



**CITY OF NEW BERLIN
COMMON COUNCIL MEETING**

Tuesday, June 14, 2022

6:00 PM

Zoom Meeting

<https://us02web.zoom.us/j/83919957888>

This governing body has satisfied the requirements as directed by the Common Council on June 22, 2021 and Ordinance No. 2651 to hold this meeting via electronic means. The full text of this ordinance and the minutes from the above mentioned meeting can be viewed at www.newberlin.org

Any comments that the public wishes to make may be communicated to the city via email at citizencomments@newberlin.org and will be forwarded to the Mayor and City Council. Interested parties may also participate by:

- Downloading the ZOOM app located at <https://zoom.us/> and utilize this unique ID to join: 839 1995 7888
- Following this direct link to the meeting: <https://us02web.zoom.us/j/83919957888>
- Dial by phone: (312) 626-6799 and use Meeting ID: 839 1995 7888

AGENDA

CALL TO ORDER, PLEDGE OF ALLEGIANCE

ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

APPROVAL OF MINUTES

1. May 24, 2022 Common Council Meeting Minutes

REPORTS

2. City Clerk
3. Council President
4. Mayor

COMMUNICATIONS

5. Notice of Injury - J. Wirth

PLAN COMMISSION

7. (7) KW CP-2200597 Aaron Kahle with Kahle Builders LLC - Tax Key #: 1268-993 - Amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 10 - Land Use and Chapter 19 - "Neighborhood I"). (PUBLIC HEARING 6:00 PM)

6. (7) KW RZ-2200596 Aaron Kahle with Kahle Builders LLC - Tax Key #: 1268-993 - Rezone approximately 3.5278 acres of Tax Key #: 1268-993 from R-1/R-2 to I-1 PUD. (PUBLIC HEARING 6:00 PM)
8. (7) KW LD-2200599 Aaron Kahle with Kahle Builders LLC - 5330 S. Racine Ave and Tax Key #: 1268-993 - 1-Lot CSM.
9. (1) MH LD-2200947 Kain Construction LLC on behalf of Dan and Vickie Balmer - 13016 W. Graham Street (Tax Key # 1156.137), 13100 W. Graham Street (Tax Key # 1156.139) and (Tax Key # 1156.138) - 2-Lot CSM.

PARKS, BUILDINGS AND GROUNDS COMMISSION

10. Recommend to the Common Council the approval of New Berlin Historical Society Donation of Gazebo Request

MAYORAL APPOINTMENTS

11. Recommend the re-appointment of John Marek to the Library Board with new term effective 7/1/2022 and expiring 6/30/2025.
12. Recommend the re-appointment of Linda Maas to the Library Board with new term effective 7/1/2022 and expiring 6/30/2025.

DEFERRED, REFERRED & TABLED ITEMS

ITEMS REMOVED FROM CONSENT AGENDA, if any

CONSENT AGENDA*****

MINUTES

13. May 24, 2022 Committee of the Whole Meeting Minutes

UTILITY & FINANCE

14. Approval of June 15th, 2022 Water Utility claims in the amount of \$877,103.59, Sewer Utility claims in the amount of \$11,003.63 and General City claims in the amount of \$1,075,417.36. US Bank VISA EFT of \$32,479.98.

LICENSES & PERMITS

15. Alcohol licenses for the licensing period of July 1, 2022 through June 30, 2023 per the list as presented and contingent upon applicants meeting all Statutory and Municipal rules/regulations.
16. Extension of Premise Application from Varsity Club located at 12400 W. Beloit Road for a music fest to be held in the establishment's parking lot on July 17th, 2022 from 2pm to 10pm

17. Loudspeaker Variance for Holy Apostles Catholic Parish & School located at 1600 W. National Avenue for their Family Festival to be held on June 24th and June 26th, 2022 until 10:30pm.
18. Loudspeaker Variance for St. Elizabeth Ann Seton located at 127900 W. Howard Ave. for the Fun Fest Celebration to be held on July 29th, 30th & 31st, 2022 until 11PM.

MISCELLANEOUS

19. Recommend the Common Council adopt Ordinance No. 2660, an Ordinance to Repeal Section 6.19 of the Municipal Code providing for the canvassing of absentee ballots for all elections in the City of New Berlin by the Municipal Board of Absentee Ballot Canvassers commonly referred to as Central Count. The process will be returned to the individual poll locations using absentee ballot processors assigned to the polls.

END CONSENT AGENDA*****

ADJOURN

PLEASE NOTE:

- ✓ 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. It is also possible that members of and possible 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 above in this notice.
- ✓ Also, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact City Clerk Rubina R. Medina (262) 786-8610.

STAFF REPORT

EXECUTIVE SUMMARY

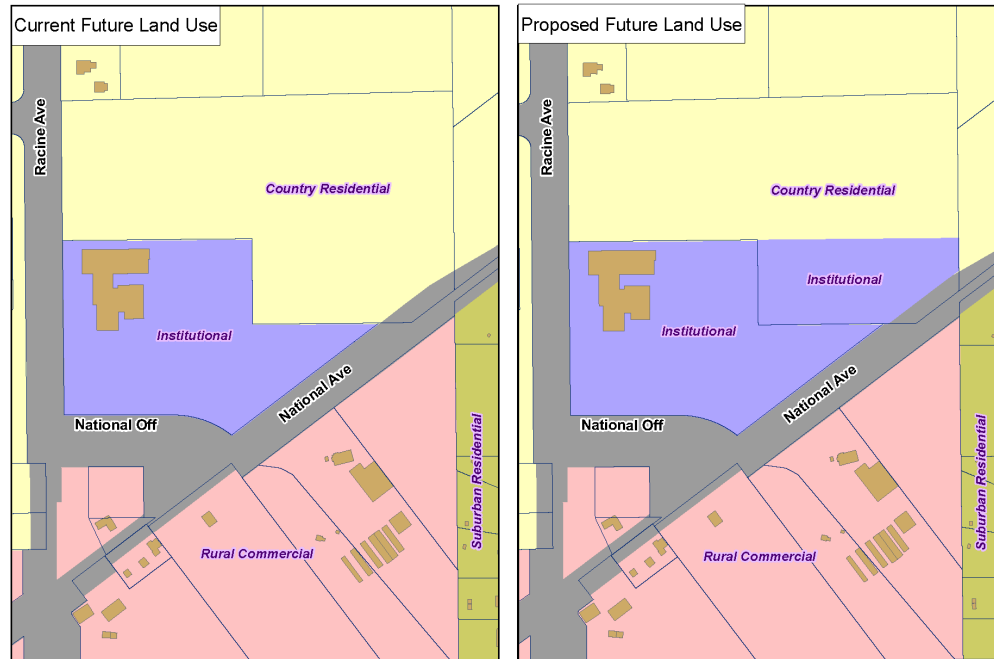
APPLICANT/PROJECT:	Aaron Kahle – Kahle Builders LLC on behalf of Ethic Indoor LLC / 2030 Comprehensive Plan Amendments
LOCATION:	Tax Key #: 1268-993 – Approximately 3.5278 acres
CURRENT FUTURE LAND USE:	Single-Family Residential
PROPOSED FUTURE LAND USE:	Institutional with Planned Unit Development Overlay
CURRENT ZONING:	R-1/R-2 (Rural Estate Single-Family Residential)
REQUEST:	A request to amend the Future Land Use Map within the City’s Comprehensive Plan (Chapter 19 - Neighborhood “I” and Chapter 10 - Land Use) for approximately 3.5278 acres of Tax Key #: 1268-993 from Single-Family Residential to Institutional with Planned Unit Development.
D.R.C. RECOMMENDATION:	Recommend approval of Plan Commission Resolution #: 22-01 approving the amendment to the future land use map approximately 3.5278 acres of the property located at Tax Key #: 1268-993, from Single-Family Residential to Institutional with Planned Unit Development and forward to the Common Council for their review and approval by Ordinance.

Background:

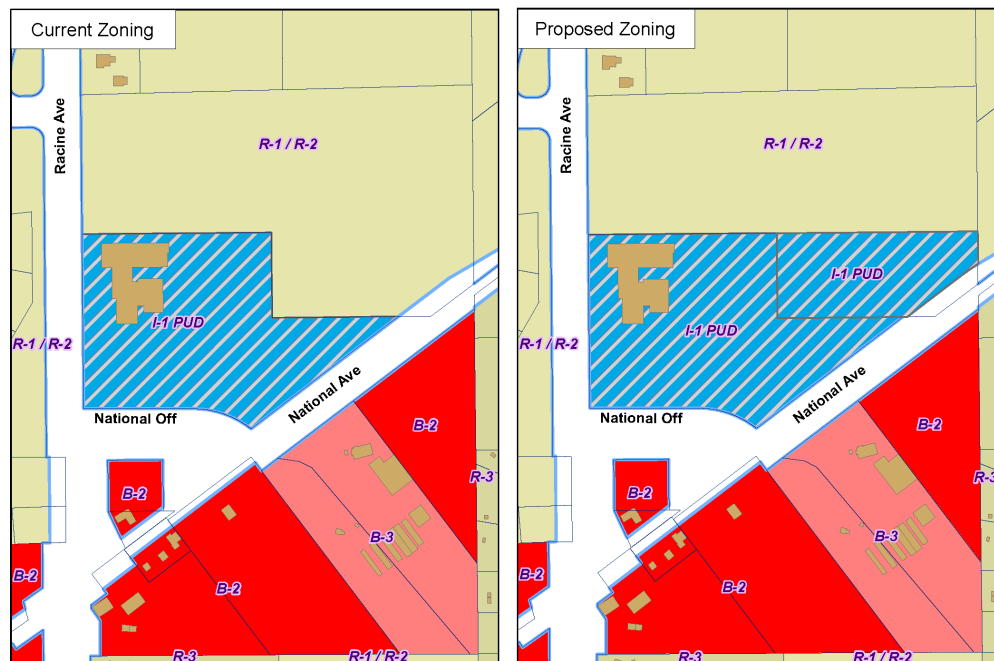
1. The applicant is proposing to construct additional parking for OAW Ethic Indoor.
 - a. 329 new parking stalls are proposed. The existing parking lot has 317. Total parking stalls would be 662 after the proposed lot is built.
 - b. The applicant is not proposing any changes to their plan of operation or intensity of events held on-site.
 - c. The additional parking is to serve existing needs and reduce existing parking issues.
2. OAW Ethic Indoor was approved and constructed in 2020.
3. Staff has met with the owner multiple times regarding parking issues on-site and off-site. The owner is proposing additional parking to remedy existing issues and relieve overflow parking.
4. The property is currently zoned R-1/R-2 and the Future Land Use designation in the Comprehensive Plan is Single-Family Residential. Based upon the adjacent land use and current development patterns for the west side of New Berlin, it would be recommended that any future development of this parcel be in accordance with the PUD Overlay developed for the property. The Common Council approved an I-1 Planned Unit Development for the property via Ordinance No. 2633 on August 6, 2020.

Chapter 10: Land Use:

- *2030 Future Land Use Map: Single-Family Residential*
- *Proposed Future Land Use Map Suggestion: Institutional*



- *The corresponding zoning district is I-1 (Institutional) with a PUD.*



Chapter 22: Implementation: Yes, this request meets the intent of this Chapter. Note, all of the following citations are found within the comprehensive plan that describe when and how to amend the plan.

- *On page 22:1 of the Plan the following statement is made, “This element shall include a process*

for updating the comprehensive plan. A comprehensive plan under this subsection shall be updated no less than once every 10 years.”

- *On page 22:1 of the Plan the following statement is made, “This chapter of the comprehensive plan provides a guide for how this Plan is to be monitored, amended, updated, and used to accomplish the recommendations contained within the elements of the Comprehensive Plan.”*
- *Monitoring the Plan – Page 22:4 states the following, “The Plan must reflect the current principals, goals, objectives and development polices of the City at all times. City staff should review the Plan with the following in mind:*
 - *New land use opportunities*
 - *Further plan detail and refinements*
 - *Market shifts*
 - *Economic and demographic changes and growth patterns*
 - *Unforeseen challenges*
 - *Changes in legislation*
- *Development within the City should be monitored on an ongoing basis, and compared to the City goals and objectives outlined throughout the Plan to ensure that current policies are achieving the intended results.*
- *Amending the Plan – Page 22:4 of the Plan states, “This Plan is intended to be changed and revised over time. The City’s values, goals, and capabilities may change as New Berlin grows, and the Plan must be amended to reflect those changes. The Plan should be reviewed and amended at least once every year. Suggestions for amendments can be brought forward by City staff, officials, and/or residents, and should be consistent with the overall vision of the Plan. Proposed amendments could originate in any of the following way:*
 - *Amendments proposed as corrections of clerical or administrative errors, mapping errors, and updated data for text, tables, and maps. Such amendments would be drafted by City staff.*
 - *Amendments proposed as a result of discussions between officials and citizens.*
 - *Amendments proposed as a result of recommendations discussed during a City planning process.”*
- *Page 22:4 of the Plan states “When a change is proposed, it should follow this general procedure:*
 - *Recommendation by the Plan Commission to conduct a review process for the proposed amendment.*
 - *Facilitation of public hearings as required by applicable Wisconsin State Statutes and/or ordinances.*
 - *Recommendation from the Plan Commission to the Common Council.*
 - *Consideration and decisions by the Common Council.”*
- *Page 22:5 of the Plan states, “Plan amendments and updates should coincide with the ongoing monitoring schedule. Furthermore, revisions to this Plan shall be adopted by Ordinance and adhere to certain procedural requirements as state in the Wisconsin State Statutes 66.1001(4).”*
- *Plan Element Consistency – Page 22:5 of the Plan states, “As future amendments and updates are made, consistency between the Plan elements must be ensured.” In this case, the applicant has submitted simultaneous requests to the City to amend both the Comprehensive Plan / Future Land Use Map and a Rezoning application to rezone the property so the request meets the consistency requirements.”*

- Plan Implementation – Page 22:5 of the Plan states, *“The process of updating the City’s Future Land Use Plan will utilize the Future Land Use Policies and the Future Land Use Plan classifications to derive specific standards and regulations needed for the implementation of the Plan. However, the zoning map will not necessarily be amended immediately to bring all parcels into conformity with this Plan. Rather, this Plan will serve as the long-range guide to specific decisions about particular parcels over time. When requests are made for zoning map amendments, the following guidelines will be considered:*
 - *The map amendment is in agreement with this Plan and other plans designed to further detail the Plan for the location in question; or*
 - *The existing zoning classification does not promote the public health, safety, or welfare purpose, and the proposed zoning classification does promote a public health, safety, or welfare propose; or*
 - *There have been major changes of an economic, physical, or social nature not anticipated in the adopted Plan that substantially alters the area’s character.”*
- In addition, below are several other sources that Staff located and has paraphrased which indicate that the Comprehensive Plan, in general, should not be a static document but rather a document that is utilized daily and updated as necessary and/or as requested.
- The State of Wisconsin’s A Guide to Preparing the Implementation Element of a Local Comprehensive Plan – Implementation Guide states the following, “Monitor your plan’s performance and your community may find that adjustments or revisions need to be made for things that were unforeseen, for conditions that have changed, or for incorrect choices or errors that were made.” The Guide goes on to state, “To be effective tools for guiding a community’s development through times of change, comprehensive plans must be somewhat “organic”. Every plan will eventually need to be amended to reflect a community’s changing conditions.
- Wisconsin State Statue 66.1001(2)(i) requires the following – “the Implementation element shall include a process for updating the comprehensive plan. A comprehensive plan under this subsection shall be updated no less than once every 10 years.”

The Rural Commercial Design Guide

- *The Rural Commercial Design Guide, adopted by the City in 2001, serves as a contributor to economic development conditions in Neighborhood B. The Guide provides design standards for areas west of Calhoun Road with the southern border at IH-43/College Avenue and the northern border at Cleveland Avenue (Figure 12.12-1). The boundaries are further defined as both sides of Cleveland Avenue and Calhoun Road with the exception of the properties located within the New Berlin Industrial Park SPO and the B-2 and O-2 zoned parcels near the intersection of Cleveland Avenue and Calhoun Road (Tax Keys: 1188-994, 1188-999, 1188-992001, 1188-993 and 1188-020). The West Lincoln Avenue corridor is not included. The intent of the Design Guide is to retain and encourage small business and office developments, provide safe and convenient pedestrian access, and ensure quality visual appearances. The Rural Commercial Design Area also includes land within Neighborhood I (National Avenue & West Neighborhood) and a small portion of Neighborhood J (I-43 & Racine Quarries).*
- *The design standards affecting recommendations for economic development in Neighborhood B include provisions for cross access between neighboring parcels where feasible, and the requirement that new buildings correspond proportionally and stylistically to existing buildings in rural commercial areas.*
- Details of the Rural Commercial Design Standards are below:
 - *Building designs shall utilize materials that reflect a rural character. Cedar or clapboard siding, stone and brickwork, or other comparable materials that achieve the same quality in appearance are acceptable. Aluminum and vinyl siding shall be prohibited. New*

buildings shall correspond in height, width, proportion, relationship to street, roof forms, composition, rhythm, proportion of openings, materials and color to the other buildings in the district.

- *Four sided architecture that utilizes similar building materials and design for all sides of a proposed structure is required.*
- *Mansards, pents (lean-to), gambrels or other roof shapes not characteristic of the architectural area shall not be allowed. Rolled roofing, tar and gravel and other similar roofing materials are prohibited except that such materials may be used on flat or slightly sloped roofs which are not visible from the ground.*
- *Earth tones such as grays, browns, greens, and tans are encouraged.*
- *To the maximum extent practicable, parking Areas shall be located to the side or behind buildings. The perimeter of the parking lot shall provide for a lawn area in which trees and shrubs will be planted so as to allow ample snow storage capacity yet avoid damage to plantings from same.*
- *Existing tree lines should be preserved. If removal of existing tree lines is required due to its undesirable nature, new planting that results in no less of a screening effect shall be required when adjacent to residential uses.*
- *Signage shall be designed in unity with the building design through the use of the same or similar materials and colors. Ground, monument signs, or wall mounted signs made of wood, hanging from a wooden or wrought iron mount are acceptable. Signs that suit the architectural features of the building are acceptable. Neon tubed exterior accent light, external neon tubed signs and internally illuminated signs are not permitted.*
- *Lighting shall be down cast, zero degree tilt, cutoff fixtures not exceeding 25 feet in height (including the light pole base and/or pedestal). Lighting shall be positioned so as not to cause glare on adjacent properties and streets. At a minimum, site lighting marking the entrance to businesses shall match or complement that which may be chosen by the City as standard decorative street lighting. Site lighting shall meet the requirements of § 275-60I in its entirety.*
- *Cross Access to and between neighboring properties shall be implemented wherever possible. The goal in this requirement is to remove as much incidental site to site traffic thus reducing the possibility of traffic conflicts and accidents. Cross access drives may be either the interconnection of parking lots or the construction of a separate drive.*

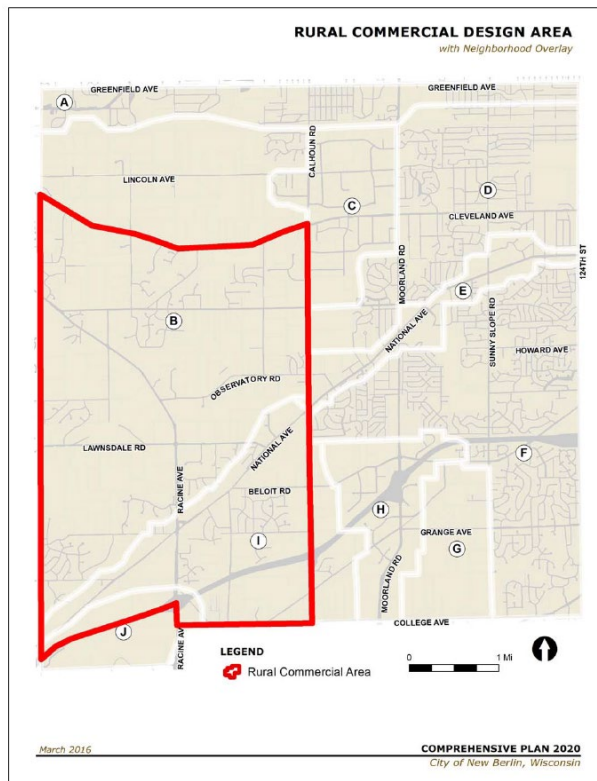


Figure 12.12-1. Rural Commercial Design Area.

Attachments:

Location Map

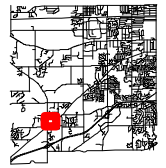
Rezoning Comparison Map Exhibit

Future Land Use Map Comparison Map Exhibit

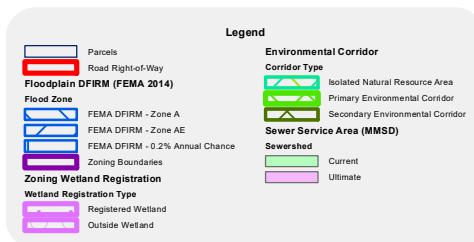
Site Plan

Resolution #22-01 (*forthcoming*)

CP-2200597
Ethnic Comprehensive Plan Amendment
Tax Key #: 1268-993 – Approximately 3.5278 acres

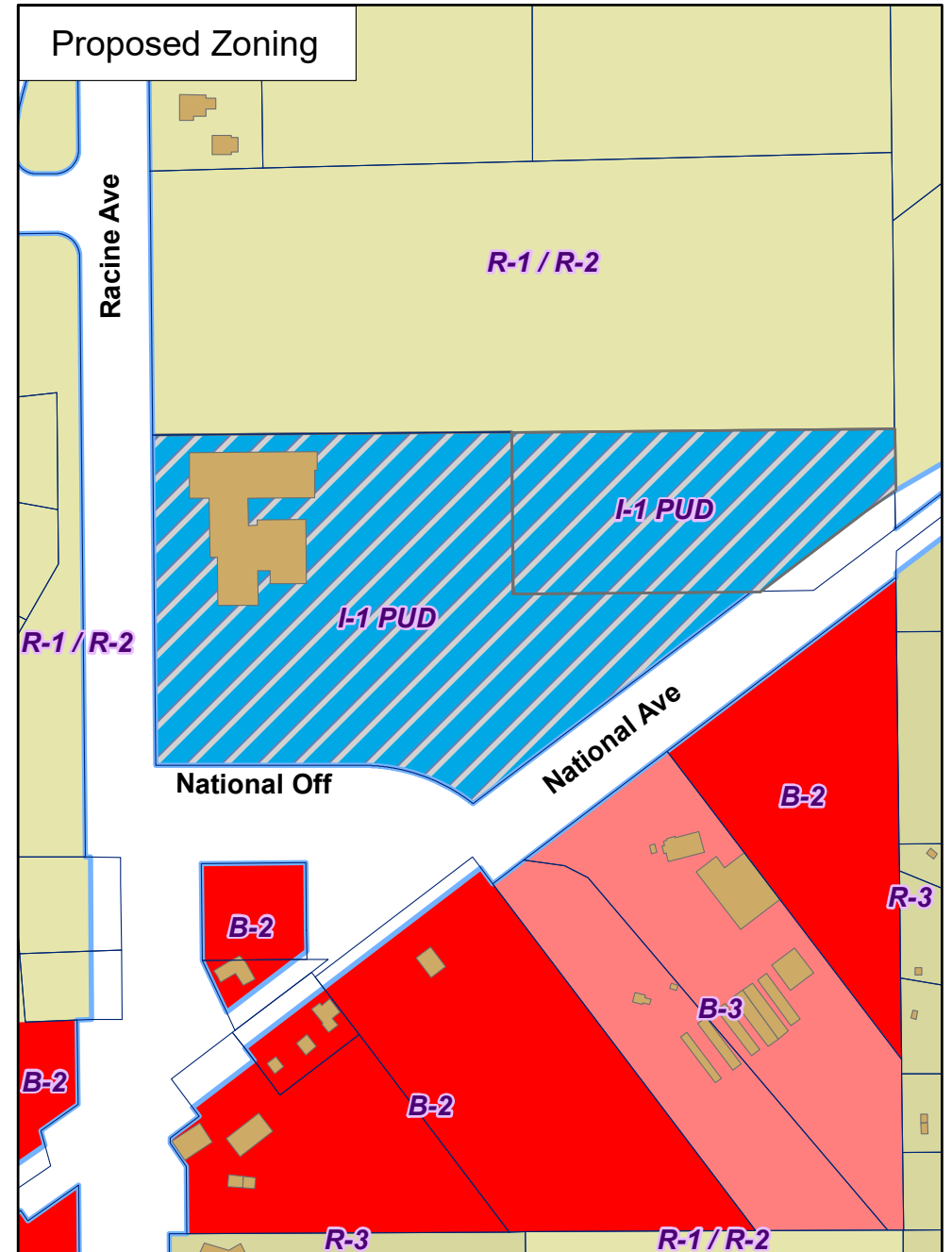
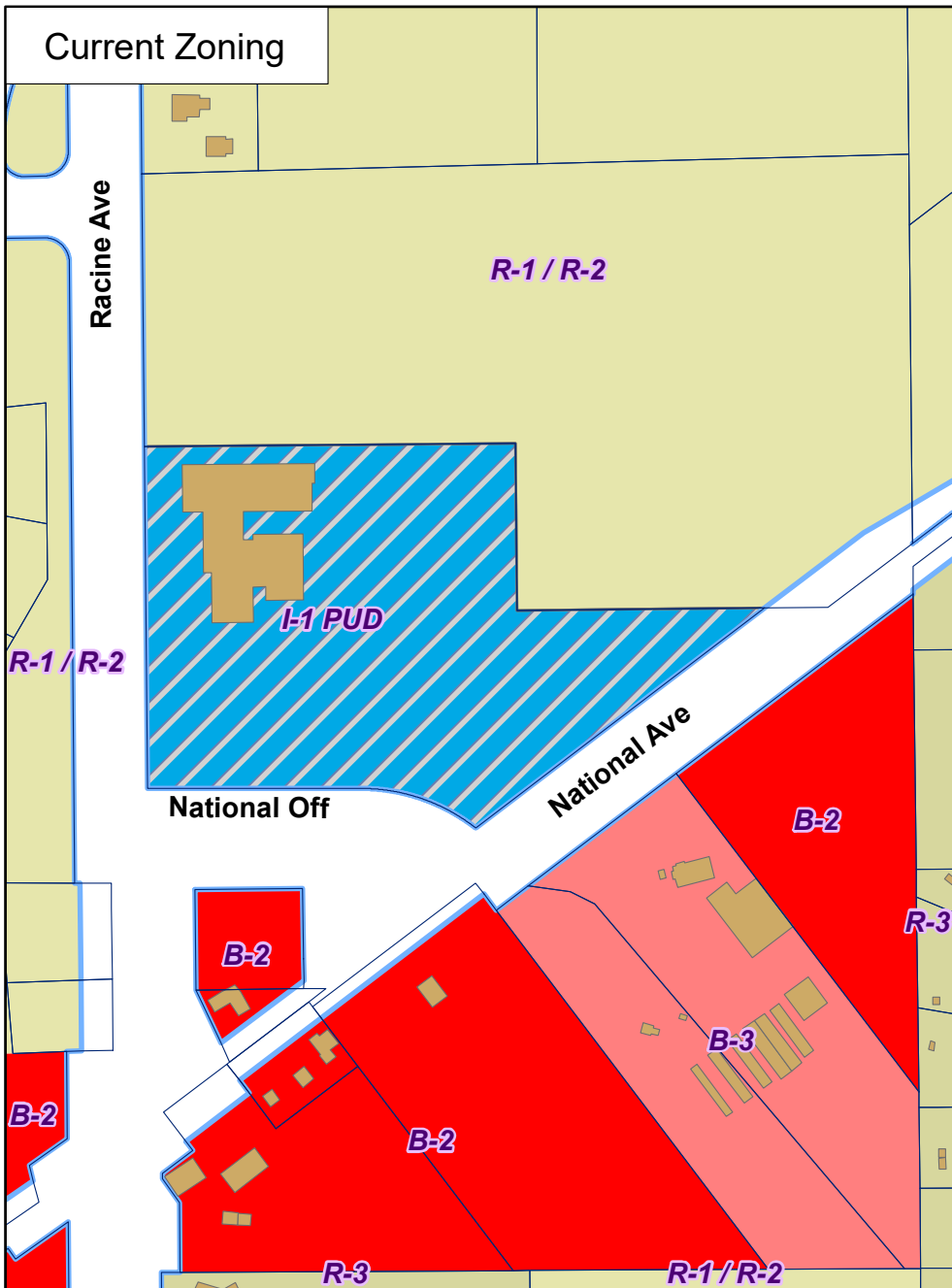


City of New Berlin
Department of Community Development
3805 S Casper Dr.
New Berlin WI 53151
(262) 797-2445
www.newberlin.org

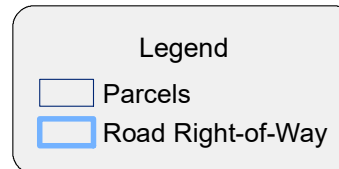


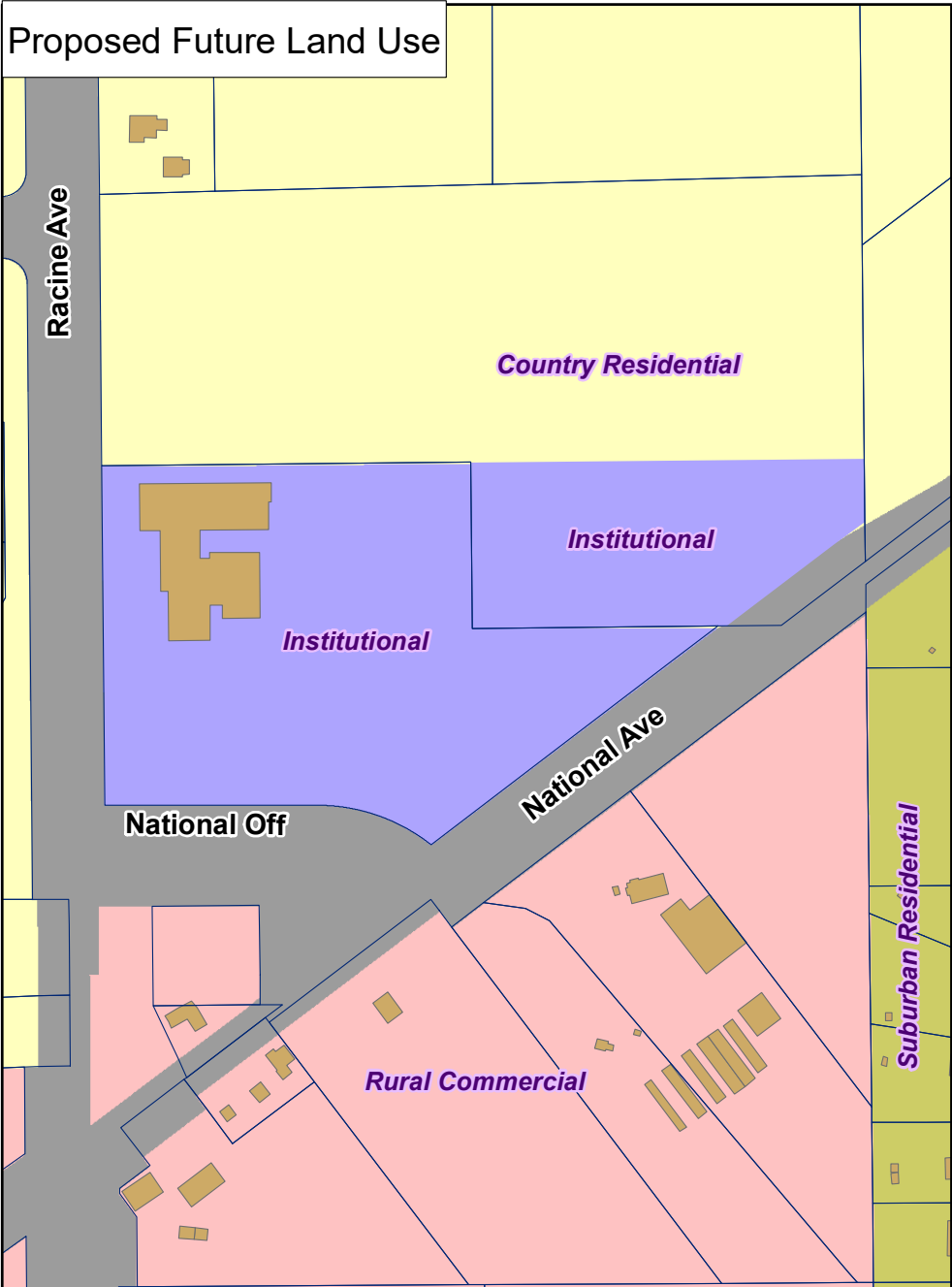
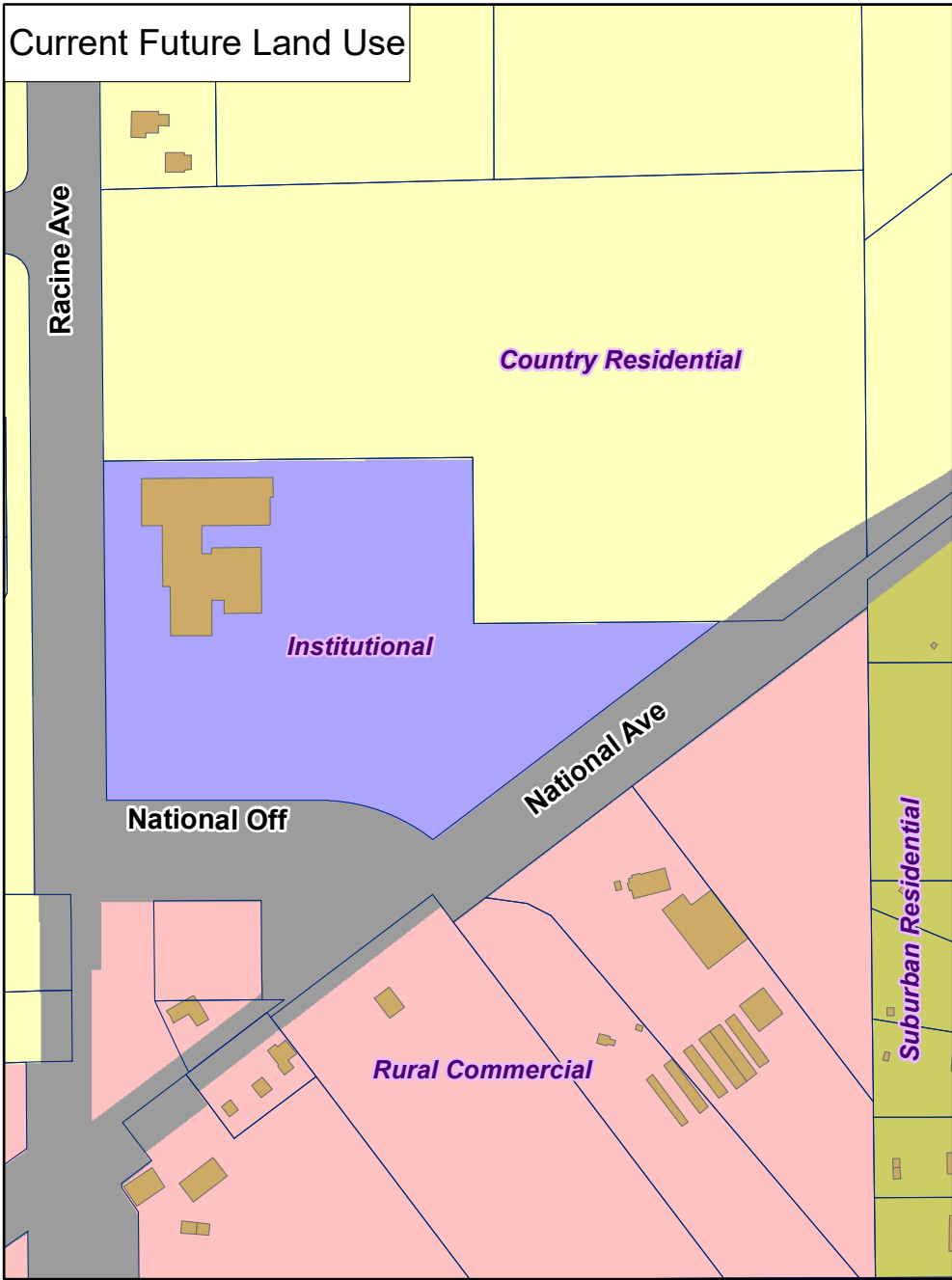
0 120 240 Feet





RZ-2200596 Ethic Amendment 5330 S. Racine Ave





CP-2200597
Ethic Amendment
5330 S. Racine Ave

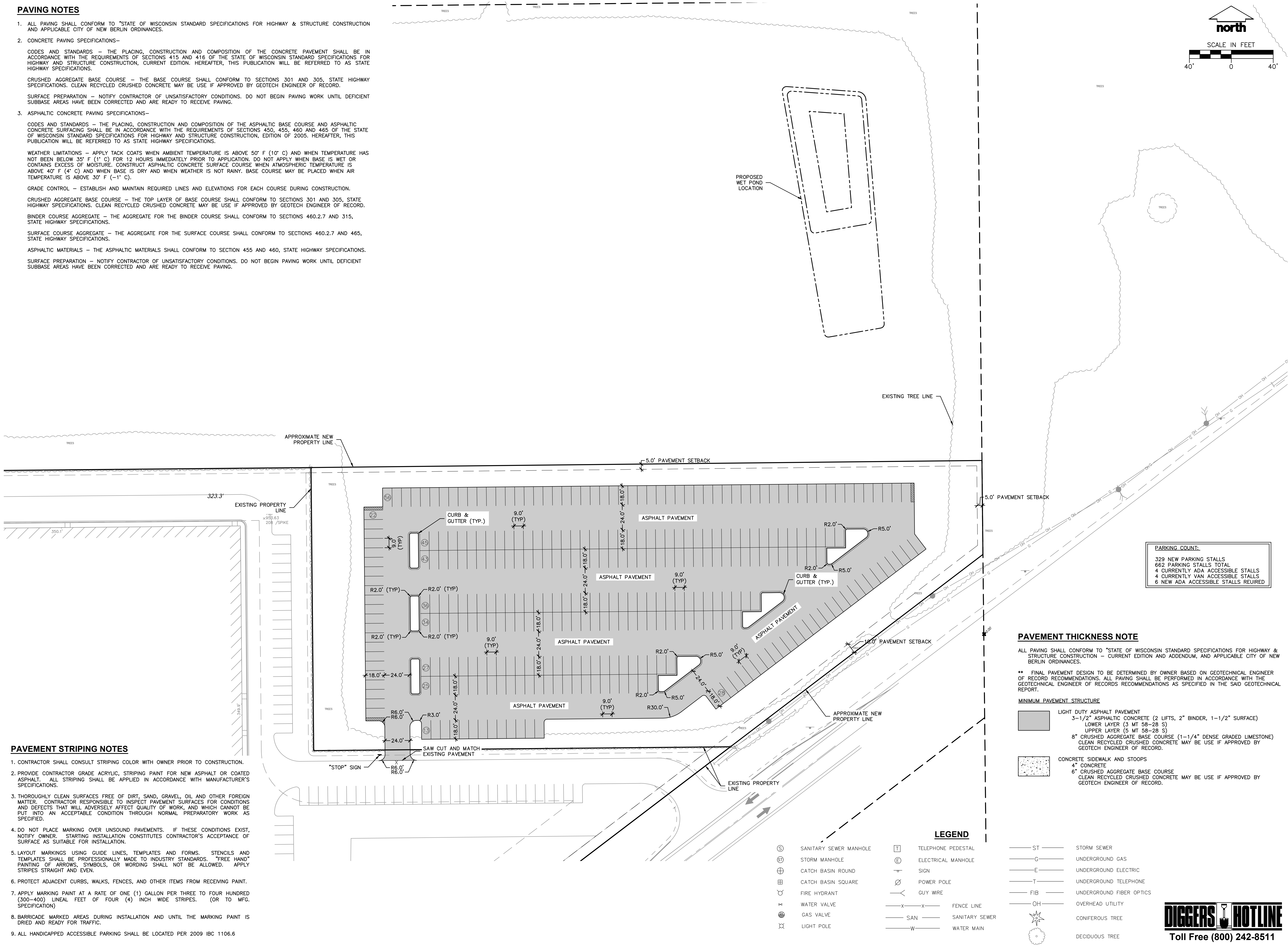
Legend

- Parcels
- Road Right-of-Way

PAVING NOTES

1. ALL PAVING SHALL CONFORM TO "STATE OF WISCONSIN STANDARD SPECIFICATIONS FOR HIGHWAY & STRUCTURE CONSTRUCTION AND APPLICABLE CITY OF NEW BERLIN ORDINANCES.
2. CONCRETE PAVING SPECIFICATIONS--
- CODES AND STANDARDS -- THE PLACING, CONSTRUCTION AND COMPOSITION OF THE CONCRETE PAVEMENT SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 415 AND 416 OF THE STATE OF WISCONSIN STANDARD SPECIFICATIONS FOR HIGHWAY AND STRUCTURE CONSTRUCTION, CURRENT EDITION. HEREAFTER, THIS PUBLICATION WILL BE REFERRED TO AS STATE HIGHWAY SPECIFICATIONS.
- CRUSHED AGGREGATE BASE COURSE -- THE BASE COURSE SHALL CONFORM TO SECTIONS 301 AND 305, STATE HIGHWAY SPECIFICATIONS. CLEAN RECYCLED CRUSHED CONCRETE MAY BE USE IF APPROVED BY GEOTECH ENGINEER OF RECORD.
- SURFACE PREPARATION -- NOTIFY CONTRACTOR OF UNSATISFACTORY CONDITIONS. DO NOT BEGIN PAVING WORK UNTIL DEFICIENT SUBBASE AREAS HAVE BEEN CORRECTED AND ARE READY TO RECEIVE PAVING.

3. ASPHALTIC CONCRETE PAVING SPECIFICATIONS--
- CODES AND STANDARDS -- THE PLACING, CONSTRUCTION AND COMPOSITION OF THE ASPHALTIC BASE COURSE AND ASPHALTIC CONCRETE SURFACING SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 450, 455, 460 AND 465 OF THE STATE OF WISCONSIN STANDARD SPECIFICATIONS FOR HIGHWAY AND STRUCTURE CONSTRUCTION, EDITION OF 2005. HEREAFTER, THIS PUBLICATION WILL BE REFERRED TO AS STATE HIGHWAY SPECIFICATIONS.
- WEATHER LIMITATIONS -- APPLY TACK COATS WHEN AMBIENT TEMPERATURE IS ABOVE 50° F (10° C) AND WHEN TEMPERATURE HAS NOT BEEN BELOW 35° F (1° C) FOR 12 HOURS IMMEDIATELY PRIOR TO APPLICATION. DO NOT APPLY WHEN BASE IS WET OR CONTAINS EXCESS OF MOISTURE. CONSTRUCT ASPHALTIC CONCRETE SURFACE COURSE WHEN ATMOSPHERIC TEMPERATURE IS ABOVE 40° F (4° C) AND WHEN BASE IS DRY AND WHEN WEATHER IS NOT RAINY. BASE COURSE MAY BE PLACED WHEN AIR TEMPERATURE IS ABOVE 30° F (-1° C).
- GRADE CONTROL -- ESTABLISH AND MAINTAIN REQUIRED LINES AND ELEVATIONS FOR EACH COURSE DURING CONSTRUCTION.
- CRUSHED AGGREGATE BASE COURSE -- THE TOP LAYER OF BASE COURSE SHALL CONFORM TO SECTIONS 301 AND 305, STATE HIGHWAY SPECIFICATIONS. CLEAN RECYCLED CRUSHED CONCRETE MAY BE USE IF APPROVED BY GEOTECH ENGINEER OF RECORD.
- BINDER COURSE AGGREGATE -- THE AGGREGATE FOR THE BINDER COURSE SHALL CONFORM TO SECTIONS 460.2.7 AND 315, STATE HIGHWAY SPECIFICATIONS.
- SURFACE COURSE AGGREGATE -- THE AGGREGATE FOR THE SURFACE COURSE SHALL CONFORM TO SECTIONS 460.2.7 AND 465, STATE HIGHWAY SPECIFICATIONS.
- ASPHALTIC MATERIALS -- THE ASPHALTIC MATERIALS SHALL CONFORM TO SECTION 455 AND 460, STATE HIGHWAY SPECIFICATIONS.
- SURFACE PREPARATION -- NOTIFY CONTRACTOR OF UNSATISFACTORY CONDITIONS. DO NOT BEGIN PAVING WORK UNTIL DEFICIENT SUBBASE AREAS HAVE BEEN CORRECTED AND ARE READY TO RECEIVE PAVING.



PAVEMENT STRIPING NOTES

1. CONTRACTOR SHALL CONSULT STRIPING COLOR WITH OWNER PRIOR TO CONSTRUCTION.
2. PROVIDE CONTRACTOR GRADE ACRYLIC, STRIPING PAINT FOR NEW ASPHALT OR COATED ASPHALT. ALL STRIPING SHALL BE APPLIED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.
3. THOROUGHLY CLEAN SURFACES FREE OF DIRT, SAND, GRAVEL, OIL AND OTHER FOREIGN MATTER. CONTRACTOR RESPONSIBLE TO INSPECT PAVEMENT SURFACES FOR CONDITIONS AND DEFECTS THAT WILL ADVERSELY AFFECT QUALITY OF WORK, AND WHICH CANNOT BE PUT INTO AN ACCEPTABLE CONDITION THROUGH NORMAL PREPARATORY WORK AS SPECIFIED.
4. DO NOT PLACE MARKING OVER UNSOUND PAVEMENTS. IF THESE CONDITIONS EXIST, NOTIFY OWNER. STARTING INSTALLATION CONSTITUTES CONTRACTOR'S ACCEPTANCE OF SURFACE AS SUITABLE FOR INSTALLATION.
5. LAYOUT MARKINGS USING GUIDE LINES, TEMPLATES AND FORMS. STENCILS AND TEMPLATES SHALL BE PROFESSIONALLY MADE TO INDUSTRY STANDARDS. "FREE HAND" PAINTING OF ARROWS, SYMBOLS, OR WORDING SHALL NOT BE ALLOWED. APPLY STRIPES STRAIGHT AND EVEN.
6. PROTECT ADJACENT CURBS, WALKS, FENCES, AND OTHER ITEMS FROM RECEIVING PAINT.
7. APPLY MARKING PAINT AT A RATE OF ONE (1) GALLON PER THREE TO FOUR HUNDRED (300-400) LINEAL FEET OF FOUR (4) INCH WIDE STRIPES. (OR TO MFG. SPECIFICATION)
8. BARRICADE MARKED AREAS DURING INSTALLATION AND UNTIL THE MARKING PAINT IS DRIED AND READY FOR TRAFFIC.
9. ALL HANDICAPPED ACCESSIBLE PARKING SHALL BE LOCATED PER 2009 IBC 1106.6

PAVEMENT THICKNESS NOTE

ALL PAVING SHALL CONFORM TO "STATE OF WISCONSIN STANDARD SPECIFICATIONS FOR HIGHWAY & STRUCTURE CONSTRUCTION -- CURRENT EDITION AND ADDENDUM, AND APPLICABLE CITY OF NEW BERLIN ORDINANCES.

** FINAL PAVEMENT DESIGN TO BE DETERMINED BY OWNER BASED ON GEOTECHNICAL ENGINEER OF RECORD RECOMMENDATIONS. ALL PAVING SHALL BE PERFORMED IN ACCORDANCE WITH THE GEOTECHNICAL ENGINEER OF RECORDS RECOMMENDATIONS AS SPECIFIED IN THE SAID GEOTECHNICAL REPORT.

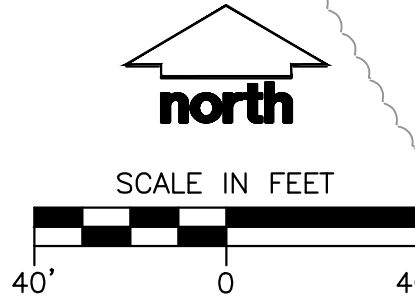
MINIMUM PAVEMENT STRUCTURE

LIGHT DUTY ASPHALT PAVEMENT
3-1/2" ASPHALTIC CONCRETE (2 LIFTS, 2" BINDER, 1-1/2" SURFACE)
LOWER LAYER (3 MT 58-28 S)
UPPER LAYER (5 MT 58-28 S)
8" CRUSHED AGGREGATE BASE COURSE (1-1/4" DENSE GRADED LIMESTONE)
CLEAN RECYCLED CRUSHED CONCRETE MAY BE USE IF APPROVED BY GEOTECH ENGINEER OF RECORD.

CONCRETE SIDEWALK AND STOOPS
4" CONCRETE
6" CRUSHED AGGREGATE BASE COURSE
CLEAN RECYCLED CRUSHED CONCRETE MAY BE USE IF APPROVED BY GEOTECH ENGINEER OF RECORD.

LEGEND

- Sanitary Sewer Manhole, Storm Manhole, Catch Basin Round, Catch Basin Square, Fire Hydrant, Water Valve, Gas Valve, Light Pole, Telephone Pedestal, Electrical Manhole, Sign, Power Pole, Guy Wire, Fence Line, Sanitary Sewer, Water Main, Storm Sewer, Underground Gas, Underground Electric, Underground Telephone, Underground Fiber Optics, Overhead Utility, Coniferous Tree, Deciduous Tree.



CREATE THE VISION TELL THE STORY

MADISON | MILWAUKEE | WAUSAU
APPLETON | KENOSHA | CHICAGO
COEUR D'ALENE

MILWAUKEE REGIONAL OFFICE
W238 N1610 BUSSE ROAD, SUITE 100
WAUKESHA, WISCONSIN 53188
P. 262.513.0666

CLIENT:
KAHLE BUILDERS

CLIENT ADDRESS:
15171 W. NATIONAL AVE.
NEW BERLIN, WI 53151

PROJECT:
ETHIC INDOOR
SPORTS FACILITY

PROJECT LOCATION:
5330 S. RACINE AVE.
NEW BERLIN, WI

PARKING COUNT:	
329 NEW PARKING STALLS	
662 PARKING STALLS TOTAL	
4 CURRENTLY ADA ACCESSIBLE STALLS	
4 CURRENTLY VAN ACCESSIBLE STALLS	
6 NEW ADA ACCESSIBLE STALLS REIRED	

PLAN MODIFICATIONS:	
#	Description:
1	04.05.2022 CITY SUBMITTAL
2	04.19.2022 OWNER REVIEW
3	
4	
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6	
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13	
14	
15	

Design/Drawn:	YT/JJS
Approved:	TJB

SHEET TITLE:
DIMENSION AND
PAVEMENT ID PLAN

SHEET NUMBER:
C1.0



JSD PROJECT NO: 209894

RESOLUTION NUMBER #22-01**A Resolution adopting the amendments to the City's 2030 Comprehensive Plan Chapter 10: Land Use**

WHEREAS, Section 66.1001(4) of the Wisconsin Statutes, establish the required procedure for a local government to adopt a comprehensive plan and Section 66.1001(2) identifies the required elements of a comprehensive plan; and

WHEREAS, the planning process was open to the public and numerous efforts were made to assure the broadest participation to establish the goals and elements considered for and contained within the comprehensive plan in compliance with Section 66.1001 of the Wisconsin State Statutes, and

WHEREAS, the City of New Berlin prepared and followed a Public Participation Plan that was adopted by the Plan Commission on September 10, 2007 and the Common Council on September 25, 2007 a copy of which is on file in the Department of Community Development.

WHEREAS, the City of New Berlin Plan Commission has the authority to adopt the Comprehensive Plan and associated amendments as necessary by resolution and also to recommend that the Common Council adopt the comprehensive plan and associated amendments as necessary via Ordinance; and

WHEREAS, the City of New Berlin prepared the "City of New Berlin Comprehensive Plan", which is on file with the Department of Community Development and available on the City's website www.newberlin.org, containing all maps and other descriptive materials, to be the comprehensive plan for the City; and

WHEREAS, that the Plan Commission of the City of New Berlin adopted the City of New Berlin 2020 Comprehensive Plan as the City's comprehensive plan via Resolution No. 09-02 on November 2nd, 2009, and the Common Council adopted the Comprehensive Plan via Ordinance # 2422 on December 8th, 2009; and has been amended from time to time; and

WHEREAS, development within the City should be monitored on an ongoing basis, and compared to the City goals and objectives outlined throughout the Plan to ensure that current policies are achieving the intended results. Comprehensive Plan Chapter 22, Implementation states, *"This Plan is intended to be changed and revised over time. The City's values, goals, and capabilities may change as New Berlin grows, and the Plan must be amended to reflect those changes. The Plan should be reviewed and amended at least once every year."* This project includes an overall general update to the Comprehensive Plan.

WHEREAS, Department of Community Development Staff, working at the request of Aaron Kahle on behalf of Ethic Indoor LLC, have prepared amendments to the Future Land Use Map within the City's adopted Comprehensive Plan Chapter 10: Land Use and are now completed and need to be incorporated into the City's adopted Comprehensive Plan.

WHEREAS, the Future Land Use Map amendments requested by Aaron Kahle on behalf of Ethic Indoor LLC is for approximately 3.5278 acres of Tax Key #: 1268-993 to amend the Future Land Use from "Single-Family Residential" to "Institutional with Planned Unit Development Overlay." It is necessary to incorporate these Future Land Use Map amendments into the City's adopted Comprehensive Plan Chapter 10: Land Use Amendments to an adopted comprehensive plan pursuant to WI State Statute 66.1001 require a Class I notification along with a public hearing.

WHEREAS, the Plan Commission of the City of New Berlin by a 6-0 vote of the Commissioners present and voting recorded in its official minutes, adopted Resolution #: 22-01 recommended approval of this comprehensive plan amendment on June 6, 2022.

NOW, THEREFORE, BE IT RESOLVED, that the Plan Commission of the City of New Berlin hereby accepts and adopts the attached City of New Berlin Comprehensive Plan amendments to the Comprehensive Plan Chapter 10: Land Use, recognizing that the Common Council must also adopt the Comprehensive Plan amendments via Ordinance for it to become effective; and

BE IT FURTHER RESOLVED that the Plan Commission does hereby recommend that the Common Council adopt Ordinance No. 2662, which will constitute its adoption of the Comprehensive Plan amendments.

Passed and adopted by the Plan Commission on this 6th day of June, 2022.

APPROVED:

David A. Ament, Mayor

Certified/Countersigned:

Nikki Jones
Plan Commission Secretary

ORDINANCE NO. 2622

An ordinance to adopt the amendments to the City's Comprehensive Plan to incorporate the necessary Future Land Use Map Amendments into the City's adopted Comprehensive Plan, Chapter 10: Land Use

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

SECTION I

Pursuant to section 62.23(2) and (3) of the Wisconsin Statutes, the City of New Berlin, is authorized to prepare and adopt a comprehensive plan as defined in section 66.1001(1)(a) and 66.1001(2) of the Wisconsin Statutes.

SECTION II

The Common Council of the City of New Berlin, Wisconsin, has adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan as required by Section 66.1001(4)(a) of the Wisconsin Statutes.

SECTION III

The Plan Commission of the City of New Berlin by a majority vote of the Commission members present and voting as recorded in its official minutes and adopted Resolution #22-01 on June 6, 2022 recommending to the Common Council the adoption of the ordinance that approves the Future Land Use amendments to the City's adopted Comprehensive Plan Chapter 10: Land Use, a copy of the chapter is attached as Exhibit A, containing amendments to the elements specified in section 66.1001(2) of the Wisconsin Statutes.

More specifically, the Future Land Use Map amendments requested by Aaron Kahle on behalf of Ethic Indoor LLC, to amend the Future Land Use for approximately 3.5278 acres of Tax Key #: 1268-993 from "Single-Family Residential" to "Institutional with Planned Unit Development Overlay".

SECTION IV

The City held a public hearing on June 6, 2022, on these Comprehensive Plan amendments, in compliance with the requirements of Section 66.1001(4)(d) of the Wisconsin Statutes.

SECTION V

The Common Council of the City of New Berlin, Wisconsin, does, by enactment of this ordinance, formally adopt the documents entitled, "**Future Land Use Map Amendments into the City's adopted Comprehensive Plan Chapter 10: Land Use**" which is attached hereto as Exhibit A pursuant to section 66.1001(4)(c) of the Wisconsin Statutes.

SECTION VI

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

SECTION VII

This ordinance shall take effect upon passage and publication as approved by law.

SECTION VIII

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.

PASSED AND ADOPTED by the Common Council this 14th day of June, 2022.

APPROVED:

David A. Ament, Mayor

Countersigned:

Rubina Medina, City Clerk



**CITY OF NEW BERLIN
COMMON COUNCIL - MINUTES
Tuesday, May 24, 2022**

Regular Meeting

Zoom Meeting

6:00 PM

Please note: Minutes are unofficial until approved by the Common Council at the next regularly scheduled meeting.

The Common Council has satisfied the requirements as directed by the Common Council on June 22, 2021 and Ordinance No. 2651 to hold this meeting via electronic means. The full text of this ordinance and the minutes from the above mentioned meeting can be viewed at www.newberlin.org

To participate in the meeting, view the meeting, and/or ask questions, the public was able to do so by downloading the ZOOM app located at <https://zoom.us/> and utilize Meeting ID # 861 1542 1010 to join.

All votes were taken via a voice roll call vote.

CALL TO ORDER, PLEDGE OF ALLEGIANCE

Mayor Ament called the Common Council meeting to order at 6:52 PM and led the Pledge of Allegiance.

City Clerk Rubina R. Medina read the rules as this meeting was held via zoom.

ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Council Present: Hopkins, Garrigues, Maxey, Harenda, Stribl, Horbinski & Kroupa

Council Excused: None

Staff Present: Mayor Ament, City Clerk Rubina R. Medina, Attorney Thomas Schmitzer

APPROVAL OF MINUTES

ITEM: May 10, 2022 Common Council Meeting Minutes

MOTION: Motion to approve the May 10, 2022 Common Council Meeting Minutes

VOTE: Motion by: Hopkins
Second by: Stribl
Passed: 7-0

REPORTS

City Clerk – No Report

Council President – No Report

Mayor

- **On May 26, 2022**, The **New Berlin Library** will kick off their 2022 Summer reading Program “Read Beyond the Beaten Path.” Their Story Book Trail will be opened for the Public ribbon cutting event between 10:00 a.m. - 11:00. am. The Story Book Trail is a creative way for the community to enjoy a family-friendly, accessible trail, while reading an adventure at the same time. The Storybook Trail is located at ProHealth Care Park, 2950 S Sunny Slope Rd.
- In addition, on **Monday May 30th at 11:00 a.m.**, all are welcome to attend the **Memorial Day Event at Highland Memorial Park** located at 14875 W Greenfield Avenue. The VFW Post #5716 will perform their **Memorial Ritual Service** including a rifle salute, flags will be distributed, dignitaries will address the crowd, a Toast to the Flag shall be performed, music will be provided by the New Berlin Community Band and much more. Seating will not be provided so lawn chairs are recommended – a shuttle will be available in the Cemetery for those needing assistance to and from their vehicles.
- Just a reminder that City Hall will be closed for the following dates:
Wednesday, May 25th from 11:30 AM - 1:30 PM for an all staff meeting
Monday May 30th in observance of **Memorial Day**.
- Also as a reminder, the final installment of Real Estate Taxes is due **May 31st**. Please note that reminders are NOT sent out for this 3rd installment due date.
- **Saturday, June 4th, 2022 from 9am-3pm**, the City of New Berlin will host a grand opening event at the city's new **Activity & Recreation Center**, located at 15321 W National Avenue. The new Activity & Recreation Center will include an indoor playground, dance studio, teaching kitchen, and various multi-purpose spaces to host a variety of programs, activities, and events! This **FREE** family-friendly event will be filled with a variety of activities and programs hosted by the New Berlin Recreation Department with an official ribbon cutting at noon. Additionally, food trucks will be on site and a beer garden hosted by City Lights Brewing Co. Ribbon Cutting is planned for noon, please join us in the grand opening event!
- The **New Berlin Recreation Department's Corn Hole Leagues** will be starting **June 8, 2022**. These leagues will compete on Wednesday's for 8 weeks at **Malone Park** near Shelter #2. Please contact the New Berlin Recreation Department for sign up information.
- Lastly, the **Mooreland Road Water Main Rehabilitation Project** has begun. This construction project consists of 4 phases and is projected to last until October 2022. Please visit the City of New Berlin Website for more details. The Utility Department can be contacted at (262) 786-7086 regarding any questions or concerns.

COMMUNICATIONS

RECREATION COMMISSION

ITEM: Discussion and Possible Action to recommend to Common Council approval of the 2022 Fall Program Fees

MOTION: Motion to approve the 2022 Fall Program Fees

VOTE: Motion by: Harenda
Second by: Stribl
Passed: 7-0

FOURTH OF JULY COMMISSION

ITEM: Discussion and Possible Action to Recommend to the Common Council approval of a contract with Chrome Fireworks in the amount of \$25,000 for the 2022 4th of July Festival.

MOTION: Motion to approve the contract with Chrome Fireworks in the amount of \$25,000 for the 2022 4th of July Festival.

VOTE: Motion by: Stribl
Second by: Hopkins
Passed: 7-0

ITEM: Discussion and Possible Action to Recommend to the Common Council approval of a contract with Area Rental in the amount of \$17,621.15 for the 2022 4th of July Festival.

MOTION: Motion to approve the contract with Area Rental in the amount of \$17,621.15 for the 2022 4th of July Festival.

VOTE: Motion by: Stribl
Second by: Harenda
Passed: 7-0

WATER RESOURCE MANAGEMENT COMMITTEE

ITEM: WRM 02-22 Recommend to Common Council the award of contract for construction of U-21-01 to Reconstruct Kelly Lakes Double Box Culvert

MOTION: Motion to approve the award of contract for construction of U-21-01 to Reconstruct Kelly Lakes Double Box Culvert

VOTE: Motion by: Harenda
Second by: Horbinski
Passed: 7-0

ITEM: WRM 03-22 Recommend to Common Council the award of contract for construction of U-21-02 to Reconstruct Cleveland Avenue and 130th Street Culvert Replacement

MOTION: Motion to approve the award of contract for construction of U-21-02 to Reconstruct Cleveland Avenue and 130th Street Culvert Replacement

VOTE: Motion by: Harenda
Second by: Hopkins
Passed: 7-0

FINANCE COMMITTEE

ITEM: Discussion and Possible Vote on Three Year Review of General Financial Policies 8-14

MOTION: Motion to approve the Three Year Review of General Financial Policies 8-14

VOTE: Motion by: Garrigues
Second by: Maxey
Passed: 7-0

MAYORAL APPOINTMENTS

ITEM: Recommend the re-appointment of Calvin Patterson to the Community Development Authority with new term effective 6/1/2022 and expiring 5/31/2026.

MOTION: Motion to approve the re-appointment of Calvin Patterson to the Community Development Authority with new term effective 6/1/2022 and expiring 5/31/2026.

VOTE: Motion by: Horbinski
Second by: Garrigues
Passed: 7-0

ITEM: Recommend the re-appointment of Michael Palecek to the Communications Committee with new term effective 6/11/2022 and expiring 6/10/2023.

MOTION: Motion to approve the re-appointment of Michael Palecek to the Communications Committee with new term effective 6/11/2022 and expiring 6/10/2023.

VOTE: Motion by: Garrigues
Second by: Stribl
Passed: 7-0

DEFERRED, REFERRED & TABLED ITEMS

ITEMS REMOVED FROM CONSENT AGENDA, if any

CONSENT AGENDA*****

MOTION: Motion to approve the Consent Agenda

VOTE: Motion by: Garrigues
Second by: Maxey
Passed: 7-0

MINUTES

ITEM: May 10, 2022 Committee of the Whole Meeting Minutes

UTILITY & FINANCE

ITEM: Approval of May 18, 2022 Water Utility claims in the amount of \$122,369.46, Sewer Utility claims in the amount of \$654.50 and General City claims in the amount of \$587,127.39 of which \$7,549.09 was tax overpayment checks. US Bank VISA EFT of \$37,178.76.

LICENSES & PERMITS

- ITEM:** Retail "Class B" License Transfer to John Martin Jr. due to the death of licensee, John Martin Sr. for Martin's Tap located at 19550 W. National Ave.
- ITEM:** Operator (Bartender) license applications for the licensing period ending June 30, 2024 per the list as presented.
- ITEM:** Alcohol licenses for the licensing period of July 1, 2022 through June 30, 2023 per the list as presented and contingent upon applicants meeting all Statutory and Municipal rules/regulations.
- ITEM:** Loudspeaker Variance for Rodd Szmania of 3045 S. Johnson Road for an Annual Pig Roast on June 18, 2022 until 11PM.

MISCELLANEOUS

- ITEM:** Update from Police Chief Hingiss
- ITEM:** Recommend to the Common Council that a Public Hearing be set for July 11, 2022 at 6:00 pm to be held before the Plan Commission to rezone the property located at Tax Key #: 1229.994.002 from A-2, C-2 & C-1 to R-1/R-2, C-2 & C-1.
- ITEM:** Recommend the Common Council adopt Ordinance No. 2659, an Ordinance to Repeal and Replace Section 152-1(E) of the Municipal Code Pertaining to the Granting of Operator Licenses.
- ITEM:** Discussion and Possible Action re: Requested Action Statement for the Council to decide if the City should include street lighting in the median of Moorland Road as part of the multiphase redesign project by Waukesha County between National Avenue and Cleveland Avenue.
- ITEM:** Discussion and Possible Action re: Requested Action Statement to withdraw the motion to include decorative street lighting in the median of Moorland Road as part of the redesign project by Waukesha County between National Avenue and Beloit Road but include pedestrian lights along sidewalks from Howard Avenue to Coffee Road.
- ITEM:** Discussion and Possible Action re: Requested Action Statement for the Common Council to decide whether or not to include sidewalks in the Moorland Road redesign project by Waukesha County between National Avenue and Cleveland Ave. If the Common Council decides to include sidewalks the Council will need to decide which of the three options on the RAS should be utilized.

ITEM: Set goals and directives for 2023 Budget, including tax levy target. Suggest any changes for format, method, or presentation of the budget

END CONSENT AGENDA*****

CLOSED SESSION

ITEM: 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 7:11 PM.

VOTE: Motion by: Kroupa
Second by: Stribl
Passed: 7-0

ITEM: Discussion regarding approving the lease of space on the A.R.C. monument sign.

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

MOTION: Motion to return to open session at 7:15 PM

VOTE: Motion by: Garrigues
Second by: Maxey
Passed: 7-0

ITEM: Discussion and possible action to approve the lease of space on the A.R.C. monument sign.

No Action Taken

ADJOURN

MOTION: Motion to adjourn the Common Council meeting at 7:17 PM.

VOTE: Motion by: Garrigeus
Second by: Maxey
Passed: 7-0

*Respectfully Submitted,
Rubina R. Medina, City Clerk*

STAFF REPORT EXECUTIVE SUMMARY

APPLICANT/PROJECT:	Aaron Kahle with Kahle Builders LLC on behalf of Ethic Indoor LLC / Ethic Indoor Sports Facility Planned Unit Development
LOCATION:	Tax Key #: 1268-993 – Approximately 3.5278 acres
REQUEST:	Request to rezone approximately 3.5278 acres of the property located at Tax Key #: 1268-993 from R-1/R-2 to I-1/PUD.
D.R.C. RECOMMENDATION:	Recommend to Common Council adoption of Ordinance 2661 that approves the rezoning of approximately 3.5278 acres of the property located at Tax Key #: 1268-993 from R-1/R-2 to I-1/PUD.

DETAILS IN ATTACHED STAFF REPORT

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

Meeting of June 6, 2022

**Aaron Kahle with Kahle Builders LLC
for Ethic Indoor Sports Facility Planned Unit Development
Tax Key #: 1268-993 –3.5278 acres**

DATE STAFF REPORT PREPARED: May 13, 2022

APPLICANT / OWNER(S): Aaron Kahle with Kahle Builders LLC / Ethic Indoor LLC

REQUEST/DESCRIPTION OF PROJECT: Request to rezone 3.5278 acres of the property located at Tax Key #: 1268-993 from R-1/R-2 to I-1/PUD.

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 3/22/2022

DATE OF COMPLETENESS DETERMINATION: 3/25/2022

Application Check List Enclosed: No

PRE-APPLICATION CONFERENCE HELD: Yes

Date(s) of Meeting(s): 3/16/2022 / Site Visit(s): 5/20/2022

CONCEPTUAL PLAN: Yes, see attached plans.

Recommended Y / N / Other: N/A

SIZE OF DEVELOPMENT / PARCEL(S): 3.5278 Acres

12.7652 acres after 1-Lot CSM (See File #: LD-2200599).

CURRENT ZONING: R-1/R-2 (Single-Family Residential)

CURRENT LAND USE: Vacant

PROPOSED ZONING: I-1/PUD (Institutional with Planned Unit Development)

PROPOSED LAND USE: Applicant has submitted a use approval application to construct additional parking for OAW Ethic Indoor (See File #: UA-2200600).

PROPOSED LOT SIZE(S): N/A

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North: Zoning: R-1/R-2 Land Use: Residential (Vacant Land)

South: Zoning: B-2 Land Use: Commercial (Martin's Tap)

East: Zoning: B-2/B-3 Land Use: Commercial (Prospect Hill Garden Center)

West: Zoning: R-1/R-2 Land Use: Residential (Rogers Glen Subdivision)

CONFORMANCE WITH THE COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes (See File #: CP-2200597).

Chapter 19: Neighborhood “I”: National Avenue West: Yes, this request meets the intent of this Chapter. 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.*

Development Policies:

- *Develop the area immediately west of Calhoun Road as a gateway into rural western New Berlin. Permit the development of this area for a mix of commercial and residential uses, but require that commercial use to be oriented to a rural theme.*

Land use:

- Future Land Use Map: Institutional (See File #: CP-2200597)

The Rural Commercial Design Guide

- *The Rural Commercial Design Guide, adopted by the City in 2001, serves as a contributor to economic development conditions in Neighborhood B. The Guide provides design standards for areas west of Calhoun Road with the southern border at IH-43/College Avenue and the northern border at Cleveland Avenue (Figure 12.12-1). The boundaries are further defined as both sides of Cleveland Avenue and Calhoun Road with the exception of the properties located within the New Berlin Industrial Park SPO and the B-2 and O-2 zoned parcels near the intersection of Cleveland Avenue and Calhoun Road (Tax Keys: 1188-994, 1188-999, 1188-992001, 1188-993 and 1188-020). The West Lincoln Avenue corridor is not included. The intent of the Design Guide is to retain and encourage small business and office developments, provide safe and convenient pedestrian access, and ensure quality visual appearances. The Rural Commercial Design Area also includes land within Neighborhood I (National Avenue & West Neighborhood) and a small portion of Neighborhood J (I-43 & Racine Quarries).*
- *The design standards affecting recommendations for economic development in Neighborhood B include provisions for cross access between neighboring parcels where feasible, and the requirement that new buildings correspond proportionally and stylistically to existing buildings in rural commercial areas.*
- Details of the Rural Commercial Design Standards are below:
 - *To the maximum extent practicable, parking Areas shall be located to the side or behind buildings. The perimeter of the parking lot shall provide for a lawn area in which trees and shrubs will be planted so as to allow ample snow storage capacity yet avoid damage to plantings from same.*
 - *Existing tree lines should be preserved. If removal of existing tree lines is required due to its undesirable nature, new planting that results in no less of a screening effect shall be required when adjacent to residential uses.*
 - *Signage shall be designed in unity with the building design through the use of the same or similar materials and colors. Ground, monument signs, or wall mounted signs made of wood, hanging from a wooden or wrought iron mount are acceptable. Signs that suit the architectural features of the building are acceptable. Neon tubed exterior accent light, external neon tubed signs and internally illuminated signs are not permitted.*
 - *Lighting shall be down cast, zero degree tilt, cutoff fixtures not exceeding 25 feet in height (including the light pole base and/or pedestal). Lighting shall be positioned so as not to cause glare on adjacent properties and streets. At a minimum, site lighting marking the entrance to businesses shall match or complement that which may be chosen by the City as standard decorative street lighting. Site lighting shall meet the requirements of § 275-60I in its entirety.*

- *Cross Access to and between neighboring properties shall be implemented wherever possible. The goal in this requirement is to remove as much incidental site to site traffic thus reducing the possibility of traffic conflicts and accidents. Cross access drives may be either the interconnection of parking lots or the construction of a separate drive.*

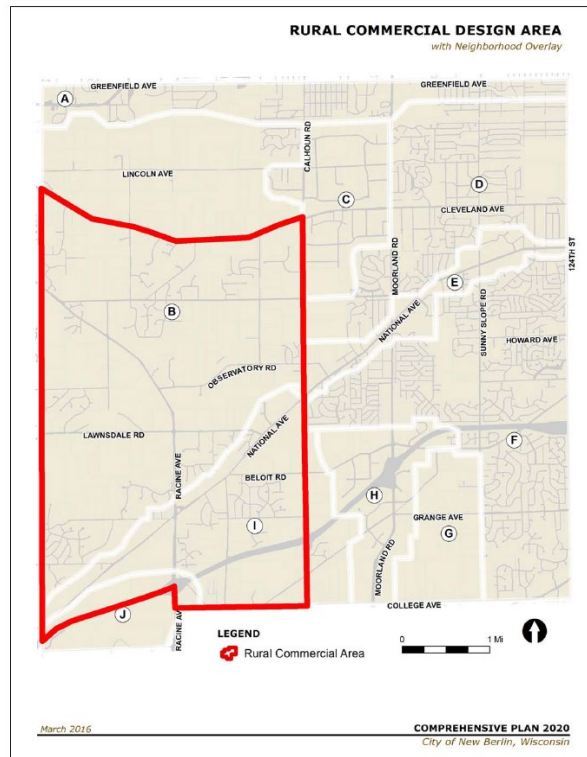


Figure 12.12-1. Rural Commercial Design Area.

ZONING CODE (Chapter 275): Yes, this request is consistent with Sections 275-36B(1) and 275-39B(1) of the Zoning Code.

SUBDIVISION CODE (CHAPTER 235): N/A

PUBLIC HEARING REQUIRED: Yes

CONCEPTUAL USE / SITE /ARCHITECTURAL REVIEW:

Use Approval Required: Not for this application. See File #: UA-2200600.

Site Plan Required: Yes, site plan attached.

Architectural Review Required: Not for this application.

PROPOSED ARCHITECTURE: N/A

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: No

Wetland On Property: No

Conservancy Districts (C-1, C-2): No

NRCS Map Classification: Not inventoried.

Floodplain: No

Topography / Geologic: This site slopes slightly to the west with more intense grade change (sloping) to the east.

BIKE & PEDESTRIAN FACILITIES: N/A

PARK & OPEN SPACE PLAN: N/A

NATURAL RESOURCES PROTECTION:

Limits of Disturbance (LOD): N/A

Woodland, Tree, and Vegetation Protection: N/A

Wildlife Habitat Protection: N/A

Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: None.

STORM WATER 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. Additional information has been submitted with the Use, Site and Architecture application (File #: UA-2200600).

SANITARY SEWER PROVISION:

Within Current Sewer Service Area: No

Sewershed Capacity Available: N/A

Adequate Linkage: N/A

On-site system required: Yes, the existing septic/mound system will be utilized.

WATER USAGE CALCULATION: N/A (No increase)

TRAFFIC IMPACT: A Traffic Impact Study was previously submitted for this development. (See UA-2000602). The proposed parking lot is to serve existing parking and programming needs. No expansion of the plan of operation is allowed or permitted as part of these requests.

SCHOOL DISTRICT IMPACT: N/A

PREVIOUS ACTION:

1953	Prospect Hills School constructed
1956	Building addition
1964	Building addition
1967	Building addition
2005	Use Approval for Living Word Apostolic Church
2008	Re-occupancy for Wisconsin Air Academy
2020	OAW/Ethic Indoor constructed

CONSISTENCY WITH PREVIOUS ACTION: Yes

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;*

- The Future Land Use map identifies this area as single-family residential. The PUD request is allowed per Section 275-39B(1).

(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;

- Yes, the proposed rezoning is compliant.

(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 facility will be required to meet Zoning Code Section 275-60, Performance Standards.

(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 development 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 spot zoning. The applicant is proposing to add 3.5278 acres to the property at 5330 S. Racine Avenue (See File #: LD-2200599), to accommodate additional parking. Rezoning is required in order to amend the PUD (Ord #2633), to include the additional land.

(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, a rezoning and a new/revised PUD ordinance is required in order to accommodate the requested use.

2. Aaron Kahle with Kahle Builders, LLC has requested to amend PUD Ord. #2633 and to rezone to I-1/PUD, Institutional District, in order to accommodate additional parking, on 3.5278 acres of land, for OAW Ethic Indoor.
3. Zoning Code Section 275-39B(1)(a) allows for PUD Districts and identifies the purpose in several statements:
 - a. The purpose of this section is to provide for a greater variety and choice of design and layout for suburban living; to gain greater efficiencies; to coordinate design development efforts; to conserve and make available open space; to utilize new technologies to urban development; and to gain flexibility over conventional land development control regulations.
 - b. This section should not be used as a device for circumventing the City's land control regulations. Further, this section shall not be used to put undue or unfair constraints on a landowner or developer. The PUD Planned Unit Development Overlay District under this chapter will allow for flexibility of overall development design and layout with benefits to be derived by both the developer and the community.
 - c. A PUD Overlay District may be used where the underlying zoning district is too narrow in scope for a particular property or project. Elements, standards, or whole sections from other zoning districts may be used to supplement the basic underlying use district to create a mixed-use zoning district.
 - d. A PUD Overlay District may also be used where the underlying basic use district may be too broad in scope and may need to be focused to be compatible with surrounding development or with surrounding environmental conditions.
 - e. Development approved under the PUD Overlay District regulations is intended to provide a safe and

efficient system for pedestrian and vehicular traffic; to provide attractive recreation and open spaces as integral parts of development; to enable economic design in the location of public or private utilities and community facilities; to utilize new development technologies; and to ensure adequate standards of construction and planning. There shall be equal application of all regulations to land within the same PUD Overlay District or subdistrict.

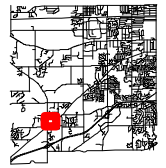
D.R.C. RECOMMENDATION:

Recommend to Common Council adoption of Ordinance 2661 that approves the rezoning of approximately 3.5278 acres of the property located at Tax Key #: 1268-993 from R-1/R-2 to I-1/PUD. **See Executive Summary.**

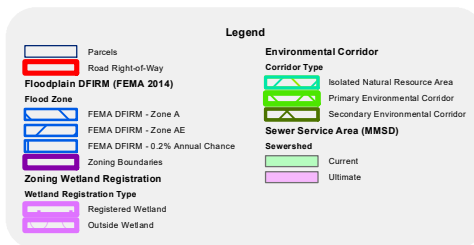
ATTACHMENTS:

Location Map
Zoning Comparison Map
Plan of Operation
Site Plan
PUD Ordinance Draft

RZ-2200596
Ethnic Rezoning / PUD Amendment
Tax Key #: 1268-993 – Approximately 3.5278 acres



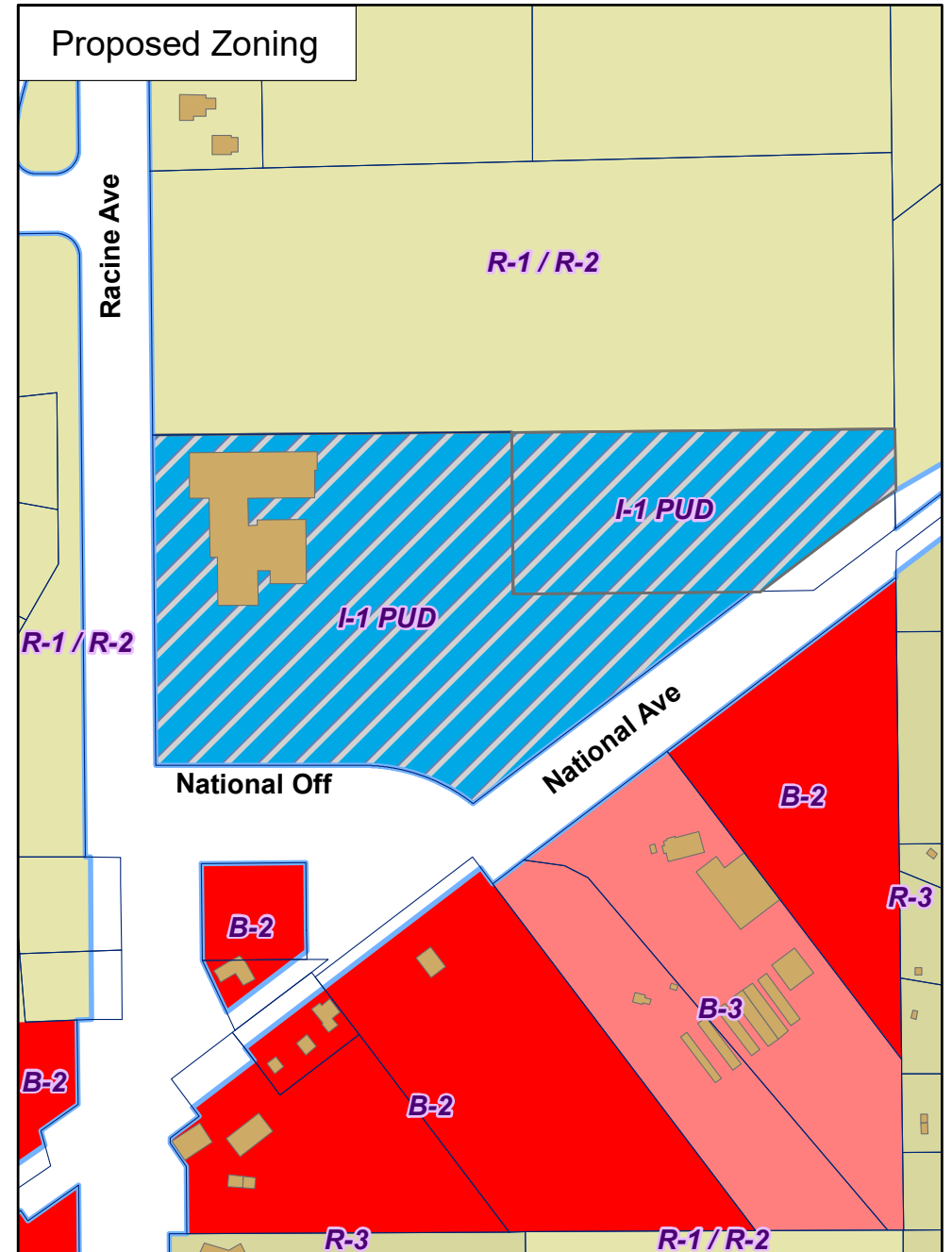
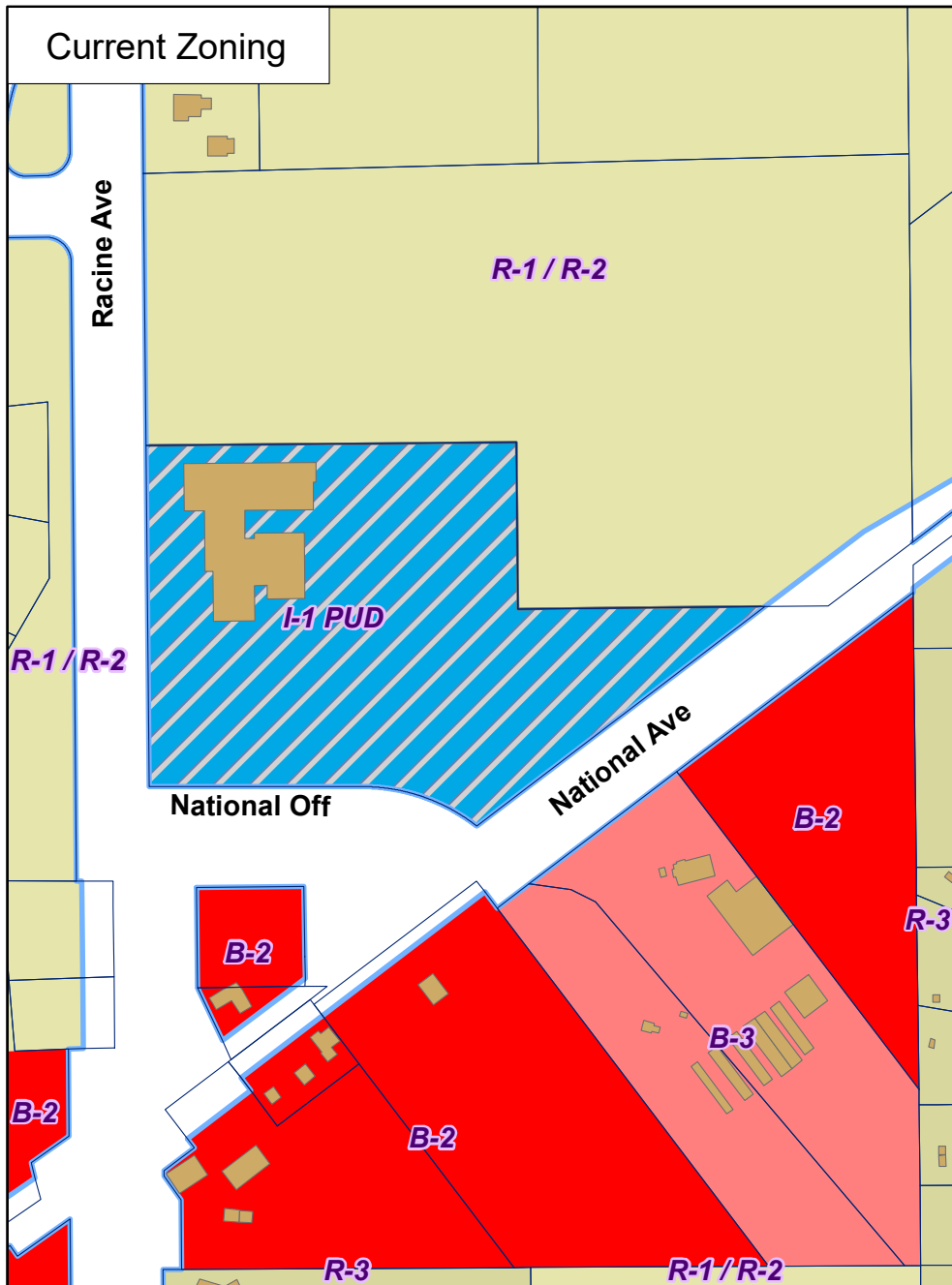
City of New Berlin
Department of Community Development
3805 S Casper Dr.
New Berlin WI 53151
(262) 797-2445
www.newberlin.org



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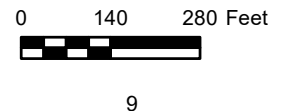


City of New Berlin
 Department of Community Development
 3805 S Casper Dr.
 New Berlin WI 53151
 (262) 797-2445
www.newberlin.org

RZ-2200596 Ethic Amendment 5330 S. Racine Ave

Legend

- Parcels
- Road Right-of-Way



Proposed Additional Parking at OAW Indoor Sports Complex

May 12, 2022

Parking:

Ethic Indoor, LLC (OAW Indoor Sports Complex) is proposing 322 additional parking spaces to alleviate any parking issues or shuttling for future needs. By doing this, we will also eliminate the pressure for clients to park on National Ave. to avoid our planned shuttling service for events. We will not be increasing our event sizes with this addition. The additional spaces will release the stress on parking for New Berlin.

Stormwater Management:

We will be using the lot to the North of OAW Indoor Sports Complex for the storm water pond. We have thoroughly thought out the northern parcel for future development and the construction of the retention pond. At this point, the lot split as designed, was the cleanest split for the additional parking proposed for OAW Indoor.

Sincerely,

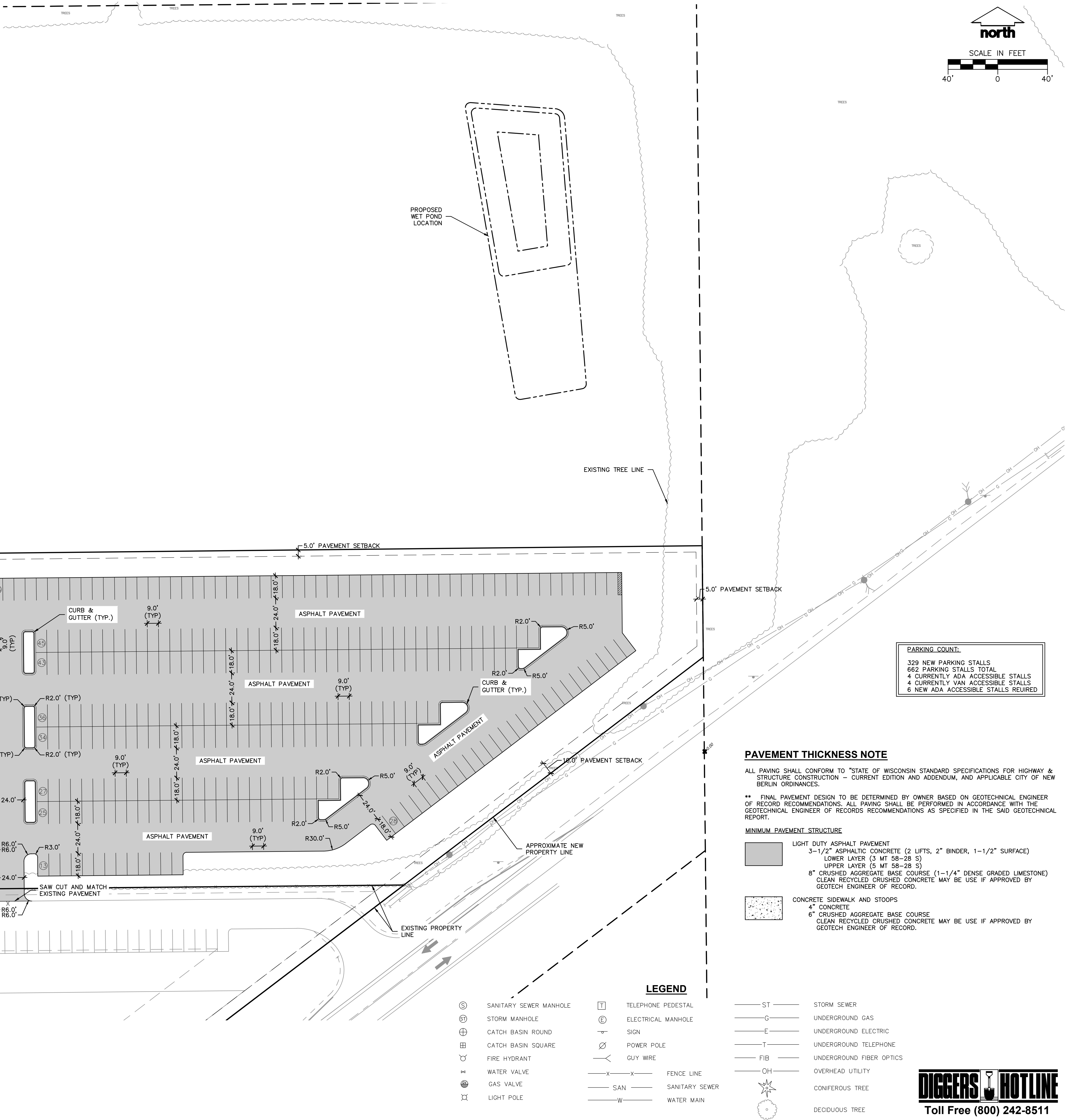
Aaron Kahle

Co-Owner of Ethic Indoor, LLC

PAVING NOTES

1. ALL PAVING SHALL CONFORM TO "STATE OF WISCONSIN STANDARD SPECIFICATIONS FOR HIGHWAY & STRUCTURE CONSTRUCTION AND APPLICABLE CITY OF NEW BERLIN ORDINANCES.
2. CONCRETE PAVING SPECIFICATIONS--
- CODES AND STANDARDS -- THE PLACING, CONSTRUCTION AND COMPOSITION OF THE CONCRETE PAVEMENT SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 415 AND 416 OF THE STATE OF WISCONSIN STANDARD SPECIFICATIONS FOR HIGHWAY AND STRUCTURE CONSTRUCTION, CURRENT EDITION. HEREAFTER, THIS PUBLICATION WILL BE REFERRED TO AS STATE HIGHWAY SPECIFICATIONS.
- CRUSHED AGGREGATE BASE COURSE -- THE BASE COURSE SHALL CONFORM TO SECTIONS 301 AND 305, STATE HIGHWAY SPECIFICATIONS. CLEAN RECYCLED CRUSHED CONCRETE MAY BE USE IF APPROVED BY GEOTECH ENGINEER OF RECORD.
- SURFACE PREPARATION -- NOTIFY CONTRACTOR OF UNSATISFACTORY CONDITIONS. DO NOT BEGIN PAVING WORK UNTIL DEFICIENT SUBBASE AREAS HAVE BEEN CORRECTED AND ARE READY TO RECEIVE PAVING.

3. ASPHALTIC CONCRETE PAVING SPECIFICATIONS--
- CODES AND STANDARDS -- THE PLACING, CONSTRUCTION AND COMPOSITION OF THE ASPHALTIC BASE COURSE AND ASPHALTIC CONCRETE SURFACING SHALL BE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTIONS 450, 455, 460 AND 465 OF THE STATE OF WISCONSIN STANDARD SPECIFICATIONS FOR HIGHWAY AND STRUCTURE CONSTRUCTION, EDITION OF 2005. HEREAFTER, THIS PUBLICATION WILL BE REFERRED TO AS STATE HIGHWAY SPECIFICATIONS.
- WEATHER LIMITATIONS -- APPLY TACK COATS WHEN AMBIENT TEMPERATURE IS ABOVE 50° F (10° C) AND WHEN TEMPERATURE HAS NOT BEEN BELOW 35° F (1° C) FOR 12 HOURS IMMEDIATELY PRIOR TO APPLICATION. DO NOT APPLY WHEN BASE IS WET OR CONTAINS EXCESS OF MOISTURE. CONSTRUCT ASPHALTIC CONCRETE SURFACE COURSE WHEN ATMOSPHERIC TEMPERATURE IS ABOVE 40° F (4° C) AND WHEN BASE IS DRY AND WHEN WEATHER IS NOT RAINY. BASE COURSE MAY BE PLACED WHEN AIR TEMPERATURE IS ABOVE 30° F (-1° C).
- GRADE CONTROL -- ESTABLISH AND MAINTAIN REQUIRED LINES AND ELEVATIONS FOR EACH COURSE DURING CONSTRUCTION.
- CRUSHED AGGREGATE BASE COURSE -- THE TOP LAYER OF BASE COURSE SHALL CONFORM TO SECTIONS 301 AND 305, STATE HIGHWAY SPECIFICATIONS. CLEAN RECYCLED CRUSHED CONCRETE MAY BE USE IF APPROVED BY GEOTECH ENGINEER OF RECORD.
- BINDER COURSE AGGREGATE -- THE AGGREGATE FOR THE BINDER COURSE SHALL CONFORM TO SECTIONS 460.2.7 AND 315, STATE HIGHWAY SPECIFICATIONS.
- SURFACE COURSE AGGREGATE -- THE AGGREGATE FOR THE SURFACE COURSE SHALL CONFORM TO SECTIONS 460.2.7 AND 465, STATE HIGHWAY SPECIFICATIONS.
- ASPHALTIC MATERIALS -- THE ASPHALTIC MATERIALS SHALL CONFORM TO SECTION 455 AND 460, STATE HIGHWAY SPECIFICATIONS.
- SURFACE PREPARATION -- NOTIFY CONTRACTOR OF UNSATISFACTORY CONDITIONS. DO NOT BEGIN PAVING WORK UNTIL DEFICIENT SUBBASE AREAS HAVE BEEN CORRECTED AND ARE READY TO RECEIVE PAVING.



PARKING COUNT:	
329	NEW PARKING STALLS
662	PARKING STALLS TOTAL
4	CURRENTLY ADA ACCESSIBLE STALLS
4	CURRENTLY VAN ACCESSIBLE STALLS
6	NEW ADA ACCESSIBLE STALLS REIRED

PAVEMENT THICKNESS NOTE

ALL PAVING SHALL CONFORM TO "STATE OF WISCONSIN STANDARD SPECIFICATIONS FOR HIGHWAY & STRUCTURE CONSTRUCTION -- CURRENT EDITION AND ADDENDUM, AND APPLICABLE CITY OF NEW BERLIN ORDINANCES.

** FINAL PAVEMENT DESIGN TO BE DETERMINED BY OWNER BASED ON GEOTECHNICAL ENGINEER OF RECORD RECOMMENDATIONS. ALL PAVING SHALL BE PERFORMED IN ACCORDANCE WITH THE GEOTECHNICAL ENGINEER OF RECORDS RECOMMENDATIONS AS SPECIFIED IN THE SAID GEOTECHNICAL REPORT.

MINIMUM PAVEMENT STRUCTURE

- LIGHT DUTY ASPHALT PAVEMENT
3-1/2" ASPHALTIC CONCRETE (2 LIFTS, 2" BINDER, 1-1/2" SURFACE)
LOWER LAYER (3 MT 58-28 S)
UPPER LAYER (5 MT 58-28 S)
8" CRUSHED AGGREGATE BASE COURSE (1-1/4" DENSE GRADED LIMESTONE)
CLEAN RECYCLED CRUSHED CONCRETE MAY BE USE IF APPROVED BY GEOTECH ENGINEER OF RECORD.
- CONCRETE SIDEWALK AND STOOPS
4" CONCRETE
6" CRUSHED AGGREGATE BASE COURSE
CLEAN RECYCLED CRUSHED CONCRETE MAY BE USE IF APPROVED BY GEOTECH ENGINEER OF RECORD.

LEGEND

- | | | | |
|-------|--------------------------|-------|--------------------|
| ⊙ | SANITARY SEWER MANHOLE | ⌈ | TELEPHONE PEDESTAL |
| ⊙ | STORM MANHOLE | ⊕ | ELECTRICAL MANHOLE |
| ⊕ | CATCH BASIN ROUND | ⌈ | SIGN |
| ⊕ | CATCH BASIN SQUARE | ⌈ | POWER POLE |
| ⌈ | FIRE HYDRANT | ⌈ | GUY WIRE |
| ⌈ | WATER VALVE | —X—X— | FENCE LINE |
| ⌈ | GAS VALVE | —SAN— | SANITARY SEWER |
| ⌈ | LIGHT POLE | —W— | WATER MAIN |
| —ST— | STORM SEWER | —OH— | OVERHEAD UTILITY |
| —G— | UNDERGROUND GAS | ⌈ | CONIFEROUS TREE |
| —E— | UNDERGROUND ELECTRIC | ⌈ | DECIDUOUS TREE |
| —T— | UNDERGROUND TELEPHONE | | |
| —FIB— | UNDERGROUND FIBER OPTICS | | |

PAVEMENT STRIPING NOTES

1. CONTRACTOR SHALL CONSULT STRIPING COLOR WITH OWNER PRIOR TO CONSTRUCTION.
2. PROVIDE CONTRACTOR GRADE ACRYLIC, STRIPING PAINT FOR NEW ASPHALT OR COATED ASPHALT. ALL STRIPING SHALL BE APPLIED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.
3. THOROUGHLY CLEAN SURFACES FREE OF DIRT, SAND, GRAVEL, OIL AND OTHER FOREIGN MATTER. CONTRACTOR RESPONSIBLE TO INSPECT PAVEMENT SURFACES FOR CONDITIONS AND DEFECTS THAT WILL ADVERSELY AFFECT QUALITY OF WORK, AND WHICH CANNOT BE PUT INTO AN ACCEPTABLE CONDITION THROUGH NORMAL PREPARATORY WORK AS SPECIFIED.
4. DO NOT PLACE MARKING OVER UNSOUND PAVEMENTS. IF THESE CONDITIONS EXIST, NOTIFY OWNER. STARTING INSTALLATION CONSTITUTES CONTRACTOR'S ACCEPTANCE OF SURFACE AS SUITABLE FOR INSTALLATION.
5. LAYOUT MARKINGS USING GUIDE LINES, TEMPLATES AND FORMS. STENCILS AND TEMPLATES SHALL BE PROFESSIONALLY MADE TO INDUSTRY STANDARDS. "FREE HAND" PAINTING OF ARROWS, SYMBOLS, OR WORDING SHALL NOT BE ALLOWED. APPLY STRIPES STRAIGHT AND EVEN.
6. PROTECT ADJACENT CURBS, WALKS, FENCES, AND OTHER ITEMS FROM RECEIVING PAINT.
7. APPLY MARKING PAINT AT A RATE OF ONE (1) GALLON PER THREE TO FOUR HUNDRED (300-400) LINEAL FEET OF FOUR (4) INCH WIDE STRIPES. (OR TO MFG. SPECIFICATION)
8. BARRICADE MARKED AREAS DURING INSTALLATION AND UNTIL THE MARKING PAINT IS DRIED AND READY FOR TRAFFIC.
9. ALL HANDICAPPED ACCESSIBLE PARKING SHALL BE LOCATED PER 2009 IBC 1106.6



CREATE THE VISION TELL THE STORY

MADISON | MILWAUKEE | WAUSAU
APPLETON | KENOSHA | CHICAGO
COEUR D'ALENE

MILWAUKEE REGIONAL OFFICE
W238 N1610 BUSSE ROAD, SUITE 100
WAUKESHA, WISCONSIN 53188
P. 262.513.0666

CLIENT:
KAHLE BUILDERS

CLIENT ADDRESS:
15171 W. NATIONAL AVE.
NEW BERLIN, WI 53151

PROJECT:
ETHIC INDOOR
SPORTS FACILITY

PROJECT LOCATION:
5330 S. RACINE AVE.
NEW BERLIN, WI

PLAN MODIFICATIONS:	
#	Date:
1	04.05.2022
2	04.19.2022
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	

Design/Drawn: YT/JJS
Approved: TJB

SHEET TITLE:
DIMENSION AND
PAVEMENT ID PLAN

SHEET NUMBER:
C1.0

JSD PROJECT NO: 209894



ORDINANCE NO. ~~2633~~2661**City of New Berlin Redevelopment Plan / Ethic Indoor Sports Facility Planned Unit Development
Amended PUD Ordinance to Amend Ordinance 2633**

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

SECTION I

WHEREAS, The City of New Berlin (City) has adopted a Comprehensive Plan under Wis. Statutes Sections 62.23 and 66.1001; and

WHEREAS, The City has adopted a Zoning Ordinance under Wis. Statutes 62.23 and does allow planned unit development overlays (PUD) per Section 275-39B(1) of the New Berlin Municipal Code; and

WHEREAS, Aaron Kahle with Kahle Builders LLC has submitted an application for a Planned Unit Development Overlay District located at 5330 S. Racine Avenue (Tax Key #: 1268.960) in accordance with Sections 275-23 and 275-39(B)(1) of the New Berlin Municipal Code; and

WHEREAS, the procedure for the creation of a PUD Overlay District has been followed in compliance with Section 275-22 and 275-23 of the New Berlin Municipal Code; and

WHEREAS, a public hearing was held on June 1, 2020 before the Plan Commission, and;

WHEREAS, based upon the recommendation from the Plan Commission at a meeting held on July 21, 2020 to approve the Ethic Indoor Sports Facility Planned Unit Development via Ordinance #2633, and;

WHEREAS, the Plan Commission for the City of New Berlin approved textual changes to the Ethic Indoor Sports Facility PUD Ordinance #2633 on the 6th day of May 2022; and

WHEREAS, the applicable entities have submitted a City of New Berlin Assessor Splits and Joins application, to add approximately 3.5278 acres (Doc # _____) to the property located at 5330 S. Racine Avenue (Tax Key #: 1268.960) into the Ethic Indoor Sports Facility PUD via Ordinance #2633 on the 14th day of June, 2022;

NOW, THEREFORE, BE IT HEREBY RESOLVED AND ADOPTED BY THE CITY OF NEW BERLIN, the Ethic Indoor Sports Facility Planned Unit Development Ordinance is hereby adopted pursuant to Chapter 275-39(B)(1) of the New Berlin Municipal Code as follows:

SECTION II**Planned Unit Development Summary**

The purpose of the Planned Unit Development (PUD) is to create a zoning district that allows flexibility from the rigid development standards of underlying zoning districts. This PUD ordinance shall specify all elements of what is to be modified or added to the basic underlying district, and provisions of the underlying basic use district not specifically enumerated as changed, modified, or deleted shall remain in full effect.

Unless specified otherwise by this ordinance, any regulation not listed shall be regulated in accordance with the Zoning Ordinance dated June 11, 2019 and underlying zoning district Section 275-36B(1), Institutional District.

The parcel of land that is the subject of this ordinance is located at 5330 S. Racine Avenue in the City of New Berlin, which is legally described below. The property is approximately 9.15 acres in size.

As cited in Exhibit _____, the PUD was amended to include an additional 3.5278 acres to allow for an additional 329 parking stalls and to accommodate for stormwater. In the event that stormwater for this parcel is being addressed off-site, all stormwater management shall be to serve this planned unit development as part of the PUD ordinance #2633, and no other development. Off-site stormwater management shall be restricted and said restrictions shall be described in the form of a deed restriction and private drainage easement (See Exhibit _____ and _____) subject to approval by the City of New Berlin. Said easement and deed restriction may not be modified in any form unless approved by the City of New Berlin.

The layout of the parking area shall be reviewed and approved by the City as part of the accompanying Use Approval (Zoning Permit #2200600).

Legal Description of Parcel to be rezoned to I-1/PUD:

5330 S. Racine Avenue / Tax Key #: 1268-960

PT SE.25 SEC 29 T6N R20E LYING E OF RACINE AVE AND N OF NATIONAL AVE APPROX 8 ACRES EX 1.31 & .81AC TO WAUKESHA CTY DOC #3563674 04/15/2008 UTILITY EASEMENT DOC #3669387 DOC #4372921 11/28/2018 DOC #4383400 02/15/2019

The lands being added to this PUD are as follows:

S. Racine Avenue / Tax Key #: 1268-993

PART OF THE SOUTHWEST 1/4 AND NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF SAID 1/4 SECTION; THENCE N00°32'05"W ALONG THE WEST LINE OF SAID 1/4 SECTION 782.39 FEET; THENCE N89°58'01"E 60.00 FEET TO A POINT ON THE NORTHEAST INTERSECTION OF SOUTH RACINE AVENUE AND WEST NATIONAL AVENUE; THENCE N00°32'05"W ALONG THE EAST LINE OF SAID RACINE AVE. 550.74 FEET; THENCE N89°27'55"E 600.00 FEET TO THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE CONTINUING N89°27'55"E 640.05 FEET THENCE S00°36'03"E 101.90 FEET TO A POINT ON THE NORTHERLY LINE OF WEST NATIONAL AVE.; THENCE S54°20'24"W ALONG SAID NORTHERLY LINE OF SAID AVE. 62.71 FEET; THENCE S52°42'34"W ALONG SAID NORTHERLY LINE 220.62 FEET; THENCE S89°27'55"W 412.12 FEET; THENCE N00°32'05" W 270.00 FEET TO THE POINT OF BEGINNING.

LANDS CONTAINING 153,673 SQUARE FEET OR 3.5278 ACRES

SECTION III

I-1/PUD: Ethic Indoor Sports Facility Planned Unit Development District

The overall purpose of this PUD is to begin to establish a set of parameters and requirements for the creation of an indoor sports facility on the rural west side of New Berlin. Per the plan of operation, the facility will offer indoor fields and court rentals for youth team training as well as a variety of camps and classes for all ages. The facility will also offer adult training memberships and music/school tutoring. Sports medicine, athletic apparel, and a café will also be available for public use.

The I-1/PUD: Ethic Indoor Sports Facility Planned Unit Development District is intended to provide for additional institutional uses consistent with the I-1 Institutional District. The District will allow for indoor recreational uses identified in the plan of operation for Ethic Indoor Sports Facility. This PUD is being created and established expressly for the establishment of the Ethic Indoor Sports Facility. Changes including a future name change or ownership would not require an amendment to the PUD as long as the exact same plan of operation is adhered to. Any additions or changes to the uses listed below, or not listed in the approved plan of operation, would require the

applicant and/or property owner to amend this PUD. As a result, no additional uses nor any increase in the intensity of the use and occupancy would be approved without first amending this PUD.

Unless specified otherwise by this section, all new development shall be in accordance with the I-1 Zoning District, per Section 275-36B(1) Institutional District.

1. Principal Uses (See also Chapters 275-36C, 275-41G and Table 275-36-1)
 - a. Indoor sports facility adhering to the following limitations and plan of operation.
2. Accessory Uses (As identified in applicants plan of operation) (See also Chapters 275-36C, 275-41G and Table 275-36-1)
 - a. Café – Beverages and prepared foods only. No food prep to occur on-site.
 - b. Tutoring services
 - c. Sports clinics and classes
 - d. Team practices
 - e. Membership based health and fitness uses
 - f. Pro shop / athletic apparel
 - g. Sports medicine
 - h. Tournaments and sporting events
3. Conditional Uses (See also Chapters 275-36C, 275-41G and Table 275-36-1)
 - a. Conditional uses are prohibited within the PUD. Any changes would require amending this PUD.
4. Prohibited Uses
 - a. Outdoor courts and/or ball fields
 - b. Outdoor storage – Use and storage of hazardous materials
 - c. Central composting
 - d. Hospitals
 - e. Recycling centers
 - f. Regional utility facility
 - g. Dormitories
 - h. Assisted living facilities
 - i. Multi-family residential
 - i. Any intensity of the use and the resulting impact to surrounding properties must not exceed the designed capacity of the parking lot and/or traffic management restrictions as set forth in the zoning permit for the use approval.

5. Lot Area and Width (See also Chapters 275-44, 275-45, and 275-46)
6. Setback and yards (See also Chapter 275-36D and Table 275-36-2)
 - a. No portion or any part of this building shall exceed 45'.
7. Lot Coverage (See also Chapter 275-36D and Table 275-36-2)
8. Time Limits (See also Chapter 275-23(F))
 - a. If the development has not commenced, as evidenced in the construction of the footings and foundation for the new building within one calendar year from the date of publication of this ordinance, the Ethic Indoor Sports Facility Planned Unit Development Overlay District ordinance shall expire and become null and void. The underlying basic use district shall be in force.
 - b. If the developer requires an extension of the time limits, any extension shall be requested by the developer in writing and sent via Certified Mail to the Department of Community Development not less than 60 days prior to the expiration of this PUD. The Common Council may allow multiple extensions.
9. Use and Site Plan Review (See also Chapters 275-24 and 275-53)
 - a. No principal or accessory use, development or structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, occupied, or reoccupied, no site or premise shall be altered, used, changed, modified, occupied, or building permit approved until after the owner has applied for and received approval of the application for the zoning permit/use approval. An approved PUD Ordinance shall not be construed as a Zoning Permit or any other approval until the Plan Commission has granted an approval and staff has determined that all conditions of that approval have been satisfied.
10. Parking & Circulation (See also Chapter 275-57)
 - a. The City of New Berlin reserves the right to review any substantiated complaints and forward the matter to the Plan Commission for review.
 - b. There shall be no parking within the public right-of-way.
 - c. All emergency circulation areas and ADA parking, shall remain free and clear and unobstructed for intended use. No standing of vehicles is permitted.
 - a.—The applicant acknowledges the standards set forth in this PUD and UA. Should the terms be violated, code enforcement matters may be brought forward to the Plan Commission for action. This may result in the revocation or modification of the zoning permit and such other relief as permitted under the City Code.
11. Architecture (See also Chapter 275-59 & Rural Commercial Design Guide)
 - a. No principal or accessory use, development, structure or sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, occupied, or reoccupied and no site or premise shall be altered, used, changed, modified, building permit approved, or occupied until after the owner has applied for and the Architectural Review Committee of the Plan Commission has reviewed and approved the architecture for the zoning permit/use approval.
 - b. Buildings shall be constructed to be harmonious with their natural and built surroundings including adjacent properties, while avoiding repetition and monotony. Building designs shall utilize materials that reflect a rustic rural character. Cedar or clapboard siding, stone and

brickwork or other comparable materials that achieve the same quality in appearance are acceptable. Aluminum and vinyl siding shall be prohibited. New buildings shall correspond in height, width, proportion, relationship to street, roof forms, composition, rhythm, proportion of openings, materials and color to the other buildings in the district. All designs are subject to review and approval by the Department of Community Development and Plan Commission. Plans should show building elevations of structures to either side of the proposed structure, and must show the compatible scale.

- c. Decorative metal panels may be considered by the Architectural Review Committee.

12. Signage (See also Chapter 275-61 & Rural Commercial Design Guide)

- a. All signs shall meet requirements set forth in the Rural Commercial Design Guide.
 - i. Signage shall be designed in unity with the building design through the use of the same or similar materials and colors. Ground, monument signs, or wall mounted signs made of wood, hanging from a wooden or wrought iron mount are acceptable. Signs that suit the architectural features of the building are acceptable. Neon tubed exterior accent light, external neon tubed signs and internally illuminated signs are not permitted. Signage shall meet the requirements of § 17.08 (10) in its entirety.
- b. Signs located within the Rural Commercial Area shall not include external neon tube lighting or internal illumination. The Rural Commercial Area is defined in the City of New Berlin Comprehensive Plan, Chapter 12. Please refer to that document for specific information. (Zoning Code 275-61F(2)(c))
- c. EMCs are not allowed within the Rural Commercial Area. [Zoning Code 275-61I(1)(g)[9] and 275-61F(2)(c); City of New Berlin Comprehensive Plan, Chapter 12; and Figure X.]
- d. All new signs and/or replacement of existing signs located along arterials or major thoroughfares, including National Avenue and Racine Avenue, shall be placed on a monument base constructed of the same material and color or shall enhance the exterior architecture of the principal building. (Zoning Code 274-61I(1)(c)[1])
 - i. The width of the sign base shall be adjusted to match the width of the sign box/sign panel. The sign base shall be a minimum of 18 inches tall. The monument sign shall not exceed eight feet in height. The sign shall be set back entirely outside the ultimate right-of-way and vision triangle.
 - ii. Monument signs shall not exceed 32 square feet in face area per side. The face area includes all surface area of the signage box and sign face but excludes the surface area of the signage base described.
 - iii. Address plaque or numbers shall be required on the monument base or incorporated onto the sign face.
 - iv. The applicant may request a waiver from the Plan Commission for the requirement for a monument sign. If a waiver is granted, the monument sign may not be substituted for an additional wall sign.

13. Property Maintenance

- a. The owner or occupant of the premises or his/her agent shall maintain the structures and exterior property in compliance with these requirements.
- b. The owner shall maintain the property in compliance with all provisions of the New Berlin Municipal Code; use, site & architectural approval, and/or a plan approved as part of a Developer's Agreement approved by the Common Council. If the property is not found to be in

compliance with the code, zoning / conditional use approval, the approved plans and/or the Developer's Agreement, the city may take action to correct the situation, after providing the owner or operator with notice of the defective condition and an opportunity to cure the alleged defective condition. Costs of any such corrective action by the City shall be assessed as a special charge against the property, to be added to the property tax bill pursuant to Section 66.0627 of the Wisconsin Statutes.

- c. All vacant structures and premises thereof shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health and safety.
- d. Vacant or abandoned properties, including, but not limited to, buildings, storm water, parking, and landscaping, shall be maintained for the safety of the community, the local environment, and the visual impacts to the surrounding properties. Maintenance includes watering, snow removal, trimming and pruning landscaping, continued screening of dumpsters, promptly repairing any building or site damage, and prompt removal of graffiti. Any covering of glass surfaces shall be done in such a way as to blend in with the rest of the building and in a visually attractive manner. Chain-link fencing to exclude trespass shall be permitted for not more than 120 days, after which it shall be removed or replaced with visually attractive fencing.
- e. The owner of the vacant property and/or building shall remove all signs from the building and repaint the wall area behind the signs if this area has faded leaving an image of the signs.
- f. The owner of the vacant property and/or building is responsible for keeping the same free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, earth products, any accumulation of newspapers, circulars or flyers, discarded items including but not limited to furniture, clothing, appliances or any other items that give the appearance that the property or building is vacant.
- g. In the absence of an active zoning permit, the owner of the vacant property and/or building shall keep vestibule and/or emergency lights illuminated in the interior of the building to offer a positive appearance and safe condition of the property. Parking lot lighting shall remain illuminated.
- h. The owner(s) of the vacant property and/or building is responsible for maintaining existing landscaping and landscaping required as a condition of a permit and shall not permit the landscaping to become overgrown or die. If the landscaping becomes overgrown or dies, the owner is responsible for replacing the previously existing landscaping in accordance with Section 275-56C(14). Landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges, trees or other similar plantings.
- i. The owner of the vacant property and/or building shall secure the same so that it is not accessible to unauthorized persons, including but not limited to the closure and locking of windows and doors (walk through, sliding and garage) and any other opening of such size that may allow a child to access the interior of a structure; chaining or padlocking gates, and repairing fencing. Broken windows shall be secured by means of re-glazing with undamaged glass or other permanent material, and not by cardboard, plywood or other temporary means except as necessary temporarily for not more than 10 business days while awaiting re-glazing.
- j. The property owner may display one professionally designed sign, consistent with local sign ordinances, not to exceed 32 square feet in area at the entrance of the building, which offers contact information and a statement that the building is available for lease.

- k. If the owner of the property or building is an entity or does not reside within 50 miles of the City limits, the owner shall contract with a person to provide property management to perform weekly inspections to verify that all requirements of this ordinance, enforcement notice, and any other applicable laws are being met. The property shall be posted with name and 24-hour contact phone number of the local property management representative.

14. Policies

- a. Any proposed changes to the use or plan of operation may require a neighborhood meeting.
- b. No expansion permitted for industrial uses.
- c. Additional uses or intensity of uses shall not have a negative impact on the level of service. LOS shall be no worse than a level C.

SECTION IV

WHEREFORE, The I-1/PUD: Ethic Indoor Sports Facility Planned Unit Development Overlay District Ordinance having been approved as a Planned Unit Development on ~~August 6, 2020~~ June 14, 2022, pursuant to Chapter 275-23 of the New Berlin Zoning Code, the Common Council hereby adopts this Ordinance and approves the rezoning of land described in Section II to I-1/PUD to be named the Ethic Indoor Sports Facility Planned Unit Development Overlay District, pursuant to the conditions set forth herein.

The Mayor and City Clerk are authorized to execute this Ordinance No. ~~2633-2661~~ on behalf of the City of New Berlin.

This ordinance shall take effect upon the passage and publication as required by law, and upon the final approval of the Development Plans as recommended by the Plan Commission, 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.

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.

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

PASSED AND ADOPTED by the Common Council this 14th day of June, 2022. ~~6th day of August, 2020~~.

APPROVED:

David A. Ament, Mayor

Countersigned:

~~Georgia Stanford~~ Rubina Medina, City Clerk

Appendices:

A – Plan of Operation

B – CSM

C – Deed Restriction

D – Private Drainage Easement

APPENDIX A
ETHIC INDOOR SPORTS FACILITY
PLAN OF OPERATION

Ethic Indoor Sports Facility, LLC

Plan of Operations

Project Description

The clean and rural design of this indoor sports facility development includes 153,000 sq ft of indoor training and recreational space for families and teams to enjoy. Ethic will offer indoor fields and court rental for youth team training, in addition to a variety of camps and classes for all ages. Ethic will host indoor tournaments and events throughout the year for baseball/softball, basketball, and volleyball. Ethic will not only be an option for youth, but will also be available for adult training memberships, including the use of the gym or classes. Ethic will also offer music and school tutoring to meet the needs of all families. In addition, sports medicine, athletic apparel, and a café will be available for public use.

Hours of Operation

The proposed hours for the gym use will be:

*Monday-Sunday 5am-10pm

The proposed hours for the building/facility will be:

*Monday-Sunday 8am-10pm

Staff/Customer Parking and Operations

The proposed staff for the development will be 7-10 employees Monday-Friday 8am -10pm. Customer parking for the site will allocate 260-270 spots to date. Peak hours of the facility will be from 5-10pm M-F from Oct-April.

Site Maintenance

During the spring, summer, and fall months, a hired service will provide lawn and landscaping maintenance on a regular basis. During the winter months, a hired service will provide snow clearing/plowing/salting on an as needed basis.

Site Security

The facility's exterior perimeter will host motion-activated cameras that will be recorded. The interior of Ethic will have recording security cameras throughout the building for the safety of all clients. Card reader entry will be used for the gym and front entry. The parking lot and facility interior will be well lit with minimal light pollution to neighboring properties.

APPENDIX B
ETHIC INDOOR SPORTS FACILITY
Certified Survey Map (CSM)

APPENDIX C
ETHIC INDOOR SPORTS FACILITY
DEED RESTRICTION

APPENDIX D
ETHIC INDOOR SPORTS FACILITY
DRAINAGE EASEMENT

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT: Aaron Kahle with Kahle Builders LLC on behalf of Ethic Indoor LLC / 1-Lot CSM

LOCATION: 5330 S. Racine Avenue (Tax Key #: 1268-960 & Tax Key #: 1268-993)

REQUEST: 1-Lot Certified Survey Map

REVIEW SCHEDULE:

CSM Received:	4/25/2022
Completeness Determination:	4/26/2022
90-day time limit expires:	7/24/2022
Final Common Council Action (expected):	6/15/2022

D.R.C. RECOMMENDATION: Recommend to Common Council approval of the 1-Lot Certified Survey Map located at 5330 S. Racine Avenue (Tax Key #: 1268-960) & Tax Key #: 1268-993, subject to the application, plans on file and the following conditions:

1. Applicant shall correct all drafting errors and requested changes identified by Staff on the final CSM prior to the City signing.
2. A final copy of the CSM shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
3. The CSM shall be recorded with Waukesha County Register of Deeds prior to the issuance of any new zoning or building permits.
4. Applicant and/or new property owners shall apply for and obtain appropriate building, plumbing and electrical permits prior to any construction on any parcel.
5. Applicant shall submit a Split/Join form at the County and record both a Deed Restriction and Drainage Easement, prior to the City signing the CSM.
6. The following changes shall be made to the CSM:
 - a. Legal description says N89d58M01SW but the map says N89d5801SE.
 - b. Legal description says N00d32M05SE but the map says N00d32M05SW
 - c. Legal description says N88d27M55SE but the map says N89d27M55SE
 - d. The bearings on several lines in the legal description do not match the map. The map appears to have the correct bearings.
 - e. City Clerk shall be changed to Rubina Medina.

DETAILS IN ATTACHED STAFF REPORT:

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

Meeting of June 6, 2022

Aaron Kahle with Kahle Builders LLC / 1-Lot Certified Survey Map
5330 S. Racine Avenue (Tax Key #: 1268-960) & Tax Key #: 1268-993

DATE STAFF REPORT PREPARED: May 11, 2022

APPLICANT / OWNER(S): Aaron Kahle – Kahle Builders LLC / Ethic Development LLC & Ethic Indoor LLC

REQUEST / DESCRIPTION OF PROJECT: Approval of the 1-Lot Certified Survey Map located at 5330 S. Racine Avenue (Tax Key #: 1268-960 & Tax Key #: 1268-993)

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 4/25/2022

DATE OF COMPLETENESS DETERMINATION: 4/26/2022

PRE-APPLICATION CONFERENCE HELD: Yes

Date(s) of Meeting(s): March 16, 2022

CONCEPTUAL PLAN: Yes, CSM is attached.

SIZE OF DEVELOPMENT / PARCEL(S):

Tax Key #: 1268-993: 3.5278 Acres

*Note: Additional lands (approximately 11.9437 acres) will remain following recording of this CSM & completion of Assessor's Split/Join Form.

Current Ethic Lot (Tax Key #: 1268-960): 9.2374 Acres

TOTAL: 12.7652 Acres

CURRENT ZONING: I-1 PUD (Institutional with Planned Unit Development) / R-1/R-2 (Single-Family Residential)

CURRENT LAND USE: Indoor Sports Complex / Vacant

PROPOSED ZONING: I-1/PUD (Institutional with Planned Unit Development) – (See File #: RZ-2200596)

PROPOSED LAND USE: OAW Ethic Indoor / Parking Lot

PROPOSED LOT SIZES: 12.7652 acres after 1-Lot CSM

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North: Zoning: R-1/R-2 Land Use: Residential (Vacant Land)

South: Zoning: B-2 Land Use: Commercial (Martin's Tap)

East: Zoning: B-2/B-3 Land Use: Commercial (Prospect Hill Garden Center)

West: Zoning: R-1/R-2 Land Use: Residential (Rogers Glen Subdivision)

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes (See File #: CP-2200597)

Chapter 19: Neighborhood "I": National Avenue West: Yes, this request meets the intent of this Chapter. 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.*

Development Policies:

- *Develop the area immediately west of Calhoun Road as a gateway into rural western New Berlin. Permit the development of this area for a mix of commercial and residential uses, but require that commercial use to be oriented to a rural theme.*

Land use:

- Future Land Use Map: Country Residential – However, the applicant has submitted an application requesting to amend the Future Land Use plan to Institutional (See File #: CP-2200597).

ZONING CODE (Chapter 275): Yes, this request is consistent with Section 275-36B(1) of the Zoning Code and PUD Ordinance #2633 and proposed amendment via rezoning application (See File #: RZ-2200596).

DEVELOPMENT CODE (CHAPTER 235): Yes

REZONING REQUIRED: Yes (See File #: RZ-2200596)

CONDITIONAL USE REQUIRED: No

PUBLIC HEARING REQUIRED: Yes, for Rezoning and Comprehensive Plan Amendment (See File #'s: RZ-2200596 & CP-2200597).

USE / SITE / ARCHITECTURAL REVIEW:

Use Approval Required: Yes, a use approval has been submitted for a proposed parking lot expansion (See File #: UA-2200600)

Site Plan Required: Yes, a Certified Survey Map was submitted.

Architectural Review Required: No

PROPOSED ARCHITECTURE: N/A

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: No

Wetland On Property: No

Conservancy Districts (C-1, C-2): No

NRCS Map Classification: Not inventoried.

Floodplain: No

Topography / Geologic: This site slopes slightly to the west with more intense grade change (sloping) to the east.

BIKE & PEDESTRIAN FACILITIES PLAN: None identified.

PARK & OPEN SPACE PLAN: None identified.

NATURAL RESOURCES PROTECTION:

Limits of Disturbance (LOD): Erosion control plan has been submitted.

Woodland, Tree, and Vegetation Protection: The applicant will be required to submit a tree inventory and adhere to 275-54.

Wildlife Habitat Protection: N/A

Wildlife Management Plan: N/A

Environmental Impact: N/A

STORM WATER 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. Additional information has been submitted with the Use, Site and Architecture application (File #: UA-2200600).

SANITARY SEWER PROVISION:

Within Current Sewer Service Area: No

Sewershed Capacity Available: N/A

Adequate Linkage: N/A

On-site system required: Yes, the existing septic/mound system will be utilized.

WATER USAGE CALC.: N/A (No increase)

TRAFFIC IMPACT: A Traffic Impact Study was previously submitted for this development (See UA-2000602). The proposed parking is to serve existing parking and programming needs. No expansion of the plan of operation is allowed or permitted as part of these requests. See applicant's plan of operation.

SCHOOL DISTRICT IMPACT: N/A

PREVIOUS ACTION:

1953	Prospect Hills School constructed
1956	Building addition
1964	Building addition
1967	Building addition
2005	Use Approval for Living Word Apostolic Church
2008	Re-occupancy for Wisconsin Air Academy
2020	OAW/Ethic Indoor constructed

CONSISTENCY WITH PREVIOUS ACTION: Yes, see related applications with this request (See File #s: RZ-2200596, CP-2200597, and UA-2200600).

FINDINGS:

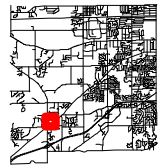
1. The applicant has simultaneously applied for a Rezoning, Comprehensive Plan Amendment and Use Approval to construct additional parking for OAW Ethic Indoor (See File #'s: RZ-2200596, CP-2200597, and UA-2200600).
2. The CSM shall be recorded with Waukesha County Register of Deeds prior to the issuance of any new zoning or building permits.
3. Applicant shall submit a Split/Join form at the County and record both a Deed Restriction and Drainage Easement, prior to the City signing the CSM.

STAFF RECOMMENDATION:

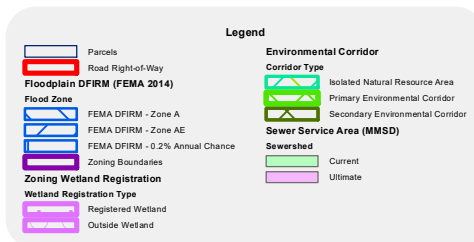
Recommend to Common Council approval of the 1-Lot Certified Survey Map located at 5330 S. Racine Avenue (Tax Key #: 1268-960) & Tax Key #: 1268-993, subject to the application, plans on file and the following conditions: **See Executive Summary.**

ATTACHMENTS:

Location Map
CSM



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

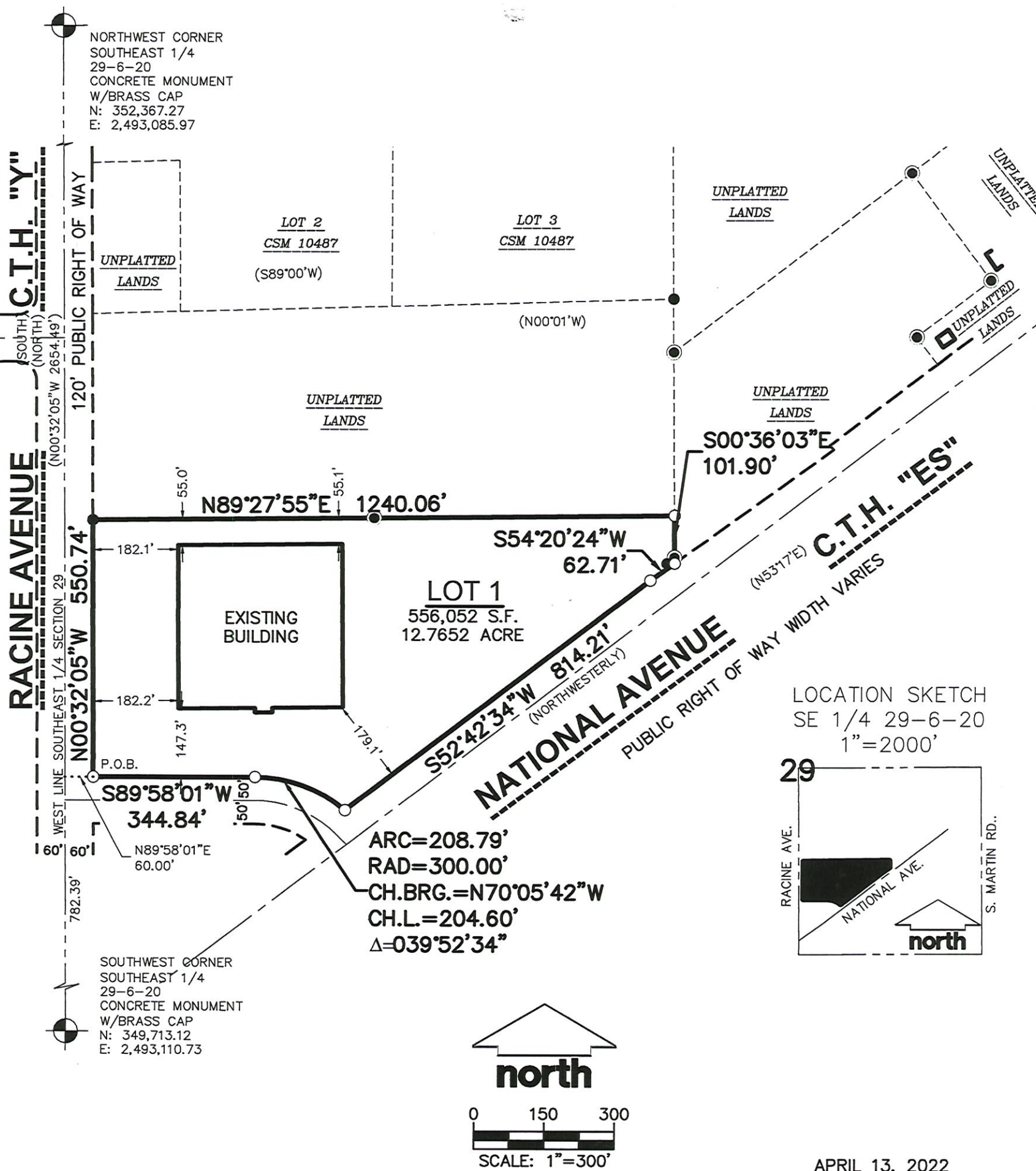


0 110 220 Feet

PRELIMINARY

CERTIFIED SURVEY MAP NO.

PART OF THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN



File: R:\2020\209894\DWG\Survey Sheets\209894 CSM.dwg Layout: CSM 1 of 3 User: dspanjar Plotted: Apr 25, 2022 - 11:45am

SURVEYED BY: JSD MILWAUKEE REGIONAL OFFICE W238 N 1610 BUSSE ROAD, SUITE 100 WAUKESHA, WISCONSIN 53188 P. 262.513.0666	SURVEYED FOR: ETHIC INDOOR, LLC 15171 W. NATIONAL NEW BERLIN, WI	PROJECT NO: 20-9894 FIELDBOOK/PG: - SHEET NO: 1 OF 3	SURVEYED BY: JSD DRAWN BY: DHS CHECKED BY: AWW APPROVED BY: TJB	VOL. _____ PAGE _____ DOC. NO. _____ C.S.M. NO. _____
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PRELIMINARY

CERTIFIED SURVEY MAP NO. _____

PART OF THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN

LEGAL DESCRIPTION

PART OF THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID 1/4 SECTION; THENCE N00°32'05"E ALONG THE WEST LINE OF SAID 1/4 SECTION 782.39 FEET; THENCE N89°58'01"W 60.00 FEET TO A POINT ON THE EAST LINE OF RACINE AVENUE, BEING THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE N00°32'05"W ALONG SAID EAST LINE AND PARALLEL WITH SAID WEST LINE 550.74 FEET; THENCE N88°27'55"E 1240.06 FEET; THENCE S00°36'03"E 101.90 FEET TO A POINT ON THE NORTHERLY LINE OF NATIONAL AVENUE; THENCE S54°20'24"W ALONG SAID NORTHERLY LINE 62.71 FEET; THENCE S52°42'34"W 814.21 FEET; THENCE NORTHWESTERLY 208.79 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHOSE CENTER LIES TO THE SOUTHWEST, WHOSE RADIUS IS 300.00 FEET AND WHOSE CHORD BEARS N70°05'42"W 204.60 FEET; THENCE S89°58'01"W 344.84 FEET TO THE POINT OF BEGINNING.

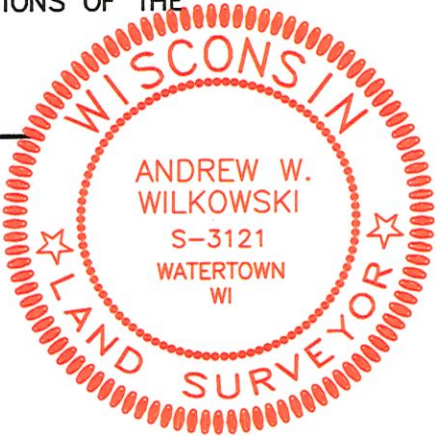
CONTAINING 556,052 SQUARE FEET OR 12.7652 ACRES.

SURVEYOR'S CERTIFICATE

I, ANDREW W. WILKOWSKI, PROFESSIONAL LAND SURVEYOR S-3121, DO HEREBY CERTIFY THAT BY DIRECTION OF ETHICS INDOOR, LLC, I HAVE SURVEYED, DIVIDED, AND MAPPED THE LANDS DESCRIBED HEREON AND THAT THE MAP IS A CORRECT REPRESENTATION IN ACCORDANCE WITH THE INFORMATION PROVIDED. I FURTHER CERTIFY THAT THIS CERTIFIED SURVEY MAP IS IN FULL COMPLIANCE WITH CHAPTER 236.34 OF THE WISCONSIN STATUTES AND THE SUBDIVISION REGULATIONS OF THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.

ANDREW W. WILKOWSKI, S-3121
PROFESSIONAL LAND SURVEYOR

APRIL 13, 2022
DATE



CORPORATE OWNER'S CERTIFICATE

ETHICS INDOOR, LLC, A LIMITED LIABILITY CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, AS OWNER, DOES HEREBY CERTIFY THAT SAID CORPORATION HAS CAUSED THE LAND DESCRIBED ON THIS CERTIFIED SURVEY MAP TO BE SURVEYED, DIVIDED AND MAPPED AS REPRESENTED HEREON. SAID CORPORATION FURTHER CERTIFIES THAT THIS CERTIFIED SURVEY MAP IS REQUIRED BY S.236.34, WISCONSIN STATUTES TO BE SUBMITTED TO THE CITY OF NEW BERLIN FOR APPROVAL.

IN WITNESS WHEREOF, THE SAID ETHICS INDOOR, LLC HAS CAUSED THESE PRESENTS TO BE SIGNED BY ITS REPRESENTATIVE THIS _____DAY OF _____, 2022.

BY: _____
AARON KAHLE,(TITLE)_____

STATE OF WISCONSIN) SS
WAUKESHA COUNTY) SS

PERSONALLY CAME BEFORE ME THIS _____DAY OF _____, 2022,
THE ABOVE NAMED REPRESENTATIVE OF THE ABOVE NAMED ETHICS INDOOR, LLC TO ME
KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT, AND
ACKNOWLEDGED THE SAME.

NOTARY PUBLIC, WAUKESHA COUNTY, WISCONSIN MY COMMISSION EXPIRES _____

THIS INSTRUMENT DRAFTED BY ANDREW W. WILKOWSKI, S-3121

SURVEYED BY: MILWAUKEE REGIONAL OFFICE W238 N 1610 BUSSE ROAD, SUITE 100 WAUKESHA, WISCONSIN 53188 P. 262.513.0666	SURVEYED FOR: ETHIC INDOOR, LLC 15171 W. NATIONAL NEW BERLIN, WI	PROJECT NO: 20-9894	SURVEYED BY: JSD	VOL. _____ PAGE _____
		FIELDBOOK/PG: -	DRAWN BY: DHS	
		SHEET NO: 2 OF 3	CHECKED BY: AWW	C.S.M. NO. _____
			APPROVED BY: TJB	

File: R:\2020\209894\DWG\Survey Sheets\209894 CSM.dwg Layout: CSM 2 of 3 User: dspanjar Plotted: Apr 25, 2022 - 11:45am

PRELIMINARY

CERTIFIED SURVEY MAP NO. _____

PART OF THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN

CITY OF NEW BERLIN PLAN COMMISSION APPROVAL

APPROVED FOR RECORDING PER CITY OF NEW BERLIN PLAN COMMISSION ACTION OF _____, 2022.

NIKKI JONES, SECRETARY

DAVID AMENT, MAYOR

CITY OF NEW BERLIN COMMON COUNCIL APPROVAL CERTIFICATE

RESOLVED THAT THIS CERTIFIED SURVEY MAP, WHICH HAS BEEN DULY FILED FOR THE APPROVAL OF THE CITY OF NEW BERLIN COMMON COUNCIL, BE AND THE SAME IS HEREBY APPROVED AND THE DEDICATIONS, IF ANY DESIGNATED HEREON, ARE HEREBY ACKNOWLEDGED AND ACCEPTED BY THE CITY OF CITY OF NEW BERLIN.

I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF A RESOLUTION ADOPTED BY THE CITY OF NEW BERLIN ON THIS _____ DAY OF _____, 2022.

GEORGIA STANFORD, CLERK

DAVID AMENT, MAYOR

APRIL 13, 2022



THIS INSTRUMENT DRAFTED BY ANDREW W. WILKOWSKI, S-3121

SURVEYED BY:
JSD
MILWAUKEE REGIONAL OFFICE
W238 N 1610 BUSSE ROAD, STE. 100
WAUKESHA, WISCONSIN 53188
P. 262.513.0666

SURVEYED FOR:
**ETHIC
INDOOR, LLC**
15171 W. NATIONAL
NEW BERLIN, WI

PROJECT NO: 20-9894
FB/PG: —
SHEET NO: 3 OF 3

SURVEYED BY: JSD
DRAWN BY: DHS
CHECKED BY: AWW
APPROVED BY: TJB

OFFICE OF THE REGISTER OF DEEDS

_____ COUNTY, WISCONSIN

RECEIVED FOR RECORD _____

20 ____ AT ____ O'CLOCK ____ M

AS DOCUMENT # _____

IN VOL. _____ OF CERTIFIED

SURVEY MAPS ON PAGE(S) _____

REGISTER OF DEEDS

File: R:\2020\209894\DWG\Survey Sheets\209894 CSM.dwg Layout: CSM 3 of 3 User: dspanjar Plotted: Apr 25, 2022 - 7:53am

STAFF REPORT

EXECUTIVE SUMMARY

APPLICANT/PROJECT: Kain Construction LLC on behalf of Dan and Vickie Balmer / 2-Lot Certified Survey Map

LOCATION: 13016 W. Graham Street (Tax Key # 1156.137), 13100 W. Graham Street (Tax Key # 1156.139) and (Tax Key # 1156.138)

REQUEST: Approval of a 2-Lot Certified Survey Map

REVIEW SCHEDULE:

CSM Received:	4/26/2022
Completeness Determination:	4/26/2022
90-day time limit expires:	7/25/2022
Final Common Council Action:	6/14/2022

D.R.C. RECOMMENDATION: Recommend to Common Council approval of the 2-Lot Certified Survey Map for the properties located at 13016 W. Graham Street (Tax Key # 1156.137), 13100 W. Graham Street (Tax Key # 1156.139) and (Tax Key # 1156.138), subject to the application, plans on file and the following conditions:

1. Applicant shall correct all drafting errors and requested changes identified by Staff on the final CSM prior to the City signing.
2. A final copy of the CSM shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.
3. The CSM shall be recorded with Waukesha County Register of Deeds prior to the issuance of any new zoning or building permits.
4. Applicant and/or property owner shall apply for and obtain appropriate building, plumbing and electrical permits prior to any construction on any parcel.
5. Proposed Lot 2 square footage is 16,875 square feet. Revise CSM.
6. City Clerk is Rubina Medina. Revise Sheet 3 of CSM.

DETAILS IN ATTACHED STAFF REPORT

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

Meeting of June 6, 2022

**Kain Construction LLC on behalf of Dan and Vickie Balmer / 2-Lot Certified Survey Map
13016 W. Graham Street (Tax Key # 1156.137), 13100 W. Graham Street (Tax Key # 1156.139) and
(Tax Key # 1156.138)**

DATE STAFF REPORT CREATED: April 28, 2022

APPLICANT / OWNER(S): Kevin Kain with Kain Construction LLC / Dan and Vickie Balmer

REQUEST / DESCRIPTION OF PROJECT: Approval of the 2-Lot Certified Survey Map for the properties located at 13016 W. Graham Street (Tax Key # 1156.137), 13100 W. Graham Street (Tax Key # 1156.139) and (Tax Key # 1156.138) 13016 and 13100 W. Graham Street.

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 4/26/2022

DATE OF COMPLETENESS DETERMINATION: 4/26/2022

PRE-APPLICATION CONFERENCE HELD: No

Date(s) of Meeting(s): Met at DCD counter 4/26/2022

Site Visit(s): 4/28/2022

CONCEPTUAL PLAN: Yes, a CSM has been submitted.

SIZE OF DEVELOPMENT / PARCEL(S):

Lot 1 (13100 W Graham Street): 6,750 SF

Lot 2 (NBC #1156.138): 6,750 SF

Lot 3 (13016 W Graham Street): 13,500 SF

TOTAL: 27,000 SF

CURRENT ZONING: R-5 (Medium-Density Single-Family Residential District)

CURRENT LAND USE: 2 single- family residential lots and one vacant lot

PROPOSED ZONING: N/A

PROPOSED LAND USE: 2 single-family residential lots

PROPOSED LOT SIZE:

Lot 1 (13100 W Graham Street): 10,125 SF

Lot 2 (13016 W Graham Street): 16,875 SF

TOTAL: 27,000 SF

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North: Zoning: R-5, Medium-Density Single-Family Residential	Land Use: Single-Family Residential
South: Zoning: R-5, Medium-Density Single-Family Residential	Land Use: Single-Family Residential
East: Zoning: R-5, Medium-Density Single-Family Residential	Land Use: Single-Family Residential
West: Zoning: R-5, Medium-Density Single-Family Residential	Land Use: Single-Family Residential

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes

Chapter 14: Neighborhood “D”: Urban Neighborhood North: Yes, this submittal meets the intent of this Chapter.

Planning Context / Vision / Development Policies:

Vision:

- *The Urban Neighborhood North shall continue to be a series of well maintained, single-family neighborhoods served by neighborhood amenities such as parks, pedestrian connections to adjacent neighborhoods and nearby shopping areas. Both the public infrastructure and the private housing stock should be maintained. New development and redevelopment should complement the residential character of the area. In compliance with State Smart Growth Legislation, the city should also encourage infill residential development of quarter acre lots or larger to match the existing character of the neighborhood.*

Development Policies:

- *Monitor housing conditions and nonconforming uses, and periodically assess the need for targeted building and Zoning Code enforcement programs.*

Land use:

- *Future Land Use Map: Urban Residential*

ZONING CODE (Chapter 275): Yes, this request meets the requirements of Section 275-33B(6) of the Zoning Code. See Findings Section for more information.

DEVELOPMENT CODE (CHAPTER 235): N/A

PUBLIC HEARING REQUIRED: No

CONDITIONAL USE REQUIRED: No

USE / SITE / ARCHITECTURAL REVIEW:

Use Approval Required: No

Site Plan Required: Yes, a Certified Survey Map was submitted.

Architectural Review Required: No

PROPOSED ARCHITECTURE: N/A

UNIQUE SITE CHARACTERISTICS:

Environmental Corridor: No

Wetland On Property: No

Conservancy Districts (C-1, C-2): No

NRCS Map Classification: Not Inventoried

Floodplain: No

Topography / Geologic: The site slopes to the east.

BIKE & PEDESTRIAN FACILITIES PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:

Limits of Disturbance (LOD): N/A

Woodland, Tree, and Vegetation Protection: N/A

Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: N/A

STORM WATER MANAGEMENT / DRAINAGE: 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.

SANITARY SEWER PROVISION:

Within Current Sewer Service Area: Yes

Sewer Shed Capacity Available: Yes

Adequate Linkage: Yes

Onsite System Required: No

WATER USAGE CALC.: No increase. This parcels will be served by the existing wells.

TRAFFIC IMPACT: No increase.

SCHOOL DISTRICT IMPACT: N/A

Notice Sent to Affected School District(s): No

PREVIOUS ACTION:

13016 W. Graham Street

1954 Existing home built.

2019 – 2022 Various additions and remodeling projects.

13100 W. Graham Street

1960s Existing home built.

CONSISTENCY WITH PREVIOUS ACTION: N/A

FINDINGS:

1. The applicant owns all three lots and would like to combine them to create two larger lots.
2. The existing lots are zoned R-5. Per Section 275-33D(2) of the Zoning Code, "In the R-5 District, the minimum lot area and lot width shall meet the minimum lot area and width requirements of the R-4.5 District when the lot is created after January 1, 2004."
3. Under Section 275-33D, In the R-4.5 District the minimum lot size is 15,000 sq. ft. and the lot width requirement is 100'. The current lots are legal non-conforming and do not meet these requirements. However, the proposed CSM combination will increase the overall acreage and this will make it more conforming.
4. *Zoning Code Section 275-44F, lots of record "an existing legal lot that contains less are than the lot requirements of this chapter may be used as a building site, provided that the proposed use is allowed in the zoning district."*

**Department of
Community Development
Staff Report**

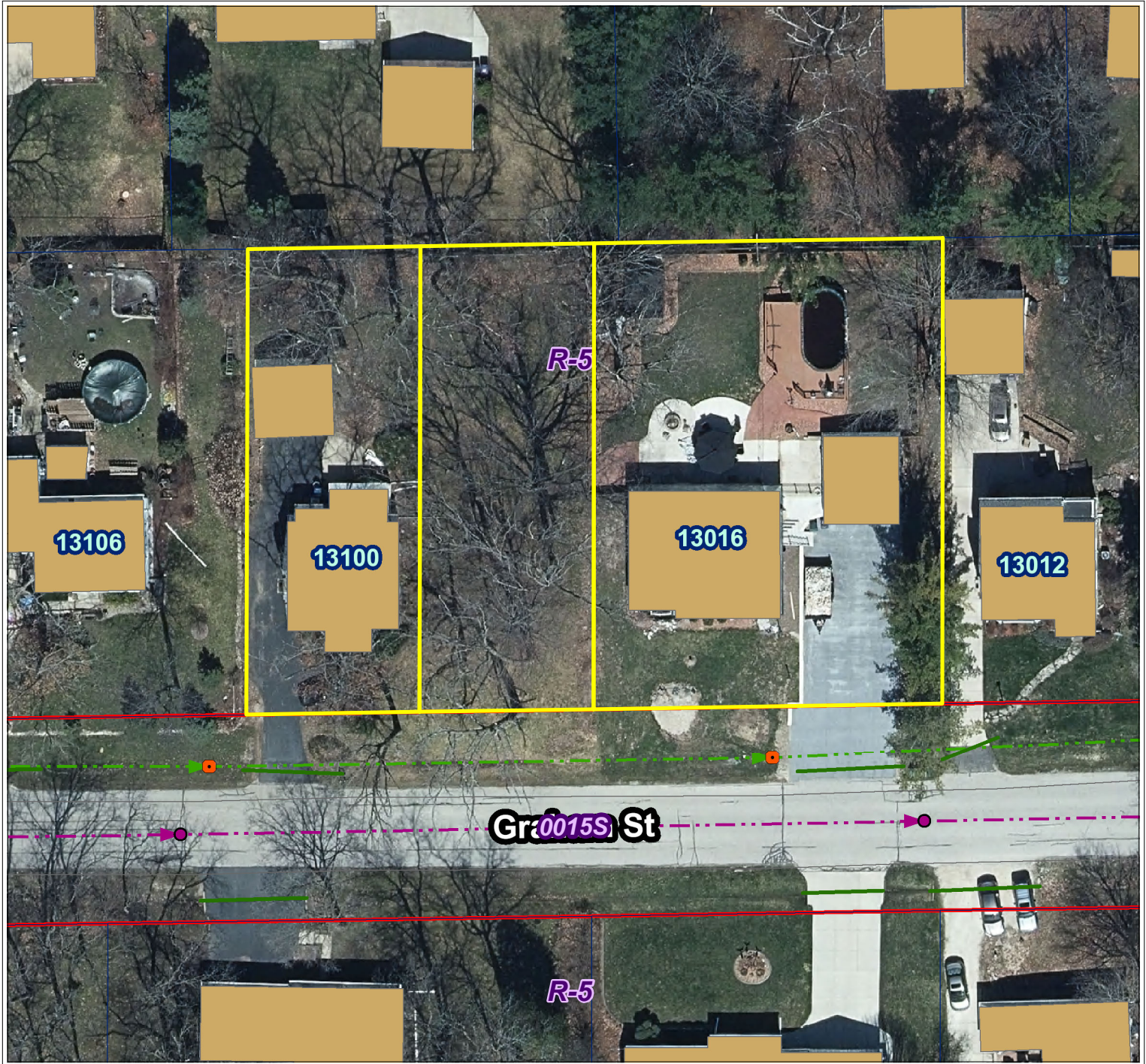
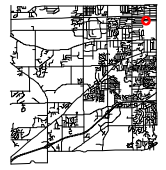
- a. *Minimum lot size requirements shown in the zoning districts apply to the creation of new lots and do not affect existing legally created lots or parcels, provided that the lot is a lot of record in the Waukesha County Register of Deeds' office prior to the effective date of this chapter.*
- b. *Vacant buildable lots of record can be used as a building site, provided that the use is allowed in the zoning district and the lot has frontage on and access to a public street. If an existing structure on a lot of record were to be damaged or destroyed, it would be allowed to be rebuilt in accordance with the Building Code and these Zoning Regulations.*
- c. *New building permits issued under this section shall be required to meet the setback and other yard requirements of this chapter. A building proposed with lesser dimensions and requisites than those stated in the code shall be issued a building permit only after a variance by the Board of Appeals.*

D.R.C. RECOMMENDATION:

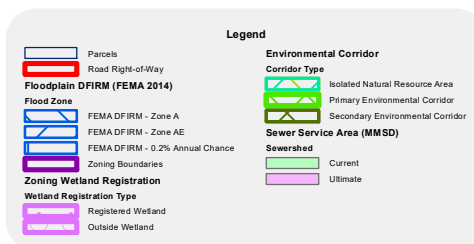
Recommend to Common Council approval of the 2-Lot Certified Survey Map for the properties located at 13016 W. Graham Street (Tax Key # 1156.137), 13100 W. Graham Street (Tax Key # 1156.139) and (Tax Key # 1156.138), subject to the application, plans on file and the following conditions: **See Executive Summary.**

ATTACHMENTS:

Location Map
CSM



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



0 15 30 Feet

Waukesha County, Wisconsin.

NOTES:

◎—Denotes iron pipe found and accepted.

○ — Denotes 1"x24" iron pipe,
1.13 lbs/lin. ft. min. set.

Map bearings refer to Grid North of the Wisconsin State Plane Coordinate System, South Zone, (NAD-27) Dec. 2014, with the East line of the SE 1/4 of Section 1, T6N, R20E having an assumed bearing of N 0°17'27" E.

NE Cor.
SE 1/4
Sec. 1-6-20
(conc. mon.
w/brass cap)
N= 374,134.67
E=2,516.882.95



Scale: 1"=50'

Cheaney Homesites



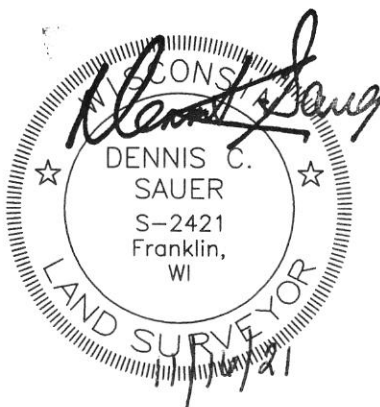
Scale:
1"=50'



Scale:
1"=2000'

Vicinity Map

SE 1/4 Sec. 1-6-20



SE Cor.
SE 1/4
Sec. 1-6-20
(conc. mon.
w/brass cap)
N= 371,475.51
E=2,516,869.32

CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lots 16, 17, 18 and 19, Block 2, Graham and Blom's Maple Woods, being a part of the Northwest 1/4 of the Southeast 1/4 of Section 1, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)
MILWAUKEE COUNTY) SS

I, Dennis C. Sauer, a Professional Land Surveyor, hereby certify that:

I have surveyed, divided and mapped a redivision of Lots 16, 17, 18 and 19, Block 2, Graham and Blom's Maple Woods, being a part of the Northwest 1/4 of the Southeast 1/4 of Section 1, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin; bounded and described as follows: Commencing at the Northeast corner of said Southeast 1/4; thence S 00°17'37" W along the East line of said Southeast 1/4, 998.18 feet to a point; thence S 88°59'28" W, 2186.00 feet to the Northeast corner of said Lot 16, Block 2, said point being the point of beginning of the lands to be described; thence continuing S 88°59'28" W along the North line of said Lots 16, 17, 18 and 19, Block 2, 200.00 feet to the Northwest corner of said Lot 19, Block 2; thence S 00°31'47" E along the West line of said Lot 19, Block 2, 135.00 feet to the Southwest corner of said Lot 19, Block 2 and the North line of Graham Street; thence N 88°59'28" E, along the South line of said Lots 16 through 19, Block 2 and North line of Graham Street, 200.00 feet to the Southeast corner of said Lot 16, Block 2; thence N 00°31'47" W along the East line of said Lot 16, Block 2, 135.00 feet to the point of beginning. Said lands containing 26,999 square feet.

That I have made such survey, land division and map by the direction of Daniel Balmer, owner of said land.

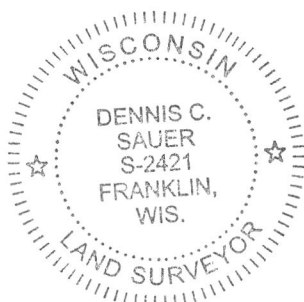
That such map is a correct representation of all exterior boundaries of the land surveyed and the land division thereof made.

That I have fully complied with the provisions of Chapter 236.34 of the Wisconsin State Statutes and the regulations of the City of New Berlin in surveying, dividing and mapping the same.

November 16, 2021
Date



Dennis C. Sauer
Professional Land Surveyor S-2421



CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lots 16, 17, 18 and 19, Block 2, Graham and Blom's Maple Woods, being a part of the Northwest 1/4 of the Southeast 1/4 of Section 1, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin.

OWNER'S CERTIFICATE

Daniel Balmer, as owner, do hereby certify that I have caused the land described on this map to be surveyed, divided and mapped as represented on this map in accordance with the requirements of Chapter 236.34 of the Wisconsin State Statutes and the regulations of the City of New Berlin.

WITNESS the hand and seal of said owner this _____ day of _____, 20____.

Daniel Balmer, Owner

STATE OF WISCONSIN)
_____ COUNTY) SS

PERSONALLY, came before me this _____ day of _____, 20____, Daniel Balmer, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public-State of Wisconsin
My Commission Expires: _____

PLAN COMMISSION APPROVAL

APPROVED by the Plan Commission of the City of New Berlin this _____ day of _____, 20____.

David Ament, Chairman
City of New Berlin

Nikki Jones, Secretary
City of New Berlin

COMMON COUNCIL APPROVAL

APPROVED by the Common Council of the City of New Berlin this _____ day of _____, 20____.

David Ament, Mayor
City of New Berlin

Georgia Stanford, City Clerk
City of New Berlin

THIS INSTRUMENT WAS DRAFTED BY:
Dennis C. Sauer, P.L.S. S-2421





REQUESTED ACTION STATEMENT

DATE: June 8, 2022

TO: Mayor
Parks, Buildings & Grounds Commission

FROM: Josh Radomski, Director of Public Works

ISSUE: Historic Park Gazebo

REQUESTED:

The New Berlin Historic Society is desirous to purchase a gazebo and the services of an electrical contractor for installation of electric service within the gazebo to be installed at the New Berlin Historic Park. The gazebo and concrete pad will be constructed using DPW personnel.

FISCAL IMPACT:

There will be minimal upfront fiscal impact to the City for the purchase of the concrete materials for the concrete pad. After receiving the donation the City will be responsible for the cost of maintaining the gazebo, electric and concrete pad.

RATIONALE:

The parks department is desirous of accepting these donations as it would enhance the Historic Museum grounds.

RECOMMENDATION:

Recommend the Parks, Buildings & Grounds Commission to recommend to Council to approve the acceptance of these donations from the New Berlin Historic Society.



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

EMAIL: MGBLUM@HRBLAWFIRM.COM

June 10, 2022

Via Email (jradomski@newberlin.org) ONLY

Mr. Josh Radomski
City of New Berlin
3805 S. Casper Dr.
New Berlin, WI 53151

Re: Revised Donation Agreement for New Berlin Historical Society - Gazebo

Dear Josh:

As per your email providing more specific information regarding the Historical Society gazebo donation, enclosed is the Donation Agreement that has been revised based on this new information.

Thank you for your attention to this matter.

Sincerely,



Mark G. Blum

MGB/jb
Enc.

DONATION AGREEMENT

This Donation Agreement is made and entered into by and between the NEW BERLIN HISTORICAL SOCIETY, INC. (hereinafter referred to as the "Society"), duly organized and validly existing under the laws of the State of Wisconsin, with its principal office and place of business located at 19765 West National Avenue, New Berlin, Wisconsin, 53146, and the CITY OF NEW BERLIN, a Wisconsin municipal corporation (hereinafter referred to as the "City").

WHEREAS, Society is desirous of donating a prefabricated gazebo kit, more specifically described in the quote attached hereto and marked as Exhibit A, which gazebo shall be assembled by City Staff in the location as depicted on the attached aerial map, hereafter referred to as Exhibit B; and

WHEREAS, Society is desirous of donating the gazebo kit and also the cost of supplying electric service to the gazebo as described in Exhibit A; and

WHEREAS, the Society is desirous of donating the purchase of a prefabricated gazebo kit, which will be assembled and erected by City Staff in the location as described in Exhibit B, as well as the cost of providing electric service to said gazebo; and

WHEREAS, the City is desirous of accepting the donation of the prefabricated gazebo kit, as well as the donation of electric service to said gazebo, from Society.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

1. The City consents to Society, their contractors, subcontractors, agents, employees and/or assigns to enter into the City Historic Park and to provide the electric service to the gazebo as described in the attached Exhibit A in the location as depicted on Exhibit B. The City further consents to the Society donating the prefabricated gazebo kit as described in Exhibit A to the City for the City to assemble and erect the gazebo on site.

2. The Society agrees to provide the City with evidence acceptable to the City that their contractors, and anyone providing services related to the installation of the electric service to the gazebo maintain adequate public liability insurance, workers compensation insurance and auto insurance with limits acceptable to the City. The public liability insurance policy shall list the City as an Additional Insured on a primary and non-contributory basis for public liability coverage.

3. Society further agrees to indemnify the City against claims, demands, actions or causes of actions, including actual attorney fees arising from the installation of the electric service for the gazebo as provided for hereunder.

4. The parties agree that the services being provided for the purchase of the prefabricated gazebo kit and the construction/installation of electric service to the gazebo in the City Historic Park shall be provided at the expense of the Society and not the City. The City will be responsible for the assembling and erecting of the prefabricated gazebo kit as described in

Exhibit A in the location in the City Historic Park acceptable to the City. The City shall further be responsible for the construction of a concrete pad upon which the gazebo shall be installed.

5. Society agrees that their contractors shall obtain all necessary Electrical Permits for the installation of the electrical service to the gazebo.

6. Society, as well as any contractors/subcontractors which they may retain, shall appropriately guard the worksite to prevent injury to any persons that may be in the vicinity of those portions of City Historic Park where the services are being performed.

7. Society agrees that in performing the services of this Agreement, that their contractors, subcontractors, agents, employees and/or assigns shall comply with any applicable State Statutes, Administrative Code provisions or City Ordinances which may be applicable to their activities.

8. Society agrees that, upon the delivery of the prefabricated gazebo kit and the installation of the electric service to the gazebo, and its acceptance by the City, the gazebo and electric service installed to it shall become the property of the City of New Berlin.

9. This Agreement is governed and construed in accordance with the laws of the State of Wisconsin.

10. This Agreement represents the complete understanding of the parties with respect to the subject matter set forth herein, and may only be amended by a subsequent agreement executed by both parties.

11. This Agreement shall become effective upon the date the last party executes the same. Each party to this Agreement warrants and represents that it has received the authority of its governing body to permit the individual signing the Agreement on its behalf to execute the same.

Dated: _____

Dated: _____

DONOR:
NEW BERLIN HISTORICAL
SOCIETY, INC.

CITY:
CITY OF NEW BERLIN

By: _____

By: _____
David Ament, Mayor

NEW BERLIN HISTORICAL SOCIETY

19885 National Ave., New Berlin, WI 53146

Rescuing, Recording, Restoring and Re-creating authentic New Berlin history



April 25, 2022

To Greg Kessler

Cc: Dave Ament

Re: Gazebo for **Band Organ Shelter**

From: Dave Totten

We have had informal discussions with city personnel regarding erection of a multipurpose shelter at Historical Park that would also provide cover for the band organ during our Open House events. The response has been favorable, and our board has authorized me to initiate a process to move forward.

I presume the procedure will involve several city departments:

1. City approval of concept
2. City approval of structure
3. Finalize shelter location and integration of donated Meidenbauer bench
4. Site preparation
5. Concrete pad construction
6. Shelter erection
7. Electrical service installation

Our suggestions for the type of structure and location are shown on the attached. The society has voted to fund the purchase of a prefabricated gazebo with money donated in memory of Roy Meidenbauer, donor of the band organ. We are prepared to revise our plan should the city require a different approach.

Peggy Ament advises me project approval starts with you. Please let me know how I should proceed. I am available to meet at your convenience.

Dave

David Totten

Member of the Board of Directors

New Berlin Historical Society

262-643-8855

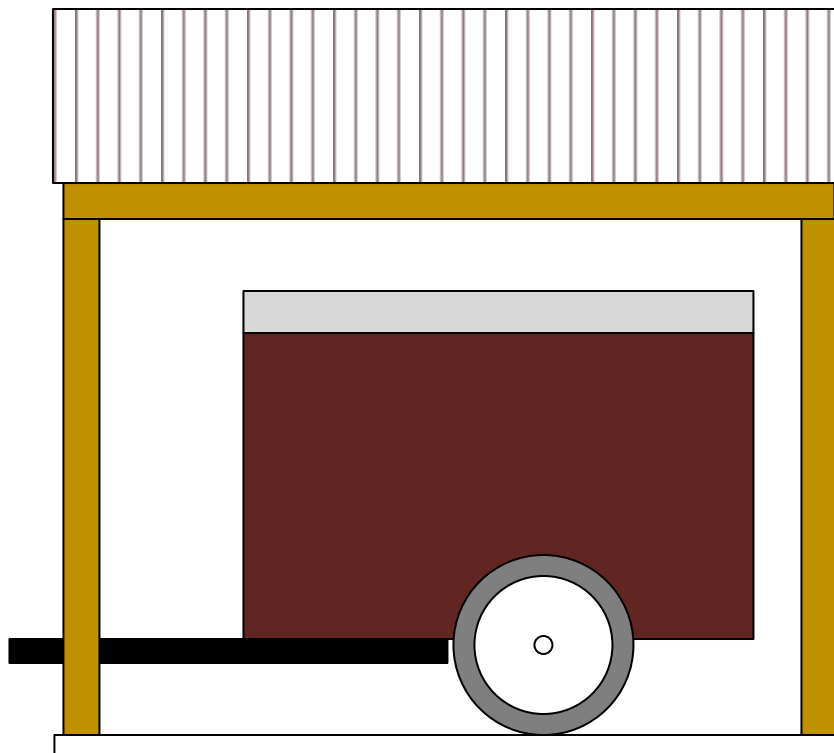
The New Berlin Historical Society Inc is a 501(c)(3) non-profit organization

Gifts are deductible for income tax purposes

 New Berlin, WI Historical Society; www.newberlinhistoricalsociety.org

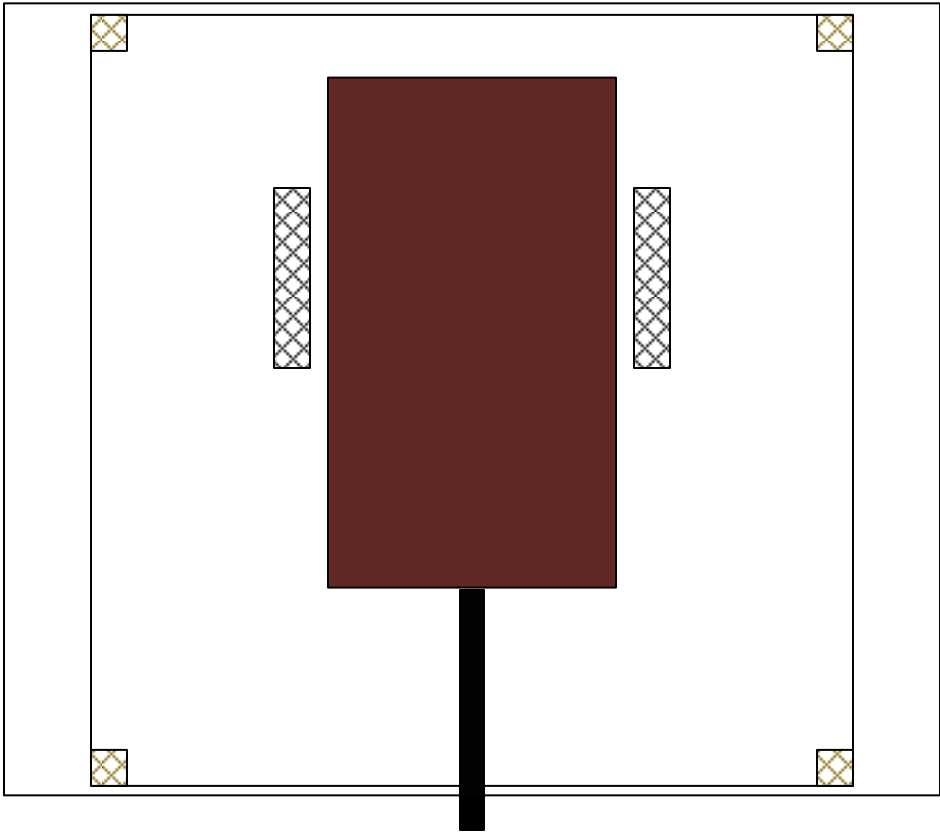


- Built using premium cedar lumber
- Stunning coffee brown aluminum roof
- 6 in. x 6 in. posts with classic plinths
- Pre-cut, pre-drilled, and pre-stained lumber
- Overall dimensions: 13 ft. L x 11 ft. W x 10 ft. 1 in. H
- Base dimensions (outside of posts): 11 ft. L x 10 ft. 7 in. W
- Interior dimensions: 9 ft. 10 in. L x 9 ft. 5 in. W
- Designed to be surface mounted (mounting hardware not included)
- Wood, hardware and metal components included
- Ready to assemble kit

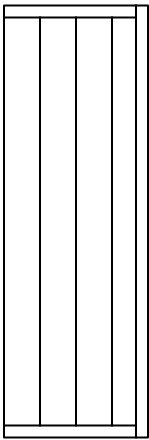


Band Organ side profile
Approx 7' W (excluding
tongue) x 6' H

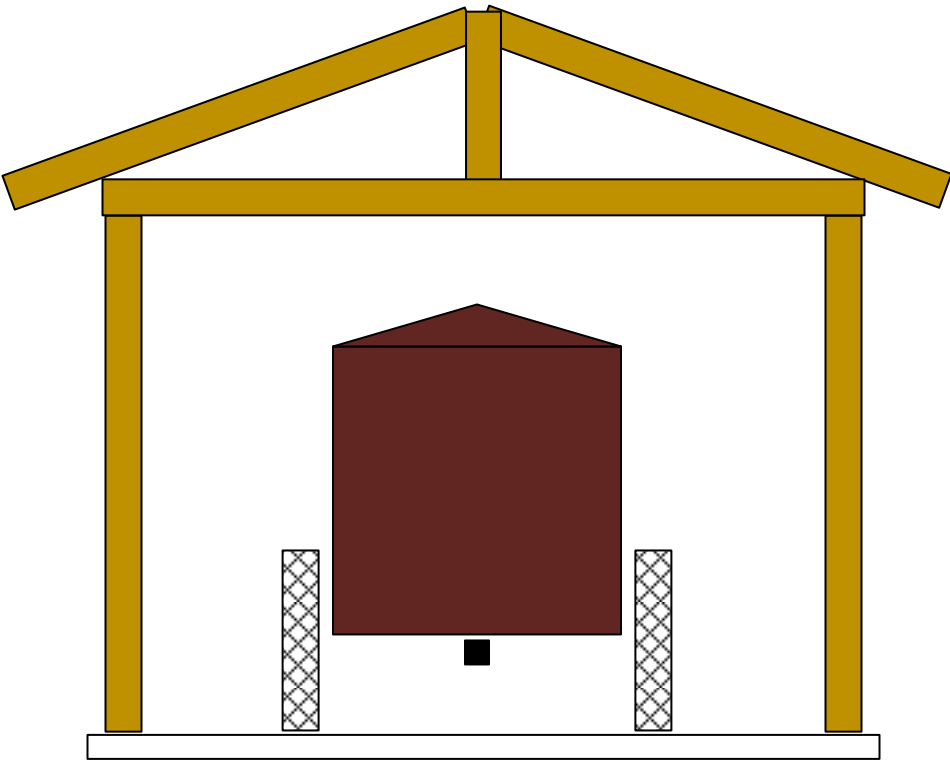
Side view



Top view



Meidenbauer
Bench



Front view

Band Organ front
profile
Approx 5.5' W x 6' H



Potential Location



**CITY OF NEW BERLIN
COMMITTEE OF THE WHOLE - MINUTES
Tuesday, May 24, 2022**

Regular Meeting

Zoom Meeting

6:00 PM

Please note: Minutes are unofficial until approved by the Committee of the Whole at the next regularly scheduled meeting.

The Committee of the Whole has satisfied the requirements as directed by the Common Council on June 22, 2021 and Ordinance No. 2651 to hold this meeting via electronic means. The full text of this ordinance and the minutes from the above mentioned meeting can be viewed at www.newberlin.org

To participate in the meeting, view the meeting, and/or ask questions, the public was able to do so by downloading the ZOOM app located at <https://zoom.us/> and utilize Meeting ID # 8611 542 1010 to join.

All votes were taken via a voice roll call vote.

CALL MEETING TO ORDER

Mayor Ament called the meeting to order at 6:01 PM.

City Clerk Rubina R. Medina read the rules as this meeting was held via zoom.

ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Council Present: Hopkins, Maxey, Garrigues, Harenda, Stribl, Horbinski & Kroupa

Council Excused: None

City Clerk stated that a quorum has been established and the meeting was properly noticed.

Staff Present: Mayor Ament, City Clerk Rubina R. Medina, Deputy Clerk Sherri Hanson, Police Chief Hingiss, Attorney Thomas Schmitzer and Finance Director Ralph Chipman

APPROVAL OF MINUTES

ITEM: May 10, 2022 Committee of the Whole Meeting Minutes

MOTION: Motion to approve the May 10, 2022 Committee of the Whole Meeting Minutes.

VOTE: Motion by: Horbinski
Second by: Kroupa
Vote: Passed 7-0

UTILITIES & FINANCE

ITEM: Approval of May 25th, 2022 Water Utility claims in the amount of \$17,694.42, Sewer Utility claims in the amount of \$18,443.14 and General City claims in the amount of \$1,507,945.22. WE Energies EFT of \$88,482.85

MOTION: Motion to approve the May 25th, 2022 Water Utility, Sewer Utility, General City Claims and We Energies EFT as presented.

VOTE: Motion by: Garrigues
Second by: Harenda
Vote: Passed 7-0

LICENSES & PERMITS

ITEM: Retail "Class B" License Transfer to John Martin Jr. due to the death of licensee, John Martin Sr. for Martin's Tap located at 19550 W. National Ave.

MOTION: Motion to approve the Retail "Class B" license transfer to John Martin Jr. due to the death of licensee, John Martin, Sr. for Martin's Tap located at 19550 W National Ave.

VOTE: Motion by: Harenda
Second by: Hopkins
Vote: Passed 7-0

ITEM: Operator (Bartender) license applications for the licensing period ending June 30, 2024 per the list as presented.

MOTION: Motion to approve the Operator License applications per the list as presented.

VOTE: Motion by: Garrigues
Second by: Kroupa
Vote: Passed 7-0

ITEM: Alcohol licenses for the licensing period of July 1, 2022 through June 30, 2023 per the list as presented and contingent upon applicants meeting all Statutory and Municipal rules/regulations.

MOTION: Motion to approve the alcohol license list as presented contingent upon applicants meeting all Statutory and Municipal rules/regulations.

VOTE: Motion by: Horbinski
Second by: Maxey
Vote: Passed 7-0

ITEM: Loudspeaker Variance for Rodd Szmania of 3045 S. Johnson Road for an Annual Pig Roast on June 18, 2022 until 11PM.

MOTION: Motion to approve the Loudspeaker Variance for Rodd Szmania of 3045 S. Johnson Road for an Annual Pig Roast on June 18, 2022 until 11PM.

VOTE: Motion by: Maxey
Second by: Stribl
Vote: Passed 7-0

MISCELLANEOUS

ITEM: Update from Police Chief Hingiss

Chief Hingiss gave a presentation to the Council

ITEM: Recommend to the Common Council that a Public Hearing be set for July 11, 2022 at 6:00 pm to be held before the Plan Commission to rezone the property located at Tax Key #: 1229.994.002 from A-2, C-2 & C-1 to R-1/R-2, C-2 & C-1.

MOTION: Motion to approve that a Public Hearing be set for July 11, 2022 at 6:00 PM to be held before the Plan Commission to rezone the property located at Tax Key # 1229.994.002 from A-2, C-2 & C-1 to R-1/R-2, C-2 & C-1.

VOTE: Motion by: Stribl
Second by: Garrigues
Vote: Passed 7-0

ITEM: Recommend the Common Council adopt Ordinance No. 2659, an Ordinance to Repeal and Replace Section 152-1(E) of the Municipal Code Pertaining to the Granting of Operator Licenses.

MOTION: Motion to approve the adoption of Ordinance No. 2659, an Ordinance to Repeal and Replace Section 152-1(E) of the Municipal Code Pertaining to the Granting of Operator Licenses.

VOTE: Motion by: Horbinski
Second by: Stribl
Vote: Passed 7-0

ITEM: Discussion and Possible Action re: Requested Action Statement for the Council to decide if the City should include street lighting in the median of Moorland Road as part of the multiphase redesign project by Waukesha County between National Avenue and Cleveland Avenue.

MOTION: Motion to deny the street lighting in the median of Moorland Road as part of the multiphase redesign project by Waukesha County between National Avenue and Cleveland Avenue

VOTE: Motion by: Stribl Joseph
Second by: Horbinski Dennis
Vote: Passed 7-0

ITEM: Discussion and Possible Action re: Requested Action Statement to withdraw the motion to include decorative street lighting in the median of Moorland Road as part of the redesign project by Waukesha County between National Avenue and Beloit Road but include pedestrian lights along sidewalks from Howard Avenue to Coffee Road.

MOTION: Motion to withdraw the motion to include decorative street lighting in the median of Moorland Road as part of the redesign project by Waukesha County between National Avenue and Beloit Road but include pedestrian lights along sidewalks from Howard Avenue to Coffee Road.

VOTE: Motion by: Horbinski
Second by: Maxey
Vote: Passed 7-0

ITEM: Discussion and Possible Action re: Requested Action Statement for the Common Council to decide whether or not to include sidewalks in the Moorland Road redesign project by Waukesha County between National Avenue and Cleveland Ave. If the Common Council decides to include sidewalks the Council will need to decide which of the three options on the RAS should be utilized.

MOTION: Motion to deny to include sidewalks in the Moorland Road redesign project by Waukesha County between National Avenue, Cleveland Avenue and Greenfield Avenue.

VOTE: Motion by: Harenda
Second by: Stribl
Vote: Passed 7-0

ITEM: Set goals and directives for 2023 Budget, including tax levy target. Suggest any changes for format, method, or presentation of the budget

Finance Director Ralph Chipman gave a brief introduction of the goals and directives for the 2023 budget.

ADJOURN

MOTION: To adjourn the Committee of the Whole meeting at 6:52 PM.

VOTE: Motion by: Garrigues
Second by: Horbinski
Vote: Passed 7-0

*Respectfully Submitted,
Rubina R. Medina, City Clerk*

CITY OF NEW BERLIN LIQUOR LICENSE APPLICATIONS

"CLASS A" FERMENTED MALT BEVERAGES AND INTOXICATING LIQUOR LICENSES:

Jay & Sons Inc. (New Berlin Mobil), 17145 W Greenfield Ave., Jayesh Patel, Agent

CLASS "B" FERMENTED MALT BEVERAGES:

Ethic Indoor, LLC (Ethic Indoor), 5330 S Racine Ave., Kim Cook, Agent

"CLASS B" FERMENTED MALT BEVERAGES AND INTOXICATING LIQUOR LICENSES:

Martin's Tap, LLC (Martin's Tap), 19550 W. National Ave., John Schober, Agent

Deer Haven Golf Course, Inc. (Deer Haven Golf Club & Banquets), 19180 W Cleveland Ave., Jeffrey Kemen, Agent

Hoepfner-Horn Bros. (VFW Post 5716), 17980 W Beloit Rd., David Chappell, Agent

Blazin Wings Inc. (Buffalo Wild Wings), 15306 W Beloit Rd., Debra Stephen, Agent

Bluemound Lanes Inc.(New Berlin Ale House), 16000 W Cleveland Ave., Tracy Posnanski, Agent

Tail Spin LLC (Greenfield pub), 16461 W Greenfield Ave., Jennifer Halverson, Agent

Prospect Hill Pub and Eatery LLC, (Prospect Hill Pub), 19745 W National Ave., Kimberly Mathy,

Fee: \$50

(Office use) License #: _____



City of New Berlin
Clerk's Office/Community Relations Dept.
3805 South Casper Drive
New Berlin, WI 53151-0921
262-786-8610

**CITY OF NEW BERLIN
EXTENSION OF PREMISE APPLICATION**

1. First name: Josh Last name: Teuteberg Middle initial: J
2. Phone number: 262-797-6400 E-mail: jtoots007@yahoo.com
3. Business name: Varsity Club
4. Business address: 12400 W. Beloit Rd, New Berlin, WI 53151
5. License number for which you wish to temporarily extend premise: 2021 15
6. Name of event or function for which the temporary extension is sought: Music Fest
7. Date(s) and time frame of event(s) for which the temporary extension is sought (*All Temporarily Extensions are required to be approved by the Common Council of the City of New Berlin. Applications must be completed in its entirety and to the Clerk's office 15 days before the event.*): July 17th 2pm - 10pm
8. Specific description of the site for which the temporary extension is sought, including dimensions of the area and where beer/liquor is to be served from: It will all be held in our parking lot. Same set up as the last couple years
9. List the location of all exits: In parking lot, outdoors, so many exits available
10. How will licensed premise area be restricted and screened for underage people? Employees will card everyone that comes in
11. Have you obtained liability coverage for the event of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, naming the City of New Berlin as an additional insured?

Attach a copy of policy endorsement along with application

Received: Yes : 4771836
Clerk: : 9740csh2
Paid By: : JOSH TEUTEBERG/MLUE
on file

12. Will the event encroach upon any public property or public right-of-way? Yes

No

13. Have you obtained a use approval for the special event from the Planning Department?

Yes

No

Must include proof of approval with application

doing at same time

14. Application must be accompanied by a diagram that outlines where extension will be located in reference to currently licensed premise, service area, exits and any fences or barricades that will be utilized during special event.

15. All Temporarily Extensions are required to be approved by the Common Council of the City of New Berlin. Applications must be completed in its entirety and to the Clerk's office 15 days before the event.

To the Common Council of the City of New Berlin, Wisconsin:

I hereby apply for a License to extend the premise of the alcohol beverage license at the premises described above, in the City of New Berlin, subject to the limitations imposed by Wisconsin Statutes and acts amendatory hereof and supplementary thereto, and hereby agree to comply with all laws, resolutions, ordinances and regulations affecting the sale of such beverages if a license be granted me.

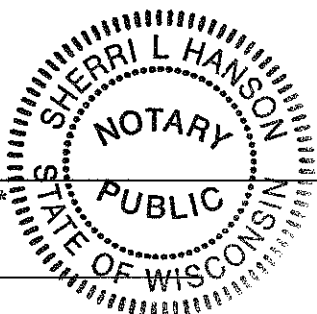
I acknowledge that all additional city and state permits required for this event have been applied for and copies of said permits have been provided to the New Berlin City Clerk's Office.

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 24th DAY OF May, 2022

Sherri L. Hanson
(Clerk/Notary Public)

My commission expires: 3/22/2025



[Signature]
(Officer of Corporation/Member/Manager of LLC/Partner/Individual)

(Officer of Corporation/Member/Manager of LLC/Partner/Individual)

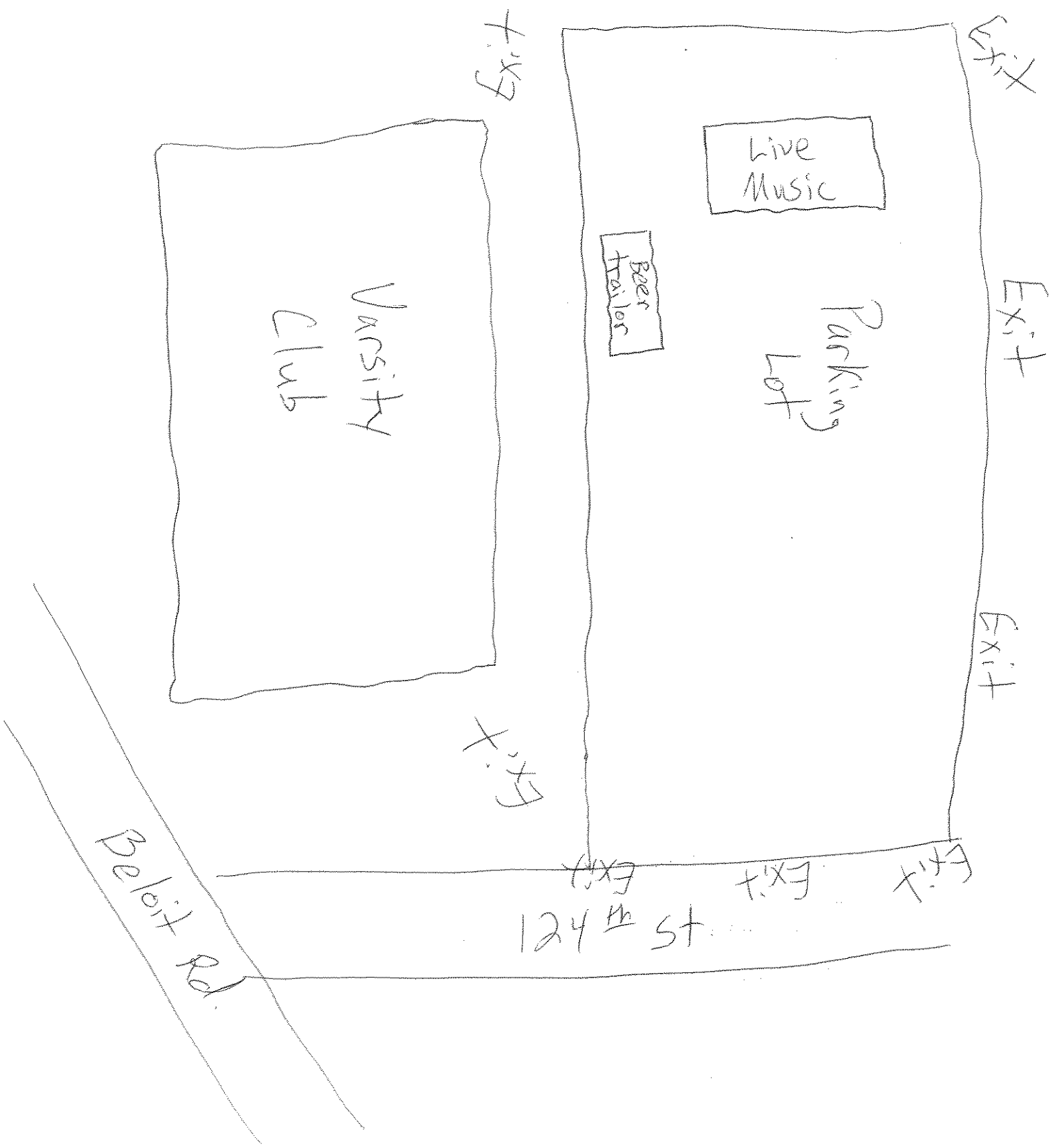
(Officer of Corporation/Member/Manager of LLC/Partner/Individual)

(If owner of property is different from licensee, owner of property must also sign.)

Office use only

Date received: _____

Notes (past citations, complaints, etc.): _____



Fee: \$50

(Office use) License #: _____



City of New Berlin
Clerk's Office/Community Relations Dept.
3805 South Casper Drive
New Berlin, WI 53151-0921
262-786-8610

**CITY OF NEW BERLIN
EXTENSION OF PREMISE APPLICATION**

1. First name: Josh Last name: Teuteberg Middle initial: J
2. Phone number: 262 797-6400 E-mail: jtoots07@yahoo.com
3. Business name: Varsity Club
4. Business address: 12400 W. Beloit Rd, New Berlin, WI 53151
5. License number for which you wish to temporarily extend premise: 2021 15
6. Name of event or function for which the temporary extension is sought: Music Fest
7. Date(s) and time frame of event(s) for which the temporary extension is sought (*All Temporarily Extensions are required to be approved by the Common Council of the City of New Berlin. Applications must be completed in its entirety and to the Clerk's office 15 days before the event.*): September 17th 2-10 pm
8. Specific description of the site for which the temporary extension is sought, including dimensions of the area and where beer/liquor is to be served from: It will all be held in our parking lot. Same set up as the last couple years.
9. List the location of all exits: In parking lot, outdoors, so many exits available.
10. How will licensed premise area be restricted and screened for underage people? Employees will card everyone that comes in.
11. Have you obtained liability coverage for the event of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, naming the City of New Berlin as an additional insured?
Attach a copy of policy endorsement along with application

09/24/2022
Receipt Yes
Clerk 1
Paid By on file
Paid \$ 789.00
N621836
9740ceh2
JOSH TEUTEBERG/BLUE

12. Will the event encroach upon any public property or public right-of-way? Yes No
13. Have you obtained a use approval for the special event from the Planning Department? Yes No

Must include proof of approval with application

doing at same time

14. Application must be accompanied by a diagram that outlines where extension will be located in reference to currently licensed premise, service area, exits and any fences or barricades that will be utilized during special event.
15. All Temporarily Extensions are required to be approved by the Common Council of the City of New Berlin. Applications must be completed in its entirety and to the Clerk's office 15 days before the event.

To the Common Council of the City of New Berlin, Wisconsin:

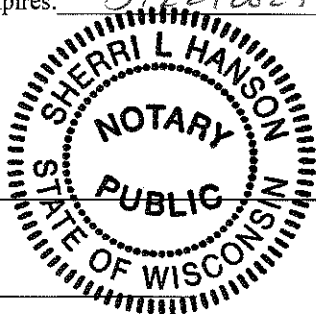
I hereby apply for a License to extend the premise of the alcohol beverage license at the premises described above, in the City of New Berlin, subject to the limitations imposed by Wisconsin Statutes and acts amendatory hereof and supplementary thereto, and hereby agree to comply with all laws, resolutions, ordinances and regulations affecting the sale of such beverages if a license be granted me.

I acknowledge that all additional city and state permits required for this event have been applied for and copies of said permits have been provided to the New Berlin City Clerk's Office.

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 29th DAY OF May, 2022
Sherril L Hanson
 (Clerk/Notary Public)

My commission expires: 3/22/2025



[Signature]
 (Officer of Corporation/Member/Manager of LLC/Partner/Individual)

 (Officer of Corporation/Member/Manager of LLC/Partner/Individual)

 (Officer of Corporation/Member/Manager of LLC/Partner/Individual)

(If owner of property is different from licensee, owner of property must also sign.)

Office use only

Date received: _____

Notes (past citations, complaints, etc.):

Exit
Exit
Exit

Live
Music

Parking
Lot

Beer
trailer

Exit

Exit

Varsity
Club

Exit
Exit
Exit
+5 whel

Boyle Rd.



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: Holy Apostles Catholic Parish & School
Address: 16000 W National Ave. New Berlin, WI 53151

Applicant representing this event:

Name: JESS Makuck Work Phone: (2) 754-0171
Address: 1063 Westport Dr. Apt 248 Home Phone: () N/A
Date of Birth: 8/17/1990 Cell Phone: (414) 643-9016
Email Address: festival@hanb.org

Event Information:

Name of Event: Family Festival
Address of Event: 16000 W National Ave. New Berlin, WI 53151

Dates of Event (no more than 3 days in a row): June 24, 25, & 26

Estimated Number of Participants: _____

Hours of Loudspeaker Operation: _____
Start: 9:00 a.m./(p.m.) (June 26 11am-4pm)

Finish (no later than 10p.m.): 10:30 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, JESS Makuck, 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: Jess Makuck

FOR OFFICE USE ONLY	
☐ Approved	☐ Not Approved. Reason for denial: _____
Issued by: _____	

Jim.Schutte@yahoo.com



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: St. Elizabeth Ann Seton

Address: 12700 W. Howard Ave. New Berlin WI 53151

Applicant representing this event:

Name: Jim Schutte Work Phone: () _____

Address: 10018 W. Whitnell Edge Pr Home Phone: () _____

Date of Birth: 7-25-1967 Cell Phone: () 414-339-1070

Event Information:

Name of Event: Fundays Celebration

Address of Event: 12700 W. Howard Ave. New Berlin WI 53151

Dates of Event (no more than 3 days in a row): 7-29-22 - 7-30-22 - 7-31-22

Estimated Number of Participants: 500

Hours of Loudspeaker Operation:

Start: 5 a.m./(p.m.)

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

Number of Loudspeakers to be used: 6-8

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, Jim Schutte, 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: Jim Schutte

FOR OFFICE USE ONLY	
☐ Approved	☐ Not Approved: Reason for denial: _____
Issued by: _____	



City of New Berlin

City of New Berlin ▪ 3805 S. Casper Drive ▪ New Berlin, Wisconsin 53151-0921 ▪ (262)786-8610 ▪ www.newberlin.org

REQUESTED ACTION STATEMENT

June 10, 2022

TO: Mayor Ament
Common Council

FROM: Rubina R. Medina, City Clerk

ISSUE:

The main issue with the Central Count process is the conflict between the right to a secret ballot, as set forth in Article III, Section 3 of the Wisconsin Constitution and the statutory requirement to write the voter number on the back of the ballot per Wis. Stat. Sec. 7.52(3)(a). Some individuals have raised that the central count process violates the constitution. Several municipalities that utilize central count have received a "Notice of Claim" as the first step in bringing forth a lawsuit. There have been many central count municipalities that have repealed their Ordinance and returned to processing absentee ballots at the polling locations.

Additional Issues are as follows:

1. Central Count utilizes the DS450 tabulation machine. Each individual polling places utilize the DS200 tabulator machine. The City of New Berlin has one DS450 machine that processes all absentee ballots. If this machine were to malfunction on Election Day, there is no back-up plan. The DS450 memory device is not compatible with the DS200 machine.
2. The DS450 tabulation machine utilized at central count does not have a modem. Once the election has closed and all absentee ballots have been processed, the memory device must be removed from the DS450 and driven to the Waukesha County Clerk's Office that same night. The DS200 machines utilized at the individual polling locations modem the results directly to Waukesha County.
3. When the DS200 tabulators (at the individual polling locations) modem the results at the end of the night, the news reports 100% reporting when in fact those results could drastically change once absentee ballots are processed and the memory device from the DS450 is driven to the County. This causes much confusion among voters and candidates when they see vote totals at the end of the night reporting 100% only to see different vote totals in the morning. We have seen instances where vote totals drastically change the results of an election once absentee ballots are counted and reported.
4. During the last presidential election, we had approximately 24 teams of 2 people that processed absentee ballots. The actual polling locations were finished and modemed by approximately 9 PM and Central Count

was still processing absentee ballots well after 1 AM. The memory device was driven to the County after 1:30 AM and vote totals were updated after 2:00 AM.

5. Voters who showed up at their polling location to return an absentee ballot were told to bring their ballot to the City Clerk's Office or the Central Count location. This creates voter confusion and frustration.
6. The Central Count process creates additional reporting requirements and a great deal of paperwork for each ward. This is eliminated when absentee ballots are processed at the individual polling locations.

REQUESTED:

Recommend the Common Council adopt Ordinance No. 2660, an Ordinance to Repeal Section 6.19 of the Municipal Code providing for the canvassing of absentee ballots for all elections in the City of New Berlin by the Municipal Board of Absentee Ballot Canvassers commonly referred to as Central Count. The process will be returned to the individual poll locations using absentee ballot processors assigned to the polls starting with the Fall Partisan Primary Election.

FISCAL IMPACT:

We will explore selling the DS450 back to ES&S or another municipality.

RATIONALE:

The principal purpose of this amendment is to eliminate the statutory requirement to write the voter number on the ballot which is required when processing absentee ballots by central count. This will further eliminate the argument that some individuals have raised that the central count process violates the constitution. Based on the information provided in this RAS, I respectfully request to repeal Central Count and return the absentee ballot processing to the polling place locations commencing with the August 9th Partisan Primary Election and continuing thereafter.

ORDINANCE NO. 2660

**ORDINANCE TO REPEAL SECTION 6.19
OF THE CITY OF NEW BERLIN MUNICIPAL CODE PERTAINING TO
BOARD OF ABSENTEE BALLOT CANVASSERS
COMMONLY REFERRED TO AS CENTRAL COUNT FOR ALL ELECTIONS
IN THE CITY OF NEW BERLIN.**

WHEREAS, Section 6.19 of Boards, Commission and Committees was first adopted to provide for the canvassing of absentee ballots by the municipal board of absentee ballot canvassers designated under Wis Stat Sec. 7.53(2m); and

WHEREAS, in 2008, there was a need to centralize the counting of absentee ballots for all wards within the City of New Berlin as it was becoming increasingly difficult to efficiently process absentee ballots while also handling the high number of voters at the polls; and

WHEREAS, the City of New Berlin and municipalities across the State of Wisconsin have seen a significant decline of voters going to the polls on Election Day as absentee voting has become increasingly popular; and

WHEREAS, Central Count utilizes the DS450 tabulation machine which requires the memory stick to be driven to the Waukesha County Clerk's Office at the end of the night as the DS450 does not have modem capabilities; and

WHEREAS, returning the processing of absentee ballots to the polls on Election Day will allow the absentee ballots to be processed using the DS200 tabulation machine which has modem capabilities; and

WHEREAS, results reporting at the end of the night will truly be 100% reporting as it will include totals from both absentee and polling locations which eliminates voter and candidate confusion; and

WHEREAS, the requirement to write the voter number on the ballot will be eliminated and will further eliminate the argument that some individuals have raised that the central count process violates the constitution; and

WHEREAS, additional reporting requirements for absentee ballots processed by Central Count will be eliminated.

NOW THEREFORE, the Common Council of the City of New Berlin do hereby ordain as follows:

SECTION I

Section 6.19 of the Municipal Code providing for the canvassing of absentee ballots for all elections in the City of New Berlin by the Municipal Board of Absentee Ballot Canvassers is repealed in its entirety.

SECTION II

The processing of absentee ballots will be returned to the polling locations to be processed by election officials commencing with the August 9th Partisan Primary Election and will continue thereafter.

SECTION III

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

SECTION IV

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

SECTION V

This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances 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 14th day of June, 2022.

APPROVED:

David Ament, Mayor

Countersigned:

Rubina R. Medina, City Clerk