

# Common Council MEETING AGENDA



February 14, 2023 - 6:00 PM  
(Following Committee of the Whole Meeting)  
City Hall  
Council Chambers

Published: 2/11/2023

## AGENDA

1. **PRIVILEGE OF THE FLOOR**
2. **CALL TO ORDER, PLEDGE OF ALLEGIANCE**
3. **ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE**
4. **APPROVAL OF MINUTES**
  - A. January 24, 2023 Common Council Meeting Minutes
5. **REPORTS**
  - A. City Clerk
  - B. Council President
  - C. Mayor
6. **COMMUNICATIONS**
7. **PARKS, BUILDINGS & GROUNDS COMMISSION**
  - A. Recommend to the Common Council the approval of Buena Park Shed Donation
8. **PLAN COMMISSION**
  - A. (7) KH RZ-2202324 Ryan Janssen with Ryan's Buying LLC - 4908 S. Calhoun Road (Tax Key #: 1258.999) - Rezone from A-2, C-1 & C-2 to R-1/R-2, C-1 & C-2. (PUBLIC HEARING 11/14/22)
  - B. (7) KH MS-2300120 Referral from the Department of Community Development – Hearthside Acres Addition No. 1 Subdivision – Resolution approving the release of the 100' Road Reservation that appears on the southerly portion of Hearthside Acres Addition No. 1 Subdivision plat (generally from 17185 W. Salentine Dr. through 16585 W. Salentine Dr.)
  - C. (3) NJ MS- 2300196 Referral from the Department of Community Development – 17505 Liberty Lane (New Berlin Self Storage) - Resolution approving the release of the 20' wide Drainage Easement as appears on CSM No. 6045.
9. **DEFERRED, REFERRED & TABLED ITEMS**
10. **ITEMS REMOVED FROM CONSENT AGENDA, if any**
11. **CONSENT AGENDA-----**
12. **MINUTES**

- A. January 24, 2023 Committee of the Whole Meeting Minutes

**13. UTILITY & FINANCE**

- A. Recommend to Council approval of February 15, 2023 Water Utility claims in the amount of \$166,730.32, Sewer Utility claims in the amount of \$3,138.58 and General City claims in the amount of \$1,423,577.38. Tax overpayment checks totaling \$86,372.21 were also generated. US Bank VISA EFT of \$34,410.15 DECEMBER STATEMENT. US Bank VISA EFT OF \$64,895.51 JANUARY STATEMENT. WE Energies EFT of \$63,552.93 NOV 2022. WE Energies EFT of \$48,996.96 DEC 2022

**14. LICENSES & PERMITS**

- A. Discussion and possible action to approve a Loudspeaker Permit extension to Jessica Benvenuto from 5PM to 11PM on July 29, 2023 for a private wedding to be held at her residence of 21675 W. Glengarry Rd.

**15. MISCELLANEOUS**

- A. Fire Department Update
- B. Update on ARC (Activity & Recreation Center) Phase II
- C. Discussion and possible action to approve a Common Council meeting to be held via Zoom on February 23, 2023 at a time to be determined.
- D. Discussion and possible action re: Waukesha County Joint Powers Agreement - County 9-1-1 Emergency System
- E. Recommend to the Common Council that a Public Hearing be set for March 6, 2023 at 6:00 pm to be held before the Plan Commission to rezone the property located at Tax Key #: 1281.996.006 from A-2, R-1/R-2 & C-2 to R-1/R-2 & C-2.
- F. Recommend to the Common Council that a public hearing be set for March 6, 2023 at 6:01 PM to be held before the Plan Commission to rezone the property located at 5715 S. Sunny Slope Road (Tax Key #: 1289-994) from A-2 TO A-2 and R-6.
- G. Recommend to Common Council that a public hearing be set for March 6, 2023 at 6:02 p.m. to be held before the Plan Commission on the suggested amendments to the Zoning Code (Chapter 275).

**16. END CONSENT AGENDA-----**

**17. CLOSED SESSION**

- A. *The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(e) of the Wisconsin State Statutes. (e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified business whenever competitive or bargaining reasons require a Closed Session, more specifically:*
- B. Update re: Police and Fire negotiations
- C. Discussion re: Contract with Endpoint Solutions for environmental testing work
- D. *The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(g) of the Wisconsin State Statutes. (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice*

*concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically:*

- E. Update re: Spitz Litigation
- F. Update re: Bailey Claim
- G. Update re: Wojcik Claim

**18. RECONVENE TO OPEN SESSION - Discussion and Possible Action on items listed below**

- A. Contract with Endpoint Solutions for environmental testing work
- B. Spitz Litigation
- C. Bailey Claim
- D. Wojcik Claim

**19. ADJOURN**

**Supplemental Information:**

- *The meeting agenda and agenda packet are available online at [www.NewBerlin.org](http://www.NewBerlin.org). The minutes are published online and are approved at the next regularly scheduled meeting.*
- *It is possible that action will be taken on any of the items on the agenda and that the agenda may be discussed in any order.*
- *You may provide comments to the City Clerk via email at [CitizenComments@NewBerlin.org](mailto:CitizenComments@NewBerlin.org). Comments will be forwarded to the Mayor and members of the governing body. Emailed comments are not read during the meeting.*
- *The City of New Berlin strives to host inclusive, accessible meetings that enable all individuals to engage and participate fully. Any person who has a qualifying disability under the Americans with Disabilities Act that requires that the meeting be accessible, please contact City Clerk Rubina R. Medina at (262) 786-8610 or via email at [CityClerk@NewBerlinWI.gov](mailto:CityClerk@NewBerlinWI.gov) at least 48 hours before the scheduled meeting time. Efforts will be made to accommodate the needs of disabled individuals through appropriate aids and/or services.*
- *It is also possible that members of and possibly a quorum of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to in the above notice.*



# City of New Berlin

## Meeting Minutes

### Common Council

New Berlin City Hall  
3805 S. Casper Drive  
New Berlin, WI 53151

(262) 786-8610  
[www.NewBerlin.org](http://www.NewBerlin.org)

Tuesday, January 24, 2023

6:00 PM

Council Chambers

#### PRIVILEGE OF THE FLOOR

None

#### CALL TO ORDER, PLEDGE OF ALLEGIANCE

Mayor Ament called the Common Council meeting to order at 6:23 PM and lead the Pledge of Allegiance

#### ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Present: Mayor Ament, Alderman Hopkins, Garrigues, Harenda, Stribl, Horbinski, Alderwoman Kroupa

Excused: Alderman Maxey

Staff Present: City Attorney Mark Blum, City Clerk Rubina R. Medina

#### APPROVAL OF MINUTES

1. January 10, 2023 Common Council Meeting Minutes

Motion: MOTION TO APPROVE THE JANUARY 10, 2023 CC MEETING MINUTES

Vote: Motion by: Horbinski  
Second by: Stribl  
Motion Passed: 6-0

#### REPORTS

2. Rubina R. Medina, City Clerk

RUBINA STATED THAT THE SPRING PRIMARY ELECTION IS FEBRUARY 21, 2023. BALLOTS WILL BE DELIVERED TO THE CLERK'S OFFICE TOMORROW AND THE FIRST BATCH OF ABSENTEE BALLOTS WILL BE MAILED BY MONDAY, JANUARY 30TH.

3. Ald. Kenneth A. Harenda II, Council President

NO REPORT.

4. Dave Ament, Mayor



- Congratulations to Josh Radomski and his Department of Public Works for being named a CVMIC 2022 Member Spotlight Winner. The winner receives \$2,000 to be used towards the purchase of items that reduce risk or improve safety.
- **Spring Primary Election** will take place on February 21, 2023. Polls will open from 7:00a.m. to 8:00 p.m. on Election Day. In-person Absentee Voting will take place at City Hall on weekdays from February 7<sup>th</sup> to February 17<sup>th</sup> from 8:00a.m. to 4:30p.m. with extended hours on February 17<sup>th</sup> to 5:00 p.m.
- Just a reminder to our residents to please check out our **"Enjoy New Berlin"** Tourism website! In efforts to have all residents and visitors experience the most of our wonderful city, Enjoy New Berlin is dedicated to highlighting all events and activities happening within the City of New Berlin. Visit [enjoynewberlin.com](http://enjoynewberlin.com)
- Winter is here. Just a reminder to please keep **fire hydrants** clear of snow – clear an area of approximately 3 feet around the fire hydrant – every second counts in an emergency.
- The Streets department will continue to pick up real/natural Christmas trees throughout the month of January as staffing and the weather allows. Residents should remove lights and bases from the tree before leaving it on the end of their driveway. To advise Streets of a tree pickup please contact 262-780-4609.
- We are excited to announce that Phase II of the New Berlin Activity and Recreation Center has begun!
- Lastly, as a reminder:
  - 4<sup>th</sup> Quarter water bills are due on January 31<sup>st</sup> and
  - Property Taxes are also due in full by January 31<sup>st</sup> or on the following installment dates: January 31<sup>st</sup>, March 31<sup>st</sup> & May 31<sup>st</sup>. Please note that reminders are NOT sent out for the 2<sup>nd</sup> and 3<sup>rd</sup> installment due dates.

## UTILITY COMMITTEE

5. UT 02-23 Recommend to the Common Council to approve the Professional Services Agreement in the amount not to exceed \$311,832.00 to Multimedia Communications and Engineering (MCE) Inc., for Construction Engineering Services, Planning and Design, CAD Services, Bidding, Permitting and Project Management Services.  
  
Motion: MOTION TO APPROVE  
  
Vote: Motion by: Harenda  
 Second by: Garrigues  
 Motion Passed: 6-0
6. UT 03-23 Recommend Common Council approval of the Temporary Construction Easement, Conveyance of Rights in Land, and Lump Sum Agreement for Payment for Lands Amendment for the Sanitary Sewer associated with the Moorland Road Project 2722-07-22.  
  
Motion: MOTION TO APPROVE  
  
Vote: Motion by: Harenda  
 Second by: Stribl  
 Motion Passed: 6-0
7. UT 04-23 Recommend Common Council approval of the Temporary Construction Easement, Conveyance of Rights in Land, and Lump Sum Agreement for Payment for Lands Amendment for the Water associated with the Moorland Road Project 2722-07-22.  
  
Motion: MOTION TO APPROVE  
  
Vote: Motion by: Harenda  
 Second by: Kroupa

Motion Passed: 6-0

8. UT 05-23 Recommend Common Council approval of the Quit Claim Deed and the Donation Agreement for the property located at 3900 S Moorland Road associated with the Moorland Road Project 2722-07-22.

Motion: MOTION TO APPROVE

Vote: Motion by: Harenda  
Second by: Hopkins  
Motion Passed: 6-0

## RECREATION COMMISSION

9. Discussion and possible action to recommend to the Common Council approval of the 2023 Summer Program Fees

Motion: MOTION TO APPROVE

Vote: Motion by: Harenda  
Second by: Kroupa  
Motion Passed: 6-0

## MAYORAL APPOINTMENTS

10. Discussion and possible action to approve the Mayoral Appointments per the list as presented

Motion: MOTION TO APPROVE

Vote: Motion by: Stribl  
Second by: Garrigues  
Motion Passed: 6-0

## DEFERRED, REFERRED & TABLED ITEMS

## ITEMS REMOVED FROM CONSENT AGENDA, if any

## CONSENT AGENDA\*\*\*\*\*

Motion by Harenda, seconded by Kroupa to approve the Consent Agenda. Motion Passed 6-0.

## MINUTES

11. January 10, 2023 Committee of the Whole Meeting Minutes

## UTILITY & FINANCE

12. Recommend to Council approval of January 25th, 2023 Water Utility claims in the amount of \$12,096.38 (2022 Invoices) & \$245,821.98 (2023 Invoices), Sewer Utility claims in the amount of \$658,749.13 (2022 Invoices) & \$1,077.03 (2023 Invoices) and General City claims in the amount of \$545,236.71 (2022 Invoices) & \$107,825.21 (2023 Invoices)

## MISCELLANEOUS

13. Municipal Court Department Update by Catharine Hausen
14. Discussion and possible action to approve the RAS for the approval of a contract with Conference Technologies, Inc. (CTI) for the New Berlin Activity and Recreation Center Phase 2
15. Discussion and possible action to approve the RAS for the approval of the attached 2023 Salary Table effective 1/1/2023
16. Discussion and possible action to approve the RAS for the approval of Resolution No. 23-1 for the application of a Wisconsin Economic Development Corporation (WEDC) Vibrant Spaces Grant
17. Discussion and possible action on the RAS for the approval of a Professional Services Agreement to hire Perspective Design, Inc. for site and building evaluation, architectural and engineering services for the preparation of a DPW Campus, Hickory Grove and Community Center Long-Range Strategic Plan in an amount not to exceed \$121,470
18. Discussion and possible action to approve the RAS for the approval of a Professional Services Agreement to hire Moore Construction Services for preconstruction management services for the preparation of a DPW Campus, Hickory Grove and Community Center Long-Range Strategic Plan in an amount not to exceed \$38,000.

## END CONSENT AGENDA\*\*\*\*\*

## CLOSED SESSION

19. The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(e) of the Wisconsin State Statutes. (e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified business whenever competitive or bargaining reasons require a Closed Session, more specifically:

Motion: MOTION TO GO INTO CLOSED SESSION AT 6:33 PM

Vote: Motion by: Stribl  
Second by: Kroupa  
Motion Passed: 6-0

20. Discussion regarding the proposed Purchase and Sale Agreement between Patrick and Mary Lemirande and the City of New Berlin

## RECONVENE TO OPEN SESSION - Discussion and Possible Action on items listed below

Motion by Garrigues, seconded by Kroupa to reconvene to open session at 6:44 PM.

21. Proposed Purchase and Sale Agreement between Patrick and Mary Lemirande and the City of New Berlin - Discussion and possible action

NO MOTION.

## **ADJOURN**

Motion by Garrigues, seconded by Kroupa to adjourn at 6:45 PM.

Respectfully Submitted,  
Rubina R. Medina, City Clerk

PLEASE NOTE:  
Minutes are unofficial until approved at the next regularly scheduled meeting.

## ACCESS and DONATION AGREEMENT

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of New Berlin, a Wisconsin municipal corporation, with its principal office and place of business located at 3805 South Casper Drive, New Berlin, Wisconsin, 53151 (hereinafter referred to as the "City") and the New Berlin Pumas Select Baseball Corporation, a Wisconsin corporation, duly organized and validly existing under the laws of the State of Wisconsin, with its principal office located at 15395 West Kingsway Drive, New Berlin, Wisconsin, 53151 (hereinafter referred to as the "Pumas").

WHEREAS, the City operates Buena Park; and

WHEREAS, the Pumas operate baseball programming at Buena Park in the City of New Berlin and is further desirous of supporting baseball in the City through the construction of a utility shed to provide benefit to the users of their baseball programming; and

WHEREAS, the Pumas have, from time to time, entered into agreements with the City to allow for the use of baseball diamonds, specifically at Buena Park, for their baseball programming for youth.

NOW, THEREFORE, based upon the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby consent and agree as follows:

1. The recitals set forth above are incorporated herein as those fully set forth.
2. The City does hereby grant permission to the Pumas to enter Buena Park to construct a utility shed based upon the terms and conditions as otherwise set forth herein.
3. The Pumas agree that the design and specifications, as well as location for the shed, shall be consented to by the City, and that all necessary approvals and permits for such work shall be obtained prior to the commencement of construction. The construction shall take place upon a schedule mutually consented to by the parties.
4. The Pumas agree that the shed will be constructed in the location as noted on the attached Exhibit A, and that the shed will be 8' x 8' in size, with a height of 6.5' and will be built with the materials and as per the designs set forth in Exhibit B. Such shed shall be constructed on a concrete pad with specifications as approved by the City.
5. The Pumas agree that all necessary approvals and permits for such work shall be obtained prior to commencement of construction.
6. The Pumas shall furnish all supplies and materials necessary to construct the concrete pad and shed, which shall be solely at the expense of the Pumas. The Pumas shall obtain Lien Waivers from any material suppliers or construction contractors utilized for the construction



of the concrete pad and the shed at the time of the completion of the construction; and said Lien Waivers shall be supplied to the City for its records.

7. The Pumas agree to maintain the safety of the construction area and to restrict access of persons not involved in the construction process, and to appropriately guard the construction area so as to maintain the safety of park users.

8. The Pumas agree to obtain waivers and consents in a form acceptable to the City to the extent that any construction is conducted by volunteers. In the event a participant is under the age of 18, the Pumas shall obtain consent of such persons' parent or legal guardian before such persons are allowed to participate in any construction activity.

9. In the event the Pumas retain a construction contractor to install the concrete pad and the shed, said contractor shall be acceptable to the City and shall carry insurance with limits acceptable to the City, listing the City as an Additional Insured on a primary and non-contributory basis.

10. The Pumas, as well as any construction contractor or subcontractors they may retain, shall indemnify and save the City harmless from and against any and all liabilities, claims, demands, damages, causes of actions, expenses, fees, including actual attorney fees, fines, penalties, suits, proceedings, actions of any kind and every kind or nature, arising or growing out of, or in any way connected, with the Pumas use, occupancy, management or control of the premises or the Pumas construction operations, conduct or activities on the property except as caused exclusively by the sole negligence of the City, its agents, servants or employees.

11. Upon completion of the construction, the Pumas agree to turn over custody and control of the shed to the City; however, the City consents to the use by the Pumas of the shed. The Pumas agree not to store any hazardous materials within the shed and to keep it secured so that unauthorized persons will not have occupancy to it. This occupancy of the shed by the Pumas shall continue for such time as the City has consented to the Pumas use of the baseball diamond at Buena Park said rights of access will terminate if the Pumas fail to continue to utilize the baseball diamond at Buena Park through the consent of the City.

12. The Pumas acknowledge that with regard to the construction of the concrete pad and shed on the property, any persons participating in such activities will not be considered employees of the City and the direction of such persons shall be the sole responsibility of the Pumas. The Pumas acknowledge that the value of the improvements to be constructed hereunder shall not exceed the sum of \$25,000.00.

13. The Pumas warrant that they carry public liability insurance and shall keep said insurance in full force and effect, at their sole cost, with liability limits of not less than \$1 Million per occurrence and \$2 Million in the aggregate, as well as \$1 Million with respect to damage to property. Said policy or policies of insurance shall provide that 30 days' written notice shall be given to the City prior to cancellation or amendment of the terms of said policy. Clauses in such policy which indicate that the insured or insurer will endeavor to notify the City of such changes are unacceptable. The Pumas shall provide satisfactory evidence to the City at the time this Agreement is executed that such coverage is in full force and effect, and the City shall be named

as an Additional Insured under such policy or policies on a primary and non-contributory basis as evidenced by a Policy Endorsement.

14. This Agreement shall be governed and construed in accordance with the laws of the State of Wisconsin.

15. This Agreement contains the complete understanding of the parties with respect to the subject matter set forth herein, and may only be amended in writing in an agreement signed by both parties.

16. All work on the site shall be completed in accordance with the applicable State Statutes and Administrative Code Regulations and County and City Ordinances.

IN WITNESS WHEREOF, this Agreement is signed as of the date first above written.

**CITY:**  
City of New Berlin

**PUMAS:**  
New Berlin Pumas  
Select Baseball Corporation

By: \_\_\_\_\_  
David Ament, Mayor

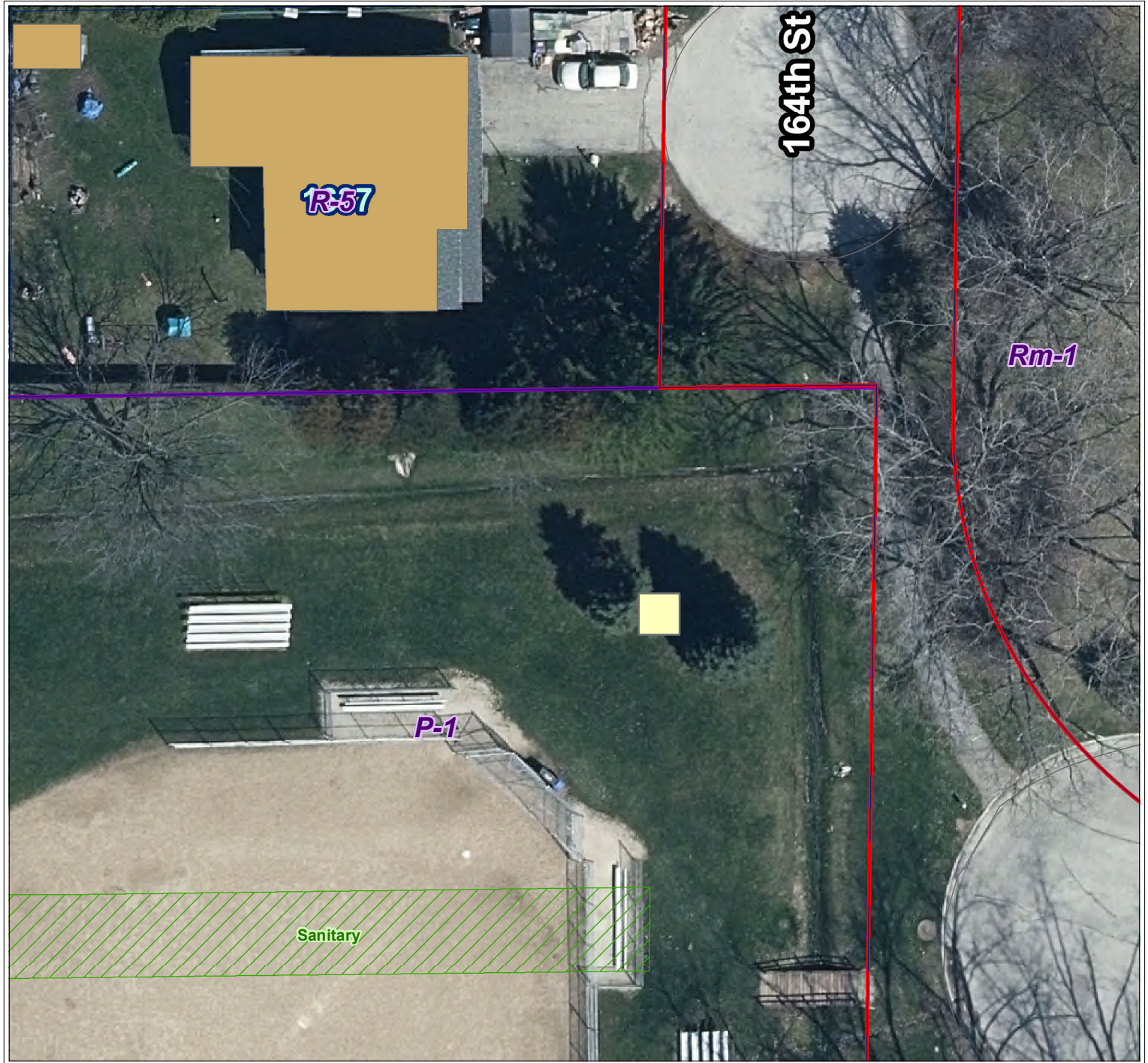
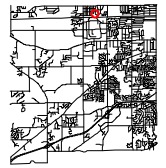
By: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Rubina Medina, Clerk

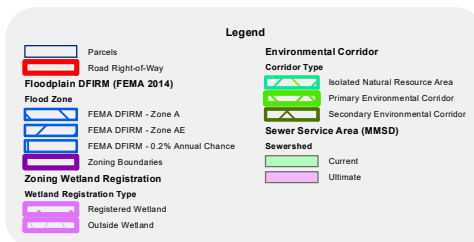
By: \_\_\_\_\_  
\_\_\_\_\_



UA-2202792  
Buena Park Shed Donation  
16301 Coachlight Drive



City of New Berlin  
Department of Community Development  
3805 S Casper Dr.  
New Berlin WI 53151  
(262) 797-2445  
www.newberlin.org



0 10 20 Feet

The information and depictions herein have been produced using data available through photogrammetric means by the City of New Berlin. The informations and depictions herein are for informational purposes and the City of New Berlin specifically disclaims accuracy in this reproduction and specifically admonishes and advises that any and all depiction, measurements, distances depicted herein and as to which specific or precise accuracy is required should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means.

Exh. A





provenpowersheds.com 262-672-6776

Proven Power Inc ~ Wade Kaiser - Sales Manager  
S65 W22065, National Ave, Waukesha, WI, 53189  
262-672-6776

[provenpower@shedsdelivered.com](mailto:provenpower@shedsdelivered.com)



**BBB Rating: A+**  
As of 12/21/2022  
[Click for Profile](#)



Exh. B

## Structure Details

Style: Utility Gable

Sidewall Height: 6' 5" Sidewall Height

Size: 8x8

Base: Pressure Treated Skids

Siding: LP® SmartSide® Cedar Texture Panel (50 Year) Painted or Stained

Roof Pitch: 4/12 -Pitch

Roof Overhang: Standard Roof Overhang

Siding Color: Canyon Brown

Trim Color: Canyon Brown

Roof Color: Evergreen 875

Roof Material: Metal

## Doors & Ramps

DWD 5'

Color: Canyon Brown

5' Treated Wood Ramp

Hinges: Standard Hinges

## Flooring & Interior

Flooring: 3/4" LP LEGACY® Premium Sub Flooring

Floor Joist: 2x4 Treated 12" OC

## Vents

8"x16" Screened Vent

Color: Black

8"x16" Screened Vent

Color: Black

Roof Pitch Ridge Vent (allow heat and moisture to escape)

## Additional Options

Housewrap

Tar Paper

LP Siding: Canyon Brown



Roof: evergreen 875

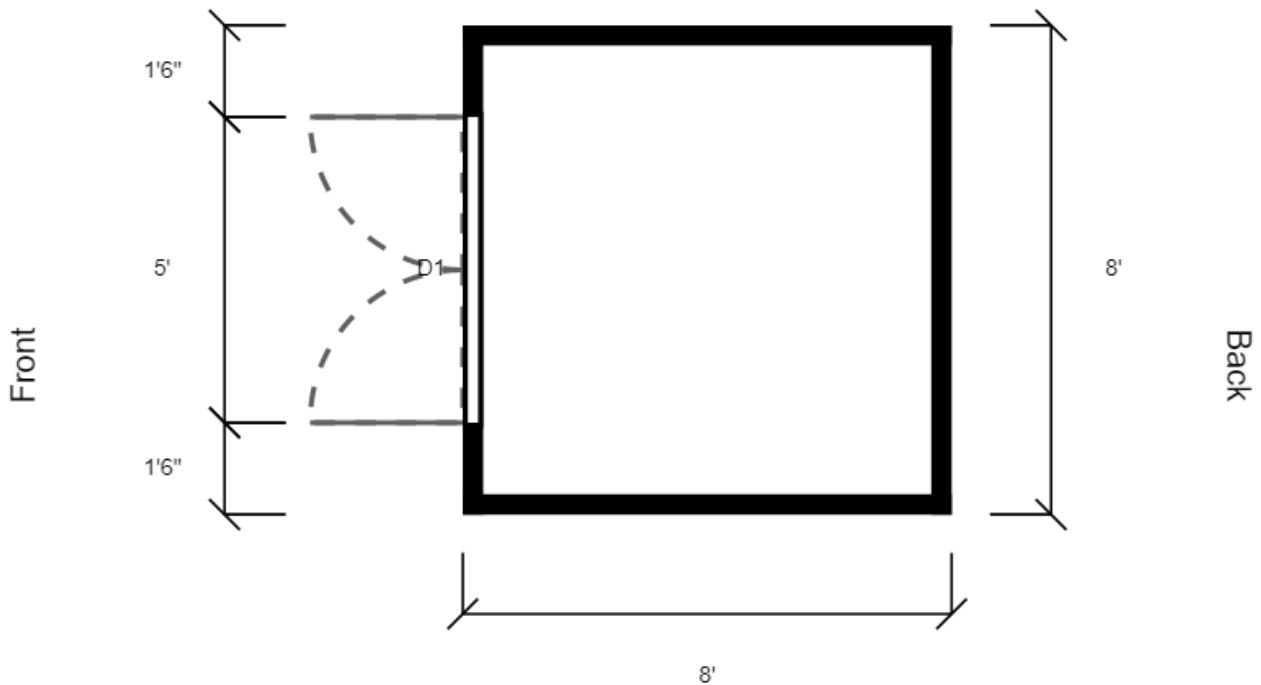
# FLOORPLAN





provenpowersheds.com 262-672-6776

Left



Right

**SYMBOL LEGEND**

D1

DWD 5'  
Closed Wall

#1670604038824608



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# STAFF REPORT EXECUTIVE SUMMARY

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**APPLICANT/PROJECT:** Ryan Janssen, Ryan's Buying LLC / Rezoning

**LOCATION:** 4908 S. Calhoun Road (Tax Key #: 1258.999)

**REQUEST:** Request to rezone the property located at 4908 S. Calhoun Road (Tax Key #: 1258.999) from A-2, C-1 and C-2 to R-1/R-2, C-1 and C-2.

**D.R.C. RECOMMENDATION:** Recommend to Common Council adoption of Ordinance # 2665 that approves the rezoning of the property located at 4908 S. Calhoun Road (Tax Key #: 1258.999) from A-2, C-1 and C-2 to R-1/R-2, C-1 and C-2.

**DETAILS IN ATTACHED STAFF REPORT:**

**CITY OF NEW BERLIN**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**  
**PLAN COMMISSION STAFF REPORT**  
Meetings of February 6, 2023

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**Ryan Janssen, Ryan's Buying LLC / Rezoning**  
**4908 S. Calhoun Road (Tax Key #: 1258.999)**

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**DATE STAFF REPORT PREPARED:** January 11, 2023

**APPLICANT / OWNER(S):** Ryan Janssen, Ryan's Buying LLC / Klumb Family Limited Partnership

**REQUEST / DESCRIPTION OF PROJECT:** The applicant is requesting to rezone the property located at 4908 S. Calhoun Road (Tax Key #: 1258.999) from A-2, C-1 and C-2 to R-1/R-2, C-1 and C-2.

**DATE OF APPLICATION / DATE FILED WITH CITY CLERK:** 9/30/22

**DATE OF COMPLETENESS DETERMINATION:** 10/3/22

**PRE-APPLICATION CONFERENCE HELD:** Yes

Date(s) of Meeting(s): 8/25/22

Plan Commission Site Visit(s): 10/27/22

Neighborhood Informational Meeting: 1/4/23

**CONCEPTUAL PLAN:** Yes

**SIZE OF DEVELOPMENT / PARCEL(S):** 88.57 acres

**CURRENT ZONING:** A-2 (Agricultural and Rural Holding District), C-1 (Upland Resource Conservancy), C-2 (Shoreland-Wetland Holding District)

**CURRENT LAND USE:** Single family home and farmland

**PROPOSED ZONING:** R-1/R-2, C-1 and C-2

**PROPOSED LAND USE:** Single-family residential conservation subdivision

**PROPOSED LOT SIZES:** 20 Lots

Lot 1 (existing home) ~2.5 acres

Lots 2-20 ~0.75 acres

**PROPOSED DENSITY:** 88.57 total acres / 20 lots = 1 lot per 4.429 acres

|   |            |                                                                                  |
|---|------------|----------------------------------------------------------------------------------|
|   | 17.7 lots  | (88.5 acres / 5 acre min lot size)                                               |
| + | 3.85 lots  | Large Tract Density Bonus (88.5 acres - 50 acres = 38.5 acres / 10 acres = 3.85) |
|   | 21.55 lots | maximum # of possible lots                                                       |

\*The concept presented at the Public Hearing contained 22 lots (See Sketch Plan 9/28/22 under *Attachments*).

**ADJACENT ZONING AND LAND USE:**

North: Zoning: R-3, R-4, R-5, I-1, C-1 & C-2

Land Use: Residential, Church

South: Zoning: R-4

Land Use: Residential

East: Zoning: O-2 & C-2

Land Use: Agriculture, Residential

West: Zoning: A-2, R-1/R-2 & I-1

Land Use: Agriculture, Residential, Church

**CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE:** Yes

**Chapter 18: Neighborhood H: Westridge & Moorland Road:**

**Planning Context / Vision / Development Policies:**

**Vision:**

- Emphasis on preservation of significant environmental features such as: wetlands, woodlands, tree rows, floodplain and environmental corridors.
- Provide residential subdivisions utilizing conservation style design to preserve the environmental features.

**Development Policies:**

- Encourage the continuation of agricultural uses as long as the property owners so desire. As agricultural lands transition to residential developments, the subdivision design could incorporate farming and agriculture uses as viable open space options.

**Land Use:**

- Future Land Use Map: Country Residential

**Chapter 19: Neighborhood I: National Avenue West:**

**Planning Context / Vision / Development Policies:**

**Vision:**

- The National Avenue West area, like the Western Area neighborhood (Neighborhood B), should be a regional model of rural development. Any development should occur gradually as a mix of lower density single-family development, farms, large areas of preserved open spaces, rural trails and facilities and small-scale neighborhood oriented retail.

**Development Policies:**

- While agricultural uses are encouraged to remain, it is recognized that the area may continue to develop as conservation residential developments. Residential uses will be permitted and accommodated pursuant to policies outlined in the Zoning and Development codes. As agricultural lands transition to residential developments, the subdivision design should attempt to incorporate farming and agriculture uses as viable open space options.
- Areas that are environmentally sensitive such as wetlands and recharge areas shall be established as priority areas for open space preservation.

**Land Use:**

- Future Land Use Map: Country Residential

**ZONING CODE (Chapter 275):** The lots will need to meet the requirements in Section 275-33B(1). Since this is a conceptual plan, a detailed review of all the lot standards has not been completed. This is done at the time of preliminary plat when more detailed plans are required.

**DEVELOPMENT CODE (CHAPTER 235):** Yes, in compliance with Section 235-15, which recommends submittal of an application for a Voluntary Sketch Plan.

**REZONING REQUIRED:** Yes

**CONDITIONAL USE REQUIRED:** No

**PUBLIC HEARING REQUIRED:** Yes, held on November 14, 2022.

**USE / SITE / ARCHITECTURAL REVIEW:**

**Use Approval Required:** No

**Site Plan Required:** Yes, see sketch plan (File #: SP-2202325)

**Architectural Review Required:** No

**PROPOSED ARCHITECTURE:** N/A

**UNIQUE SITE CHARACTERISTICS:**

**Environmental Corridor:** Yes, Secondary Environmental Corridor.

**Wetland On Property:** Wetlands have been registered on the City's Zoning Map, see file #: WD-2202499. Wetlands were field delineated by Eric Parker, an assured delineator with Hartland Ecological Group, Inc. on November 7, 2022.

**Conservancy Districts (C-1, C-2):** Yes, C-1 and C-2

**NRCS Map Classification:** Not Inventoried

**Floodplain:** Yes, Zone AE

**Topography / Geologic:** Site slopes to the southeast corner (wetland/floodplain area) of the site. The highest point of the property is at the northwest corner.

**BIKE & PEDESTRIAN FACILITIES PLAN:** None proposed for this area. Private trails may be provided.

**PARK & OPEN SPACE PLAN:** No improvements.

**NATURAL RESOURCES PROTECTION:**

**Limits of Disturbance (LOD):** Subdivision boundary is shown on the sketch plan.

**Wildlife Habitat Protection:** N/A

**Wildlife Management Plan:** An Endangered Resources review will be completed on the property prior to the preliminary plat being submitted.

**ENVIRONMENTAL IMPACT:** Wetlands have been registered on the City's Zoning Map, see file #: WD-2202499. Wetlands were field delineated by Eric Parker, an assured delineator with Hartland Ecological Group, Inc. on November 7, 2022.

**STORMWATER MANAGEMENT / DRAINAGE PLAN:** Applicant is required to adhere to all City of New Berlin Codes, Ordinances and Plans regarding storm water conveyance and maintenance as identified by the Department of Community Development. A stormwater management plan will be required at the time of submittal for the preliminary plat.

**SANITARY SEWER PROVISION:**

**Within Current Sewer Service Area:** No

**Basin Capacity Available:** N/A

**Adequate Linkage:** N/A

**Onsite System Required:** Yes, perc tests will be required at the time of preliminary plat.

**WATER USAGE CALC.:** Estimated 250 GPD per new single-family lot. Private wells will be required.

**TRAFFIC IMPACT:** TIA will not be required at the time of preliminary plat.

**SCHOOL DISTRICT IMPACT:** 11.8 total estimated students

Elementary – 6.2 students (20 lots \* 0.31 students)

Middle – 2.8 students (20 lots \* 0.14 students)

High School – 2.8 students (20 lots \* 0.14 students)

Notice Sent to Affected School District(s): Will be sent upon submittal of application for preliminary plat.

**PREVIOUS ACTION:**

11/14/2022 Plan Commission Public Hearing for rezoning.

**CONSISTENCY WITH PREVIOUS ACTION:** N/A

**FINDINGS:**

1. The rezoning must meet the following criteria outlined in New Berlin Municipal Code Chapter 275-22(F):
  - a. The proposed rezoning is consistent with the Comprehensive Plan and the stated purposes of Chapter 275;  
Yes, the proposed rezoning is compliant. The Future Land Use map identifies this area as Country Residential.
  - b. Adequate public facilities and services (including sewage and waste disposal, water, gas, electricity, schools, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;  
The State of Wisconsin will review the POWT's as part of the Preliminary Plat and State Sanitary Permit applications. Deceleration lanes with 100-feet of storage, acceleration lanes, bypass lanes, and turn bays are required at entrances. These shall be installed per City of New Berlin standards and include a 5-foot paved shoulder. They will meet the requirements as they work through the subdivision platting process.
  - c. Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of the City to provide them;  
Yes, the proposed development is compliant.
  - d. The proposed development has taken into account impacts on surrounding properties or the natural environment, including air, water, noise, storm water management, soils, wildlife, and vegetation;  
Yes, the proposed rezoning is compliant. Wetlands have been registered on the City's Zoning Map. There will be woodland restoration work to enhance the quality of the woods. Little to no tree cutting will occur on site. The silo on Lot #1 will remain.
  - e. The land proposal for rezoning is suitable for development and will not cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas;  
Yes, the proposed rezoning is compliant.
  - f. The proposed rezoning will not be used to legitimize, or "spot zone," a nonconforming use or structure; and  
No, it will not be a spot zoning. It is consistent with the Future Land Use Map.
  - g. The proposed rezoning is the minimum action necessary to accomplish the intent of the petition, and an administrative modification, variance, or conditional use permit could not be used to achieve the same result.  
Yes, the proposed rezoning is the minimum action necessary to accomplish the intent of the petition.
2. The applicant has simultaneously applied for a Concept Subdivision Plan (see file #: SP-2202325).
3. The applicant is proposing a 20-lot conservation style subdivision on 88.57 acres. 77% of the site (67.71 acres) will remain in permanent Conservation Area.
4. The site visit was held with the Plan Commission and general public on October 27, 2022. Section 235-15 of the City of New Berlin Subdivision Code allows the owner to voluntarily invite the Plan Commission, Department of Community Development staff, members of the Common Council and abutting neighbors to visit the site prior to the filing of a preliminary plat. This allows attendees the opportunity to see the area of the proposed subdivision in person, ask any questions they may have and visualize the proposal first hand. See File #: SP-2202325 for photos from the site walk.



5. Questions from the November 14, 2022 Public hearing:
- a. Will there be an impact to surrounding wells and the water table from the new lots with larger homes?
    - In Chapter 5, Agricultural & Natural Resources, of the 2020 Comprehensive Plan, “the average groundwater recharge in Waukesha County would be about 32 billion gallons annually, or about 88 million gallons per day (mgd). The estimated daily use of groundwater in 2005 was about 34 mgd. This calculation would indicate that there is an adequate annual groundwater recharge to satisfy consumptive water demands on the shallow aquifer system on a countywide basis.”
    - Domestic water usage is estimated to be 250 gallons per day (GPD) for each new single-family lot. For a 19-lot subdivision, this would be a total of 4,750 GPD.
    - According to SEWRPC, subdivisions with a cluster design tend to result in higher overall groundwater recharge rates than equivalent subdivisions based on more spread out designs for two reasons. First, they include more open space. Second, they tend to generate less stormwater runoff because they have less impervious and compacted areas.
    - The proposed subdivision will have onsite treatment systems. Water quantity in the shallow aquifer is largely mitigated by returning the withdrawn water to groundwater. (SEWRPC Technical Report-48, 2009)
  - b. Will additional water runoff to the wetland area causing further back-up? What is the impact?
    - Applicant is required to adhere to all City of New Berlin Codes, Ordinances and Plans regarding storm water conveyance and maintenance as identified by the Department of Community Development.
6. A neighborhood informational meeting was held on January 4, 2023. Neighbors were able to ask the applicant questions about the project.
7. Wetlands have been registered on the City’s Zoning Map, see file #: WD-2202499. Wetlands were field delineated by Eric Parker, an assured delineator with Hartland Ecological Group, Inc. on November 7, 2022. An endangered resources review of the subject property will be required prior to submittal of the preliminary plat.
8. The concept presented at the Public Hearing contained 22 lots (See Sketch Plan 9/28/22 under *Attachments*). The applicant submitted a revised concept that contains 20 lots (See Sketch Plan 1/6/23 under *Attachments*).

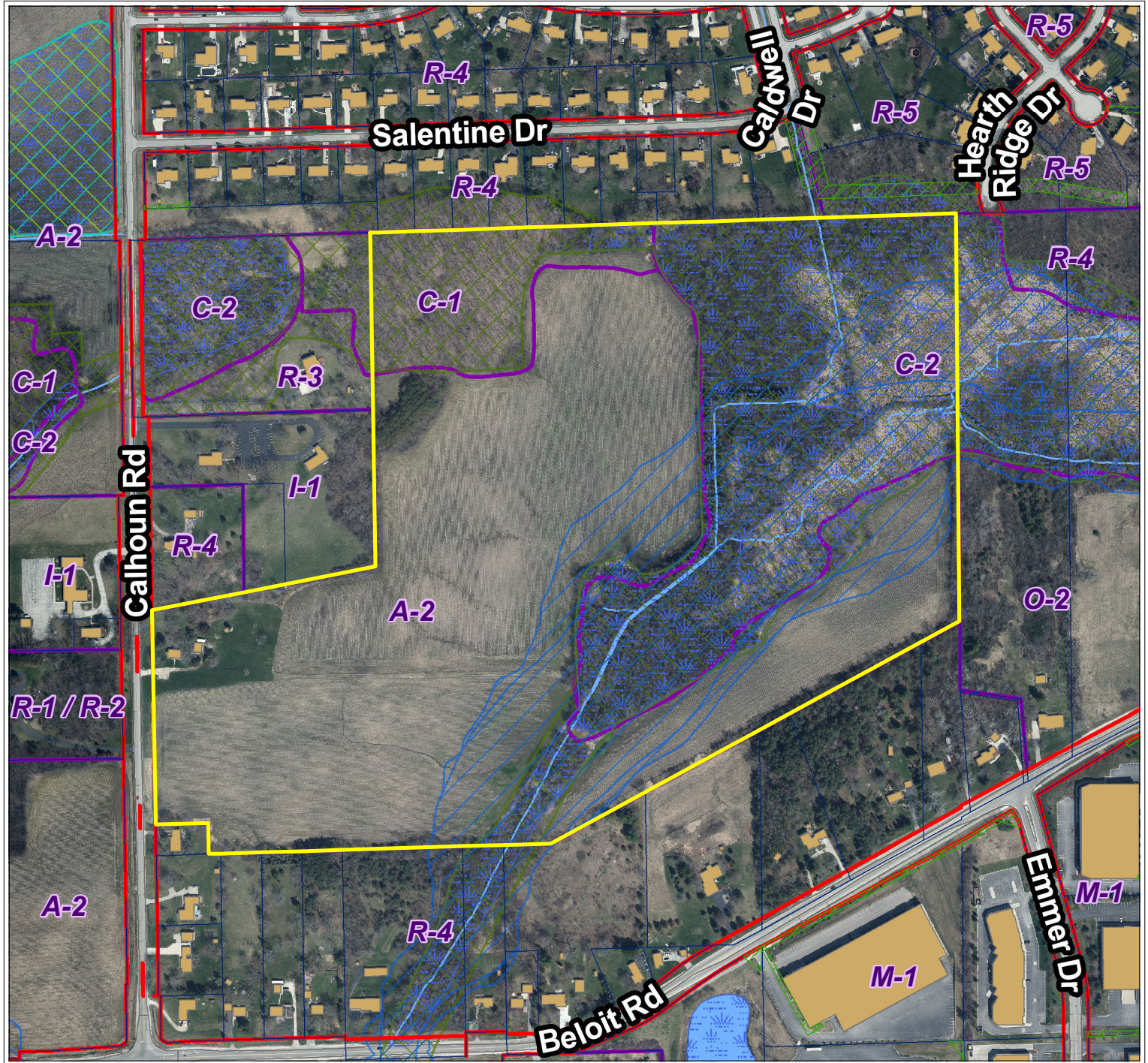
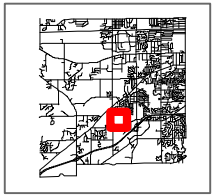
**D.R.C. RECOMMENDATION:**

Recommend to Common Council adoption of Ordinance # 2665 that approves the rezoning of the property located at 4908 S. Calhoun Road (Tax Key #: 1258.999) from A-2, C-1 and C-2 to R-1/R-2, C-1 and C-2. **See Executive Summary.**

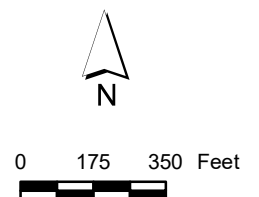
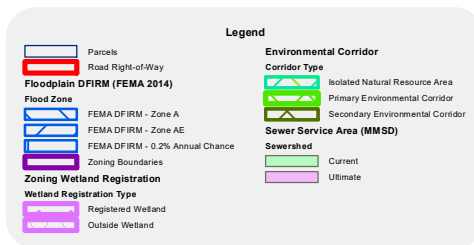
**ATTACHMENTS:**

Location Map  
Zoning Comparison Map  
Applicant Letter  
Sketch Plan 1/6/23  
Sketch Plan 9/28/22  
Ordinance # 2665



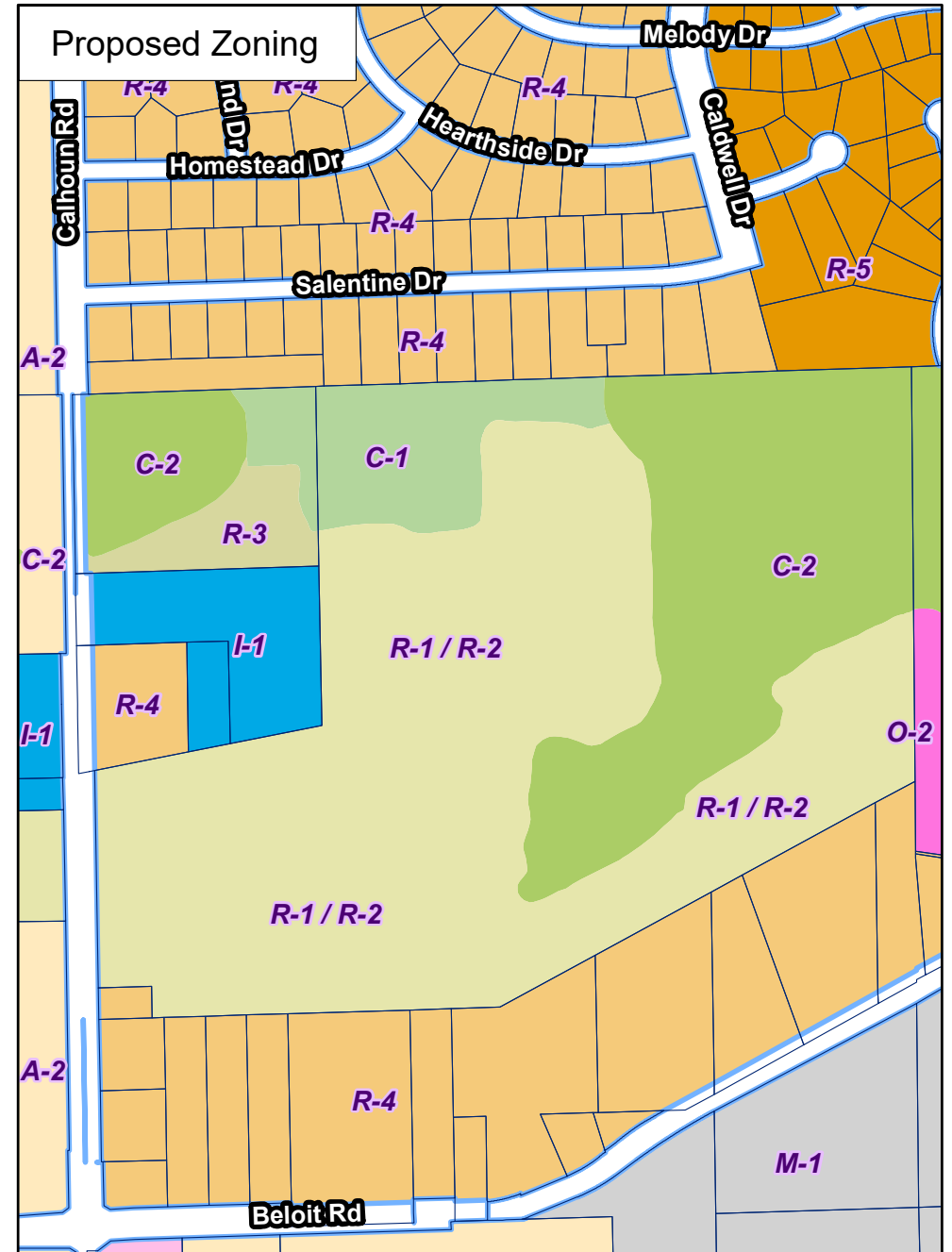
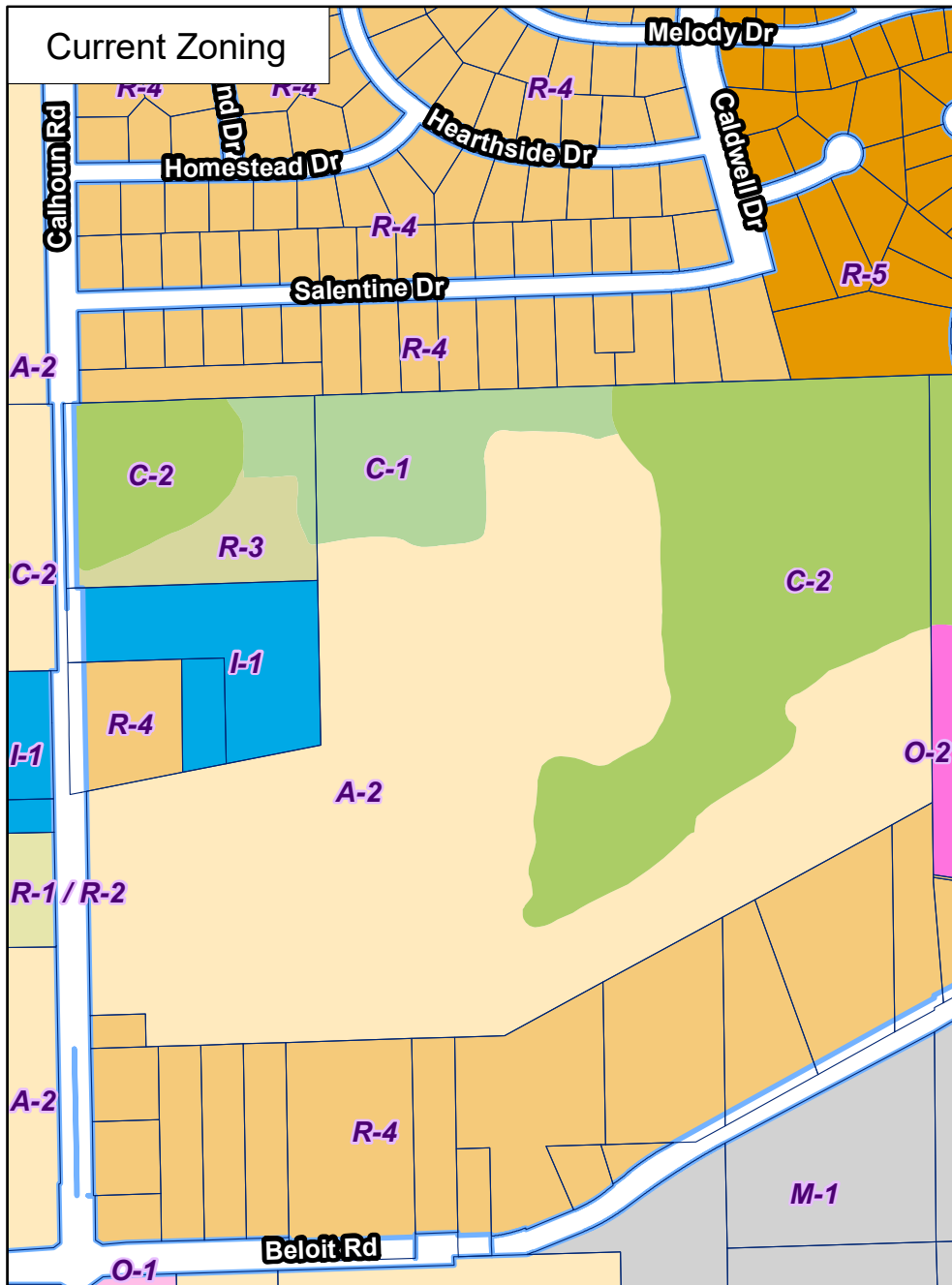


City of New Berlin  
Department of Community Development  
3805 S Casper Dr.  
New Berlin WI 53151  
(262) 797-2445  
www.newberlin.org



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We are pleased to present to The City of New Berlin our plans for Autumn Trace, a new 22 lot residential development located at 4908 S Calhoun Rd. The land is currently zoned A-2, C-1 and C-2 however, our plan for the lands is consistent with the City's Master Plan which designates the area Country Residential with an R-1/R-2 zoning. The areas zoned for conservation will remain but simply have the conservation boundary professionally defined. Our clustered lot's range in size from 33000 sq ft to 10 acres and are surrounded by 54 acres of beautiful, wooded conservation area. Our design is consistent with the city zoning ordinances and will not impede the ability for police, fire and public works departments to service the area. The subdivision will be served by private septic and well systems as these city services are not available in this area. Gas, electric and high-speed internet will be available to the subdivision. Given the proximity of the subdivision to the expressway and retail conveniences we anticipate these building lots to be highly sought after.

Autumn Trace will be an exceptional addition to an exceptional community!!!

Thank You for your consideration.

Ryan Janssen



ADJUSTED TRACT ACREAGE

| DESCRIPTION                                  | Total Area | Adjustment Factor | Adjusted Total Area Deduction | ADJUSTED TRACT ACREAGE |
|----------------------------------------------|------------|-------------------|-------------------------------|------------------------|
|                                              | (acres)    | (deduction)       | (acres)                       | (acres)                |
| CALHOUN RD.                                  | 88.40      |                   |                               |                        |
| - Wetlands (outside Floodway)                | 8.77       | -0.95             | -8.33                         |                        |
| - Floodway                                   | 21.78      | -1.00             | -21.78                        |                        |
| - Floodplain                                 | 5.97       | -0.50             | -2.99                         |                        |
| - Steep Slopes (>20%)                        | 0.12       | -0.80             | -0.10                         |                        |
| - Moderately Steep Slopes (15%-20%)          | 0.68       | -0.60             | -0.41                         |                        |
| TOTAL ADJUSTED TRACT ACREAGE                 |            |                   |                               | 54.79                  |
| Required conservation area (75% of adjusted) |            |                   |                               | 41.10                  |
| LOT COUNT BASED ON ADJUSTED TRACT ACREAGE    |            |                   |                               | 11                     |

Per 275-33-D (12)(a) The subdivision must include at least 75% of the adjusted tract acreage as conservation area.

Conservation area shall not be used for residential lots, except 70% of the area may be 10 acre or larger "conservation lots".

DENSITY CALCULATION

| Description                                         | Total Area (acres) | Allowable Lots | Notes                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------|--------------------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| TOTAL AREA "4908 S CALHOUN RD"                      | 88.395             | 17.68          | Total area excludes the Calhoun Road right-of-way                                                                                                                                                                                                                      |
| LARGE TRACT DENSITY BONUS (88.395 acres - 50 acres) | 38.395             | 3.84           | Large Tract density bonus applies to tracts >50 acres in size, calculated as 1 additional lot for every 10 acres of total tract acreage above 50 acres in the R-1/R-2 District. <i>The 27.8 acres of Wetlands on the site are given to be part of the first 50 acr</i> |
| TOTAL CONSERVATION SUBDIVISION APPLICATION          | 88.395             | 21.52          | Maximum # of possible lots in the conservation subdivision.                                                                                                                                                                                                            |

PROPOSED ZONING

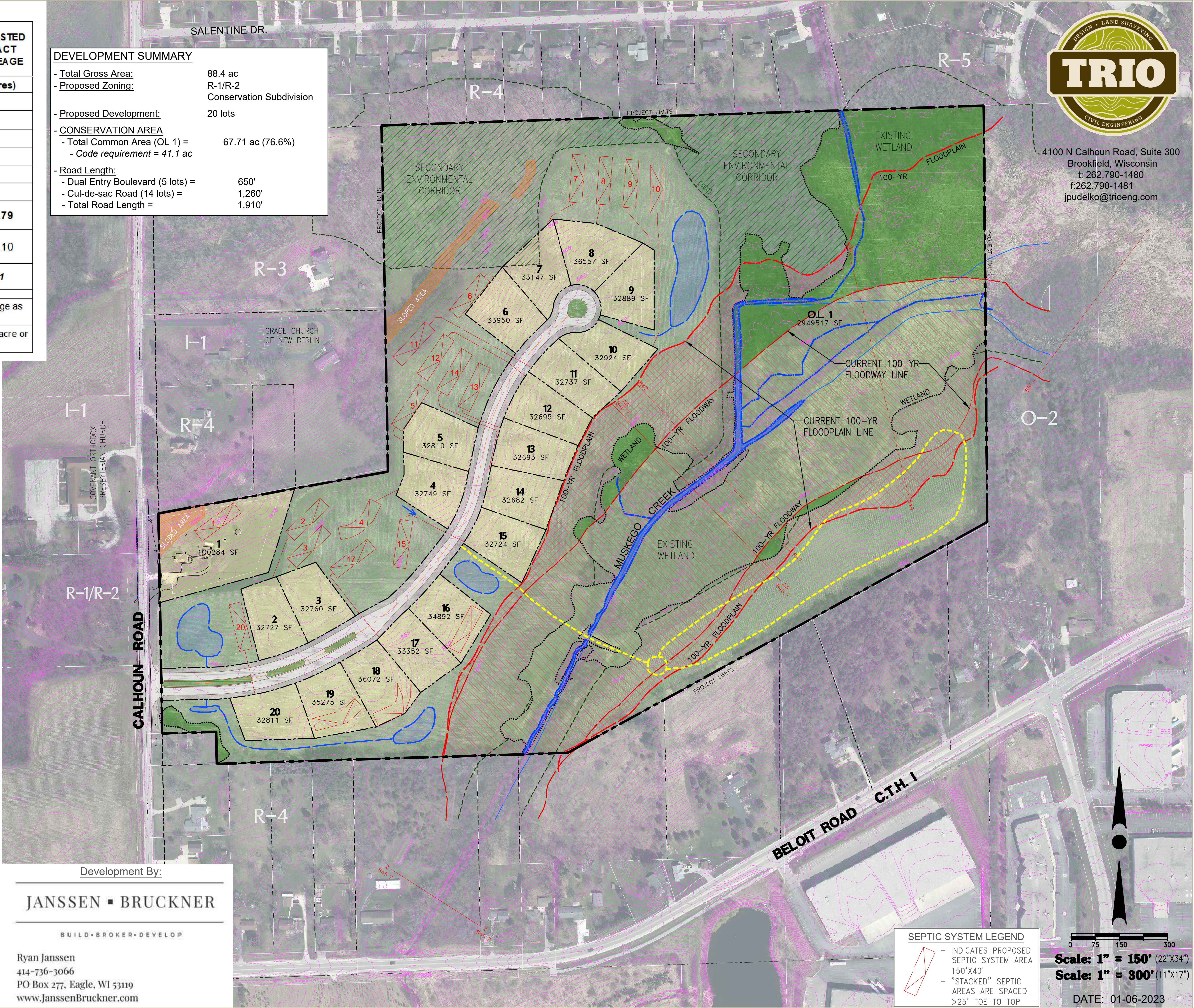
| R1/R2 ZONING REQUIREMENTS per Table 275-33-2                                                                                                               |                  |             |           |              |      |         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------|-----------|--------------|------|---------|
| Conservation Subdivision                                                                                                                                   | Lot Area*        | Lot Width** | Lot Depth | Front & Rear | Side | Wetland |
|                                                                                                                                                            | (s.f.)           | (ft)        | (ft)      | (ft)         | (ft) | (ft)    |
| R-1/R-2                                                                                                                                                    | 20,000 or 32,670 | 110 or 130  | None      | 40           | 15   | 30      |
| * Minimum Lot Area may be 20,000 s.f. when septic system is located entirely off-lot; Minimum Lot Area when septic system is located on-lot is 32,670 s.f. |                  |             |           |              |      |         |
| ** Minimum lot width of 110' applies to homes with front loaded garages; Minimum Lot Width of 130' applies to homes with side loaded garages.              |                  |             |           |              |      |         |
| ADDITIONAL DESIGN STANDARDS per 275-33                                                                                                                     |                  |             |           |              |      |         |
| - Conservation Area Buffer: Existing Road = 100'; Exterior Boundary = 50'                                                                                  |                  |             |           |              |      |         |
| - Conservation Area:                                                                                                                                       |                  |             |           |              |      |         |
| - Includes Secondary Environmental Corridor, Floodplain and Wetland                                                                                        |                  |             |           |              |      |         |
| - No less than 30% of adjusted tract acreage shall be for common use                                                                                       |                  |             |           |              |      |         |
| - May be located on lots that are 10 acres or larger.                                                                                                      |                  |             |           |              |      |         |

PROPOSED SITE PLAN

Autumn Trace Conservation Subdivision

4908 S. Calhoun Road, City of New Berlin, WI

| DEVELOPMENT SUMMARY               |                                     |
|-----------------------------------|-------------------------------------|
| - Total Gross Area:               | 88.4 ac                             |
| - Proposed Zoning:                | R-1/R-2<br>Conservation Subdivision |
| - Proposed Development:           | 20 lots                             |
| - CONSERVATION AREA               |                                     |
| - Total Common Area (OL 1) =      | 67.71 ac (76.6%)                    |
| - Code requirement = 41.1 ac      |                                     |
| - Road Length:                    |                                     |
| - Dual Entry Boulevard (5 lots) = | 650'                                |
| - Cul-de-sac Road (14 lots) =     | 1,260'                              |
| - Total Road Length =             | 1,910'                              |



4100 N Calhoun Road, Suite 300  
Brookfield, Wisconsin  
t: 262.790-1480  
f: 262.790-1481  
jpudelko@trioeng.com

Development By:

JANSSEN ■ BRUCKNER

BUILD • BROKER • DEVELOP

Ryan Janssen  
414-736-3066  
PO Box 277, Eagle, WI 53119  
www.JanssenBruckner.com

SEPTIC SYSTEM LEGEND

- INDICATES PROPOSED SEPTIC SYSTEM AREA 150'X40'
- "STACKED" SEPTIC AREAS ARE SPACED >25' TOE TO TOP

Scale: 1" = 150' (22"X34")  
Scale: 1" = 300' (11"X17")  
DATE: 01-06-2023



## ADJUSTED TRACT ACREAGE

| DESCRIPTION                                         | Total Area | Adjustment Factor | Adjusted Total Area Deduction | ADJUSTED TRACT ACREAGE |
|-----------------------------------------------------|------------|-------------------|-------------------------------|------------------------|
|                                                     | (acres)    | (deduction)       | (acres)                       | (acres)                |
| CALHOUN RD.                                         | 88.40      |                   |                               |                        |
| - Wetlands (outside Floodway)                       | 8.77       | -0.95             | -8.33                         |                        |
| - Floodway                                          | 21.78      | -1.00             | -21.78                        |                        |
| - Floodplain                                        | 5.97       | -0.50             | -2.99                         |                        |
| - Steep Slopes (>20%)                               | 0.12       | -0.80             | -0.10                         |                        |
| - Moderately Steep Slopes (15%-20%)                 | 0.68       | -0.60             | -0.41                         |                        |
| <b>TOTAL ADJUSTED TRACT ACREAGE</b>                 |            |                   |                               | <b>54.79</b>           |
| <b>Required conservation area (75% of adjusted)</b> |            |                   |                               | 41.10                  |
| <b>LOT COUNT BASED ON ADJUSTED TRACT ACREAGE</b>    |            |                   |                               | <b>11</b>              |

Per 275-33-D (12)(a) The subdivision must include at least 75% of the adjusted tract acreage as conservation area.

Conservation area shall not be used for residential lots, except 70% of the area may be 10 acre or larger "conservation lots".

### DENSITY CALCULATION

| Description                                                | Total Area    | Allowable Lots | Notes                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------|---------------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                            | (acres)       |                |                                                                                                                                                                                                                                                                        |
| <b>TOTAL AREA "4908 S CALHOUN RD"</b>                      | <b>88.395</b> | <b>17.68</b>   | Total area excludes the Calhoun Road right-of-way                                                                                                                                                                                                                      |
| <b>LARGE TRACT DENSITY BONUS (88.395 acres - 50 acres)</b> | 38.395        | <b>3.84</b>    | Large Tract density bonus applies to tracts >50 acres in size, calculated as 1 additional lot for every 10 acres of total tract acreage above 50 acres in the R-1/R-2 District. <i>The 27.8 acres of Wetlands on the site are given to be part of the first 50 acr</i> |
| <b>TOTAL CONSERVATION SUBDIVISION APPLICATION</b>          | <b>88.395</b> | <b>21.52</b>   | Maximum # of possible lots in the conservation subdivision.                                                                                                                                                                                                            |

## PROPOSED ZONING

| R1/R2 ZONING REQUIREMENTS per Table 275-33-2 |                  |             |           |              |      |         |
|----------------------------------------------|------------------|-------------|-----------|--------------|------|---------|
| Conservation Subdivision                     | Lot Area*        | Lot Width** | Lot Depth | Front & Rear | Side | Wetland |
|                                              | (s.f.)           | (ft)        | (ft)      | (ft)         | (ft) | (ft)    |
| R-1/R-2                                      | 20,000 or 32,670 | 110 or 130  | None      | 40           | 15   | 30      |

\* Minimum Lot Area may be 20,000 s.f. when septic system is located entirely off-lot; Minimum Lot Area when septic system is located on-lot is 32,670 s.f.

\*\* Minimum lot width of 110' applies to homes with front loaded garages; Minimum Lot Width of 130' applies to homes with side loaded garages.

**ADDITIONAL DESIGN STANDARDS per 275-33**

- Conservation Area Buffer: Existing Road = 100'; Exterior Boundary = 50'
- Conservation Area:
  - Includes Secondary Environmental Corridor, Floodplain and Wetland
  - No less than 30% of adjusted tract acreage shall be for common use
  - May be located on lots that are 10 acres or larger.

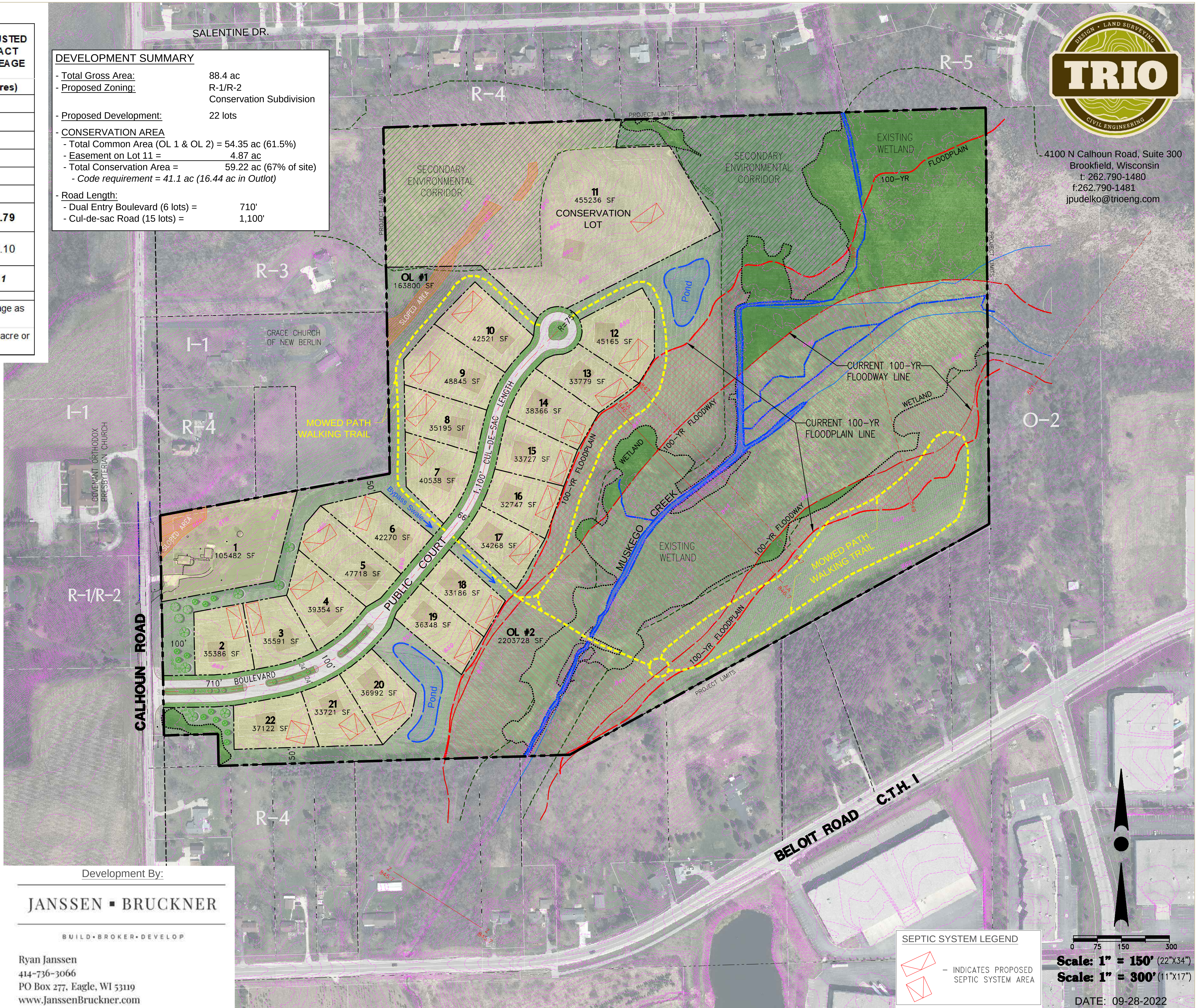
## PROPOSED SITE PLAN

# Autumn Trace Conservation Subdivision

4908 S. Calhoun Road, City of New Berlin, WI

## DEVELOPMENT SUMMARY

- Total Gross Area: 88.4 ac
- Proposed Zoning: R-1/R-2  
Conservation Subdivision
- Proposed Development: 22 lots
- CONSERVATION AREA
  - Total Common Area (OL 1 & OL 2) = 54.35 ac (61.5%)
  - Easement on Lot 11 = 4.87 ac
  - Total Conservation Area = 59.22 ac (67% of site)
    - *Code requirement = 41.1 ac (16.44 ac in Outlot)*
- Road Length:
  - Dual Entry Boulevard (6 lots) = 710'
  - Cul-de-sac Road (15 lots) = 1,100'





## ORDINANCE NO. 2665

Ordinance to rezone from A-2 (Agricultural and Rural Holding District), C-1 (Upland Resource Conservancy District) and C-2 (Shoreland Wetland Holding District) to R-1/R-2 (Rural Conservation Single-Family Residential District), C-1 (Upland Resource Conservancy District) and C-2 (Shoreland Wetland Holding District)

---

The Common Council of the City of New Berlin do ordain as follows:

## SECTION I

The City of New Berlin, having received a petition from Ryan Janssen to rezone the property located at 4908 S. Calhoun Road (Tax Key #: 1258.999) from A-2, C-1 and C-2 to R-1/R-2, C-1 and C-2:

**OVERALL LEGAL DESCRIPTION:**

PT NW1/4 SEC 27 T6N R20E; COM W LINE OF SEC DSTNT N 772.0 FT FROM W1/4 SEC CRNR; N 680.06 FT; N80°28'E 779.8 FT; N 1069.74 FT TO N LINE OF SEC; ELY ON N LINE 1883.4 FT TO N1/4 CRNR; S0°04'E ON N & S1/4 SEC LINE 1301.80 FT; S62°21'W 1510.7 FT; S89°05.5'W 1097.75 FT TO PNT WHICH IS 217.84 FT N89°05.5'E OF W LINE OF NW1/4 SEC; N 100 FT; S89°05.5'W 217.85 FT TO BGN :: EX HWY PER DOC #4552803

**AREAS ZONED A-2 WILL BE REZONED TO R-1/R-2.****AREAS ZONED C-1 AND C-2 WILL REMAIN UNCHANGED.**

## SECTION II

The matter came before the City Plan Commission which held a public hearing on the proposed rezoning on November 14, 2022 and recommended approval of said rezoning on February 6, 2023 subject to the application, plans on file, and an ordinance approved by the City Attorney, and the matter having been considered and the rezoning approved on February 14, 2023 by the Common Council.

## SECTION III

The Common Council of the City of New Berlin does hereby approve the rezoning of the lands in the above-described property from A-2, C-1 and C-2 to R-1/R-2, C-1 and C-2 subject to the application and plans on file.

The Mayor and City Clerk are authorized to execute this Ordinance No. 2665 on behalf of the City of New Berlin.

## SECTION IV

The several sections of this ordinance are declared to be severable. If any section shall be declared by decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of other portions of the ordinance.



## SECTION V

All ordinances or parts of ordinances contravening the terms and conditions of this ordinance are hereby to that extent repealed.

## SECTION VI

This ordinance shall take effect upon passage and publication of a summary notice as required by law, and the City Clerk shall so amend the Code of Ordinances and zoning map of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Common Council this 14<sup>th</sup> day of February 2023.

APPROVED:

\_\_\_\_\_  
David A. Ament, Mayor

Countersigned:

\_\_\_\_\_  
Rubina Medina, City Clerk



---

# STAFF REPORT

## EXECUTIVE SUMMARY

---

|                               |                                                                                                                                                                                                                                                                                    |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>APPLICANT/PROJECT:</b>     | Referral from the Department of Community Development / Release of Road Reservation                                                                                                                                                                                                |
| <b>LOCATION:</b>              | Hearthside Acres Addition No. 1 Subdivision (generally from 17185 W. Salentine Drive through 16585 W. Salentine Drive)                                                                                                                                                             |
| <b>REQUEST:</b>               | Release of the Road Reservation located along the southerly portion of Hearthside Acres Addition No. 1 Subdivision Plat (generally from 17185 W. Salentine Drive through 16585 W. Salentine Drive)                                                                                 |
| <b>D.R.C. RECOMMENDATION:</b> | Recommend to Common Council adoption of Resolution # 23-2 approving the release of the 100' Road Reservation that appears on the southerly portion of Hearthside Acres Addition No. 1 Subdivision Plat (generally from 17185 W. Salentine Drive through 16585 W. Salentine Drive). |

### Background:

1. Properties located within the Hearthside Acres Addition No. 1 Subdivision are zoned R-4 (Low-Density Single-Family Residential).
2. The City is requesting to release a 100' wide road reservation that is located along the southerly portion of the subdivision, approximately 2,229.5' in length. The plat contains language reserving lands for half of future highway location.
3. The owner of a portion of the lands reserved for future highway purposes is desirous of developing said lands as a single-family home site.
4. Portions of the land reserved for future highway locations have been sold. However, the road reservation remains of record with respect to all the lands reserved for future highway purposes on the plat.
5. The City of New Berlin has concluded that there is no longer a need for these lands reserved for a future highway location.

### Next Steps:

1. February 14, 2023      Common Council adoption of Resolution # 23-2 for the release of road reservation.

### Previous Action:

March 7, 1958

March 27, 2012

City approval of the Hearthside Acres Addition No. 1 Subdivision plat.

Common Council discussed in closed session.

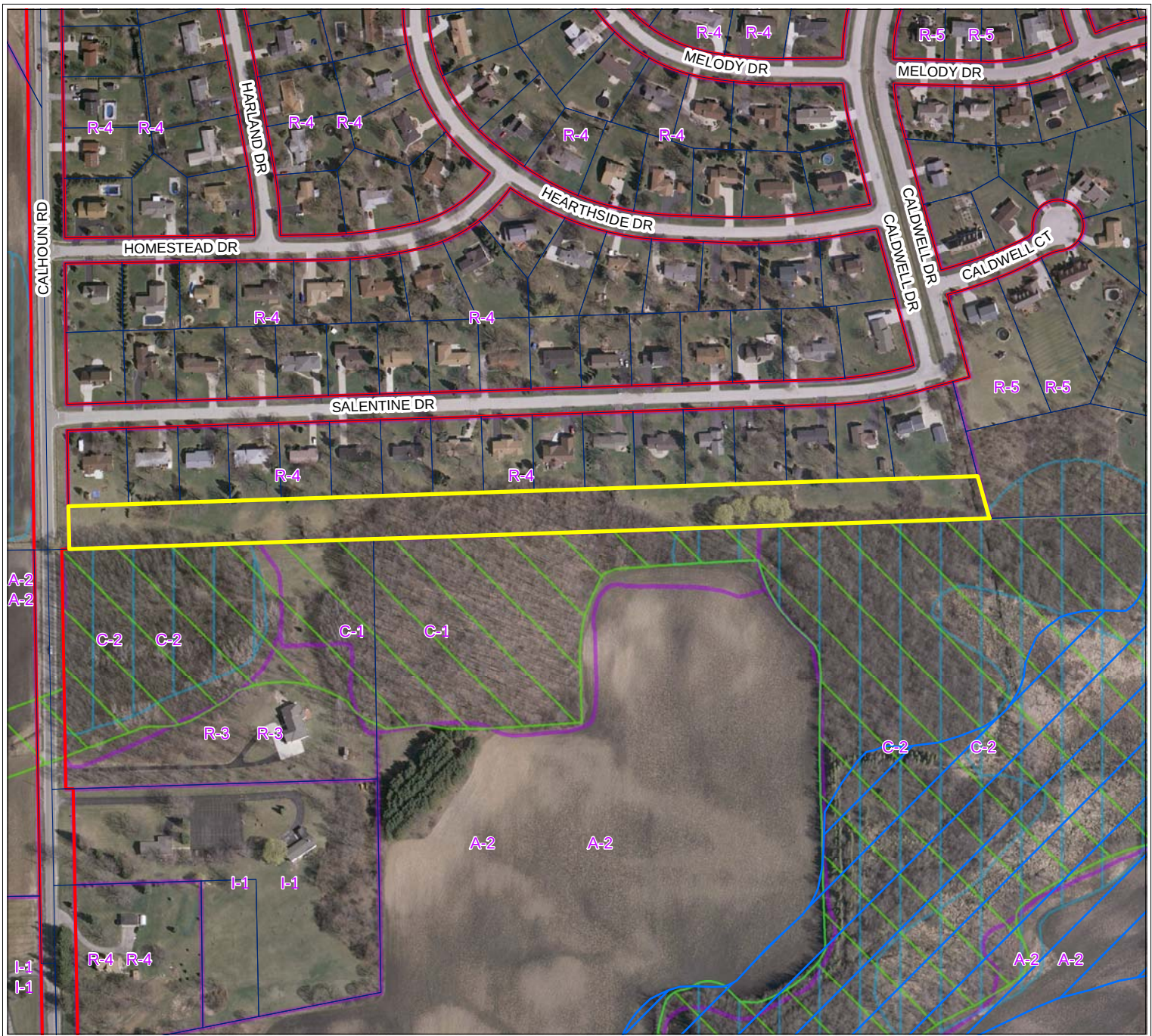
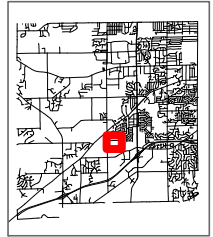
### Attachments:

Location Map

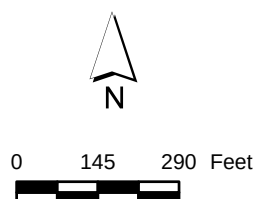
Resolution # 23-2



# MS-2300120 Hearthside Acres Addition No. 1 Road Reservation Release



City of New Berlin  
Department of Community Development  
3805 S Casper Dr.  
New Berlin WI 53151  
(262) 797-2445  
www.newberlin.org



### Legend

|                                                                                     |                   |                                                                                       |                        |                                                                                       |                 |
|-------------------------------------------------------------------------------------|-------------------|---------------------------------------------------------------------------------------|------------------------|---------------------------------------------------------------------------------------|-----------------|
|  | Parcels           |  | Conservation Easement  |  | Zoning Boundary |
|  | Road Right-of-Way |  | Environmental Corridor |  | PUD             |
|  | Road Reservation  |  | Floodplain (FEMA)      |  | SPO             |
|  | Road ROW Proposed |  | Wetland                |  | Easement        |

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**RESOLUTION RELEASING ROAD  
RESERVATION WITHIN  
HEARTHSIDE ACRES  
ADDITION NO. 1**

Document Number

Title of Document

Please see the attached Resolution Releasing Road Reservation

Record this document with the Register of Deed.

Name and Return Address

Attorney Mark G. Blum  
720 Clinton Street, P.O. Box 766  
Waukesha, WI 53187

(Parcel Identification Number)

**Drafted By:**

Attorney Mark G. Blum  
Hippenmeyer, Reilly, Blum,  
Schmitzer, Fabian & English, S.C.  
720 Clinton St., PO Box 766  
Waukesha, WI 53187-0766  
Phone: (262) 549-8181  
Email: [mdblum@hrblawfirm.com](mailto:mdblum@hrblawfirm.com)



**RESOLUTION NO. 23-2****RESOLUTION OF THE CITY OF NEW BERLIN  
RELEASING ROAD RESERVATION WITHIN  
PLAT OF HEARTHSIDE ACRES ADDITION NO. 1**

---

WHEREAS, the City of New Berlin approved the Plat for Hearthside Acres Addition No. 1 on March 7, 1958. A copy of that Plat is attached hereto and marked as Exhibit A and it was recorded with the Waukesha County Register of Deeds Office on May 14, 1958 as Document No. 477717; and

WHEREAS, said Plat contains language reserving lands on the southerly portion of the Plat for “half of future highway location”. The area in question is 100’ in width and approximately 2,229.5’ in length; and

WHEREAS, the owner of a portion of the lands reserved for future highway purposes is desirous of developing said lands as a single-family homesite; and

WHEREAS, portions of the land reserved for future highway locations has been sold; however, the aforementioned road reservation remains of record with respect to all the lands reserved for future highway purposes on the aforementioned Plat; and

WHEREAS, the City of New Berlin has concluded there is no longer a need for these lands reserved for a future highway location and as a result, the aforementioned reservation on the Plat of Hearthside Acres Addition No. 1 can be released; and

WHEREAS, the potential release of the road reservation on the Hearthside Acres Addition No. 1 Plat was reviewed by the City of New Berlin Planning Commission on February 6, 2023, at which time the Commission recommended approval of a release of the road reservation to the Common Council to ultimately allow for the construction of a residence on said lands.

NOW, THEREFORE, the City of New Berlin, as the approving entity for the Plat for Hearthside Acres Addition No. 1 (Exhibit A) hereby consents, pursuant to Wisconsin Statute Sec. 236.293, to the release of the road reservation on the southerly border of the Hearthside Acres Addition No. 1 Plat. This release shall apply to all the lands subject of the aforementioned road reservation.

All other terms and conditions of the Plat for Hearthside Acres Addition No. 1 shall remain in full force and effect as originally enacted and approved by the City of New Berlin.

[See Next Page for Signatures]



CITY OF NEW BERLIN

\_\_\_\_\_  
David Ament, Mayor

Countersigned:

\_\_\_\_\_  
Medina Rubina, City Clerk

Subscribed and sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 2023.

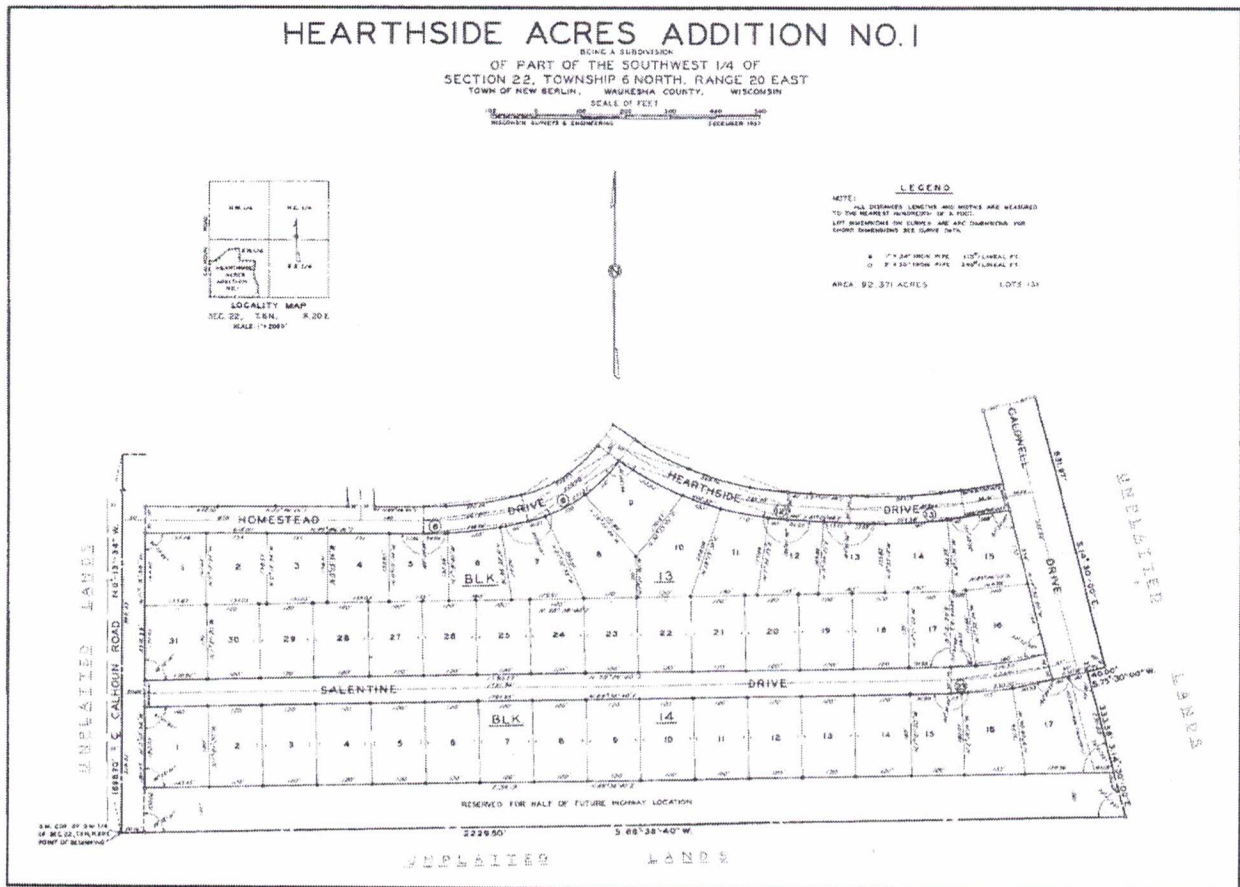
\_\_\_\_\_  
Notary Public, State of Wisconsin

My Commission Expires:\_\_\_\_\_











# HEARTHSE ACRES ADDITION NO.1

BEING A SUBDIVISION  
OF PART OF THE SOUTHWEST 1/4 OF  
SECTION 22, TOWNSHIP 6 NORTH, RANGE 20 EAST  
TOWN OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN

| CURVE DATA |     |         |        |        |               |                  |
|------------|-----|---------|--------|--------|---------------|------------------|
| Block      | Lot | Radius  | Area   | Chord  | Central Angle | Deflection Angle |
| 8          | 1   | 427.59  | 118.54 | 118.02 | 100°08'12"    | 79°51'56"        |
|            | 2   | 159.99  | 139.86 | 139.48 | 100°08'12"    | 79°51'56"        |
|            | 3   | 613.48  | 80.00  | 80.00  | 18°03'04"     | 161°56'56"       |
|            | 4   | 109.00  | 107.80 | 107.80 | 18°03'04"     | 161°56'56"       |
|            | 5   | 54.28   | 54.28  | 54.28  | 18°03'04"     | 161°56'56"       |
|            | 6   | 49.04   | 54.02  | 54.02  | 18°03'04"     | 161°56'56"       |
|            | 7   | 60.00   | 78.73  | 71.61  | 37°17'42"     | 142°42'18"       |
|            | 8   | 60.00   | 60.00  | 57.33  | 37°17'42"     | 142°42'18"       |
|            | 9   | 60.00   | 60.00  | 57.33  | 37°17'42"     | 142°42'18"       |
|            | 10  | 60.00   | 60.00  | 57.33  | 37°17'42"     | 142°42'18"       |
|            | 11  | 60.00   | 60.00  | 57.33  | 37°17'42"     | 142°42'18"       |
|            | 12  | 205.00  | 36.98  | 36.98  | 18°03'04"     | 161°56'56"       |
| 9          | 1   | 410.00  | 129.27 | 129.27 | 100°08'12"    | 79°51'56"        |
|            | 2   | 140.00  | 139.58 | 139.58 | 100°08'12"    | 79°51'56"        |
|            | 3   | 447.00  | 36.06  | 36.06  | 18°03'04"     | 161°56'56"       |
|            | 4   | 110.00  | 109.75 | 109.75 | 18°03'04"     | 161°56'56"       |
|            | 5   | 180.00  | 87.70  | 87.70  | 18°03'04"     | 161°56'56"       |
|            | 6   | 175.00  | 175.18 | 175.18 | 18°03'04"     | 161°56'56"       |
|            | 7   | 1079.48 | 33.98  | 33.98  | 18°03'04"     | 161°56'56"       |
|            | 8   | 140.00  | 139.58 | 139.58 | 100°08'12"    | 79°51'56"        |
|            | 9   | 616.28  | 146.19 | 146.19 | 100°08'12"    | 79°51'56"        |
|            | 10  | 600.00  | 154.57 | 154.57 | 100°08'12"    | 79°51'56"        |
|            | 11  | 120.00  | 129.75 | 129.75 | 18°03'04"     | 161°56'56"       |
|            | 12  | 60.00   | 60.00  | 60.00  | 18°03'04"     | 161°56'56"       |
| 10         | 1   | 429.77  | 90.00  | 90.00  | 100°08'12"    | 79°51'56"        |
|            | 2   | 407.00  | 121.41 | 121.41 | 100°08'12"    | 79°51'56"        |
|            | 3   | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 4   | 150.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 5   | 410.00  | 100.00 | 100.00 | 100°08'12"    | 79°51'56"        |
|            | 6   | 40.00   | 39.99  | 39.99  | 100°08'12"    | 79°51'56"        |
|            | 7   | 1125.42 | 70.09  | 70.09  | 100°08'12"    | 79°51'56"        |
|            | 8   | 120.00  | 129.75 | 129.75 | 18°03'04"     | 161°56'56"       |
|            | 9   | 110.00  | 109.75 | 109.75 | 18°03'04"     | 161°56'56"       |
|            | 10  | 1177.18 | 124.80 | 124.80 | 100°08'12"    | 79°51'56"        |
|            | 11  | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 12  | 644.83  | 88.28  | 88.28  | 100°08'12"    | 79°51'56"        |
| 11         | 1   | 429.77  | 90.00  | 90.00  | 100°08'12"    | 79°51'56"        |
|            | 2   | 407.00  | 121.41 | 121.41 | 100°08'12"    | 79°51'56"        |
|            | 3   | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 4   | 150.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 5   | 410.00  | 100.00 | 100.00 | 100°08'12"    | 79°51'56"        |
|            | 6   | 40.00   | 39.99  | 39.99  | 100°08'12"    | 79°51'56"        |
|            | 7   | 1125.42 | 70.09  | 70.09  | 100°08'12"    | 79°51'56"        |
|            | 8   | 120.00  | 129.75 | 129.75 | 18°03'04"     | 161°56'56"       |
|            | 9   | 110.00  | 109.75 | 109.75 | 18°03'04"     | 161°56'56"       |
|            | 10  | 1177.18 | 124.80 | 124.80 | 100°08'12"    | 79°51'56"        |
|            | 11  | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 12  | 644.83  | 88.28  | 88.28  | 100°08'12"    | 79°51'56"        |
| 12         | 1   | 429.77  | 90.00  | 90.00  | 100°08'12"    | 79°51'56"        |
|            | 2   | 407.00  | 121.41 | 121.41 | 100°08'12"    | 79°51'56"        |
|            | 3   | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 4   | 150.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 5   | 410.00  | 100.00 | 100.00 | 100°08'12"    | 79°51'56"        |
|            | 6   | 40.00   | 39.99  | 39.99  | 100°08'12"    | 79°51'56"        |
|            | 7   | 1125.42 | 70.09  | 70.09  | 100°08'12"    | 79°51'56"        |
|            | 8   | 120.00  | 129.75 | 129.75 | 18°03'04"     | 161°56'56"       |
|            | 9   | 110.00  | 109.75 | 109.75 | 18°03'04"     | 161°56'56"       |
|            | 10  | 1177.18 | 124.80 | 124.80 | 100°08'12"    | 79°51'56"        |
|            | 11  | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 12  | 644.83  | 88.28  | 88.28  | 100°08'12"    | 79°51'56"        |
| 13         | 1   | 429.77  | 90.00  | 90.00  | 100°08'12"    | 79°51'56"        |
|            | 2   | 407.00  | 121.41 | 121.41 | 100°08'12"    | 79°51'56"        |
|            | 3   | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 4   | 150.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 5   | 410.00  | 100.00 | 100.00 | 100°08'12"    | 79°51'56"        |
|            | 6   | 40.00   | 39.99  | 39.99  | 100°08'12"    | 79°51'56"        |
|            | 7   | 1125.42 | 70.09  | 70.09  | 100°08'12"    | 79°51'56"        |
|            | 8   | 120.00  | 129.75 | 129.75 | 18°03'04"     | 161°56'56"       |
|            | 9   | 110.00  | 109.75 | 109.75 | 18°03'04"     | 161°56'56"       |
|            | 10  | 1177.18 | 124.80 | 124.80 | 100°08'12"    | 79°51'56"        |
|            | 11  | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 12  | 644.83  | 88.28  | 88.28  | 100°08'12"    | 79°51'56"        |
| 14         | 1   | 429.77  | 90.00  | 90.00  | 100°08'12"    | 79°51'56"        |
|            | 2   | 407.00  | 121.41 | 121.41 | 100°08'12"    | 79°51'56"        |
|            | 3   | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 4   | 150.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 5   | 410.00  | 100.00 | 100.00 | 100°08'12"    | 79°51'56"        |
|            | 6   | 40.00   | 39.99  | 39.99  | 100°08'12"    | 79°51'56"        |
|            | 7   | 1125.42 | 70.09  | 70.09  | 100°08'12"    | 79°51'56"        |
|            | 8   | 120.00  | 129.75 | 129.75 | 18°03'04"     | 161°56'56"       |
|            | 9   | 110.00  | 109.75 | 109.75 | 18°03'04"     | 161°56'56"       |
|            | 10  | 1177.18 | 124.80 | 124.80 | 100°08'12"    | 79°51'56"        |
|            | 11  | 180.00  | 146.87 | 146.87 | 100°08'12"    | 79°51'56"        |
|            | 12  | 644.83  | 88.28  | 88.28  | 100°08'12"    | 79°51'56"        |

| GENERAL CURVE DATA |            |        |        |               |                  |               |
|--------------------|------------|--------|--------|---------------|------------------|---------------|
| Curve No.          | Radius     | Area   | Chord  | Central Angle | Deflection Angle | Chord Bearing |
| 1                  | 60.00      | 289.75 | 118.20 | 219°20'33"    | 109°41'46"       | S 40°59'42" W |
| 2                  | 40.04      | 54.06  | 52.00  | 54°00'16"     | 32°01'34"        | N 33°40'55" W |
| 3                  | 295.00     | 128.98 | 128.00 | 54°39'44"     | 12°19'52"        | N 13°00'40" W |
| 4                  | S 453.48   | 256.36 | 257.92 | 52°28'26"     | 16°11'42"        | S 73°00'20" W |
| 5                  | OL 403.48  | 273.32 | 259.70 | "             | "                | "             |
| 6                  | N 515.48   | 276.23 | 259.63 | "             | "                | "             |
| 7                  | N 427.59   | 252.33 | 240.66 | 33°48'40"     | 16°54'20"        | S 72°02'03" W |
| 8                  | CL 407.59  | 270.03 | 255.13 | "             | "                | "             |
| 9                  | N 407.59   | 257.73 | 253.56 | "             | "                | "             |
| 10                 | N 703.00   | 163.58 | 163.29 | 11°48'56"     | 3°54'18"         | N 16°00'42" W |
| 11                 | CL 525.60  | 169.76 | 169.46 | "             | "                | "             |
| 12                 | N 255.60   | 175.23 | 172.64 | "             | "                | "             |
| 13                 | N 950.00   | 165.21 | 165.00 | 9°27'50"      | 4°50'55"         | N 5°18'29" W  |
| 14                 | CL 950.00  | 170.48 | 170.21 | "             | "                | "             |
| 15                 | N 1010.00  | 175.64 | 175.42 | "             | "                | "             |
| 16                 | N 955.00   | 235.24 | 219.78 | 15°40'18"     | 8°00'09"         | N 62°56'17" E |
| 17                 | CL 955.00  | 251.21 | 224.00 | "             | "                | "             |
| 18                 | N 595.00   | 208.75 | 204.42 | 40°32'40"     | 20°16'20"        | N 25°49'48" E |
| 19                 | CL 595.00  | 224.90 | 205.17 | "             | "                | "             |
| 20                 | N 350.00   | 228.49 | 225.92 | 29°08'29"     | 19°31'14"        | S 17°55'28" W |
| 21                 | CL 350.00  | 258.93 | 223.25 | "             | "                | "             |
| 22                 | N 410.00   | 279.37 | 274.00 | "             | "                | "             |
| 23                 | CL 410.00  | 271.23 | 261.55 | 91°50'12"     | 45°50'05"        | S 8°21'26" E  |
| 24                 | N 429.77   | 271.23 | 261.55 | "             | "                | "             |
| 25                 | CL 429.77  | 271.23 | 261.55 | "             | "                | "             |
| 26                 | N 644.83   | 368.28 | 363.27 | 22°43'16"     | 16°21'38"        | S 70°46'10" E |
| 27                 | CL 644.83  | 398.29 | 359.17 | "             | "                | "             |
| 28                 | N 704.83   | 426.32 | 397.38 | "             | "                | "             |
| 29                 | N 1277.16  | 543.19 | 542.76 | 11°30'12"     | 5°55'08"         | N 66°05'06" E |
| 30                 | CL 1277.16 | 543.19 | 542.76 | "             | "                | "             |
| 31                 | N 1277.16  | 543.19 | 542.76 | "             | "                | "             |
| 32                 | CL 1277.16 | 543.19 | 542.76 | "             | "                | "             |
| 33                 | N 429.77   | 271.23 | 261.55 | "             | "                | "             |
| 34                 | CL 429.77  | 271.23 | 261.55 | "             | "                | "             |
| 35                 | N 350.00   | 343.71 | 346.79 | 59°22'29"     | 29°41'15"        | S 49°42'41" E |
| 36                 | CL 350.00  | 398.00 | 376.41 | "             | "                | "             |
| 37                 | N 410.00   | 426.32 | 397.38 | "             | "                | "             |
| 38                 | N 1075.42  | 190.96 | 190.69 | 10°36'05"     | 5°18'02"         | S 84°41'37" E |
| 39                 | CL 1075.42 | 204.54 | 194.86 | "             | "                | "             |
| 40                 | N 1125.42  | 210.09 | 209.78 | "             | "                | "             |
| 41                 | N 800.00   | 359.34 | 354.06 | 32°28'26"     | 16°18'12"        | S 74°57'40" E |
| 42                 | CL 800.00  | 354.33 | 331.60 | "             | "                | "             |
| 43                 | N 660.00   | 275.70 | 271.74 | 25°45'38"     | 13°58'49"        | N 70°30'17" W |
| 44                 | N 80.00    | 358.96 | 101.58 | 244°25'12"    | 12°12'56"        | N 31°02'44" E |
| 45                 | N 60.00    | 36.11  | 56.13  | 55°46'28"     | 27°53'13"        | N 54°57'53" W |
| 46                 | N 63.19    | 63.19  | 54.57  | 105°04'02"    | 58°59'01"        | N 60°17'31" E |
| 47                 | N 493.00   | 143.81 | 143.27 | 18°29'18"     | 8°29'59"         | S 6°00'51" W  |
| 48                 | CL 410.00  | 128.70 | 128.14 | "             | "                | "             |
| 49                 | N 840.00   | 163.59 | 163.00 | "             | "                | "             |
| 50                 | N 480.20   | 256.42 | 220.57 | 39°50'50"     | 14°55'13"        | N 5°25'15" E  |
| 51                 | CL 480.20  | 289.72 | 255.47 | "             | "                | "             |
| 52                 | N 616.28   | 320.96 | 319.56 | "             | "                | "             |
| 53                 | N 943.84   | 216.53 | 216.05 | 15°08'40"     | 7°54'20"         | N 82°04'20" E |
| 54                 | CL 943.84  | 225.41 | 225.98 | "             | "                | "             |
| 55                 | N 1005.84  | 230.20 | 229.79 | "             | "                | "             |
| 56                 | N 194.54   | 312.39 | 280.39 | 91°07'46"     | 45°23'53"        | N 45°47'27" W |
| 57                 | CL 226.34  | 360.00 | 323.25 | "             | "                | "             |
| 58                 | N 256.34   | 407.71 | 368.07 | "             | "                | "             |



# HEARTHSIDE ACRES ADDITION NO. 1

BEING A SUBDIVISION  
OF A PART OF THE SOUTHWEST 1/4 OF  
SECTION 22, TOWNSHIP 6 NORTH, RANGE 20 EAST  
TOWN OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN

## SURVEYOR'S CERTIFICATE

State of Wisconsin }  
County of Milwaukee } SS

I, Gerald E. Zander, surveyor, being first duly sworn, on oath, hereby depose and say:  
That I have surveyed, divided and mapped "Heartside Acres Addition No. 1", being a subdivision of part of the Southwest 1/4 of Section 22, Township 6 North, Range 20 East, in the Town of New Berlin, County of Waukesha, State of Wisconsin, bounded and described as follows:  
Commencing at the Southwest corner of the Southwest 1/4 of Section 22, thence North 0°-13'-34" West along the west line of said 1/4 Section, 1689.70 feet to a point; thence North 59°-45'-25" East, 229.04 feet to a point; thence North 40°-08'-25" East, 842.55 feet to a point; thence North 40°-12'-00" East, 470.50 feet to a point; thence South 00°-03'-40" East, 339.48 feet to a point; thence North 89°-21'-12" East, 812.00 feet to a point; thence Southerly 181.59 feet on a curve (center to the West, radius 545.00 feet, central angle of 139°-59'-16", chord bearing South 20°-05'-51" East, 121.00 feet) to a point; thence South 180°-20'-30" West, 596.00 feet to a point; thence Southerly 220.40 feet on a curve (center to the West, radius 495.39 feet, central angle of 90°-50'-30", chord bearing South 0°-25'-10" East, 125.07 feet) to a point; thence South 140°-30'-00" East, 421.07 feet to a point; thence South 78°-30'-00" East, 40.00 feet to a point; thence South 14°-30'-00" East, 233.00 feet to a point on the South line of said 1/4 Section; thence South 89°-20'-40" West along the South line of said 1/4 Section 2229.55 feet to the point of beginning.  
That I have made such survey and the within map by order and direction of E. Franklin Preston and Mina L. Preston, his wife, owners of said land.  
That the within map is a correct representation of all exterior boundaries of surveyed and the divisions therein made.  
That in surveying, dividing and mapping the same, I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and amendments thereto.

State of Wisconsin }  
County of Milwaukee } SS

Gerald E. Zander, being first duly sworn on oath, deposes and says that he is the surveyor who signed the foregoing certificate, and that he was aware that all the contents are true and that he made this certificate as required by law.  
Subscribed and sworn to before me this 25th day of January, 1958.  
My commission expires October 15, 1961.

Gerald E. Zander, Land Surveyor  
Gerald E. Zander, Land Surveyor  
Gerald E. Zander, Land Surveyor

## OWNER'S CERTIFICATE

State of Wisconsin }  
County of Waukesha } SS

As owners, we, E. Franklin Preston and Mina L. Preston, his wife, hereby certify that we have caused the land described in the foregoing certificate of Gerald E. Zander, Surveyor, to be surveyed, divided, mapped and dedicated as represented on the plat. We also certify that this plat is required by s. 236.02 or 236.15, Wis. Statutes, to be submitted to the following: Waukesha County Park and Planning Commission, Town of New Berlin, Director of Regional Planning, State Board of Health, State Highway Commission.  
Witness the hand and seal of said owners this 7th day of May, 1958.

In presence of: Joseph H. Rausch  
Mina L. Preston

E. Franklin Preston (Seal)  
Mina L. Preston (Seal)

State of Wisconsin }  
County of Waukesha } SS

On this 7th day of May, 1958, I, Joseph H. Rausch, Notary Public, Milwaukee County, Wisconsin, personally before me came E. Franklin Preston and Mina L. Preston, his wife, to me known to be the persons who executed the foregoing instrument and acknowledged the same.  
My commission expires June 1st, 1960.

Joseph H. Rausch  
Notary Public

## CONSENT OF MORTGAGEE

State of Wisconsin }  
County of Waukesha } SS

We, Norbert Salentine and Margaret Salentine, his wife, mortgagees of the above described land, do hereby consent to the surveying, dividing, mapping and dedication of the land described in the foregoing affidavit of Gerald E. Zander, Surveyor, and we hereby consent to the certificate of E. Franklin Preston and Mina L. Preston, his wife, owners.  
Witness the hand of Norbert Salentine and Margaret Salentine, his wife, the mortgagees, this 7th day of May, 1958.

In presence of: Joseph H. Rausch  
Mina L. Preston

Norbert Salentine (Seal)  
Margaret Salentine (Seal)

State of Wisconsin }  
County of Waukesha } SS

Personally came before me this 7th day of May, 1958, the above named Norbert Salentine and Margaret Salentine, his wife, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Joseph H. Rausch  
Notary Public  
My commission expires June 1st, 1960

## TOWN BOARD APPROVAL

State of Wisconsin }  
County of Waukesha } SS

Be it resolved by the Town Board of the Town of New Berlin, Waukesha County, that the plat of "HEARTSIDE ACRES ADDITION NO. 1", being a subdivision of part of the Southwest 1/4 of Section 22, Township 6 North, Range 20 East, in the Town of New Berlin, County of Waukesha, State of Wisconsin, be and the same is hereby approved this 7th day of May, 1958.  
I, Joseph Rausch Jr., do hereby certify that I am the duly elected, qualified and acting Town Clerk of the Town of New Berlin, Waukesha County, Wisconsin, and that the foregoing resolution is a true and correct copy of a resolution passed and adopted by the Town of New Berlin, Waukesha County, Wisconsin, this 7th day of May, 1958.

Joseph Rausch Jr., Town Clerk  
Joseph Rausch Jr., Town Clerk

## CERTIFICATION OF TOWN CLERK & TOWN TREASURER, RE: TAXES

State of Wisconsin }  
County of Waukesha } SS

I, Joseph Rausch Jr., and I, Wm. J. Schmidt being duly elected, qualified and acting Town Clerk and acting Town Treasurer respectively of the Town of New Berlin, do hereby certify that in accordance with the records in the Office of the Town Treasurer of the Town of New Berlin, there are no unpaid taxes or unpaid special assessments on any of the lands included in the plat of "HEARTSIDE ACRES ADDITION NO. 1".

Date: March 7th 1958  
Joseph Rausch Jr., Town Clerk  
Wm. J. Schmidt, Town Treasurer

## CERTIFICATION OF COUNTY TREASURER, RE: TAXES

State of Wisconsin }  
County of Waukesha } SS

I, Leslie F. Rootenbacher, being duly elected, qualified and acting Treasurer of the County of Waukesha, Wisconsin, do hereby certify that in accordance with the records in my office, there are no delinquent taxes or delinquent special assessments for the tax levy years 1954-1958, and prior, affecting the lands included in the plat of "HEARTSIDE ACRES ADDITION NO. 1".

Date: February 28, 1958  
Leslie F. Rootenbacher, County Treasurer

## FOR RECORDATION OF OBLIGATION

## COUNTY PLANNING AGENCY APPROVAL

Resolved that the plat known as "HEARTSIDE ACRES ADDITION NO. 1" in the Town of New Berlin be and hereby is approved in compliance with Chapter 236 of the Wisconsin Statutes.  
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Waukesha County Park and Planning Commission and made effective this 12th day of May, 1958, and that copies of this plat were forwarded as required by s. 236.02 or 236.15, Wis. Statutes, to the State Board of Health, State Highway Commission, and the Director of Regional Planning.  
Approved May 7, 1958  
William L. Nelson, Executive Director

## CITY OF WEST ALLIS, WISCONSIN, COUNCIL APPROVAL - EXTRAORDINARY

RESOLUTION NO. 8858  
BE IT RESOLVED by the Common Council of the City of West Allis, Wisconsin that the plat of "HEARTSIDE ACRES ADDITION NO. 1", being a subdivision of a part of the Southwest 1/4 of Section 22, Township 6 North, Range 20 East, in the Town of New Berlin, Waukesha County, Wisconsin, be and the same is hereby approved.

ADOPTED: May 13, 1958  
Paul Elliott, City Clerk  
APPROVED: May 14, 1958  
Arnold H. Almy, Mayor

STATE OF WISCONSIN }  
COUNTY OF MILWAUKEE } SS  
I hereby certify that the foregoing is a copy of a resolution adopted by the Common Council of the City of West Allis, County of Milwaukee, Wisconsin, on May 13, 1958.

Paul Elliott - City Clerk

## REGISTER'S OFFICE

Records Co., Inc. 477717

Waukesha County, Wis.

May 14, 1958

By: [Signature]

Notary Public

My commission expires

June 1st, 1960



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# STAFF REPORT

## EXECUTIVE SUMMARY

---

**APPLICANT/PROJECT:** Referral from the Department of Community Development on behalf of Zignego Brothers West Allis and New Berlin Self Storage / Release of Drainage Easement shown on CSM No. 6045

**LOCATION:** 17501 Liberty Lane (shown on CSM No. 6045)

**REQUEST:** Release of the Drainage Easement shown on CSM No. 6045

**D.R.C. RECOMMENDATION:** Recommend to Common Council adoption of Resolution No. 23-3 approving the release the Drainage Easement shown on CSM No. 6045.

**Background:**

1. This property was created via CSM No. 6045 and is zoned M-1/SPO (Light Manufacturing District/New Berlin Industrial Park Redevelopment Plan).
2. The applicants are the owners of Lots 1 and 2 of CSM No. 6045 and which border the Drainage Easement.
3. The City has carefully reviewed the request, including the comments from the City Engineer, and has determined the proposed request to release the Drainage Easement is in the best interest of the City. The City has found that the drainage easement is no longer necessary, as there are alternative means of providing the discharge of the drainage for which this Drainage Easement was created.
4. The property owner will be responsible for maintaining the private storm sewer and grates so as to prevent any storm water flooding in the area.

**Next Steps:**

1. February 14, 2023 Common Council adoption of a Resolution approving the release of the Drainage Easement.

**Previous Action:**

November 6, 1989 Plan Commission approved CSM No. 6045.  
November 14, 1989 Common Council approved CSM No. 6045 and it was recorded at Waukesha County Register of Deeds Office as Document No. 1568206 on December 6, 1989.

**Attachments:**

Location Map  
Letter from City Attorney Mark Blum  
Draft Resolution No. 23-3 for Release of Drainage Easement  
CSM No. 6045  
Survey – Updated to reflect current conditions  
Site Plan- Grading (initial phase of building)





## City Attorney Mark G. Blum

City Prosecutor Thomas G. Schmitzer

720 Clinton Street • PO Box 766 • Waukesha, Wisconsin 53187-0766 • (262) 549-8181 • Fax (262) 549-8191 • [mblum@newberlin.org](mailto:mblum@newberlin.org)

EMAIL: [MGBLUM@HRBLAWFIRM.COM](mailto:MGBLUM@HRBLAWFIRM.COM)

January 26, 2023

**Via Email ([ksj@ksjostrom.com](mailto:ksj@ksjostrom.com)) ONLY**

Attorney Kevin J. Sjostrom  
1011 N. Mayfair Road, Ste. 200  
Wauwatosa, WI 53226

Re: City of New Berlin – New Berlin Self Storage Drainage Easement

Dear Sjostrom:

I am in receipt of your email of January 25, 2023, as well as the attachments thereto. I have spoken with the City's Community Development Department and, in particular, the City's Stormwater Engineer. She advises that the storm sewer over which you would propose to grant the City an easement is, in fact, a private storm sewer. Because of that, the City does not have any interest in acquiring an easement for what is a private line since it is ultimately your client's responsibility to maintain that in accordance with the City's Stormwater Maintenance Ordinance. Our Staff is satisfied that the existing Easement can be released without limitation and therefore, I am enclosing the revised Resolution which removes the restriction. However, in doing so, I want to make clear that it remains your client's responsibility to maintain the private storm sewer and grates so as to prevent any stormwater flooding in this area.

Thank you for your consideration of this matter.

Sincerely,



Mark G. Blum

MGB/jb  
Enc.

Cc: Mr. Greg Kessler  
Ms. Nicole Hewitt  
Ms. Tammy Simonson  
Ms. Nikki Jones



**Release of Drainage Easement on  
CSM No. 6045**

Document Number

Title of Document

Please see the attached Release of Drainage Easement.

Record this document with the Register of Deed.

Name and Return Address

Attorney Mark G. Blum  
720 Clinton Street, P.O. Box 766  
Waukesha, WI 53187

(Parcel Identification Number)

*Drafted By:*

Attorney Mark G. Blum  
Hippenmeyer, Reilly, Blum,  
Schmitzer, Fabian & English, S.C.  
720 Clinton St., PO Box 766  
Waukesha, WI 53187-0766  
Phone: (262) 549-8181  
Email: [mgbлум@hrblawfirm.com](mailto:mgbлум@hrblawfirm.com)



**RESOLUTION REGARDING THE RELEASE OF DRAINAGE EASEMENT  
DEPICTED ON CERTIFIED SURVEY MAP NO. 6045**

This Resolution is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by the Common Council of the City of New Berlin (hereinafter referred to as the "City").

WHEREAS, the City is in receipt of a request from Zignego Brothers West Allis, a General Partnership, and New Berlin Self Storage, a Limited Partnership, n/k/a New Berlin Self Storage, LLC, to release the 20' wide drainage easement granted to the City of New Berlin as part of Certified Survey Map No. 6045 (hereinafter referred to as the "Drainage Easement"), which was approved by the New Berlin Plan Commission on November 6, 1989 and the Common Council on November 14, 1989, and which was recorded with the Waukesha County Register of Deeds as Document No. 1568206 on December 6, 1989; and

WHEREAS, the applicants are the owners of Lots 1 and 2 of said CSM No. 6045 and which border the Drainage Easement; and

WHEREAS, on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, the Plan Commission held a public meeting to consider the request to release the Drainage Easement from CSM No. 6045; and

WHEREAS, this Drainage Easement is being released pursuant to the authority granted to the Common Council in Section 236.293 of the Wisconsin Statutes; and

WHEREAS, the Common Council of the City of New Berlin has carefully reviewed the request, including the Staff Report and the comments of the City Engineer and has determined the proposed request to release the Drainage Easement is in the best interest of the City and therefore, should be approved. The Council having further found that said Drainage Easement is no longer necessary as there are alternative means of providing for the discharge of the drainage for which this Drainage Easement was created.

NOW, THEREFORE, BE IT RESOLVED that the request to release the Drainage Easement as appears on CSM No. 6045 is hereby approved.

BE IT FURTHER RESOLVED that City Staff is directed to take such steps as are necessary to effectuate the intent of these Resolutions.



This Release is approved by action of the Common Council of the City of New Berlin pursuant to Wisconsin Statutes Sec. 236.293.

CITY OF NEW BERLIN

\_\_\_\_\_  
David Ament, Mayor

Countersigned:

\_\_\_\_\_  
Medina Rubina, City Clerk

Subscribed and sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My Commission Expires: \_\_\_\_\_





Stock No. 26273

WC0008426

1568206

See redimension of lot 3 in CSM # 6227 for p. 143

CERTIFIED SURVEY MAP NO. 6045 V49

Page 1 of 3

Part of the NW 1/4, SW 1/4 and SE 1/4 of the NE 1/4 of Section 9, T6N, R20E

CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN

Being a redimension of Outlot 1, C.S.M. 5350 and abutting unplatted lands



LOCATION MAP  
NE 1/4, SEC 9-6-20  
SCALE 1"=2640'

SW COR. NE 1/4  
SEC. 9-6-20  
CONC. MON.



- LEGEND:   
 o Iron pipe 24" x 1" dia. (placed)   
 1.13+ lbs. per lin. ft.   
 • Iron pipe 24" x 1" dia. (found)   
 1.13+ lbs. per lin. ft.

REFERENCE MERIDIAN: The west line of the NE 1/4 of Section 9, T6N, R20E, is used as the Reference Meridian and has a bearing of North 00°39'05" East based on the Wisconsin State Plane Coordinate System, South Zone grid.

OWNER: THOMAS H. STIGLER, ET AL



JOHN W. JAHNKE - Wis. Reg. No. 8-917  
 Dated this 30th day of Sept., 1989.  
 Revised 10/30/89  
 REVISED 11/30/89

Instrument drafted by John W. Jahnke

Owner to pay all direct and indirect costs for public water main to Lots 2 & 3 per action of Council November 14, 1989

P. S. New Berlin 600





Stock No. 26273

Page 2 of 3

CERTIFIED SURVEY MAP NO. \_\_\_\_\_  
 Part of the NW 1/4, SW 1/4 and SE 1/4 of the NE 1/4 of Section 9, T6N, R20E  
 CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN  
 Being a redivision of Outlot 1, C.S.M. 5350 and abutting unplatted lands

SURVEYOR'S CERTIFICATE:

I, John W. Jahnke, registered land surveyor, being duly sworn on oath, hereby depose and say that I have surveyed, divided and mapped the following land bounded and described as follows:

All that part of the Northwest Quarter (NW 1/4), Southwest Quarter (SW 1/4), and Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4) of Section 9, Town 6 North, Range 20 East, City of New Berlin, Waukesha County, Wisconsin, bounded and described as follows: Commencing at the northwest corner of the Northeast Quarter (NE 1/4) of said Section 9; thence South 00°39'05" West along the west line of said Northeast Quarter (NE 1/4) 1316.162 feet; thence North 88°44'49" East 408.825 feet to the southwest corner of Lot 8 as recorded in said Certified Survey Map No. 5350, the place of beginning of the land hereinafter described; thence North 88°44'49" East along the south line of said Lot 8, 306.443 feet to the southwest corner of Outlot 1 of Certified Survey Map No. 5350; thence North 55°00'00" East along said Outlot 1, 101.070 feet to a point on the southerly right-of-way line of Liberty Lane; thence southeasterly 167.551 feet along the arc of a curve, curve center lies to the north, curve radius is 240.000 feet, chord bears South 71°15'11" East 164.170 feet, to a P.T.; thence North 88°44'49" East 135.000 feet to a P.C.; thence southeasterly 72.23 feet along the arc of a curve, curve center lies to the south, curve radius is 383.758 feet, chord bears South 85°51'38.5" East 72.128 feet, to a P.T.; thence South 80°28'06" East 106.391 feet to a P.C.; thence southeasterly 87.256 feet along the arc of a curve, curve center lies to the north, curve radius is 466.000 feet, chord bears South 85°49'57" East 87.129 feet, to a P.T.; thence North 88°48'12" East 277.75 feet; thence South 01°11'48" East 400.000 feet; thence South 88°48'12" West 835.000 feet; thence North 42°50'10" West 580.372 feet to the place of beginning; containing 437,271 square feet (10.0383 acres) of land.

I further certify that I have made such survey, land division and map by the direction of the owners of said land; that such map is a correct representation of the exterior boundaries of the land surveyed and map thereof made; and that I have fully complied with the provisions of Chapter 236 of the Wisconsin State Statutes pertaining to Certified Survey Maps (S 236.34) and the regulations of the City of New Berlin in surveying, dividing and mapping the same.



JOHN W. JAHNKE - Wis. Reg. No. 8-917

REVISED 11/30/89

STATE OF WISCONSIN) ss  
 COUNTY OF WAUKESHA)

The above certificate subscribed and sworn to me this 28<sup>th</sup> day of SEPTEMBER, 1989.

My commission expires September 12, 1993.

Jerome G. Wegner  
 JEROME G. WEGNER - NOTARY PUBLIC

OWNER: THOMAS H. STIGLER, ET AL

Instrument drafted by John W. Jahnke

P. S. New Berlin 600





Stock No. 26273

CERTIFIED SURVEY MAP NO. \_\_\_\_\_ Page 3 of 3  
 Part of the NW 1/4, SW 1/4 and SE 1/4 of the NE 1/4 of Section 9, T6N, R20E  
 CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN  
 Being a redivision of Outlot 1, C.S.M. 5350 and abutting unplatted lands

OWNERS' CERTIFICATE

As owners, we hereby certify that we caused the land described on this map to be surveyed, divided and mapped as represented on this map.

*Thomas H. Stigler*  
 \_\_\_\_\_

THOMAS H. STIGLER - INDIVIDUALLY AND AS  
 POWER-OF-ATTORNEY FOR THE OTHER OWNERS

STATE OF WISCONSIN) ss  
 COUNTY OF WAUKESHA)

Personally came before me this 4th day of October, 1989, the above named THOMAS H. STIGLER, individually and as Power-of-Attorney for the other owners, to me known to be the person who executed the foregoing instrument and acknowledged the same.

My commission expires July 22, 1990

*John J. Lynch*  
 \_\_\_\_\_  
 NOTARY PUBLIC -

PLAN COMMISSION APPROVAL

Approved by the Plan Commission, City of New Berlin, this 6th day of November, 1989.

*Timothy J. Fully*  
 \_\_\_\_\_  
 TIMOTHY FULLY - CHAIRMAN

*Steven Hoese*  
 \_\_\_\_\_  
 STEVEN HOESE - SECRETARY

COMMON COUNCIL APPROVAL

Approved by the Common Council, City of New Berlin, this 14th day of November, 1989.

*Timothy J. Fully*  
 \_\_\_\_\_  
 TIMOTHY FULLY - MAYOR

*William Bowers*  
 \_\_\_\_\_  
 WILLIAM BOWERS - CLERK



*John W. Jahnke*  
 \_\_\_\_\_  
 JOHN W. JAHNKE - Wis. Reg. No. S-917  
 Dated this 20th day of SEPT., 1989.

REGISTER'S OFFICE) ss 1568206

Waukesha Co. Wis.

RECEIVED FOR RECORD THE 6th DAY

December, A.D. 1989 AT 2:12

O'CLOCK P.M. & RECORDED IN Vol 49

OF C.S.M.'s ON pages 280-282

*Michael G. Haeberling*  
 \_\_\_\_\_  
 By *Karl Benjamin* Deputy

P. S. New Berlin 600

Instrument drafted by John W. Jahnke



## LEGEND OF SYMBOLS & ABBREVIATIONS

|  |                  |  |                          |  |                                |
|--|------------------|--|--------------------------|--|--------------------------------|
|  | UTILITY POLE     |  | MANHOLE                  |  | P.O.C. POINT OF COMMENCEMENT   |
|  | LIGHT POLE       |  | SANITARY MANHOLE         |  | P.O.B. POINT OF BEGINNING      |
|  | TRANSFORMER      |  | STORM STRUCTURE (CLOSED) |  | DEGREES                        |
|  | UTILITY PEDESTAL |  | STORM STRUCTURE (OPEN)   |  | FEET/MINUTES                   |
|  | TRAFFIC SIGNAL   |  | CURB INLET               |  | INCHES/SECONDS                 |
|  | SIGNAL VAULT     |  | VALVE VAULT              |  | S.F. SQUARE FEET               |
|  | GAS VALVE        |  | FLARED END SECTION       |  | (REC) RECORD BEARING/DISTANCE  |
|  | WATER VALVE      |  | WATER LINE               |  | TF TOP OF FOUNDATION           |
|  | ELECTRIC METER   |  | TELEPHONE/CATV LINE      |  | FF FINISHED FLOOR              |
|  | GAS METER        |  | GAS LINE                 |  | TP TOP OF PIPE                 |
|  | FIRE HYDRANT     |  | ELECTRIC LINE            |  | B.S.L. BUILDING SETBACK LINE   |
|  | AUTO SPRINKLER   |  | OVERHEAD WIRES           |  | P.U.E. PUBLIC UTILITY EASEMENT |
|  | MONITORING WELL  |  | STORM SEWER              |  | D.E. DRAINAGE EASEMENT         |
|  | GROUND LIGHT     |  | SANITARY SEWER           |  | L ARC LENGTH                   |
|  | BOLLARD          |  | CHAIN LINK FENCE         |  | R RADIUS LENGTH                |
|  | B-BOX            |  | STOCKADE FENCE           |  | C CHORD LENGTH                 |
|  | SIGN             |  | GUARD RAIL               |  | CB CHORD BEARING               |
|  | FLAG POLE        |  | CONCRETE SURFACE         |  | CMP CORRUGATED METAL PIPE      |

## ZONING INFORMATION

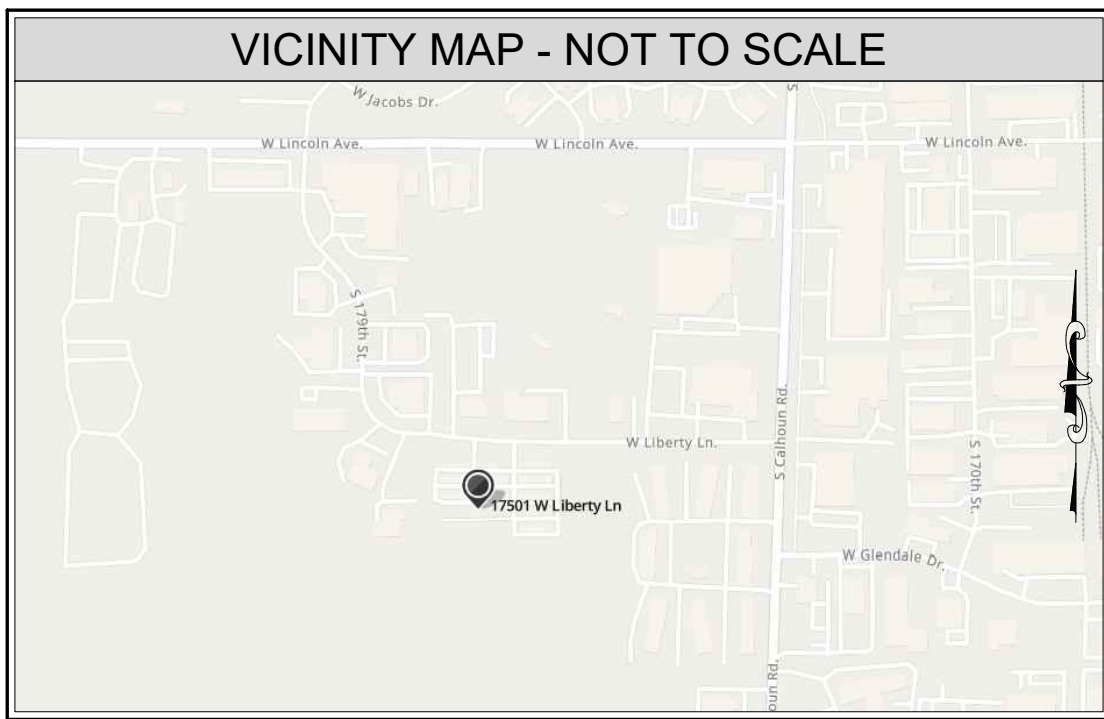
THE SURVEYOR WAS NOT PROVIDED WITH THE ZONING INFORMATION.

| EXISTING PARKING SPACE TABLE |                |
|------------------------------|----------------|
| TYPE OF SPACE                | TOTAL EXISTING |
| REGULAR                      | 64             |
| ADA                          | 0              |
| TOTAL                        | 64             |

## SIGNIFICANT OBSERVATIONS

**A** BUILDINGS LIE WITHIN AN EASEMENT. (BASED ON UNDERGROUND UTILITY LOCATOR AND MARKINGS PROVIDED BY GPRS, THERE IS NO STORM SEWER LINE LOCATED UNDER THE BUILDINGS. STORM SEWER IS SHOWN HEREON.)

## VICINITY MAP - NOT TO SCALE



AREA: 246,488.10 SF± OR 5.66 ACRES±

## ITEMS CORRESPONDING TO SCHEDULE B-II

- TERMS AND CONDITIONS OF HOLDING TANK AGREEMENT DATED JULY 29, 1993, FILED JULY 30, 1993, AS DOCUMENT NO. 866281. ITEM IS NOT SURVEY RELATED.
- COVENANTS, CONDITIONS, RESTRICTIONS, BUILDING LINES, EASEMENTS AND ASSESSMENTS, IF ANY, CREATED OR DISCLOSED BY CERTIFIED SURVEY MAP NO. 5350, FILED OCTOBER 23, 1987, IN VOLUME 43 CERTIFIED SURVEY MAPS, PAGES 83-85, AS DOCUMENT NO. 1453515. NONE WERE OBSERVED.
- COVENANTS, CONDITIONS, RESTRICTIONS, BUILDING LINES, EASEMENTS AND ASSESSMENTS, IF ANY, CREATED OR DISCLOSED BY CERTIFIED SURVEY MAP NO. 6045, FILED DECEMBER 6, 1989, IN VOLUME 49 CERTIFIED SURVEY MAPS, PAGES 280-282, AS DOCUMENT NO. 1568206. ITEM IS SHOWN.

## MISCELLANEOUS NOTES

- SURVEY PREPARED BY:  
JLH LAND SURVEYING INC.  
910 GENEVA STREET  
SHOREWOOD, IL 60404  
815.729.4000  
INFO@JLHSURVEY.COM
- ALL FIELD MEASUREMENTS MATCH RECORD DIMENSIONS WITHIN THE PRECISION REQUIREMENTS OF ALTA/NSPS SPECIFICATIONS.
- THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT WISCONSIN MINIMUM STANDARDS FOR A BOUNDARY SURVEY.
- ALL STREETS SHOWN ARE PUBLIC RIGHT OF WAY, UNLESS OTHERWISE NOTED.
- ASSUMED BEARING: THE SOUTH RIGHT OF WAY LINE OF W LIBERTY LANE TO BE NORTH 88 DEGREES 48 MINUTES 12 SECONDS EAST.
- AT THE TIME OF THIS SURVEY THERE IS NO RECORD OR OBSERVED EVIDENCE OF A CEMETERY OR BURIAL GROUND.
- AT THE TIME OF THIS SURVEY, THE ADDRESS WAS POSTED AS 17505 W LIBERTY LANE.
- THE SUBJECT PROPERTY HAS ACCESS TO AND FROM W LIBERTY LANE WHICH IS GOVERNED BY THE CITY OF NEW BERLIN.
- IN REGARDS TO TABLE "A" ITEM 10, AT THE TIME OF THIS SURVEY, THERE WERE NO PARTY WALLS DESIGNATED BY THE CLIENT TO REFERENCE HEREON.
- IN REGARDS TO TABLE "A" ITEM 16, AT THE TIME OF THIS SURVEY, THERE WAS NO VISIBLE EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
- IN REGARDS TO TABLE "A" ITEM 17, AT THE TIME OF THIS SURVEY, THERE WAS NO RECENT STREET OR SIDEWALK CONSTRUCTION OR PROPOSED RIGHT OF WAY CHANGES PROVIDED.



**FLOOD NOTE:**  
BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE(S) X OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL No. 55133C0332G, WHICH BEARS AN EFFECTIVE DATE OF 11/05/2014 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA, BY CONTACT DATED 11/17/2022 TO THE NATIONAL FLOOD INSURANCE PROGRAM <http://www.fema.gov>. WE HAVE LEARNED THIS COMMUNITY DOES CURRENTLY PARTICIPATE IN THE PROGRAM. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR A VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.



## RECORD DESCRIPTION

LOTS 1 AND 2 OF CERTIFIED SURVEY MAP NO. 6045, RECORDED ON DECEMBER 6, 1989 IN VOLUME 49 OF CERTIFIED SURVEY MAPS ON PAGES 280, 281 AND 282, AS DOCUMENT NO. 1568206, BEING A PART OF THE NORTHWEST 1/4, SOUTHWEST 1/4 AND SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND BEING A REDIVISION OF OUTLOT 1, CERTIFIED SURVEY MAP NO. 5350, ALL IN SECTION 9, TOWN 6 NORTH, RANGE 20 EAST, CITY OF NEW BERLIN, COUNTY OF WAUKESHA, STATE OF WISCONSIN.

THE LANDS SURVEYED, SHOWN AND DESCRIBED HEREON ARE THE SAME LANDS AS DESCRIBED IN THE TITLE COMMITMENT PROVIDED BY STEWART TITLE GUARANTY COMPANY, COMMITMENT NO. 01040-24277, DATED OCTOBER 26, 2022.

## PROJECT REVISION RECORD

| DATE                | DESCRIPTION     | DATE            | DESCRIPTION  |
|---------------------|-----------------|-----------------|--------------|
| 11/18/2022          | FIRST DRAFT     |                 |              |
| 12/19/2022          | CLIENT COMMENTS |                 |              |
| 12/20/2022          | CLIENT COMMENTS |                 |              |
| FIELD WORK: SM & DK | DRAFTED: JG     | CHECKED BY: JLH | FB & PG: N/A |

## LEGAL

THIS SURVEY WAS PREPARED FOR THE PURPOSE OF THIS REAL ESTATE TRANSACTION ONLY AND NO FURTHER PARTIES OTHER THAN THOSE CERTIFIED ABOVE SHALL RELY ON IT FOR ANY OTHER PURPOSE OR TRANSACTION.

## ALTA/NSPS LAND TITLE SURVEY

for  
**MERIT HILL NEW BERLIN WISCONSIN**  
NV5 PROJECT NO. 202206274-001  
17501-09 W LIBERTY LANE, NEW BERLIN, WI 53151

BASED UPON TITLE COMMITMENT NO. 01040-24277  
OF STEWART TITLE GUARANTY COMPANY  
BEARING AN EFFECTIVE DATE OF OCTOBER 26, 2022

### SURVEYOR'S CERTIFICATION

To: STEWART TITLE GUARANTY COMPANY; AND BOCK & CLARK CORPORATION, AN NV5 COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6a, 6b, 7a, 7b1, 7c, 8, 9, 10, 13, 14, 16, 17, AND 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON NOVEMBER 10, 2022.

JAMES L. HARPOLE, PLS  
WISCONSIN REGISTRATION NO. 2187  
EXPIRES 01-31-2024  
NETWORK PROJECT NO. 202206274-001 RF

XX-XX-2022  
DATE

SHEET 1 OF 1

**Bock & Clark Corporation**  
an NV5 Company

**NV5**

**Transaction Services 1-800-SURVEYS (787-8397)**  
3550 W. Market Street, Suite 200, Akron, Ohio 44333  
[www.BockandClark.com](http://www.BockandClark.com) [maywehelpyou@bockandclark.com](mailto:maywehelpyou@bockandclark.com) [www.NV5.com](http://www.NV5.com)

**SURVEY • ZONING • ENVIRONMENTAL • ASSESSMENT**









# City of New Berlin

## Meeting Minutes

### Committee of the Whole

New Berlin City Hall  
3805 S. Casper Drive  
New Berlin, WI 53151

(262) 786-8610  
[www.NewBerlin.org](http://www.NewBerlin.org)

Tuesday, January 24, 2023

6:00 PM

Council Chambers

#### CALL MEETING TO ORDER

Mayor Ament called the Committee of the Whole meeting to order at 6:02 PM.

#### ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Present: Mayor Ament, Alderman Hopkins, Garrigues, Harenda, Stribl, Horbinski, Alderwoman Kroupa

Excused: Alderman Maxey

Staff Present: City Attorney Mark Blum, City Clerk Rubina R. Medina

#### APPROVAL OF MINUTES

1. January 10, 2023 Committee of the Whole Meeting Minutes

Motion: MOTION TO APPROVE THE JANUARY 10, 2023 COW MEETING MINUTES

Vote: Motion by: Horbinski  
Second by: Kroupa  
Motion Passed: 6-0

#### UTILITIES & FINANCE

2. Recommend to Council approval of January 25th, 2023 Water Utility claims in the amount of \$12,096.38 (2022 Invoices) & \$245,821.98 (2023 Invoices), Sewer Utility claims in the amount of \$658,749.13 (2022 Invoices) & \$1,077.03 (2023 Invoices) and General City claims in the amount of \$545,236.71 (2022 Invoices) & \$107,825.21 (2023 Invoices)

Motion: TO APPROVE UTILITIES & FINANCE AS PRESENTED

Vote: Motion by: Harenda  
Second by: Stribl  
Motion Passed: 6-0

#### MISCELLANEOUS

3. Municipal Court Department Update by Catharine Hausen  
NO MOTION.
4. Discussion and possible action to approve the RAS for the approval of a contract with Conference Technologies, Inc. (CTI) for the New Berlin Activity and Recreation Center Phase 2



Motion: MOTION TO APPROVE THE RAS FOR THE APPROVAL OF A CONTRACT WITH CONFERENCE TECHNOLOGIES, INC. (CTI) FOR THE NEW BERLIN ACTIVITY AND RECREATION CENTER PHASE 2

Vote: Motion by: Stribl  
Second by: Harenda  
Motion Passed: 6-0

5. Discussion and possible action to approve the RAS for the approval of the attached 2023 Salary Table effective 1/1/2023

Motion: MOTON TO APPROVE THE RAS FOR THE APPROVAL OF THE 2023 SALARY TABLE EFFECTIVE 1/1/2023

Vote: Motion by: Hopkins  
Second by: Garrigues  
Motion Passed: 6-0

6. Discussion and possible action to approve the RAS for the approval of Resolution No. 23-1 for the application of a Wisconsin Economic Development Corporation (WEDC) Vibrant Spaces Grant

Motion: MOTION TO APPROE THE RAS FOR THE APPROVAL OF RESOLUTION NO. 23-1 FOR THE APPLICATION OF A WISCONSIN ECONOMIC DEVELOPMENT CORPORATION (WEDC) VIBRANT SPACES GRANT

Vote: Motion by: Horbinski  
Second by: Stribl  
Motion Passed: 6-0

7. Discussion and possible action on the RAS for the approval of a Professional Services Agreement to hire Perspective Design, Inc. for site and building evaluation, architectural and engineering services for the preparation of a DPW Campus, Hickory Grove and Community Center Long-Range Strategic Plan in an amount not to exceed \$121,470

Motion: MOTION TO APPROVE THE RAS FOR THE APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT TO HIRE PERSPECTIVE DESIGN, INC. FOR SITE AND BUILDING EVALUATION, ARCHITECTURAL AND ENGINEERING SERVICES FOR THE PERPARATION OF A DPW CAMPU, HICKORY GROVE AND COMMUNITY CENTER LONG RANGE STRATEGIC PLAN IN AN AMOUNT NOT TO EXCEED \$121,470

Vote: Motion by: Garrigues  
Second by: Horbinski  
Motion Passed: 6-0

8. Discussion and possible action to approve the RAS for the approval of a Professional Services Agreement to hire Moore Construction Services for preconstruction management services for the preparation of a DPW Campus, Hickory Grove and Community Center Long-Range Strategic Plan in an amount not to exceed \$38,000.

Motion: MOTION TO APPROVE THE RAS FOR THE APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT TO HIRE MOORE CONSTRUCTION SERVICES FOR PRECONSTRUCTION MANAGEMENT SERVICES FOR THE PREPARATION OF A DPW CAMPUS, HICKORY GROVE AND COMMUNITY CENTER LONG-RANGE STRATEGIC PLAN IN AN MOUNT NOT TO EXCEED \$38,000

Vote: Motion by: Horbinski  
Second by: Kroupa



Motion Passed: 6-0

**DEFERRED, REFERRED & TABLED ITEMS**

**ADJOURN**

Motion by Garrigues to adjourn the Committee of the Whole at 6:22 PM. Seconded by Stribl and the motion passed 6-0.

Respectfully Submitted,  
Rubina R. Medina, City Clerk

PLEASE NOTE:

Minutes are unofficial until approved at the next regularly scheduled meeting.





City of New Berlin

## Loudspeaker Permit Application



Submit this application to the New Berlin Police Department, 16300 W. National Ave., New Berlin, WI 53151, not less than 14 days prior to the event. If you have any questions, call the New Berlin Police Department at (262)782-6640.

### Background Information:

Organization/Individual Name: Jessica Benvenuto

Address: 21675 W. Gungarry Rd.

Applicant representing this event:

Name: Jessica Benvenuto

Work Phone: \_\_\_\_\_

Address: 21675 W. Gungarry

Home Phone: 414-617-1444

Date of Birth: 2-17-81

Cell Phone: " "

Email Address: Jessicahryniewicki@gmail.com

### Event Information:

Name of Event: Private wedding

Address of Event: 21675 W. Gungarry Rd. N Berlin

Dates of Event (no more than 3 days in a row): 7-29-23

Estimated Number of Participants: 150-

Hours of Loudspeaker Operation:

Start: 5pm a.m./p.m.

Finish (no later than 10p.m.): 11pm a.m./p.m.

\* All city parks with the exception of Malone Park close at dusk\*

Number of Loudspeakers to be used: \_\_\_\_\_

Please check the type of sound to be emitted:

☒ Speech

☒ Recorded Music

☒ Live Music

☐ Other \_\_\_\_\_

### Applicant's Statement of Agreement:

I hereby affirm that the above information is true and correct in describing the intent of this application. I, Jessica Benvenuto, the undersigned, agree to use the loudspeaker in a careful and prudent manner so as not to cause complaints from neighbors and I agree to lower or terminate the amplification levels when requested by neighbors or police.

Applicant Signature: \_\_\_\_\_

Date: 1/26/23

| FOR OFFICE USE ONLY               |                                                                 |
|-----------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Not Approved. Reason for denial: _____ |
| Issued by: _____                  |                                                                 |











**Waukesha County**  
Department of Emergency Preparedness  
Waukesha County Communications

JOINT POWERS AGREEMENT  
COUNTY 9-1-1 EMERGENCY SYSTEM

WHEREAS, Waukesha County and the municipalities located within the boundaries of Waukesha County have implemented an Emergency 9-1-1 System for the purposes of providing emergency services to residents and visitors of these municipalities, including the fire fighting, law enforcement, ambulance, medical and other emergency services; and

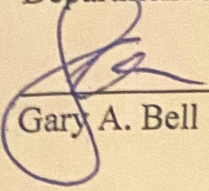
WHEREAS, Sec 256.35(9), Wis. Stats, "Joint Powers Agreement," requires that in implementing a 911 system as has been done in Waukesha County, municipalities shall annually enter into a Joint Powers Agreement, which Agreement shall be applicable on a daily basis and which shall provide that if an emergency services vehicle is dispatched in response to a request through the Waukesha County 911 System, such vehicle shall render its services to the persons needing the services, regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional boundaries.

THEREFORE, in consideration of the mutual promises, agreements and conditions contained herein, it is hereby jointly agreed between Waukesha County and the City of New Berlin, as follows:

1. That effective January 1, 2023 this Agreement shall, thereafter, be applicable on a daily basis from said date through December 31, 2023.
2. That if an emergency services vehicle operated by the municipality, or operated by an agency with which the municipality contracts for that particular emergency service, is dispatched in response to a request through the Waukesha County Emergency 911 System, such vehicle (whether owned and operated by the municipality or by the agency) shall render its services to the persons needing the services, regardless of whether the vehicle is operating outside the vehicle's normal jurisdictional (or as defined by contract) boundaries.
3. That a copy of this Agreement shall be filed with the State Department of Justice, as required by Sec. 256.35(9)(c), Wis. Stats.

Waukesha County  
Department of Emergency Preparedness

City of New Berlin

  
\_\_\_\_\_  
Gary A. Bell

1/26/23  
\_\_\_\_\_  
Date

BY: \_\_\_\_\_  
David Ament, Mayor Date

BY: \_\_\_\_\_  
Rubina Medina, City Clerk Date



## **REQUESTED ACTION STATEMENT**

**MEMO TO:** Mayor David Ament  
Common Council

**CC:** Plan Commission (via email)

**MEMO FROM:** Greg Kessler, Director of Community Development

**DATE:** February 14, 2023

**ISSUE:** John Jewell has filed a petition to rezone the property located at Tax Key #: 1281.996.006 from A-2, R-1/R-2 & C-2 to R-1/R-2 & C-2.

**REQUESTED:** Recommend to the Common Council that a Public Hearing be set for **March 6, 2023** at 6:00 pm to be held before the Plan Commission to rezone the property located at Tax Key #: 1281.996.006 from A-2, R-1/R-2 & C-2 to R-1/R-2 & C-2.

**RATIONALE:** Per Chapter 275-22 of the City's Zoning Code, this applicant has filed a completed application and petitioned the City to rezone this property. In addition, per State Statute 62.23(7), the Common Council may refer to the Plan Commission all petitions to rezone a property and require that a public hearing be held to obtain public input and that the Plan Commission formulate a recommendation. These recommendations shall be forwarded to the Common Council for final action.

Per Zoning Code Section 275-20I, John Jewell has simultaneously filed a 4-Lot CSM for the Plan Commission to review.



## **REQUESTED ACTION STATEMENT**

**MEMO TO:** Mayor David Ament  
Common Council

**CC:** Plan Commission (via email)

**MEMO FROM:** Greg Kessler, Director of Community Development

**DATE:** January 27, 2023

**ISSUE:** Diane Krokowski (Trustee) has filed a petition to rezone the property located at 5715 S. Sunny Slope Road (Tax Key #: 1289-994) from A-2 **TO** A-2 and R-6.

**REQUESTED:** Recommend to the Common Council that a public hearing be set for **March 6, 2023** at 6:01 PM to be held before the Plan Commission to rezone the property located at 5715 S. Sunny Slope Road (Tax Key #: 1289-994) from A-2 **TO** A-2 and R-6.

**RATIONALE:** Per Chapter 275-22 of the City's Zoning Code, this applicant has filed a completed application and petitioned the City to rezone this property. In addition, per State Statute 62.23(7), the Common Council may refer to the Plan Commission all petitions to rezone a property and require that a public hearing be held to obtain public input and that the Plan Commission formulate a recommendation. These recommendations shall be forwarded to the Common Council for final action.

Per Zoning Code Section 275-20I, Diane Krokowski (Trustee) has simultaneously filed a 2-Lot CSM.



### **REQUESTED ACTION STATEMENT**

**MEMO TO:** Mayor David Ament  
Common Council

**CC:** Plan Commission (via email)

**MEMO FROM:** Gregory Kessler, AICP – Director of Community Development

**DATE:** February 14, 2023

**ISSUE:** Common Council to set the public hearing date for updates to the Zoning Code.

**REQUESTED:** Recommend to Common Council that a public hearing be set for March 6, 2023 at 6:02 p.m. to be held before the Plan Commission on the suggested amendments to the Zoning Code (Chapter 275).

**RATIONALE:** Per Chapter 275-15D(1) of the City's Zoning Code, the Department of Community Development is recommending an update to the Zoning Code.

The Common Council sets the date for the public hearing that will take place before the Plan Commission. The Plan Commission will then take action to approve the proposed amendments and will forward their recommendation to the Common Council for final action via ordinance.

The draft changes will be available for review on the City's website and the amendments will be presented/introduced at the March 6, 2023 Plan Commission meeting and possible action at the April 13, 2023 Plan Commission meeting.