

PUBLIC HEARINGS

6:00 P.M.. (7)AB CU-2-06 Wayne and Diane Lindner – 19075 W. Cleveland Ave. –
Temporary Haunted Tent and Corn Maze.

NEW BERLIN PLAN COMMISSION

June 5, 2006

MINUTES

The public hearing relative to the request by Wayne and Diane Lindner for a conditional use for a temporary haunted tent and corn maze at 19075 W. Cleveland Avenue was called to order by Mr. Barnes at 6:06 P.M.

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

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

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

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

Mr. Barnes asked for questions or comments from the Commissioners.

Mr. Felda – Is there a site safety plan for fire?

Ms. Bennett – There are requirements from the Fire Department.

Mr. Barnes asked for further questions or comments from the Commissioners, seeing none.

Mr. Barnes called the Public Hearing closed at 6:11 P.M.

6:01P.M. (7)GK R-3-06 TRD Real Estate – 17910 W. Observatory Road – Rezoning from R-1/R-2/C-1 to R-1/R-2/C-1 to remove a portion of the C-1 on the site.

NEW BERLIN PLAN COMMISSION

June 5, 2006

MINUTES

The public hearing relative to the request by Tom Donovan for TRD Real Estate for a rezoning at 17910 W. Observatory Road from R-1/R-2/C-1 to R-1/R-2/C-1 to remove a portion of the C-1 on the site was called to order by Mr. Barnes at 6:11 P.M.

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

Mr. Kessler read the public hearing notice and stated there was proof of publication, and gave a brief presentation describing the request and showed maps indicating the location.

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

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

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

Mr. Barnes asked for questions or comments from the Commissioners.

Alderman Ament – Have we cleared up the situation of poor soils or high groundwater mentioned on page 2 of the staff report, under Zoning Code(Chapter 275)? Do they need to do any soil testing before we look at this? None of the other things seem to be an issue.

Mr. Kessler – There has been extensive soil testing on the site so I don't believe they need to do anything else. Waukesha County reported the sites perc. No information has been given to me from Waukesha County that there is high ground water in the area.

Mr. Barnes asked for further comments or questions from the Commissioners, seeing none.

Mr. Barnes closed the public hearing at 6:16 P.M.

6:02 P.M. (5)NJ R-4-06 Honeyager Farrell PUD – Deer Creek Preserve – 3949 S. Honeyager Ln, also 14201 W. Farrell Dr., and 14300 W. Howard Ave. – Delineation of wetlands and snake habitat.

NEW BERLIN PLAN COMMISSION

June 5, 2006

MINUTES

The public hearing relative to the request by William Honeyager & John Farrell for Honeyager/Farrell PUD, and Dennis Kasian for Deer Creek Preserve PUD (Kasco Partnership) for a rezoning at 3949 S. Honeyager Lane, 14201 W. Farrell Drive, and 14300 W. Howard Avenue for delineation of wetlands and snake habitat was called to order by Mr. Barnes at 6:16 P.M.

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

Mr. Barnes asked if there were any comments or questions for the purpose of clarification?

Al Koch, 14010 W. Farrell Drive – Will Farrell Road be extended into the new development?

Ms. Jones – Yes, looking at the map you will see Sunny Slope Road running North and South, Farrell Drive with the current homes that are located on that part of Farrell Drive. Farrell Drive will curve and dip to the South to meet up with Fohr Drive, which will be constructed by a separate developer that is also part of this application tonight, and then again connect back up to Howard Avenue. So, there will be two ways in and out of this development, as well as another internal road called Honeyager Drive that will run through that development.

Mr. Koch – Do you have a plan for the other development that is along Fohr Drive?

Ms. Jones – Yes, we do have a plan. I apologize for not having that up on the screen tonight, but there are (24) 4-family buildings going up (indicated location on map). The area in between is still being considered and needs to come back to Plan Commission at a later date.

Mr. Koch – Are you going to rezone that at today's meeting?

Ms. Jones – Today we are only looking at the wetlands and getting those where they really are based on field delineation.

Mr. Koch – There is a creek that drains to the East side of Sunny Slope Road. How is that water going to be handled?

Ms. Jones – There is a large culvert being installed.

Mr. Nitschke - The storm sewer pipe that Nikki has spoken of comes off of Sunny Slope Road because of the nature of how the water travels between buildings. Right now, the requirement is to provide for the 100 yr. flow overland as well as through the pipe to verify that the flow will move through the area safely without impact to the existing residents as well as the proposed residents.

Mr. Koch – That is not the same flow that I am talking about. I am talking about this creek (pointed to it on the map). There is a ditch where Farrell Drive comes in. I don't think it is a navigable waterway. Where is that going to flow?

Mr. Nitschke – That will either flow to the South to the wetlands where they are maintaining the overland flow path, or will be picked up by the storm sewer in the right-of-way where the road is and go to the pond just to the North.

Mr. Koch – What will happen to the elevation along the roadway?

Mr. Nitschke – I would have to look at the plans as to what exactly will be done with the elevation in that area.

Mr. Koch – Will it be graded into the wetland?

Mr. Nitschke – Correct, ultimately all the storm water run off ends up back in the wetlands. It will be pre-treated before it gets back there to insure the discharge water quality is consistent.

Mr. Koch – Are you counting on the holding ponds to pre-treat the water?

Mr. Nitschke – Correct, there will be three storm water detention basins on the site.

Mr. Koch – The water will drain from there to the wetlands?

Mr. Nitschke – That is correct. There is a channel that runs North and South. They also put in a snake tunnel for the Butler Garter Snake, as well as allow for the storm water run off to continue on it's existing path to the South before it ties into Deer Creek.

Mr. Koch – How will Farrell Drive stand up to the increased traffic?

Ms. Jones – This project has been reviewed at our April Plan Commission meeting. At that time we went over all the traffic impact analysis and storm water questions that you are asking. The development will withstand the traffic.

Mr. Koch – Are there written meeting minutes that I can access on line?

Ms. Jones – Yes, or you are welcome to make an appointment to come into the office.

Robert Flick, 14080 Wilbur Drive – Will Spruce Road ever connect to Howard Avenue?

Mr. Gessler – No, I believe the Common Council has approved a resolution not to support the extension.

Mr. Flick – Why? We have a big problem on Wilbur Drive. I believe that the problem would be solved by extending Spruce Road to Howard Avenue where there will eventually be a stop and go light. All the traffic coming from the City Center and the short cuts, which are taking place now, from Coffee Road and eventually on Howard Avenue past the Post Office will be coming through. I would like to know why Spruce Road couldn't be connected to Howard Avenue, and have that traffic directed to the stop and go light at Howard Avenue and Sunny Slope Road.

Mr. Kessler – The Utility owns property in that area, and there is infrastructure there, but I don't believe it is wide enough for a public road. City Attorney, is my recollection correct?

City Attorney Blum – I am not sure whether the width of area will accommodate a road. The status of it right now, as you indicated, is that it supports the utilities that are running through

there, and there is also a pedestrian easement. The Council made a determination, at least for the foreseeable future, that there would be no extension for a roadway. The matter before us this evening is a rezoning, with the sole purpose of dealing with the wetlands and conservancy areas. The questions you are asking tonight, Sir, are not really part of what we are looking at right now. We did deal with that previously, and again there are existing minutes to refer to. We can assist you in getting that information.

Mr. Flick – I realize that this is not part of the discussion, but I was just wondering why, since we have a problem there, that Spruce Road couldn't be studied more thoroughly, and put through to Howard Avenue.

City Attorney Blum – My recollection is that there was a fair amount of citizen comment at the time this was originally looked at. Predominately, people were opposed to seeing Spruce Road go through at that time.

Mr. Flick – Will it be studied further?

City Attorney Blum – No, at this point it is a closed issue. The determination was made not to have access take place. At least for now, there is no anticipation to extend the road. As Mr. Kessler indicated, I am not sure if there is physically sufficient right-of-way to make it happen, even if we wanted to do it.

Mr. Kessler – The Common Council directed staff to put those notations on the official city map. The Common Council would need to review those actions and direct staff to study it further.

Mr. Barnes asked three times if there were any further questions for clarification, seeing none.

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

Mr. Barnes asked if there was anyone wishing to speak in opposition?

Mr. Koch - I think you have to look at the planning as a whole to see what impact you are having on the rest of the area. Along the East end, North of Farrell Drive there is a lot of asphalt that has been dumped in there. Shouldn't that be taken care of before construction is started? Have you had a chance to look at that?

Ms. Jones – The entire site will be looked at with the grading plans.

Mr. Koch – Not knowing that, you will go ahead with your vote to change the zoning?

Ms. Jones – The plan has been thoroughly investigated. Tonight's action is only to look at the snake habitat areas and the wetlands. This is the next step and will bring the maps for the City of New Berlin up to date. They are required to do this for DNR and the City rules.

Mr. Koch – What input have you had from people who live in the area?

Ms. Jones – This project has been going on since 1999. There has been a lot of public input over the years.

Mr. Koch – Yes, it was pushed through. You don't even have the entire plan on this area. Some construction company came in there and drained part of the wetlands. You people are not taking any of this into consideration.

City Attorney Blum – Sir, if I can help. The issue that is before the Commission this evening is solely whether the areas that have been requested to be rezoned meet the definition of a conservancy and wetland areas under our ordinance. What is in front of the Commission, is a

field delineation by experts saying that these are wetlands and do meet our definition. That is all the Commission is taking up this evening, not the broad scope of the project or some of the other issues that you mentioned. Our focus is narrower than some of the issues you are bringing up tonight.

Mr. Koch – I am just talking as a citizen who votes and pays taxes. I'm sorry I was not here in April, I was out of town. It doesn't seem like you have everything in this plan. We have already increased the density. We have three times the sewerage density. We are going to have about 50% more run off. I want to make sure you have everything covered. You're going to make Farrell Drive into a major arterial. Are you going to widen it?

Ms. Jones – It will meet the City standards for right-of-way. Construction plans are under review. After the April meeting, the Plan Commission approved the project. The next step is the construction phase. They have been using the wetland delineations provided by the DNR and specialists who went there. All of these things you have mentioned tonight have been discussed and reviewed by the development review team here at the City. Tonight is just so the City can accurately reflect the environmental areas.

Mr. Koch - You see the area that is going to be included, but you have no plan. You have nothing from the developer.

Ms. Jones – We have a full set of construction plans and they are in the last part of the review.

Mr. Koch – Why haven't you included those tonight?

Ms. Jones – Because tonight we are specifically talking about the wetland field delineation.

Mr. Flick – That is nice, but, you had a guy come in there and cut a ditch and drain part of it down. They did that last December. Nobody did anything about it. You have a mess full of concrete and asphalt in the water. You are not addressing that. You are not presenting the entire thing. Shouldn't you have the plan as a whole?

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

Mr. Barnes asked for questions or comments from the Plan Commissioners.

Alderman Ament – The Farrell Drive that we have been looking at over the last couple years is still basically in the same place? This is not altering that road?

Ms. Jones – That is correct, it is in the same place.

Alderman Ament – When I look at the zoning prior to field delineation, there are some areas that show R-4.5, and the on the proposed zoning it shows them as PUD overlay Rd-1. Are we changing that as well?

Ms. Jones – There is an error. I will look into that. The notice is correct, the map is incorrect.

Mr. Barnes asked for further comments or questions from the Plan Commissioners, seeing none.

Mr. Barnes closed the public hearing at 6:45 P.M.

NEW BERLIN PLAN COMMISSION

June 5, 2006

MINUTES

Privilege of the Floor

The Plan Commission Meeting was called to order by Mr. Barnes at 6:50 P.M.

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

Motion by Mr. Sisson to approve the Plan Commission minutes of May 1, 2006 as amended. Seconded by Alderman Ament. Motion carried unanimously.

Plan Commission Secretary's Report - After almost ten years of service Olofu Agbaji, Associate Planner will be leaving the City to take a new job. June 9, 2006 is his last day of work here. For any interested Commissioners, there will be a luncheon on June 7, 2006.

Verification of Plan Commission Meeting dates for summer: July 10, 2006, August 14, 2006, and September 11, 2006.

NEW BUSINESS

1. (7)AB R-2-06 Tiziani Golf Car Corp. – 4485 S. Racine Ave. – Rezone from Q-1/PUD to Q-1/ PUD to Amend the Legal Description and Uses Contained in Ordinance No. 1046. (Public Hearing 5/1/06)

Ms. Bennett asked the Commissioners to note that she received a call on Friday from a property owner directly North of the Tiziani Golf Car Corp. property asking Ms. Bennett to tell the Plan Commission that she has no objection to this project.

Motion by Alderman Ament to recommend to Common Council denial of an ordinance to amend the previously approved Q-1/PUD Ordinance No. 1046 to more accurately reflect the legal description of the property and to include additional permitted uses for Lot 1 only with the Q-1/PUD located at 4485 S. Racine Avenue for the following reasons:

- 1) On June 5, 1995 there was a request by Club Car Inc. to rezone this parcel from Q-1 to B-3 in order to be able to include some of the same uses being requested here tonight for commercial development on this parcel.
- 2) The staff recommended to the Plan Commission, and the Plan Commission recommended to the Common Council, and the Common Council agreed that as stated on the staff report under Master Plan consistency, this request is not consistent with the Master Plan.
- 3) Under Staff Recommendation on the report, it states, 1) The rezoning will violate the intent of the City's Master Land Use Plan for this site. A discussion of the ultimate future land use for this entire area would need to be conducted before any rezoning of this type could be considered.
A procedure needs to be worked out whereby a reasonable use of this building is allowed without establishing a commercial or industrial park on Racine Avenue, which was done in 1995 with the PUD.

Alderman Ament further commented that in the staff report under "findings" it repeats the three items above and under the "staff recommendation" it states, denial and lists the same three items. In the minutes of the June 20, 1995 Plan Commission Meeting, Assistant City Planner Jeff Schuler indicated the Plan Commission should deny the request for rezoning that would allow additional commercial business uses, but suggested the Plan Commission recommend to the Common Council approval to rezone the property, not from Q-1 to B-3, but rather Q-1/PUD only to allow reoccupancy of the structure for service, sales, and storage of golf cars.

Also, in the minutes of the Common Council meeting on June 13, 1995, Kurt Baylon, an employee of New Berlin Redi Mix and Kohler Pit said, "Mr. Leslie has come forward and made an offer to the owner to try to find a use for that building and we feel that a tentative agreement was reached with Planning to go with a PUD rezoning so that the Council would not have to feel that it would violate their Master Plan for this area of New Berlin." This statement would indicate that even the applicant was aware that these uses would be a violation of the Master Plan. Later in the minutes Mr. Schuler explained that the PUD document would set up a strict set of permitted uses for this particular site. It would be tailored for this particular purpose only. The Council did not approve any of the additional uses and only approved the PUD with restrictions for only the use of golf cars. It is clear that this area was intended to remain rural and primarily residential. It was never intended to become a commercial or industrial center.

In the Reclamation Plan for the Kohler Pit under Post Mining Land Use it states, "Since part of this property has been in the family for over 150 years, it is the goal of Kohler Pit to do whatever it takes to keep this land in their family as a vital and viable business in the City of New Berlin. We hope to convert this site into lower impact and more environmentally friendly uses".

At the Public Hearing on May 1, 2006 Mayor Chiovatero told us that when he met with Mike Schober, he told the Mayor that Tiziani intended to operate the Golf Car business exactly like it is for approximately 20 years. At the public hearing, Attorney Schober said that Mr. Bob DuCharme Sr. and Jr. approved of the additional uses. This was incorrect, as Mr. DuCharme does not agree with the addition of these uses as indicated by his privilege of the floor. There were several other residents of that area that spoke at that public hearing that were opposed to the addition of these uses on this parcel.

Further discussion followed.

Seconded by Mr. Gihring. Motion passes with Mr. Gihring, Alderman Ament Mr. Sisson, Mr. Barnes, Mr. Felda voting Yes, and Ms. Brogue voting No.

2. (7)GK R-3-06 TRD Real Estate – 17910 W. Observatory Road – Rezoning from R-1/R-2/C-1 to R-1/R-2/C-1 to delineate C-1.

Motion by Sisson to recommend to the Common Council adoption of an ordinance that approves the rezoning of the property located at 17910 W. Observatory Road from R-1/R-2 & C-1 to R-1/R-2 & C-1 to remove and field delineate the C-1 Zoning District.

Seconded by Felda. Motion carries unanimously.

3. ()AB PG-227 Extraterritorial Jurisdiction – Ridgeview Estates – Part of the Nw ¼ of Section 1 T5N R19E, Town of Vernon.

Motion by Alderman Ament to forward to Common Council No Objection to the Ridgeview Estates Extraterritorial Plat in the Town of Vernon with the following comment:

- 1) The lots in this subdivision are proposed to be a minimum of 1 acre each. However, the City of New Berlin requires a minimum of 5-acre lots in the unsewered areas.

Motion by Mr. Gihring to add Comment #2:

- 2) Mill Creek Recreational Trail #51 should be reviewed.

Addition of Comment #2 seconded by Mr. Sisson.

Original motion and the addition of comment #2 seconded by Ms. Broge. Motion carried unanimously.

4. (4)AB LD-6-06 Wildwood Preserve – Ne ¼ Sec. 33 - 5611 S. Calhoun Rd. – One-Lot Land Division.

Motion by Alderman Ament to table this item per the applicant's request. Seconded by Mr. Gihring. Motion carried unanimously.

5. (4)AB S-165-03 Wildwood Preserve – 5611 S. Calhoun Rd. – 35-Lot Preliminary Plat.

Motion by Mr. Felda to table this item per the applicant's request. Seconded by Mr. Gihring. Motion carried unanimously.

6. (3)AB U-3-06 Richard & Constance Krahn – Approx. 18970 W. Lincoln Ave. – Storage Building.

Motion by Alderman Ament to approve the request for Use, Site, Architecture and the requested waiver to construct a cold storage building on the property located at 18970 W. Lincoln Avenue subject to the application, plans on file and the following conditions:

Waiver Request: Applicant requests a waiver to deviate from the City's Specific Architectural Design Standards under Section 275-59D(2)(b). The applicant requests the use of a metal roof and wall panels because the cold storage building will be located over 1000 feet from Lincoln Avenue with no employees.

- 1) Application for rezoning of property to reflect the field delineated wetland areas shall be submitted as well as the report prepared by SEWRPC.
- 2) The Architecture Review Committee approval required.
- 3) Applicant shall install hard surface (asphalt or concrete) over gravel driveway within limits of property.
- 4) Building plans shall be signed and stamped by a licensed architect or professional engineer per Wisconsin Enrolled Commercial Building Code. (Comm. 61.31 Plans).
- 5) 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.)
- 6) Apply and obtain appropriate building, plumbing and electrical permits.
- 7) If and when the buildings is upgraded (i.e., to include lighting, plumbing, etc.) the architecture of the building shall be upgraded to be consistent with Sec. 275-59D(2)(b).

Seconded by Mr. Sisson. Motion carried unanimously.

7. (1)NJ LD-7-06 Bruce & Victoria Annoye – 12705 W. Forest Dr. – Nw ¼ Sec. 1 – Two-Lot Land Division.

Motion by Mr. Sisson to recommend that Common Council reaffirm the approval of the two lot Certified Survey Map for the property located at 12705 W. Forest Drive subject to the plans on file and following original conditions:

- 1) Approval of this land division is contingent upon MMSD Sewer Service Allocation approval.
- 2) City will require an additional 5 feet of right-of-way along Forest Drive be dedicated to the City.
- 3) Applicant shall verify that the overhang of the existing dwelling is at least 10' from the proposed lot line. (It only scales 8' on CSM.). Applicant shall identify existing well on Lot 2.
- 4) The City will require the lot be split exactly in half with 89' widths.
- 5) Buildings to be razed will require a wrecking permit and inspection. Note on CSM shall read "Existing Outbuildings on Lot 1 to be razed within in one year of recording."
- 6) The new home will need to relocate the driveway so that it meets the 5' off the lot line requirement.
- 7) All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
- 8) Payment of \$2,137.60 in Public Site, Open Space and Trail fee shall be paid before the City shall sign the CSM.

Staff offers the following additional comments:

1. This parcel is located in sanitary basin NB-1, a basin that currently has capacity according to MMSD. Sanitary sewer was originally installed on Forest Drive in 1962. Two sanitary laterals already serve the parcel. Due to the age of the laterals, Staff recommends that the structural integrity of the laterals be investigated by a plumbing contractor prior to the issuance of any building permits.
2. The applicant shall have one year in which to hook up any new building to the sanitary sewer from the date of Council approval of the land division.
3. Since this CSM was approved by the Plan Commission and Common Council, the Zoning Code has been modified to include a new section. Section 275-33D(2) states, "In the R-5 District, the minimum lot area and lot width shall meet the minimum lot area and width requirements of the R4.5 when the lot is created after January 1, 2004". Since Mr. Annoye is not suggesting any changes to the approved CSM, only that the City re-affirm it, staff recommends the re-affirmation.
4. The applicant shall have 2 years from the date of Common Council approval to record this CSM at the Waukesha County Register of Deeds.

Seconded by Mr. Gihring. Motion carried unanimously.

8. (3)GK PG-946 Sewer Service Area Amendments – Robert Dugan – 1505 Johnson Road – Request to obtain sanitary sewer capacity from the City of Brookfield.

Motion by Mr. Felda to table this item per the applicant's request. Seconded by Mr. Sisson. Motion carried unanimously.

9. ()AK PG-741- Zoning Ordinances Changes – Section 275-41.C(10), 275-42.F, 275-42.E(1) – Temporary Outdoor Storage Units and Carports

Motion by Mr. Gihring to forward a request to Common Council to set a public hearing date for July 10, 2006 Plan Commission Meeting to discuss additions and changes to the Zoning Ordinance related to Temporary Outdoor Storage Units and Carports.

Seconded by Mr. Felda.

Mr. Gihring withdrew motion.

Motion by Mr. Gihring to refer this to the Code Committee for the purpose of establishing standards for carports and temporary storage structures with a suggestion to hold a public meeting for an open discussion.

Seconded by Mr. Felda. Motion carried unanimously.

10. ()GK PG-516 Smart Growth – Discussion

Motion by Ms. Broge to direct DCD Staff to prepare a 2007 CIP Budget request.
Seconded by Mr. Gihring.

City Attorney – Point of Order – This item is agendasized as discussion, not an action item. No action can be taken on this item tonight.

11. (4) NJ U-21-06 William Klusmann – 21601 W. Lochinvar Lane – Accessory Use within the front yard.

Motion by Mr. Sisson to approve the request for Use Approval to allow Mr. Klusmann to construct a shed within the front yard on his property located at 21601 W. Lochinvar Lane subject to the application, plans on file and the following conditions:

- 1) Shed shall meet the 50' front yard setback requirement on Lochnivar and Maberry Lanes.
- 2) Install additional arborvitae to provide for a year round landscaping screening from the public right-of-way.
- 3) Shed shall be painted to match the exterior architecture of the principle building or neutral color to blend with the foliage.

Seconded by Gihring.

Motion by Mr. Gihring to amend the motion by adding a condition to set a maximum size of the shed to be 200 sq. ft. Seconded by Mr. Sisson. Motion carried unanimously.

Motion by Ms. Broge to move the location of the shed out of front yard. Motion fails for lack of second.

Upon voting, Motion as amended passes with Mr. Gihring, Alderman Ament, Mr. Sisson, Mr. Felda, Mr. Barnes voting Yes, and Ms. Broge voting No.

12. (4)AB U-27-06 Demlang Builders – 5780 S. Vista Dr. – Grading within 30' wetland setback.

Motion by Mr. Felda to approve the request to grade up to 15' from the delineated wetland boundary located at 5780 S. Vista Drive based on the building permit application, grading plans and the following:

- 1) Section 275-33D(9)(b), states that "grading may be allowed within the wetland setback upon approval by the Plan Commission."
- 2) Any conditions from Building Permit #35-06 shall be met.

- 3) The applicant has taken considerable care in trying to find a house that will fit best on this lot. The house and septic system are pushed as far away from the wetlands as possible. The footprint of the house is not large. After the engineering division rejected the building permit application, the applicant has revised elevation views around the house to better match existing grades. The basement is now 10' deep instead of 8' to cope better with the existing 15' grade change in the housepad area.
4. The back of the proposed house is 10' from the 30' wetland setback at the Southeast corner and 15' at the Northeast corner. If the wetland setback remains 30' for both all structures and all grading, then the owner would have to construct a 5' high retaining wall 75' long about 8' behind the house to make up for the fill at the back of the house.
- 5) The grading plan submitted with the building permit application showed proposed 3:1 grading from back of house to a point 15' West of the delineated wetlands. A site visit of the 30' wetland setback area found that the Westerly 15' is on a slope, has old fill material, and brush. The Easterly 15' has some substantial sized trees and is on flat ground similar to the wetland elevation.

Seconded by Mr. Sisson. Motion carried unanimously.

13. (7)NJ R-19-05 J. W. Winco, Inc. – Approx. 2815 S. Calhoun Rd. and 17301 W. Cleveland Ave. (Filed under 2815 S. Calhoun Rd.) – Referral from staff to have Plan Commission provide a determination on Section 275-41E of the Zoning Code which states, “Light Industrial uses may be allowed as an accessory use in the O-2 District when it is in the same building or on the same lot as the corporate headquarters or manufacturing office of a business.” with regard to the property located at 17301 W. Cleveland Avenue. The applicant and/or property owner has questioned staff’s interpretation of this section. Therefore, staff is requesting interpretation from the Plan Commission to resolve the issue.

Motion by Mr. Gihring to nominate Alderman Ament as chair for this agenda item. Seconded by Mr. Felda. Motion passes with Mr. Gihring, Mr. Sisson, Mr. Felda, Ms. Broge, Mr. Barnes voting Yes, and Alderman Ament voting No.

Motion by Ms. Broge to allow Section 275-41E to apply and this situation to proceed as an accessory use. Seconded by Mr. Felda. Motion passes with Mr. Gihring, Mr. Sisson, Mr. Felda, Ms. Broge voting Yes, Alderman Ament voting No, and Mr. Barnes abstaining.

14. (5)NJ R-4-06 Honeyager Farrell PUD – Deer Creek Preserve – 3949 S. Honeyager Ln, also 14201 W. Farrell Dr., and 14300 W. Howard Ave. – Delineation of wetlands and snake habitat.

Motion by Mr. Sisson to recommend to Common Council adoption of an ordinance that approves the rezoning of the property located at approximately 3949 South Honeyager Lane, 14201 West Farrell Drive and 14300 Howard Avenue from Rd-1/PUD, C-1/PUD, C-2/PUD, and C-2 to Rd-1/PUD, C-1/PUD, C-2/PUD, and C-2 to establish the field delineated wetlands and conservancy lands.

Seconded by Mr. Felda. Motion carried unanimously.

15. (5)NJ R-9-99 Farrell Meadows PUD – 14201 W. Farrell Drive – One year extension for Farrell Meadows PUD.

Motion by Mr. Felda to recommend to Common Council to approve the request for a One-year extension for "Farrell Meadows" Planned Unit Development Ordinance #2211 subject to the following original conditions:

- 1) The Honeyager Use Approval (File #U-93-01) is amended to include development of the Farrell property. The Farrell and Honeyager properties are to be developed simultaneously.
- 2) A traffic impact analysis that includes the Farrell, Honeyager, and Kasian properties is to be submitted prior to Farrell, Honeyager, and Kasian Use Approvals.
- 3) A Developer's Agreement is required for all public improvements. The Developer's Agreement shall be approved before any construction can take place.
- 4) The City must accept all improvements in the Developer's Agreement before Building Permits for the condominium units will be issued.
- 5) One condominium plat for the entire development shall be recorded before individual Building Permits will be issued.

Seconded by Mr. Gihring. Motion carried unanimously.

COMMUNICATIONS

16. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: The Business Journal, April 21, 2006, "Largest Milwaukee-area Business/Industrial Parks".

New Berlin Industrial Park ranks 3rd, Westridge Town Corporate Park ranks 4th in terms of total acreage of Industrial Park lands in the region.

17. Communication To: Plan Commission
Communication From: Greg Kessler, Director of Community Development
RE: WAPA LEGAL UPDATE, by Michael R. Christopher, DeWitt, Ross & Stevens S.C., April 17, 2006.

Plan Commissioners acknowledged receipt of this communication.

Motion by Mr. Sisson to adjourn the Plan Commission meeting at 8:50 P.M. Seconded by Ms. Broge. Motion carried unanimously.