
STAFF REPORT EXECUTIVE SUMMARY

APPLICANT/PROJECT: Robert Williams / TDI Associates, Inc. / Deer Creek Inn and Conference Center

LOCATION: 1401 South Moorland Road

REQUEST: Use, Site and Architectural Approval to construct a hotel, water park, conference center and mixed-use retail facility (see plan of operation) on the property located at approximately 1401 South Moorland Road.

D.R.C. RECOMMENDATION: Approval of the request for Use, Site and Architecture to construct a hotel, indoor water park, conference center and mixed-use retail facility (as identified within Plan of Operation) on the property located at 1401 South Moorland Road, subject to the application, plans on file and the following conditions:

Waivers Request:

- ◆ Applicant requests a waiver to deviate from the City's requirement under Section 275-36D(3)(b) and 275-55-1, S.07(d)e that requires no grading within 30' of the wetland areas unless approved by the Plan Commission. The applicant needs to grade within 30' of the wetlands. The proposal is to grade up to the wetlands as shown on the plans. The project requires structural supports be placed within this wetland setback area to support water slide tubes. The plans will be expanded to include additional erosion control measures in these areas to ensure the wetlands are protected. The plans show orange construction and silt / erosion control fencing adjacent to the wetlands for their protection. All areas within the wetland setback shall be re-established with "Shoreland Seed Mix" / "Prairie Nursery Moist Meadow Seed Mix".
1. Planning
 - a. See attached Plan of Operation submitted by the applicant.
 - b. Applicant shall adhere to criteria outlined in PUD Ordinance #: 2128.
 - c. All landscaping and LOD areas shall be installed & adhered to as identified under Section 275-54 of the City's Zoning Ordinance. Payment of all landscape installation and maintenance 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 City's Zoning Ordinance. A registered landscape architect shall stamp plans. Landscape plan shall be approved and signed by the Department of Community Development prior to installation of any materials.
 - d. City of New Berlin plantings specs, as identified in 275-56, shall be followed and identified on plan.
 - e. Applicant shall apply for and receive individual Sign Permits for any signage prior to installation or modification, even if signage is temporary. Applicant shall be required to place a monument sign not only identifying the facility but also the City of New Berlin as well.

- f. All aboveground utilities, both on-site and off-site, shall be buried.
- g. All streetscapes shall conform to the City Center roadside edge plans, where appropriate. Plans to include but is not limited to the following: sidewalks, sidewalk lighting, and landscaping.
- h. Applicant has requested permission to grade within the 30-foot wetland setback. Plan Commission may grant this waiver but no encroachment into the wetland and / or floodplain shall be allowed at any time without prior approval by all regulating authorities (see waiver above).
- i. Applicant shall provide detail as to how sequencing of construction shall occur and where all materials excavated will be brought / how utilized and where any water infiltrating site will be pumped.
- j. Each tenant will require a separate use approval from the Plan Commission. Use will be based, in part, on available parking as each tenant applies for occupancy. (Plan Commission may wish to allow these to be granted administratively).
- k. Applicant shall continue to work with DCD staff on refining the architectural details of this facility. PDI shall continue to oversee the architectural elements of this project, in conjunction with staff, throughout construction.
- l. Applicant shall vary brick style, texture and/or color along retaining wall on south side of facility screening the loading area and refuse disposal area. In addition, significant landscaping (providing year round screening) shall be placed along this border to screen the adjacent property.
- m. Applicant shall verify all building separations to adjacent buildings.
- n. Applicant shall submit an application to DCD to have the field delineated wetlands approved.

2. Utility

- a. Applicant shall provide detailed construction drawings for the proposed water and sanitary sewer utilities along with materials.
- b. Applicant shall submit water usage and waste generation calculations.
- c. Sanitary sewer, storm sewer, and water plans to be approved by all regulating authorities.

3. Storm Water

- a. When the Applicant submitted his request for a PUD on this site staff noted that given storm water issues in this area of the City and the scope of the anticipated development that his project might be benefited by regional storm water projects being undertaken by the City . A discussion took place with the developer during which he offered to contribute up to one million (\$1,000,000.00) dollars toward the construction of said facility with the expectation that said facility would ameliorate storm water mitigation needs which otherwise would be attendant to his project. Since that time the City has built SP-2 for the purpose of mitigating storm water issues in the Gatewood and Buena Park subdivision areas. Staff's analysis is that those improvements will not materially diminish the storm water mitigation needs on this site and therefore it is expected that this applicant will be responsible for managing all of his storm water issues on site. The storm water management plan that has been presented does meet that objective. Nevertheless the City wishes to make clear that to the extent the Applicant concludes now or in the future that his development is being adversely impacted by regional storm water issues, that the Applicant is responsible for its own mitigation of those issues up to the amount of the original donation.

- Therefore, the following is required of the Deer Creek Conference Center, in lieu of the City of New Berlin waiving the \$1,000,000 contribution towards regional stormwater detention and flood abatement in the Deer Creek watershed. The current owner and all subsequent owners their agents, tenants and assigns shall not demand of the City financial aid or any other form of assistance for flood abatement programs that may be required to protect said property in the future. The owners of the Deer Creek Conference Center shall be solely responsible to fund any potential flood mitigation projects that become necessary to protect the facility and the property on which the facility lays up to the amount of the original proposed donation, i.e. one million (\$1,000,000.00) dollars. Applicant shall provide the City with a written recordable acknowledgment of this understanding. The parties further acknowledge that any regional storm water issues will be reviewed by the City in the future on their merits and the fact that the Applicant has spent up to one million (\$1,000,000.00) dollars on mitigation will not necessarily result in any obligation of the City to make additional regional storm water improvements which might be beneficial to the Applicant.
- b. All stormwater best management practices shall be maintained according to the approved maintenance agreement. Any deviation from the maintenance plan may lead to corrective action and/or enforcement as defined in Municipal Code Chapter 226.
 - c. Full detail of rooftop rain garden is required and shall be satisfactory to staff.
 - d. The cistern sizing shall be included in the Stormwater Management Plan (SWMP). The cistern shall be sized to store a 100-year storm without discharge. Also, the driveway from Greenfield Avenue may not be tied into the Cistern. This will keep salt out of the cistern and protect the rooftop rain gardens.
 - e. Cistern discharge and rooftop rain garden discharge shall be directed to the wetland to maintain hydrology. The City will look for this discharge to be exempted from MMSD Chapter 13 requirements. If MMSD does not allow the exemption, the volumetric approach to the analysis should be sufficient to meet Chapter 13 requirements.
 - f. The building shall be a minimum two (2) feet above the existing FEMA floodplain elevation. All vents, garage entrances, and other access points to the garage or first floor shall be two (2) feet above the existing FEMA floodplain elevation or 1 foot above the crown of the road at the Deer Creek (whichever elevation is higher). If the building structure is at or below the floodplain elevation, it shall be waterproofed. Design calculations shall also be provided verifying the structural strength of the structure during a 100-year flood event.
 - g. The SWMP Maintenance Agreement shall include the commitment of the owner to finance any future projects required to correct or mitigate the site issues of floodplain, stormwater management, maintenance of the rooftop gardens, etc.
 - h. Support columns in the wetlands shall have all appropriate approvals, where applicable.
 - i. A detailed construction site and erosion control plan shall be required.
4. Traffic Engineering
- 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. Decorative pedestrian lighting is required along the entire frontage of Moorland Road and Greenfield Avenue. They shall consist of Lumec Domus series

- luminaires on 15 foot poles at 80-foot spacing. An approved equal / substitute fixture may be used upon approval of the Department of Community Development.
- c. The City's Alternative Transportation Plan indicates the planning for a trail in the NW area of the parcel. A 50-foot easement east of the existing drainage easement shall be provided to the city for future trail purposes.
 - d. Access permits shall be required for access on to Moorland Road and Greenfield from Waukesha County and the state DOT respectively.

5. General Engineering

- a. Sloping in the right-of-ways from either Moorland Road or Greenfield Avenue shall not exceed (4:1, 25%) in the terrace areas.
- b. The entire elevation of the building shall be lowered at least (1.6') to (850.0) USGS datum for the first floor elevation from the proposed (851.6) USGS datum.
- c. The entire site shall be ADA compliant, ICC/ANSI A117.1-1998.
- d. The masonry retaining walls on site shall be lowered due to both the building and site being lowered +/- (1.6') as well as the proposed incorporated railing system using the wall is to be lowered to elevations "No" more than twelve inches (12") to eighteen inches (18") above the grade/ground elevation on the high side of the wall. A railing system other than the retaining wall shall be proposed.
- e. Any and all retaining walls shall remain a minimum of five feet (5.0') from any right-of-way or property lines.
- f. Please show on each ramp / all ramps on site above and below ground the percent grade / change in gradient.
- g. Where necessary/appropriate add this note to each project plan sheet as follows: "All site improvements and construction shown on these plans shall conform to City of New Berlin Developer Handbook, Infrastructure Design Standards and Infrastructure Specifications, and where the plans do not comply, it shall be the sole responsibility and cost of the Developer to make revisions to plans and/or constructed infrastructure to comply at the Developer's sole expense."
- h. The applicant shall prepare formal written permanent easement documents (to include water main), including graphic and written legal description attachments for each and record it at the Waukesha County Register of Deeds after review / approval by the City of New Berlin for each Water-Sanitary-Storm-Drainage easements shown on an updated Certified Survey Map. A current completed, signed and recorded CSM (Certified Survey Map) representing a consolidation of lots as required and approved as part of the PUD for the site shall also be submitted.
- i. There shall be "No" slopes on site that will exceed (4:1, 25%) anywhere on the site. Please review the site grading plan and correct any deficiencies as necessary. Example: the slopes by the outside loading docks and dumpster areas exceed (4:1).
- j. Show the ramping from Greenfield Avenue for the first floor access on the "North" elevational view of the building.
- k. Please show dimension lines from the foundation walls of the building to adjacent property lines, right-of-way lines and wetland designations.
- l. The "Northerly" most support for the tube sections of the water park appear to be placed in a discharge and riprap location for a sump discharge. Please move the location of the support or move the discharge location/riprap to avoid the support.
- m. Please provide elevation views along both Greenfield Avenue and Moorland Road

- at grade, sidewalk/street level showing the retaining walls and railings along the building face.
- n. Please show all floodplain and wetland information on the grading and site plans.
 - o. Please show spot elevations of the existing grades at one hundred (100') intervals along both the back of curbing for Moorland Road and Greenfield Avenue as well as the medians in both Moorland Road and Greenfield Avenue.
 - p. Please show the Wetlands elevations along the delineated Wetland boundary next to the "West" elevation of the Hotel.

6. Building Inspection

- a. Building plans shall be signed and stamped 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.
- e. Utility connections, to existing homes to be razed, shall be properly abandoned prior to the issuance of wrecking permits.

7. Fire (Requirements)

- a. Applicant shall meet the requirements as outlined by the City's Fire Department in a DCD letter dated 01/25/07.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLAN COMMISSION STAFF REPORT

Meeting of February 5, 2007

Robert Williams / TDI Associates, Inc. / Deer Creek Inn and Conference Center
1401 South Moorland Road

DATE STAFF REPORT CREATED: January 23, 2007

APPLICANT / OWNER(S): Robert Williams (TDI Associates) / Don Kitten / Deer Creek Inn and Conference Center

REQUEST / DESCRIPTION OF PROJECT:

Use, Site and Architectural Approval to construct a hotel, indoor water park, conference center and mixed-use retail facility (see plan of operation) at approximately 1401 South Moorland Road.

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 12/26/06

DATE OF COMPLETENESS DETERMINATION: 12/26/06

Application Check List Enclosed: N

PRE-APPLICATION CONFERENCE HELD: Y

(Date(s) of Meeting(s): various / **Site Visit(s):** various **Staff Summary if Applicable):** Not applicable

CONCEPTUAL PLAN: Not applicable; conceptual plans were submitted to the City and were under review by the Plan Commission and Common Council in 1999, 2000 and 2001. PUD Ordinance #: 2128 was adopted by the Common Council on January 9, 2001.

Recommendations Y / N / Other: Not applicable

SIZE OF DEVELOPMENT / PARCEL (S):

Parcel Size: 6.5 Acres

Facility Overall Square Footage: 1,078,900 square foot (including five (5) floors of below grade underground parking [1,141 spaces], two (2) floors of mixed-use retail, indoor water park & conference facilities and five (5) floors of rooms)

CURRENT ZONING: The site is currently zoned B-1/PUD (Ordinance #: 2128) and C-2. The PUD ordinance was approved by the Common Council on January 9, 2001. (Note: A copy of the PUD is attached to this report).

CURRENT LAND USE: Vacant Single-Family Residential. Homes to be razed.

PROPOSED ZONING: Not applicable. Applicant will be required to rezone the field-delineated wetlands prior to construction taking place. WDNR and Army Corps of Engineers concurrence letters accompany this packet.

PROPOSED LAND USE: Mixed-use development containing a 405-room hotel, indoor water park, conference center, restaurants and retail (mixed-use / see attached Plan of Operation).

PROPOSED LOT SIZE (S): Not applicable

PROPOSED DENSITY: Not applicable

ADJACENT ZONING AND LAND USE:

(North): Zoning: Commercial	Land Use:	Greenfield Avenue / City of Brookfield / Walgreen's
(South): Zoning: Rm-1	Land Use:	Deer Creek Condominiums
(East): Zoning: I-1	Land Use:	Moorland Road / Vacant Lands / Charcoal Grill / Cemetery
(West): Zoning: Rd-1, C-2	Land Use:	Deer Creek Run Apartments, Conservancy Land / Deer Creek

CONFORMANCE WITH MASTER PLAN AND MUNICIPAL CODE:

MASTER PLAN / GDMP LAND USE UPDATE 2001:

- ◆ ***Planning Context / Vision / Development Policies:*** Specifically, under the Development Policies for the Greenfield Avenue Concept Area it states *"Recognize the Greenfield Avenue / Moorland Road intersection as a major gateway into the City from the north. Encourage landmark buildings that are compatible with surrounding areas. Taller buildings must be off set by larger setbacks, increased landscaping, and methods to minimize the parking field, such as decked parking"*.

(Note: The B-1 / PUD Ordinance established larger setbacks for this project. They are normally 40 feet under the general zoning district but are 50 feet under the PUD Ordinance. In addition,

the structure itself is to be at least one foot away from adjacent structures for every one-foot in height. This structure meets that requirement).

- ◆ The 2001 GDMP Update to the 2020 Master Plan identifies this property as Suburban Commercial. *Suburban Commercial areas include the commercial areas and corridors of New Berlin, primarily along National Avenue east of Calhoun Road. While the primary focus of these areas is retail sales and personal services, some office space is intermixed. The geographic boundaries of Suburban Commercial areas should be controlled to limit expansion of commercial development and the increasing number of vacant buildings while providing flexibility to accommodate changes in the market. Developers will be encouraged to develop creative Commercial Centers that do not place focal emphasis on the parking areas but on the commercial uses themselves. This can be accomplished by placing some parking to the side or behind buildings and utilizing internal landscaping throughout the parking areas. Signage and lighting should be placed and designed to ensure visibility without being excessive"*.

(Note: This is a mixed-use project that provides for parking below grade (no impervious parking above grade) and provides for a "green roof").

- ◆ The City's adopted Economic Development and Revitalization Plan (adopted July 8, 2002) – Visioning workshops were held in May of 2001. One of the desired categories and types of businesses recommended during those visioning workshops included *"Hotels and Conference Centers to accommodate existing residents, visitors and businesses"*.

ZONING CODE (CHAPTER 275): Yes, the applicant is proposing to utilize section 275-34, the Commercial District and the Planned Unit Development Ordinance #: 2128. Project has been reviewed under the existing PUD Ordinance #: 2128 and the B-1, Shopping Center District guidelines of the current zoning code.

- ◆ The Planned Unit Development Summary in Ordinance #: 2128 identifies that *“The purpose of this Ordinance shall be to create a zoning district that allows creative project design and flexibility from the rigid development standards of the underlying zoning districts.*

This PUD shall comprise approximately 6 acres of the principal site for hotel and conference center. The principal use will be The Deer Creek Inn & Conference Center, which is a full service hotel and conference center featuring a five story hotel structure containing up to 405 guest rooms. The facility would include; a conference center with banquet and meeting room facilities, up to 15,000-sq. ft. of retail and commercial tenant space and up to 2 full service restaurants, which will encompass up to an additional 15,000 sq. ft. Two levels of below grade parking and surface parking for a total of approximately 1,000 vehicles included in plan will accommodate all allowable uses of the district. (PUD Ordinance #: 2128 attached).

- ◆ The general B-1 Shopping Center District *“is intended to provide for neighborhood and community shopping centers with groupings of retail and customer service establishments to serve the citizens of New Berlin, the surrounding region, and businesses. Hotels and regional uses are also appropriate in this District when planned appropriately in relation to traffic and landscaping. This District is intended to accommodate the requirement of on-site parking and loading facilities; landscape planting screens in areas adjacent to non-business development or other incompatible uses; and a partially pedestrian-oriented shopping environment. Uses in this District are intended to be compatible with the character of the adjacent residential areas served”.*
- ◆ The hotel building is in the B-1 / PUD zoning district. The general B-1 district requires a 40-foot setback to the base setback line, 25-foot side yard setbacks and 50 foot rear yard setbacks. The approved PUD for this site / project includes a requirement to increase all these setbacks to 50 feet. The base setback line along both Greenfield Avenue and Moorland Road are the existing ROW lines, which also coincide with the ultimate R.O.W. lines. (The R.O.W. lines are roughly 25 feet to the curb line for Moorland Road and 11 to the curb line of Greenfield Avenue). The PUD also includes a clause to allow for *“roof canopies with their related structural supports systems and other architectural aesthetic items... to encroach up to 30 feet into the front, side or rear yard.”* The building, as designed, has the main building set at a setback of 50 feet. All in all, the main structure will be approximately 75 feet from the back of curb along Moorland Road. The roof canopy, for the walkways below, extends into this setback area a maximum of 20 feet at the accent areas, which leaves a 55' setback to Moorland. The project as designed meets the code required buffer setback to the wetland on the site. (Note: see the exceptions and exemptions allowed under the City’s Zoning Ordinance in the “findings”).
- ◆ The applicant is requesting *“permission, however, to grade and place necessary structural support columns for the waterpark tubes in the wetland setback”.* All areas within the wetland setback shall be re-established with “Shoreland Seed Mix” / “Prairie Nursery Moist Meadow Seed Mix”.
- ◆ The PUD Ordinance also includes an expanded setback along the south side of the building such that the hotel must be a minimum distance away from the adjoining buildings to the south equal to the height of the hotel. The main portion of the hotel building is setback from the adjacent Deer Creek Apartments a distance of 98.5 feet per submitted plans. As allowed by the PUD, the walkway at the second floor extends into this setback a maximum distance of 15 feet. The pre-function area of the conference center is setback from the Deer Creek Apartments a distance of 84 feet.

- ◆ Based on both the underlying zoning and the PUD agreement and the conditions added to the agreement by the Common Council this building meets or exceeds the minimum setback requirements.
- ◆ The height of the Hotel is governed by the current underlying zoning code. This restricts the height to 55-feet. The current zoning code also allows the Plan Commission the ability to grant up to two (2) additional floors of height for each below grade level of parking, pursuant to Section 275-34(D)(3) – which reads “*Hotels and motels may exceed the maximum height requirement of five floors (55-feet) with each underground parking floor provided. A credit of one hotel floor may be granted, with a maximum of a two-floor credit, for each level of underground parking or for the dedication of permanent open space adjacent to surface parking or the hotel structure in the amount of two times the square footage of the floor added*”.
- ◆ This hotel has five floors of below grade parking and one grade level covered parking [1,141 spaces in total]. The PUD requires at least 1,000 parking spaces be available to “*accommodate all allowable uses of the district*”. In addition the hotel and site exceed the minimum open space requirements of the general code, which is 35%. The conditions of approval for the PUD Ordinance require 25%.
- ◆ The project plans identify that there is 76.6% green space (based on 44.8% green space at grade and another 31.8% of the total site of green space on the Green Roof) and 60.4% open space at grade. Both exceed the code requirements for the current underlying zoning district. Those ratios are 25% green space and 25% open space. The code also allows for additional for additional stories based on the excess square footage of open space in the amount of 1 square foot of Hotel for each two square feet of open space that exceeds the minimum. The project has an extra 58,288 square feet of open space. This adds to the benefits of this specific design relative to granting the extra two floors of hotel structure. The overall height is greater than what normally would be expected of a seven-story structure, however the first floor is 18 feet floor to floor and the second floor is 26 feet floor to floor.
- ◆ The reason that the first floor is 18 feet high is so that the emergency vehicles and delivery vehicles can get under the ceiling through the drive under area of the first floor. This drive through design was created to minimize impervious surface outside the building footprint. Using a Green Roof with this drive through design has created little, if any impact to storm water and reduces the requirement for storm water detention. The second floor, which contains the conference center, is 26-feet high so that the main conference room has a clear ceiling height of 24 to 26 feet. Per the applicant, this is a marketplace requirement to attract the regional conferences that this facility needs to be competitive with what the Brookfield marketplace has to offer across the street.
- ◆ The applicant has requested that the Plan Commission review the aforementioned justification for the extra two floors, grading and structural columns in the wetland setback and building setbacks in relationship to the current Zoning Code and the approved PUD Ordinance #: 2128 with Common Council added conditions.

DEVELOPMENT CODE (CHAPTER 235): Not applicable

PUBLIC HEARING REQUIRED: Not applicable; public hearing was held for PUD Ordinance #: 2128 on November 28, 2000.

USE / SITE / ARCHITECTURAL REVIEW: Yes

Use Approval Required: Yes

Site Plan Required: Yes

Architectural Review Required: Yes, an architectural review meeting was held on January 23, 2007 and was approved with minor modifications (see Architectural Sub-Committee minutes that are in the packet).

PROPOSED ARCHITECTURE:

The applicant is proposing to use a neo-classical theme for the entire complex. Materials are a combination of E.I.F.S. (color: Sherwin Williams – Afternoon), 12” x 24” cast stone (color: Whitestone) and 12” x 4” brick veneer (color: Chicago Pink). Columns and detail work to be constructed of Fibercrete. The building will be accented with glass (w/ mullions), decorative detail work, columns and plazas. A six- (6) foot parapet wall topped off with a decorative element screens the upper portion of the roof. Two water slides will project from the western wall and are expected to be painted to help blend in with the western elevation.

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: Yes, Secondary Environmental Corridor along Deer Creek

Wetland on Property: Yes, field delineated as part of this project submittal. Letters from the DNR dated January 27, 2006 and Army Corps of Engineers dated November 4, 2005 concur with the wetland delineations. Rezoning required for field delineated wetlands.

Conservancy Districts (C-1, C-2): C-2 (Wetland)

NRCS Map Classification: Not Inventoried

Floodplain: Yes

Topography / Geologic: Site is somewhat flat and slopes downward toward the west. An approximate ten- (10) foot grade change from Moorland Road to Deer Creek.

ALTERNATIVE TRANSPORTATION PLAN: The City’s Alternative Transportation Plan indicates the planning of a trail in the NW area of the project site. A fifty (50) foot trail easement east of the existing drainage easement shall be provided to the city for future trail purposes.

PARK & OPEN SPACE PLAN: No improvements identified. Plan identifies property as “*Planned Urban Non-Residential Development*” with “*Proposed City Ownership, Open Space Preservation or Outdoor Recreation*” along Deer Creek.

NATURAL RESOURCES PROTECTION:

Limits of Disturbance (LOD): Yes, shall be shown on plans.

Woodland, Tree, and Vegetation Protection: Pursuant to Section 7 of PUD Ordinance #: 2128 authorizes the site to be clear cut of trees, shrubbery, or underbrush, but only after agreement has been reached by the developer and the City of New Berlin. The site plans show the delineated limits of disturbance through the use of orange construction and erosion control / silt fencing. The applicant has indicated he will strive to preserve as many trees as possible.

Wildlife Habitat Protection: See letter from the DNR and Army Corps of Engineers dated January 27, 2006 and November 5, 2005 respectively.

Wildlife Management Plan: Not applicable; the site was found to not contain suitable Butler’s Garter Snake habitat because it was wooded.

ENVIRONMENTAL IMPACT: Applicant will be required to obtain a Chapter 30 permit if they need to grade more than 10,000 sq. ft within 75 feet of the ordinary high water mark of a navigable waterway or filling wetlands – neither of which they are proposing.

- ◆ As a result of digging the below grade structure, de-watering activities may be required for construction to take place. The City has requested geo-technical information from applicant to identify whether or not these de-watering activities will cause a “temporary” drawdown of

groundwater levels and what is the extent of that drawn down and will any private wells will be impacted. Although initial reports suggest that this is a temporary situation and groundwater levels will rebalance themselves upon completion of the de-watering activities, the City will be seeking complete indemnification from the applicant should there be adverse impacts to any wells requiring repair, replacement or reconstruction. Ruekert / Mielke has been requested by the City to conduct a peer review of the geo-technical investigative work that Giles Engineering is currently performing (see attached preliminary report from Giles Engineering). Even though Giles preliminarily indicates that well drawdown does not seem to be an issue, especially if appropriate measures are used such as recharge wells or other similar measures, R/M will prepare an inventory of private wells that may be affected and develop their own groundwater drawdown model using existing well construction data and known hydraulic formulas to develop their own groundwater model. As data is received from Giles Engineering, R/M will further refine that model so as to develop a better understanding of how the groundwater levels will be affected by the dewatering activities associated with the construction of the facilities below grade structure. R/M will also investigate any affects of wells in Brookfield, where applicable. In the event that R/M determines that the conditions are sufficiently dynamic to necessitate on-going or more extensive monitoring staff is authorized to make such extended monitoring a condition of this approval.

STORM WATER MANAGEMENT / DRAINAGE PLAN: Yes, a plan was submitted and reviewed. This site exemplifies the goals and objectives that the Water Resource Utility has set for new development within the City. In the past new developments would “control” stormwater runoff by channeling storm sewers and ditches to holding ponds. These ponds would then discharge the stormwater runoff over a longer period of time so as not to overwhelm the downstream conveyance systems. However, this method of storm water “treatment” did not address the volume of discharge, the amount of green space being removed from the site, and the groundwater infiltration / recharge from the site. The Deer Creek Inn & Convention Center is proposing to be a self-sufficient, low-impact stormwater site. High intensity roof-top rain gardens will be used to absorb the majority of stormwater falling on the building, and a cistern will assist in controlling the discharge of storm water from the remaining impervious areas onsite. In order to eliminate the use of salt onsite during the winter month’s walks, drives, and patios will be thermally heated with excess heat from the water park. The cistern also will be used to irrigate the rooftop rain gardens and other landscaping areas onsite. The wetland complex to the west of the building will be hydrated by filtered overflow runoff from the rain gardens and cistern. A thorough analysis is being completed to ensure that groundwater draw down during construction will not impact neighboring wells. Finally, the building is being constructed so as not to impact or be impacted by the Deer Creek 100-year floodplain.

The cost of implementing the proposed Stormwater Best Management Practices is substantial. Extra supports are needed for the roof and underground parking areas. The cistern, irrigation pumping system, heated walks/patios, and roof top rain gardens also add significant costs. However, these BMP’s create a self-sufficient stormwater facility. Because of the Developer’s forward thinking and the self-sufficient nature of the site, it is Staff’s recommendation that the proposed Deer Creek Conference Center be released of any prior commitments of financial contribution to regional facilities along the Deer Creek Corridor. The Deer Creek Inn & Conference Center is on the cutting edge of stormwater management, and will be a measuring stick for all other projects to come into the City. New Berlin Stormwater Staff lends its full support and recommendation of approval for the stormwater components of this project.

SANITARY SEWER PROVISION:
Within Current Sewer Service Area: Yes

Basin Capacity Available: Yes, MMSD has noted that because this facility is not an extended hotel, it will be considered a commercial land use and therefore not counted.

Adequate Linkage: Yes

Onsite System Required: N/A

WATER USAGE CALCULATION:

The site will be served by public utilities. Based on information submitted by the applicant, approximately 1 million gallons will be used on a monthly basis. The Water Utility has indicated in writing that they can serve this user and that volume is not of concern. The indoor water park uses recycled / regenerated water.

Hotel

Holiday Inn Express---101 Rooms
Approximately 200,000 gals./mo.
(per New Berlin Water Utility bills)

Deer Creek Hotel----- 405 rooms

4X 200,000= 800,000 gals./mo.

Waterpark (per Water Technologies, aka Neuman Pools)

8000 gals/day
X 30 days

240,000 gals/mo.

(Note: Anticipates using regenerative filters)

Total Estimated Monthly Usage:

Hotel 800,000 gals.
Waterpark 240,000 gals.

Approximately 1,040,000 gals. per month

Other uses in facility will have minimal impact on water usage.
Estimated misc. usage at 60,000 gals per month

Total Estimated Usage for Facility:

Approximately 1,100,000 gals. per month

TRAFFIC IMPACT: A summary of the updated TIA was submitted and is included with this packet.

SCHOOL DISTRICT IMPACT: Not applicable

PREVIOUS ACTION:

06/28/99 Conceptual approval by the Plan Commission to rezone property from RM-1 Multi-Family

- Residential to B-4 Automobile Oriented Business District for use as a hotel and convention center (Approved).
- 08/02/99 Plan Commission approved the rezoning request by Deer Creek Inn & Conference Center, at the applicant's request, so that the applicant could work out the financial feasibility of an eight-story limit.
- 02/06/00 Plan Commission recommended approval to the Common Council the approval to rezone the property from RM-1 to B-1/PUD (Approved).
- 11/28/00 Public Hearing held for B-1/PUD Ordinance
- 11/28/00 Common Council approved the request to rezone the property from RM-1 to B-1/PUD. Draft PUD Ordinance to be reviewed and approved by the City Attorney (Approved).
- 01/09/01 Common Council approved Ordinance #: 2128.
- 07/08/02 Letter submitted to Plan Commission by Don Kitten requesting a two-year extension for the Deer Creek Inn & Conference Center Planned Unit Development Overlay District Ordinance #: 2128 (Approved).
- 07/23/02 Common Council approved two-year extension of PUD Ordinance #: 2128.
- 08/02/04 Applicant requested to Plan Commission a three-year extension for the Deer Creek Inn & Conference Center Planned Unit Development Overlay District Ordinance #: 2128 (Approved).
- 08/10/04 Common Council approved three-year extension of the PUD from the date of the expiration of the first extension.
- 08/24/04 Reconsideration by the Common Council to approve three-year extension of the PUD (Approved). Common Council tabled extension request.
- 09/07/04 Common Council approved that this extension request remains on the table.
- 10/12/04 Common Council approved the three-year extension of the PUD.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

1. Plan of Operation attached along with market research report regarding the hotel market.

Proposed Uses

- a. Hotel
- b. Conference Center
- c. Indoor Water Park

PUD Identification

- a. Principal Use
- b. Principal Use
- c. Not specifically identified but can be considered as an accessory use as this portion of the facility is used exclusively by hotel guests
- d. Restaurant & Retail Uses
- d. Accessory Uses
- e. Multi-level Underground Parking
- e. Accessory Use

2. Pursuant to Section 275-23(A)(1), the "Creation of a PUD Overlay District shall follow the same procedure used for amending the Zoning Map (see Section 275-22) and requires an ordinance for adoption. The PUD ordinance shall specify all elements of what is to be modified or added to the basic underlying district, and provisions of the underlying basic use district not specifically enumerated as changed, modified, or deleted shall remain in full effect".
3. Pursuant to Section 275-23(G), "Use and site plan review. Projects, subdivisions, and any development within the PUD District (which are not part of a combined PUD application) shall comply with all use approval or conditional use approval procedures set forth in City ordinances and shall be consistent with standards imposed on other development in the underlying basic use district as modified by the PUD ordinance".

4. The following exemptions and exceptions to height regulations, pursuant to Section 275-45(B)(1), include *“The District height limitations set forth elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following standards, subject to Plan Commission approval:*
 - (1) *Exemptions: The following uses and structures are exempt from the height limitations of this chapter:*
 - (a) *Architectural projections. Architectural projections, such as spires, steeples, belfries, parapet walls, cupolas, domes, flues, and chimneys.*
 - (b) *Special structures. Special structures, such as elevator penthouses, gas tanks, grain elevators, observation towers, scenery lofts, heating and air-conditioning equipment and necessary mechanical appurtenances, cooling towers, fire towers, ornamental towers, substations, and smoke stacks.*
 - (c) *Essential services. Essential services, such as utilities, water towers, electric power and communication transmission lines.*
5. The following exemptions to yard and setback requirements, pursuant to Section 275-46(D)(1) and (2) include:
 - (1) *Uncovered stairs. Uncovered stairs, decks sized for entry purposes only, stoops, landings, fire escapes, gutters, decks and awnings may project into any yard but not to exceed six feet and not closer than five feet to any lot line.*
 - (2) *Architectural projections. Architectural projections, limited to eaves and wing walls, if the building is constructed to the full permitted building width or depth may project into any yard but such projection shall not exceed three feet.*
6. Applicant will need to have a Developer's Agreement for the proposed water main and sidewalk.
7. Engineered 800 truck amplification system for Fire Department radio System shall be installed. A Similar system installed at Kohl's Corporate offices in Menomonee Falls. Vendor was Communication Specialties – New Hampshire – 1-877-844-4274. Local Installer: Viking Communications: 1-414-771-8960. Contact: Sal Delgatto
8. Sheet T1.1 shows project location on wrong corner of Greenfield / Moorland intersection.
9. Did not find designated water utility meter room on any of the floor plans. Still not designated on plans.
10. Sheet C-3.0 seems to have an error in the retaining wall height, unless it is being used as a sight screen of parked semi's at the dock area. No change. TOW is proposed to be 12-feet above the loading dock paving.
11. The projected tax impacts on a facility such as this have been estimated at approximately \$2.27 million annually (estimates provided by the New Berlin Assessor's Office and are preliminary). Based on an approximate construction cost of \$56,000,000 +/-, the estimates are: \$912,800 +/- (real estate taxes), \$59,300 (personal property taxes), and \$1,300,000 (room tax) for an approximate annual total of \$ 2,272,100.
12. Revisit the proposed retaining wall on the “North” elevation of the building next to the right-of-way for Greenfield Avenue. This wall maybe removed all together with the lowering of the site and using a (4:1, 25%) maximum slope criterion. All retaining walls shall remain a minimum of five feet (5.0') off of any property or right of way lines. Please confirm and dimension as necessary.

13. Indicate how the secondary sanitary sewer lateral will be installed. If trenching through a Wetlands, and not directional boring, permitting from the DNR will be necessary. Please be sure all necessary permitting is on file with the City of New Berlin.
14. Building to be setback from adjacent structures a minimum of one foot for each foot of height.
15. The discharge from the wetland buffer is exempt from Chapter 13 requirements.
16. The Police Department recommended approval with no comments on their review.

D.R.C RECOMMENDATION: **Approval of the request for Use, Site and Architecture to construct a hotel, water park, conference center and mixed-use retail facility (as identified within Plan of Operation) on the property located at 1401 South Moorland Road, subject to the application, plans on file and the following conditions: See Executive Summary.**

Attachments:

Location Map
Plan of Operation
PUD Ordinance # 2128
TIA Summary
Preliminary Geo-Technical Findings Letter from Giles Engineering
DNR and Army Corps of Engineers Letters
Site plans, floor plans & elevations
Water Park Description