buffet located at 5320 S. Moorland Road for a conditional use for a restaurant and entertainment center was called to order by Mayor Wysocki at 6:02 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr Sisson, Mr. Teclaw, Mr. Barnes, Mr. Felda. Also present were Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitschke, Storm Water Engineer. Mr. Gihring was 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 Wysocki asked if there were any comments or questions for the purpose of clarification.

David Church, representative for the project presented additional information explaining the request. Dan Ackerman from Venture Development, contractor of the project also added further clarification regarding the project.

Mayor Wysocki asked if there were any comments or questions for the purpose of clarification.

Joe Russ, 16800 W. Shadow Drive - What are the traffic counts between 10:00 a.m. and 10:00 p.m. between Grange and Beloit Road? What is the accident count at the intersection of Small Road and Moorland? Will alcohol be served at this establishment?

Mr. Church – Yes, alcohol will be served, beer and wine.

Ms. Jones – As far as the number of accidents, I will need to contact the Police Dept. to get that information.

Mayor Wysocki – Do you have the traffic count between Grange and Beloit between 10:00 a.m. and 10:00 p.m.?

Mr. Russ – I thought it was on Moorland?

Mayor Wysocki, - Yes, Moorland. I beg your pardon, you are correct.

Wayne Higgins, Traffic Engineering Services – We do, with the daily traffic in the area of Small Road, not Moorland. It is 8,000 vehicles in 2003.

Shari Kastner, 15185 W. Small Road – I would like to get a verification on how much traffic will be coming down Small Road in a day.

Mr. Higgins – 23 vehicles is the total number that will be going in one direction in the evening peak hours. Peak hours are from 5:00 p.m. to 6:00 p.m. This would be about 10%.

Mayor Wysocki - If you have a right turn only exit, does that change any of those numbers?

Mr. Higgins – It cuts the number in half because 20% are coming from and returning to.

Ms. Kastner – I am understanding there could be over 200 cars a day?

Mr. Higgins – It could be, yes. You will see very little significant impact from that traffic at all. 200 vehicles in a day isn't as much as the daily traffic variation from looking at the traffic from this time of the year, to the summer, to October. You can see that much of a change just by the time of year that you are counting the traffic.

Jennifer Bailey, 15101 W. Small Road – Referring to Question #5 on Craig Miller's letter, what is the distance between where the curb begins to where entrance/exit begins?

Mr. Higgins – It is 402 feet from the driveway to where the distance would be impeded. Two-thirds of that is all you need to be able to safely adjust. It is more than adequate.

Craig Miller, 15230 W. Small Road – Has there been any study as to the total impact in the area with Marcus, Texas Road House, plus this restaurant? I would also like to clarify that the average speed on this road is 40 mph.

Ms. Jones – When Texas Road House went in there was a giant study done and there are facts and figures from when Westridge was started.

Mr. Higgins – Ron Schildt and I have looked at the computer model of the traffic flow and found that access would be easily accomplished. From a functional aspect, as we move forward the interchange would have to be looked at, but we know if it stays as is, it does work well.

Don Conner, W179 S6887 Muskego Drive – Has the plan been approved by the DNR as far as storm water run-off, etc?

Hans Hallanger, Jahnke & Jahnke – The storm water is a task for a series of underground pipes to restrict the run-off rate plus a detention pond. Run-off will be slowed down and discharged into a pond. The green area (indicted map) is all wetland. This project is restricted by New Berlin MMSD, DNR, etc. We are in the process of getting all the approvals.

Mark Kastner, 15185 W. Small Road – Has anyone made a study as far as the increase in public criminal activity? How can this be a Moorland Road address when clearly this is a Small Road property? Are alcohol beverages available at this restaurant?

Randy White, 4036 Baltimore, Kansas City - This is not the type of project that attracts criminal activity. This is families with young children. It is not a place where teenagers want to come. It is not a place where undesirable people want to come. It is very bright inside. It is designed as a family environment. It is not a place where young adults or teenagers want to hang out. We have not had any type of experience with any type of criminal activities.

Mr. Church – We requested the Moorland Road address because it is easier for people to find. As far as the alcohol, now when the family comes, the husband can get a bottle of beer, maybe the wife wants a glass of wine. It is a very insignificant form of sales.

John Hebert, 6015 S. Aberdeen Drive – How are the detention ponds designed?

Eric Nitschke, Storm Water Engineer – They are designed to meet our codes. It is a combined system so in 72 hours the system can be back to handle full capacity.

Mayor Wysocki – Does this lead into our full storm water detention areas further South in terms of the Westridge facilities?

Mr. Nitschke – Yes, the Westridge facilities are actually to the North.

Steve Hordyk, 14930 W. Small Road – Small Road has no trucking allowed. I am concerned about the “no trucking” being lifted. That would just open that up for Westridge to use as a shortcut. How has that been addressed?

Mr. Church – “No Trucking” is posted because of weight limits, therefore any truck doing something as basic as that relating to retail will take the shortest possible route. That should hopefully take care of your problem.

Mayor Wysocki – Is the Small Road portion currently posted for trucking?

Ms. Jones – We will need to verify that.

Craig Miller , 15230 W. Small Road – There is a “no trucking” sign on Beloit and Moorland Road. The sign on Moorland Road is facing West. The sign on Beloit Road is facing North.

Mayor Wysocki asked three times for further questions for clarification, seeing none.

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

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

Joe Russ, 16800 W. Shadow Drive – I think the concept is great, but not the location basically because of the traffic. One concern is the curve on Small Road. It is 25 mph around that curve but people go faster. I see potential danger because it is a blind curve especially in rain and snow. That road was not designed for heavy traffic, nor was it designed as a shortcut to Westridge. I am concerned that this will lead to other access roads to the Ridge Theatre from Small Road. I am also concerned about the water run-off. When we get enough rain, the water on the parking lot has to go somewhere. What about Kuglitches? It is an empty building, has plenty of parking, is a good location between I-43 and I-94, and is near the industrial park area and New Berlin Day Care. This location off of Small Road is not good.

Craig Miller, 15230 W. Small Road – Not specific to this property, but I do oppose in general, Conditional Use Permits and/or spot rezoning, citywide. These areas were zoned what they are for a reason. We were sold on the Westridge Development design by Mayor Cera with light industrial and businesses that are there from 8:00 a.m. to 5:00 p.m. and shut down for the evening. I would like to see the City make sure that the impacts that you say we are going to have are true. My biggest concern is traffic. The increase in traffic and the inability for my child to ride a bicycle safely down Small Road or for me to walk my dog down Small Road without getting close to being side swiped and receive improper gestures. Add to that the park and disc golf course and the traffic problems that creates. The drag racing, beer cans along the side of the road, etc.

Shari Kastner, 15185 W. Small Road – My main concern is the traffic flow on our street. With the increased traffic that we already have from the other public buildings, the theatre and restaurant and also Motion on the other end, our traffic has more than quadrupled on that street. I feel that

with this new restaurant being proposed, especially with entrance and exit being on Small Road, it will be very difficult for our children to use our road. We moved to this community and that area so we would be able to allow our children to ride their bikes to their friend's house. I don't think that would be possible after this.

Jennifer Bailey, 15101 W. Small Road – I am also opposed to the traffic. I would like to see the exit off of Moorland. Right now Moorland is busy, especially if you are trying to go South. A lot of traffic will start to come more and more from Muskego. Going South out of an exit on Moorland is getting harder and harder. It would be nice if it were a controlled exit onto Moorland. I also believe the curve in Small Road creates a blind spot and with this being located so close, it creates dangerous situation.

Steve Hordyk, 14930 W. Small Road – I agree with Mr. Miller about the rezoning of this property, not the establishment itself. Based on evaluation for taxes, we need to take into consideration the essential services that are needed to support these properties. I am also concerned about traffic. As you have heard from all the other residents, it is very unsafe on Small Road as it is now without having more traffic. This would be a good time to dead end Small Road and turn it into a cul-de-sac. This would alleviate all the problems and make everyone appeased with this property. I think this would be a good compromise.

Louis Fennig, 5090 W. Small Road – I live right next to Valley View Park. The main reason I am opposed to the restaurant coming in there is traffic. There is enough traffic coming down that road that doesn't belong there. I am not in favor of rezoning property for a restaurant when it is supposed to be industrial. Isn't there a reason it is supposed to be industrial. Just because somebody wants to change it, it causes other problems in the city in regards to the church everyone knows about. We have a problem with too much traffic on Small Road. My nine year old can't ride his bike to his friends house because the traffic will blow him off the road. Our kids shouldn't be afraid to ride their bike on the road just because someone wants to put in a restaurant and disturb the people on the road who have to live there.

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

Mayor Wysocki asked for questions from the Commissioners.

Alderman Ament – I suggest before we need to take action on this, we have Ron give us some information on cul-de-sacing Small Road, just the section parallel to property and also to go a step further for the sake of discussion, cul-de-sacing Small Road east of there. I know it won't be very popular with street engineering but in reality, this may have a benefit as far as the traffic situation along that stretch.

Another concern I have is the maintenance of the underground facility under the parking lot.

Eric Nitschke – There will be access to the facility. We have three underground detention facilities in the city right now. One is in Malone Park under where we have the carnival, the second is across the street at the Star of Bethlehem and the third is off of Greenfield Avenue. All plans would need to go to Engineering Department for review and approval as well as the Dept. of Commerce.

Alderman Ament – I would like Ron to also give us the status and his suggestions at the next meeting on the no trucking situation. I have a question for Doug Barnes from the Architectural Review minutes. Is the rendering we have here tonight what you were looking for?

Mr. Barnes – No, we haven't seen a 3-D rendering. One of the comments I made at the Architectural Review meeting was that I wanted all the citizens that were here at the public hearing to see the architecture because of the colors, forms, and shapes. I thought that was

important because every time something is built that is a little different than a square or rectangle, we hear about it. So I thought it was important the citizens see the color pallet and the forms and the shapes. We will definitely need that rendering before a vote.

Mr. Church – I'm sorry, I didn't realize you needed a 3-D.

Alderman Ament – Is there any way before the next meeting that we can get a couple of addresses of businesses that are similar to this so we can look at them.

Mr. Church – We can get them to you.

Alderman Ament – The proposed hours in the staff report are different than what I heard. The staff report says M-Th 9:00 a.m. to 9:00 p.m., Fri-Sat 9:00 a.m. – 10:00 p.m.; Sun 10:00 a.m. – 9:00 p.m. I thought I heard 9:00 a.m.- 10:00 p.m. on week nights?

Mr. Church – Yes, what you heard is correct. In the past several months we have been working on determining what would best serve the community and the establishment and these hours were found most useful.

Alderman Ament – Can that be corrected for the next meeting so we know the hours under consideration?

Mr. Barnes – I want to make one clarification to everyone here. I have heard several people mention that this is a rezoning. This is not a rezoning, this is a conditional use permit. What that means is that the use is allowed within the zoning district by obtaining a conditional use permit. What that also means is that we can place different considerations or special restrictions on this permit. It is not a rezoning.

Mr. Sisson – There appears to be a disconnect between the staff report and the recommendations from the applicant concerning the parking space calculation.

Ms. Bennett – The findings include the requirements of our code and the estimated number on their plans. There was a change in their site plan on the northwest side for future connections so there may be a difference in number from what is in the findings to what is now proposed.

Alderman Ament – The code says 499 or 500 parking spaces.

Ms. Bennett – That is what would be required under our code, however, the applicant is proposing 335.

Alderman Ament - What do we do about that?

Ms. Bennet – They have submitted a parking rational. Under Section 275-57A(9)(b), the Plan Commission may make adjustments to the minimum number of required parking spaces in all commercial and industrial districts. If you agree with the rational submitted by the applicant, parking space requirements can be adjusted.

Alderman Ament – I personally think that rational makes a lot of sense.

Mr. Church – Our rational is based upon research studies we have actually done.

Mr. Teclaw – Although I do like the concept, my concern is the traffic. It does indicate here that traffic impact analysis has been submitted. Has that been made available to any of the people that have those traffic concerns?

Ms. Bennett – If requested, we can certainly provide it.

Mr. Teclaw – Is there any infiltration that occurs in the underwater detention? Is there a water quality issue that goes with that type of detention vs. traditional detention?

Mr. Nitschke – Underwater detention in and of itself, per say doesn't provide much for water quality, that is why they have flood detention ponds down stream. As far as infiltration goes, they are required to submit an analysis to meet DNR requirements.

Mr. Teclaw - With that type of system, if things on the impervious surface are all going to go into it, would you be more concerned about pollutants such as salt, etc going right into the wetland? It doesn't look like there is anywhere for that to filter out.

Mr. Nitschke – It goes through the wet detention pond right now which is set up according to our standards and DNR standards. The wet pond is their treatment device at this time. To infiltrate from the underground facility they would be required to do additional water quality measures.

Mr. Teclaw – I would be in favor of this, barring the focus of residents on Small Road.

Mayor Wysocki – What concerns me is that the traffic issue seems to be larger than just this impact. The residents have given us information that over the years relative to the configuration of Small Road, they are allowing for some sort of bypassing of the Beloit/Moorland area. What I am suggesting is that traffic is a big issue that we need to look at. I thought that in a conceptual discussion of this project, a right turn exit only would have the least traffic impact to Small Road, but I am hearing the traffic issues on Small Road are significantly greater than just putting a facility on this property no matter what goes on this property in the future. I think we need to look at the options and the configuration of Small Road itself. Is there a side path plan for Small Road?

Ms. Bennett – I don't believe so.

Mayor Wysocki – I think we should double check on that.

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

Mayor Wysocki closed the public hearing at 7:10 p.m.

PUBLIC HEARING
6:01 P.M. (4)NJ CU-3-05 Johnson Sand & Gravel - 6600 Crowbar Rd. – Portable
Concrete Batch Plant.

NEW BERLIN PLAN COMMISSION
NEW BERLIN CITY HALL COUNCIL CHAMBERS

APRIL 4, 2005

MINUTES

The public hearing relative to the request by Randy Johnson of Johnson Sand and Gravel for a conditional use for a portable concrete batch plant located at 6600 Crowbar Road was called to order by Mayor Wysocki at 7:10 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr Sisson, Mr. Teclaw, Mr. Barnes, Mr. Felda. Also present were Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitschke, Storm Water Engineer. Mr. Gihring was 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 Wysocki asked if there were any comments or questions for the purpose of clarification.

Mayor Wysocki – This is a temporary operation?

Mr. Johnson – Right, it is just for this job.

Mayor Wysocki – In the original application relative to the findings, it indicated that the production and delivery would last from two to three weeks. Is that still the schedule of operation?

Roger Trierweiler, Trierweiler Construction – This is a two stage project. As of right now we are scheduled for early July. It should take approximately three to four weeks per stage. The second stage is scheduled for September or October. The plant may leave in between stages.

Mayor Wysocki – So there would be two time frames of operation? Two to three weeks in July and two to three weeks in September?

Mr. Johnson – I would say three to four weeks for each time frame. There would probably be about 2-3 days of heavy trucking with about 20 loads per hour in each stage. On the other days, you are probably looking at 2-3 loads per hour.

Don Conner, W179 S6887 Muskego Drive – What is going to be falling out or winding up in ponds from this operation?

Mr. Johnson – This site is internally drained so everything goes into the site, nothing leaves.

Mr. Trierweiler – The operation consists of the aggregates that Johnson Sand & Gravel would furnish. Three hoppers would feed up into the upper bins and transfer into a central mixer. The other part would be the cement contained within the silo which is gravity fed into the drum and

after everything is mixed, it is transferred into ready mix trucks. After the days production, we usually rinse the drum out using 300-400 gallons of water which is spread out as dust control. We will have an area for our dump trucks to wash up. We contain that water within a hole that we dig and it will filter out through there.

Paul Stieff, 19985 W. National – What is the zoning on the property? If it is M-2, is a batch plant appropriate?

Ms. Jones – The entire site is Q-1

Mr. Stieff – I know the property that Johnson Sand & Gravel owns on the North has a couple conditions of approval, one of them is that no water will be removed from the property, the other being they will not dig below the water table. Will there be a similar condition about digging below the water line on this property?

Ms. Jones – No. We do have a code compliance officer who checks on the quarries. He goes down into the pit and observes and responds to complaints.

Mr. Stieff – Has he had any complaints about the one on the North?

Ms. Jones - No, but I can double check.

Mr. Stieff - I believe they have dug below the level they should. I would like that clarified.

I have a third issue about this. At the time the property on the North side was approved, the rationale for the 400 trucks per day was given. The neighbors were arguing it was a nuisance, but the lawyer said Valley Sand & Gravel was allowed 400 trucks a day, so the City could not consider it a nuisance up to 400 trucks. I was wondering if truck traffic on the peak days would exceed 400 per day?

Ms. Jones – Ron Schildt was asked by Alderman Harenda to run some traffic counts out there and the counts are broken down by cars, trucks, semis and a total. I'm not positive if these are round trips so I will have Ron Schildt, Transportation Engineer contact you.

Mr. Stieff – I would like it clarified if the 400 trucks allowed by Valley Sand & Gravel are single trips or round trips.

Ms. Jones – I will clarify that.

John Hebert, 6015 S. Aberdeen – I think the other clarification we need is what are the factors on seasonal adjustment for these counts? We can anticipate the numbers being different during different times of the year. My other question is why are we having a public hearing on a new temporary plant when it is my understanding that the existing batch plant in there is illegal in the first place because the permit which was on the North quarry was moved to the South quarry? The terms on the permit are nontransferable. There was never a public hearing on the South quarry. We need to have clarification that the city will enforce it's rules and compliance.

Mary Hieble, 2160 W. National Avenue – I would like to comment on the traffic study that was done. It was done in October. That is the winding down season. The height of the season is in June, July, August, and September. I would like to have a study done during those times. I did my own unofficial traffic study and found 6 trucks every 72 seconds going down National Avenue. Is there a study of the motorcycle traffic? Motorcycle traffic is at it's prime time now and accelerates.

What are the days of the week and hours of operation?

Ms. Jones - 6:30 a.m. – 6:30 p.m. Monday – Saturday. The premise will be closed on Sunday

and holidays. There is to be no crusher operation after 5:30 p.m. on weekdays and only allowed between 7:30: a.m. – 12:00 noon on Saturday.

Ms. Hieble - There is a Schmitz Ready Mix Plant. Why can't that be used instead of establishing another plant?

Mr. Trierweiler – It's a matter of production. The Schmitz Plant could not furnish enough concrete. We are in and out of the City, while Schmitz will take care of their local customers first and us second. We have tried using local Ready Mixes before and it is not economical for the company.

Ms. Hieble – In addition to 20 loads an hour for your operation there will also be trucks for Schmitz, right?

Mayor Wysocki - 20 loads is the maximum.

Ms. Hieble – 20 loads an hour is every 3 minutes. Is that one way or round trip?

Ms. Jones – Round trip.

Ms. Hieble – Will there be bulker trucks? How many do we include in this count.

Mr. Trierweiler - 2-3 bulk tankers an hour on our heavy days, 1-2 tankers per day on our slow days.

Ms. Hieble - Will there be trash concrete from sidewalks, etc. being trucked in?

Ms. Jones – To my knowledge it is the aggregate being made from the quarry.

Mr. Johnson – We have not been taking any fill or concrete since February. All the fill and concrete has been going into Valley Sand & Gravel since February. We signed a lease with Valley Sand & Gravel and until that lease is up all fill and broken concrete will continue to go to Valley Sand & Gravel property. We don't have any trucks coming in with fill so the truck traffic will be cut in half from what it was in previous years

Ms. Hieble - What will be the route of the cement trucks?

Ms. Jones – They will enter & exit on Crowbar. Trucks exiting will head North to Hwy ES.

Ms. Hieble - Has there been a traffic impact study done at the intersection of Racine and National Avenue?

Mayor Wysocki - That can be obtained from the County.

Ms. Jones - Ron also has a copy that I can get for you.

Ms. Hieble – I was concerned about the hill and the heavy trucks will be slower moving and impede traffic during peak hours.

Tom Pacholski, 20835 W. Glengarry Rd – One of my concerns is water. I live close to the plant and have experienced a lot of rust in our water during the last year. Where does the water come from for this operation and will it effect our well? I am also concerned about the traffic. Can we take the traffic to 164 instead of heading East? We have a lot of children and are concerned about dust and noise. Currently, the plant that's in there has the conveyor belt clickety clacking and is very annoying. We are concerned about more of this activity. I heard they could start at 2-3 weeks and end up all summer. If this goes into effect, what would prevent this from becoming

permanent?

Mayor Wysocki – Water will be supplied from the ponds already existing on the site. There will be no additional ponds or wells created. The batch plant could stay there all summer, however they are asking for three to four weeks in July and a three to four week period in September or October.

Ms. Jones – An answer to what would prevent this from becoming permanent, the conditional use permit expires. If he desired to do something more, he would need to come back and start over with the application process with a public hearing and Plan Commission meeting.

Mr. Stieff – When would the conditional use expire? Could I be notified if that date changes during the process?

Ms. Jones – The applicant has asked for December 31, 2005 to be able to remove the equipment. I would guess the Plan Commission may suggest that be bumped up so the equipment would be gone before the snow comes.

Mr Stieff – How much water is anticipated to be used in this operation?

Mr. Trierweiler – Approximately 250,000 gallons of water would be used.

Paul Stieff – Are the ponds hydrologically connected to the ground water or are they sitting above the water table and are just run off?

Ms. Jones – We will look into that.

Ms. Hieble – What months will this operate for the three to four weeks?

Mr. Trierweiler – Right now we are scheduled for late July to start the first stage and late October to finish the second stage depending on a lot of variables.

Mayor Wysocki – We are looking at two different stages of operations, so we are not looking at a full summer of work.

Mr. Trierweiler – That is correct.

Ms. Hieble - It is possible to have another route other than the National Avenue route, Guthrie or West on National?

Mayor Wysocki – I don't think so. The project plan is for Hwy 164?

Mr. Trierweiler – We wanted to keep both options open, going West or East, depending on what the traffic is doing, but our materials are going up to 164, Hwy 59.

Ms. Hieble - Are you favoring National Avenue from Racine West or are you favoring Crowbar Road West to 164?

Mayor Wysocki - Its either West on National or going East on National up to Racine Avenue.

Ms. Hieble – But you have the option.

Mayor Wysocki asked if there anyone wishing to speak in favor?

Mr. Johnson – Just to clarify, October is our busiest month in past history so the traffic count at that time is probably at the high end. Could I get a copy of that traffic count also?

Ms. Jones – Yes.

Mr. Johnson - We are not proposing any change from our original conditional use for the gravel pit, although there is still noise and dust even though we keep the roads watered so nothing is going to change.

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

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

Paul Stieff 19985 W. National – When I moved out here there were no operations on the North side. I got sick of that operation about ten minutes after it started and have been putting up with it for 12 years when I was told it would be only ten years. I was also told there would be a park donated to the City, but the City spent \$846,000 for improvements. I was a little annoyed that the city forked over that much money on something I understood would be donated. I can't understand transferring the batch plant from one side of the road to another. I can't understand taking one thing that has one tax key number and moving it over to another unless you are going to let me build a garage on another persons property based on the permit I received on my current property. I would characterize them as a bad neighbor and one fruit basket in a decade is not enough. I'd say one batch plant is one too many. One quarry 12 years out, one too many. Two quarries 12 years out, two too many. I would be very disappointed to see the City passing this in light of the problems we have had in terms of noise and dust, firing ranges, digging below the water table, water being taken off the property, etc. If what I'm saying is incorrect, let me know, but I think I am correct.

Tom Pacholski, 20835 W. Glengarry Road - I am opposed also and ditto many of Paul's thoughts. They make it sound nice that they water the road but you should see the dirt and dust in our home. We have seven children and a couple have asthma and the dirt and dust is bad for them. I am very concerned about the future if this would continue and what is going to keep this from being permanent. I am also opposed because of the water issue.

John Hebert, 6015 S. Aberdeen Drive – I can't fault these gentlemen for trying to operate their business. My principal objection is a vote of no confidence in the City of New Berlin. For years I have complained about the illegal activity of the Police Department. Mayor Wysocki sent me a marvelous letter trying to explain that. I will maintain that it is still illegal because a firing range is not a permitted use under a conditional use of a quarry. The City has allowed that to go on for years. The City has failed to meet even minor concessions when residents complained about broken windows. Many municipalities have covered load ordinances to help reduce stray rocks, but not in New Berlin. The residents also complained about noise levels. When the North quarry opened the residents left here with the understanding that the hours of operation would be the limited hours as are for the crusher, not all day. When it was finalized, they were able to operate all day. Residents of the City feel they have been betrayed by the City, time and time again. Municipalities have ordinances prohibiting air brakes so you don't get the noise but New Berlin could not pass that ordinance. Who is watching the hen house. I can understand the businessman pushing the envelope but residents rely on the City to enforce the ordinances, but time and time again when it comes to the quarries, it hasn't happened. When the batch plant moved from the North to the South every reading that we could see of the ordinances required a Condition Use Permit because the permit was not transferable yet no public hearing was held. You betrayed the residents time and time again. I have to oppose this. It is a vote of no confidence in the City.

Mayor Wysocki – I gave you evidence that sometime back the Council passed an ordinance to allow for the firing range at that facility. It is not an illegal activity. It is an approved Council action. You may not like it, but there is legal justification and documentation as to how it happened. The issue of the transfer of the batch plant from the North to the South was well

researched and went through a legal history and it was determined that it be allowed.

Mary Hiebel, 2160 W. National Avenue – I have gotten the sense that our concerns have been minimized by the answers to some of the questions tonight. If this passes, I would welcome every Commissioner to come out and sit somewhere on National Avenue during the peak hours of operation and put up with what we have had to put up with during the times addressed by Paul S. and John H. It is not as simple and as quiet as the answers seem to be tonight. We are concerned. It is a nuisance, noise pollution and a water concern. Please take this all into consideration before approving this.

Mayor Wysocki asked three times for anyone else wishing to speak in opposition, seeing none.

Mayor Wysocki asked for comments from the Commissioners.

Mr. Teclaw – Is the Plan of Operation included in our packet supposed to be specific to this Conditional Use?

Ms. Jones – Yes, it is.

Mr. Teclaw – There are some inconsistencies between the Plan of Operations and the findings on the staff report. Are they going to rewrite the Plan of Operation according to what was said tonight?

Ms. Jones – They will need to officially submit anything that was mentioned tonight and is not in the Plan of Operation. I will be amending the staff report according to what we have heard tonight.

Mr. Teclaw – It states Saturday hours could be a problem. What is meant by that?

Ms. Jones – This is from the Building Services Manager and I think what he was stating is that typically they are done by noon and conditions would have to be adjusted. I will check with him.

Mayor Wysocki - Because it is a State Project and the actual activity from this plant is condensed, they could anticipate some work going on until 5:00 p.m. on Saturday because of all the aspects of construction such as weather, etc. It referred to the high operation days.

Mr. Trierweiler – Last year during the construction season, I believe we worked two Saturdays in the whole summer. It depends on schedules and usually Saturday work would be later in the year when the weather starts to get bad.

Mr. Teclaw – Will the Plan of Operation be written to be more specific? I think it would be a lot more agreeable to the neighbors if there were limitations in writing as to the number of days of operation. Would there be a chance for other requests for projects to come in?

Mr. Trierweiler – No, Trierweiler Construction is serving this job only. We do not plan to ship concrete to any other contractor out of this plant. We can rewrite the Plan of Operation according to the discussion tonight.

Mayor Wysocki closed the public hearing at 8:06 P.M.

NEW BERLIN PLAN COMMISSION
NEW BERLIN CITY HALL COUNCIL CHAMBERS

APRIL 4, 2005

MINUTES

The Plan Commission meeting was called to order by Mayor Wysocki at 8:07 P.M.

In attendance were Mayor Wysocki, Alderman Ament, Mr Sisson, Mr. Teclaw, Mr. Barnes, Mr. Felda. Also present were Nikki Jones, Planning Services Manager; Olofu Agbaji, Associate Planner; Amy Bennett, Associate Planner; Eric Nitschke, Storm Water Engineer. Mr. Gihring was excused.

Motion by Alderman Ament to approve the Plan Commission Minutes of March 7, 2005 and March 16, 2005 with an amendment to attach Definitions to Sections 235 and 275. Seconded by Mr. Sisson. Motion carried unanimously.

Plan Commission Secretary's Report - none

CONTINUED ITEMS

5. OA PG-830 – City Center Signage Plan

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

Motion by Alderman Ament to forward to the Common Council to set a Public Hearing Date for the May 2, 2005 Plan Commission Meeting at 6:02 P.M. to discuss the Overall Coordinated Sign Design Guidelines for New Berlin City Center Development.

Seconded by Mr. Sisson. Motion carried unanimously.

6. AK PG-280 – Sign Code Changes (Sec. 275.61)

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

Motion by Alderman Ament to forward to the Common Council to set a Public Hearing Date for the May 2, 2005 Plan Commission Meeting at 6:03 P.M. to discuss the Sign Code changes.

Seconded by Mr. Sisson. Motion carried unanimously.

NEW BUSINESS

7. (2)AB R-1-05 Open Pantry – 15551 W. Cleveland Ave. – Rezone from B-4 to B-2.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at 15551 W. Cleveland Avenue from B-4 to B-2.

Seconded by Alderman Ament. Motion carried unanimously.

8. (7)AB R-13-04 Woodland Meadows – 3335 S. Catamount Dr. – Rezone from R-1/R-2, C-2 to R-1/R-2,C-2,C-3.

Motion by Alderman Ament to recommend to Common Council adoption of an ordinance that approves the rezoning of a property known as Woodland Meadows located at 3335 S. Catamount Drive from R-1/R-2 and C-2 to R-1/R-2, C-2 and C-3 (to reflect the delineated wetland and permanent open space).

Seconded by Mr. Sisson. Motion carried unanimously.

9. (4)OA LD-7-04 Donald & Judith Stormeon, a/k/a Timothy & Patricia McLaughlin – Ne ¼ Sec. 26 – 14695 W. Beloit Rd. – Amendment to CSM.

Motion by Mr. Sisson to recommend to Common Council approval of the amendment to Certified Survey Map #9824 to change the driveway restriction for Lot #1 of the property located at 14695 W. Beloit Road from 30' to 81', subject to the application, plans on file and the following:

- 1) Plan Commission shall amend Condition #5 to read:
Place driveway restriction on face of CSM. The driveway is to be located off of Small Road and not off of Beloit Road. Driveway access restricted to the South 81' of the frontage along Small Road. If there are obstructions on the lot that would prevent the driveway from being placed no closer than 5.0' from the South lot line the obstructions must be located/ identified on the Plat of Survey.
- 2) Following Common Council approval, applicant shall file an affidavit of correction of the CSM with the Register of Deeds prior issuance of Building Permit.

Seconded by Mr. Teclaw. Motion carried unanimously.

10. (7)AB U-7-05 General Finishes – 17100 W. Victor Rd. – Building Addition to Warehouse Raw Material and Product.

Motion by Mr. Barnes to table the request by General Finishes for use, site and architectural approval for expansion located at 17100 West Victor Road per the applicants request.

Seconded by Mr. Teclaw. Motion carried unanimously.

11. (7)OA LD-1-05 Kohler Pit, Inc. – 4485 S. Racine Ave. – Sw1/4 Sec. 20 – Two Lot Land Division.

Motion by Mr. Teclaw to recommend to Common Council approval of the Certified Survey Map for the property located at 4485 South Racine Avenue subject to the plans on file and following conditions:

- 1) Applicant shall recombine remainder of lot 1 with lot 2.
- 2) Applicant shall correct all drafting errors identified by Staff prior to signing of final CSM.
- 3) Show cord length, bearings and cord radius for Racine Avenue curve on the face of the plat next to the curve.
- 4) All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- 5) Payment of \$2,137.60 for the new lot in Public Site, Open Space and Trail fee shall be paid before the City shall sign the CSM.

Seconded by Mr. Barnes. Motion carried unanimously

12. (4)NJ U-8-05 Little Muskego Lake Protection and Rehabilitation District – 5865 Martin Rd. – Composting of Aquatic Plants in A-2 Zone.

Motion by Alderman Ament to approve the request by Little Muskego Lake Protection & Rehabilitation District for composting of aquatic plants at the properties located at 5865 South Martin Road subject to:

- 1) This approval is on a temporary basis for one year. The applicant may re-apply for a Conditional Use Permit for composting on the site on a permanent basis next year, prior to the expiration of the Use Approval permit.
- 2) Aquatic plants shall be spread out, and a cover crop planted.
- 3) Unresolved complaints due to odor may be cause for the Plan Commission to revoke temporary approval.
- 4) Applicant shall verify how many times per summer the weed work will occur.

Seconded by Mr. Sisson. Motion carried unanimously.

13. (7)NJ R-3-05 Ronald Reagan Elementary School – 4225 and 4385 S. Calhoun Rd. – Rezone from R-1/R-2, R-3, I-1 and C-1 to I-1, C-1 and C-2. Set Public Hearing.

Motion by Alderman Ament to forward to Common Council a request to set a Public Hearing at the May 2, 2005 Plan Commission Meeting at 6:00 P.M. to rezone the property located at 4225 and 4385 S. Calhoun Road from R-1/R-2, R-3, I-1 and C-1 to I-1, C-1 and C-2.

Seconded by Mr. Sisson. Motion carried unanimously.

14. (2)OA U-10-05 U. S. Cellular – Hickory Grove – 2600 S. Sunny Slope Rd. – Tower Co-Location.

Motion by Mr. Teclaw to approve the use, site and architecture for U. S. Cellular to co-locate 3 antennas within the new 98' flagpole and construct an equipment shelter at 2600 S. Sunny Slope Road subject to the application, plans on file, and the following conditions:

- 1) Alderman Hopkins has expressed concerns relative to lighting and flag on the pole. He recommends that no flag or light be installed on the parcel to respect the request of the neighbors.
- 2) The Architecture Review Committee (ARC) approved the equipment shelter on March 16, 2005. ARC recommends that applicant construct a false wall to blend the transmission between the two equipment shelters. Wall and building must be painted to match the existing structure. It may require that the entire building wall be painted to match the new paint.
- 3) The lease shall be finalized with the City Attorney, City Staff (Director of Finance and Administration) and approved by the Common Council prior to issuance of the Zoning Permit.
- 4) Plans shall meet the Wisconsin Enrolled Commercial Building Code Section 3108 for Radio and Television Tower requirements. Building and tower plans shall be approved by the City of New Berlin Department of Community Development Inspection Division per Wisconsin Dept. of Commerce.
- 5) Apply and obtain appropriate building, plumbing and electrical permits.

Motion by Alderman Ament to amend the motion by dropping Condition #1 since it is included in the original approval. Seconded by Mr. Teclaw. Motion carried unanimously.

Motion by Alderman Ament to amend the motion by rewording #3 to read, the use approval is contingent upon final Common Council approval of the lease for co-location. Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Mr. Teclaw to approve the use, site and architecture for U. S. Cellular to co-locate 3 antennas within the new 98' flagpole and construct an equipment shelter at 2600 S. Sunny Slope Road subject to the application, plans on file, and the above amended conditions.

Seconded by Mr. Barnes. Motion carried unanimously.

15. ()NJ PG-948 Martha Drive Roadway Extension.

Motion by Mr. Sisson to recommend to Common Council adoption of a resolution that approves the acceptance of the dedication of the Martha Drive extension located at 18845 Overlook Drive subject to:

- 1) The roadway reservation for Martha Drive south of Overlook Drive, as more specifically described in Exhibit "A" is hereby accepted pursuant to the operation of Wisconsin Statutes Section 66.1024 and the Resolution attached.
- 2) By accepting this dedication, the City is making no determination as to when or if Martha Drive shall be extended south of Overlook Drive. Said acceptance is simply being undertaken to facilitate storm water management as part of the Inez Drive Project.
- 3) In the event the City chooses to extend Martha Drive south of Overlook Drive, it reserves the right to require that any property benefited from the extension of said roadway shall bear its proportionate share of the cost of the improvement.
- 4) Nothing in the attached Resolution shall be construed or interpreted to imply that Martha Drive may be extended south of Overlook Drive or provide a means of ingress and egress to any other lands.

Seconded by Alderman Ament. Motion carried unanimously.

COMMUNICATIONS

16. Communication To: Plan Commission
Communication From: Olofu Agbaji, Associate Planner
RE: Letter dated January 31, 2005 from BUYSEASON, Inc regarding Occupancy Permit.

Plan Commissioners acknowledged receipt of this communication.

17. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: WAPA News, Fall 2004

Plan Commissioners acknowledged receipt of this communication.

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

Plan Commissioners acknowledged receipt of this communication.

19. Communication To: Plan Commission
Communication From: Nikki Jones, Planning Services Manager
RE: "Keeping Options 75% Open", JSOnline, March 19, 2005.

Plan Commissioners acknowledged receipt of this communication.

Motion by Mr. Teclaw to adjourn the Plan Commission Meeting at 9:15 P.M. Seconded by Alderman Ament. Motion carried unanimously.