CITY OF NEW BERLIN
COMMON COUNCIL
Tuesday, July 26, 2022
6:00 PM
(Following Committee of the Whole)
Zoom Meeting
https://us02web.zoom.us/j/82441387487

The 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

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: 824 4138 7487*
- *Following this direct link to the meeting: https://us02web.zoom.us/j/82441387487*
- *Dial by phone: (312) 626-6799 and use Meeting ID: 824 4138 7487*

AGENDA

CALL TO ORDER, PLEDGE OF ALLEGIANCE

ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

APPROVAL OF MINUTES

1. June 14th, 2022 Common Council Meeting Minutes

2. June 28th, 2022 Common Council Meeting Minutes

REPORTS

3. City Clerk

4. Council President

5. Mayor

COMMUNICATIONS

PLAN COMMISSION

6. (4) GK/NJ UA-2201250 Dave and Peggy Anderson - 19880 W. Hickory Trail (Tax Key #: 1266-993-004) - Recommend to the Common Council Approval of Resolution No. 22-12 - Resolution of the City of New Berlin to Release Restriction on Certified Survey Map No. 6366 Pursuant to Wisconsin Statute Sec. 236.293

MAYORAL APPOINTMENTS

7. Recommend the re-appointment of Robert Rafel to the Parks, Building & Grounds Commission with new term effective 7/27/22 expiring 7/27/2025.

8. Recommend the re-appointment of David Oelschlaeger to the Recreation Commission with new term effective 7/27/22 expiring 7/27/2025.

9. Recommend the re-appointment of Matthew Anderson to the Tourism Commission with new term effective 7/26/22 expiring 7/26/2025.

DEFERRED, REFERRED & TABLED ITEMS

ITEMS REMOVED FROM CONSENT AGENDA, if any

CONSENT AGENDA********

MINUTES

10. June 14th, 2022 Committee of the Whole Meeting Minutes

11. June 28th, 2022 Committee of the Whole Meeting Minutes

UTILITY & FINANCE

12. Approval of July 27, 2022 Water Utility claims in the amount of $663,215.85. Sewer Utility claims in the amount of $18,990.30 and General City claims in the amount of $1,038,577.63. WE Energies EFT of $70,653.42.

LICENSES & PERMITS

MISCELLANEOUS

13. Update by Finance Director Ralph Chipman

14. Discussion and Possible action regarding Resolution No. 22-13, a Resolution to approve the application and borrowing for the Recreation Center financing in the amount of $11,470,000.

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.

CITY OF NEW BERLIN
COMMON COUNCIL - MINUTES
Tuesday, June 14, 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

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 6:14 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, City Attorney Mark Blum

APPROVAL OF MINUTES

ITEM: May 24, 2022 Common Council Meeting Minutes

MOTION: **Motion to approve the May 24, 2022 Minutes**

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

COMMUNICATIONS

ITEM: Notice of Injury - J. Wirth

No Motion

PLAN COMMISSION

ITEM: (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)

MOTION: **Motion to 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)**

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

ITEM: (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)

MOTION: **Motion to approve the rezoning of approximately 3.5278 acres of Tax Key #: 1268-993 from R-1/R-2 to I-1 PUD. (PUBLIC HEARING 6:00 PM)**

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

ITEM: (7) KW LD-2200599 Aaron Kahle with Kahle Builders LLC - 5330 S. Racine Ave and Tax Key #: 1268-993 - 1-Lot CSM.

MOTION: **Motion to approve 1-Lot CSM with Aaron Kahle with Kahle Builders LLC - 5330 S. Racine Ave and Tax Key #: 1268-993**

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

ITEM: (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.

MOTION: **Motion to approve 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.**

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

PARKS, BUILDINGS AND GROUNDS COMMISSION

ITEM: Recommend to the Common Council the approval of New Berlin Historical Society Donation of Gazebo Request

MOTION: **Motion to approve the approval of New Berlin Historical Society Donation of Gazebo Request**

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

MAYORAL APPOINTMENTS

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

MOTION: Motion to approve re-appointment of John Marek

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

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

MOTION: Motion to approve the re-appointment of Linda Maas

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

CONSENT AGENDA********

Motion by Garrigues, Seconded by Maxey to approve the Consent Agenda.
Motion Passed 7-0

MINUTES

ITEM: May 24, 2022 Committee of the Whole Meeting Minutes

UTILITY & FINANCE

ITEM: 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

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: 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

ITEM: 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.

ITEM: 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

ITEM: 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

Motion to adjourn by Kroupa at 6:33 PM. Seconded by Harenda. Motion Passed 7-0.

Respectfully Submitted,

Rubina Medina, City Clerk

CITY OF NEW BERLIN
COMMON COUNCIL - MINUTES
Tuesday, June 28, 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 # 854 4549 1475 to join.

All votes were taken via a voice roll call vote.

CALL TO ORDER, PLEDGE OF ALLEGIANCE

ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

APPROVAL OF MINUTES

ITEM: June 14, 2022 Common Council Meeting Minutes

MOTION: **None**

REPORTS

ITEM: City Clerk – No Report

ITEM: Council President – No Report

ITEM: Mayor

- *If you did not catch us on the news, **CBS 58** featured our city on **CBS 58 Hometowns**. **Nicole Koglin** took a fun tour of New Berlin and stopped by a few of our community's local favorites. If you missed it, you can check out our city webpage for pictures and videos from Nicole's visit to New Berlin.*

- *I would like to invite everyone to attend our **54th Annual 4th of July Festivities**. The fun starts on Saturday July 2nd at noon with the opening of the festival grounds and the Spectrum Carnival. Our Main parade is on Monday July 4th at 1 pm, and the Fireworks will begin that night at 10 pm. You can visit the City's website for a full schedule of events including the Annual Cornhole Tournament, the Pie Contest, the Flashlight Candy Hunt, the Mini Parade and more.*

- ***Wristbands for the 4th of July Carnival** rides are available for a discounted price of $20 until end of the day on June 30th here at City Hall. Stop by any weekday 8-4:30 pm. Wristbands can also be purchased at the Carnival gate for $25.*

- *I wanted to also take a moment to remind everyone that with the 4th of July Festivities approaching quickly, we will be closing off roads for the events. We thank all of our residents for their patience with the road closures, and we are looking forward to all the fun 4th of July activities this year. All road closures for the 4th of July parade and festivities will be posted on our city webpage.*

- ***The New Berlin Historical Society** will be hosting their annual **Ice Cream Social on Sunday July 17th** 1 – 4 pm at the Historical Park located at 19765 National Avenue. Please join us for corn hole, riding the barrel train, tours, the new museum and of course, ice cream!*

- *All are invited to attend our first **Beer Garden** of the Summer Season on **July 8th – 10th at Malone Park.** Fridays the Beer Garden will be open from 3-8pm, and on Saturdays and Sundays they will be open from 12-8pm. For a list of all the **Malone Park Beer Garden** dates this summer, please visit our city webpage.*

- *Our Recreation Department's **Movies in the Park at Malone Park** will begin in July. Please join us for the **Drive-In** showing of **Disney's Encanto** on **July 9th**. The Malone Park South Parking Lot will open at 7 p.m. and early arrival is encouraged.*

- *The Library's **Concerts at the City Center** will also kick off this July. **The Last Bees** will be playing for our first concert on **July 13th.***

- *The City of New Berlin **Community Blood Drive** will be held on **Thursday, July 14th 7 am – 11 am** here in the Council Chambers of City Hall. Donate & receive a limited-edition Versiti T-Shirt while supplies last. Appointments may be made online or contact Maya in the Mayor's office. Walk-ins are always welcome – but remember to bring photo ID.*

- *Finally, a reminder that our **Tuesday July 12th Council meeting has been cancelled.** Our next regularly scheduled COW/Council meeting will be July 26th.*

BOARD OF PUBLIC WORKS

ITEM: ITEM 07-22 Recommend to the Common Council the transfer of funds from the Sunny Slope and Grange Intersection CIP Account to the 124th Street CIP Account.

MOTION: **Motion to approve the transfer of funds from the Sunny Slope and Grange Intersection CIP Account to the 124th Street CIP Account.**

VOTE: Motion by: Horbinski
Second by: Garrigues
Motion Passed: 5-0

ITEM: ITEM 08-22 Recommend to the Common Council the transfer of funds from the Sunny Slope and Grange Intersection CIP Account to the Lighting & Improvements CIP Account.

MOTION: **Motion to approve the transfer of funds from the Sunny Slope and Grange Intersection CIP Account to the Lighting & Improvements CIP Account.**

VOTE: Motion by: Horbinski
Second by: Stribl
Motion Passed: 5-0

ITEM: ITEM 09-22 Recommend to the Common Council the approval of an Amendment to and existing WE Energies Easement on the New Berlin Fire station #3 property.

MOTION: **Motion to approve the approval of an Amendment to and existing WE Energies Easement on the New Berlin Fire station #3 property.**

VOTE: Motion by: Horbinski
Second by: Harenda
Motion Passed: 5-0

ITEM: ITEM 10-22 Recommend to the Common Council the awarding of a construction contract for the 2022 Pedestrian Lighting Project.

MOTION: **Motion to approve the awarding of a construction contract for the 2022 Pedestrian Lighting Project.**

VOTE: Motion by: Horbinski
Second by: Harenda
Motion Passed: 5-0

UTILITY COMMITTEE

ITEM: UT 12-22 Recommend to the Common Council to approve the Milwaukee Metro Sewerage District (MMSD) Funding Agreement for the Private Property Infiltration and Inflow (PPI/I) in an amount not to exceed $1,586,000.00.

MOTION: **Motion to approve the Milwaukee Metro Sewerage District (MMSD) Funding Agreement for the Private Property Infiltration and Inflow (PPI/I) in an amount not to exceed $1,586,000.00.**

VOTE: Motion by: Harenda
Second by: Garrigues
Motion Passed: 5-0

ITEM: UT 13-22 Recommend to the Common Council to approve Resolution #22-08. Compliance Maintenance Annual Report (CMAR) for reporting year 2021.

MOTION: **Motion to approve Resolution #22-08. Compliance Maintenance Annual Report (CMAR) for reporting year 2021.**

VOTE: Motion by: Harenda
Second by: Horbinski
Motion Passed: 5-0

ITEMS REMOVED FROM CONSENT AGENDA, if any

ITEM: June 14, 2022 Committee of the Whole Meeting Minutes

CONSENT AGENDA********

UTILITY & FINANCE

ITEM: Approval of June 29th, 2022 Water Utility claims in the amount of $532,945.40, Sewer Utility claims in the amount of $651,684.08 and General City claims in the amount of $702,507.26. WE Energies EFT of $66,692.25.

MISCELLANEOUS

ITEM: Update from Library Director Natalie Beacom

ITEM: Recommend Council approval of contractual documents between City of New Berlin and Axon Enterprise, Inc. to purchase additional Axon ProLicenses

END CONSENT AGENDA********

MOTION: Motion to approve the consent agenda.

VOTE: Motion by: Horbinksi
Seconded by: Kroupa
Motion Passed: 5-0

CLOSED SESSION

ITEM: The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85(1)(g) of the Wisconsin State Statutes. (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically:

ITEM: Discussion regarding property maintenance violations at 14591 W Fieldpointe Ct.

ITEM: Discussion regarding property maintenance violations at 1606 S Wildwood Dr.

MOTION: Motion to enter into closed session at 6:34 PM.

VOTE: Motion by: Kroupa
Seconded by: Stribl
Motion Passed: 5-0

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

MOTION: Motion to reconvene to open session at 6:48 PM.

VOTE: Motion by: Stribl
Seconded by: Kroupa
Motion Passed: 5-0

ITEM: Discussion and possible action regarding property maintenance violations at 14591 W Fieldpointe Ct.

MOTION: **None**

ITEM: Discussion and possible action regarding property maintenance violations at 1606 S Wildwood Dr.

MOTION: **None**

ADJOURN

MOTION: Motion to adjourn meeting at 6:49 PM.

VOTE: Motion by: Garrigues
Seconded by: Kroupa
Motion Passed: 5-0

Respectfully Submitted,
Rubina R. Medina, City Clerk

STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Dave and Peggy Anderson / Approval of Resolution No. 22-12 - Resolution of the City of New Berlin to Release Restriction on Certified Survey Map No. 6366 Pursuant to Wisconsin Statute Sec. 236.293**
LOCATION:	**19880 W. Hickory Trails (Tax Key # 1266-993-004)**
REQUEST:	**Approval of Resolution No. 22-12 - Resolution of the City of New Berlin to Release Restriction on Certified Survey Map No. 6366 Pursuant to Wisconsin Statute Sec. 236.293**
REVIEW SCHEDULE:	**Request Received: 5/26/2022** **Plan Commission Action: 7/11/2022** **Final Common Council Action: 7/26/2022**
D.R.C. RECOMMENDATION:	**Recommend to the Common Council approval of Resolution No. 22-12 - Resolution of the City of New Berlin to Release Restriction on Certified Survey Map No. 6366 Pursuant to Wisconsin Statute Sec. 236.293 for the property located at 19880 W. Hickory Trails (Tax Key # 1266-993-004), subject to the application, plans on file and the following conditions:**

1. **This request is specific to the lot located at the above address. This request shall not apply to any other lots included with the CSM # 6366.**
2. **If this request is approved by the Plan Commission and Common Council, the applicant shall have their surveyor prepare Exhibit B, a legal description of the 5,000 square feet that will be subject to the restriction release for the construction of the swimming pool, related grading, and the construction related to the appurtenances thereto, subject to final review and approval by the City Attorney.**
3. **The Partial Release of Restriction on Certified Survey Map No. 6366 instrument shall be recorded at Waukesha County Register of Deeds prior to the issuance of any zoning or building permits.**
4. **If this request is approved by the Plan Commission and Common Council, the applicant shall coordinate with DCD staff to prepare Exhibit B to limit disturbance on this lot to the construction of the pool, subject to final review and approval of the City Attorney.**
    a. **The surveyor shall go back to the site and survey the flags that mark the revised PEC boundary staked by SEWRPC. With the data you collect, the City would ask that you show the revised PEC boundary on a Survey for the lot.**
    b. **A final survey/stake out survey will be required that indicates the 5,000 square feet area of disturbance for the swimming pool, related grading, and the construction related to the appurtenances thereto,.**
    c. **The Primary Environmental Cooridor (PEC) area on this lot has some steep grades. If a retaining wall is necessary due to any grading activity that information shall be**

provided at the time of application for a building permit for the pool. Applicant shall adhere to Zoning Code Seciton 275-55A(5).

5. **Applicant and/or property owner shall apply for and obtain appropriate building, plumbing and electrical permits prior to any construction on any parcel.**
6. **The following language shall be added to the Building Permit:**
    a. **Per Section 275-37D(3)(c)[5] of the Zoning Code, disturbance of natural features on the site shall be kept to a minimum. The Limits of Disturbance for the construction of the pool and associated grading has been identified on the site plan. Disturbance and/or tree removal beyond this point is prohibited. Construction fencing shall be installed to delineate the limits of disturbance, as approved by DCD via the building permit, and no grading and/or tree removal may occur beyond these limits.**
7. **The limits of disturbance shall be clearly identified in the field with silt fence or other fencing material prior to any site work. Applicant shall apply for an Erosion Control Permit with the City. The fencing shall be inspected and approved prior to any site work.**
8. **This Zoning Permit shall serve as the Agreement between the City of New Berlin and this lot owner(s), and any future lot owner(s), that the landscaping will be installed per conditions above and that the applicant shall adhere to the limits of disturbance outlined in his permit. Applicant shall sign this permit.**

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMON COUNCIL STAFF REPORT

Meeting of July 26, 2022

Dave and Peggy Anderson / Approval of Resolution No. 22-12 - Resolution of the City of New Berlin to Release Restriction on Certified Survey Map No. 6366 Pursuant to Wisconsin Statute Sec. 236.293 / 19880 W. Hickory Trails (Tax Key # 1266-993-004)

DATE STAFF REPORT CREATED: July 18, 2022

APPLICANT / OWNER(S): Dave and Peggy Anderson

REQUEST / DESCRIPTION OF PROJECT: Approval of Resolution No. 22-12 - Resolution of the City of New Berlin to Release Restriction on Certified Survey Map No. 6366 Pursuant to Wisconsin Statute Sec. 236.293

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 5/26/2022

DATE OF COMPLETENESS DETERMINATION: 5/26/2022

PRE-APPLICATION CONFERENCE HELD: No
Date(s) of Meeting(s): Several meetings at DCD front counter.
Site Visit(s): 6/14/2022

CONCEPTUAL PLAN: Yes, a concept pool plan was submitted.

SIZE OF DEVELOPMENT / PARCEL(S):
2.52 Acres

CURRENT ZONING: R-1/R-2 (Rural Conservation Single-Family Residential District),

CURRENT LAND USE: Single- family residential.

PROPOSED ZONING: N/A

PROPOSED LAND USE: In-ground swimming pool

PROPOSED LOT SIZE:
N/A

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North:	Zoning: A-2, Agricultural and Rural Holding/C-2, Shoreland Wetland Holding District	Land Use: Single-Family Residential
South:	Zoning: R-1/R-2/PUD, Rural Conservation Residential & C-1, Upland Resource Conservancy District/PUD	Land Use: Single-Family Residential
East:	Zoning: R-1/R-2, Rural Conservation Residential	Land Use: Single-Family Residential
West:	Zoning: R-1/R-2/PUD, Rural Conservation	Land Use: Single-Family Residential

Residential/C-2, Shoreland Wetland
Holding District

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes, the request meets the intent of this Chapter. Planning Context / Vision / Development Polices

Chapter 12: Neighborhood "B": West Lincoln Avenue & Western Area: Yes, this submittal meets the intent of this Chapter.

Planning Context / Vision / Development Policies:

Vision:

- *The area of New Berlin generally west of Calhoun Road should be a regional model of rural development. Any development shall occur as a mix of conservation development, farms, large areas of preserved open spaces, rural trails and facilities, and small scale neighborhood-oriented retail. Development in this area will incorporate environmental protection as a basic value, including its importance as an aquifer recharge area.*

Land use:

- *Future Land Use Map: Suburban Residential*

ZONING CODE (Chapter 275): Yes, this request meets the requirements of Section 275-33B(1) of the Zoning Code.

DEVELOPMENT CODE (CHAPTER 235): No

PUBLIC HEARING REQUIRED: No

CONDITIONAL USE REQUIRED: No

USE / SITE /ARCHITECTURAL REVIEW:
Use Approval Required: Yes
Site Plan Required: Yes, a plan for the pool was submitted.
Architectural Review Required: No

PROPOSED ARCHITECTURE: N/A

UNIQUE SITE CHARACTERISTICS:
Environmental Corridor: Yes, Primary Environmental Corridor.
Wetland On Property: No
Conservancy Districts (C-1, C-2): No
NRCS Map Classification: Not Inventoried
Floodplain: No
Topography / Geologic: The site slopes from the front of the lot towards the northwest corner of the lot.

BIKE & PEDESTRIAN FACILITIES PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:
Limits of Disturbance (LOD): Would need to be shown on the Erosion Control Plan for the building permit for the pool if this request is approved.

Woodland, Tree, and Vegetation Protection: No trees are in this location are anticipated to be directly impacted. To note, there may be one tree that potentially could be impacted with the adjacent grading and removal may be necessary to avoid it from becoming a hazard.

Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: No trees are in this location are anticipated to be directly impacted. To note, there may be one tree that potentially could be impacted with the adjacent grading and removal may be necessary to avoid it from becoming a hazard. Applicant is being asked to avoid removing the Butternut tree which is a State-designated Special Concern species within the PEC. A Critical Species Habitat for Butternut will be designated within the PEC to be known as "Anderson Woods".

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: No
Sewer Shed Capacity Available: N/A
Adequate Linkage: N/A
Onsite System Required: Yes

WATER USAGE CALC.: Determined at the time of building permit.

TRAFFIC IMPACT: No increase.

SCHOOL DISTRICT IMPACT: N/A
Notice Sent to Affected School District(s): No

PREVIOUS ACTION:

1/30/1991	CSM #: 6366 was recorded at Waukesha County Register of Deeds Office.
1992	Existing home was built.
2/7/2022	Applicant applied for an in-ground pool building permit. Permit was denied due to the Conditions on the CSM #: 6366. Applicant then engaged SEWRPC to delineate the PEC and later provided the request outlined in this staff report. Pool has remained denied until the outcome of this request.
7/11/2022	Plan Commission approved the request. At the meeting it was determined that instead of a Conservation Easement, the city would only allow for a partial release of restriction on the CSM No 6366 which will allow for the swimming pool. The staff report has been revised for the Common Council to reflect this action. The City Attorney has prepared the draft Partial Release of Restriction on CSM NO. 6366 and the Resolution attached.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

1. CSM #: 6366 was recorded at Waukesha County Register of Deeds Office on January 30, 1991.
2. Per CSM #: 6366 the following information is noted: *"Environmental Corridor Notes: No buildings may be constructed within the environmental corridor. Driveways may cross the environmental corridor for access to each residence, if no other location is available or feasible, however, care must be taken in regards to alteration of the existing grade and appearance of the environmental corridor. A minimum cross section of road shall be installed. Septic systems may be placed in the*

environmental corridor if no other suitable area outside the environmental corridor is available. The same care described in the construction of the driveways must be used in the installation of these systems, other than stated above no filling or alterations of the primary corridor is allowed except that noxious weeds or standards accepted forestry practices may be used." Because of this restriction DCD staff cannot unilaterally approve and/or waive this restriction without the applicant first seeking approval from the Plan Commission and Common Council – following the same approval process which established this requirement in the first place when the CSM was approved back in 1990 (recorded at the County in 1991).

3. SEWRPC confirmed the Primary Environmental Corridor (PEC) on April 5, 2022.
4. A field verification of the mapped Primary Environmental Corridor (PEC) was prepared on April 5, 2022 by Christopher Jors with SEWRPC. In an email to Staff and the property owners, they have concluded the following based on the visit:
    a. *We field-staked the PEC with orange wire flags and ribbon. I've attached a screen shot from our tablet that shows the field-staked PEC as a bold light green line (you can disregard the thin dark green line since that is only the approximate "mapped" PEC). I'm hoping we can provide a PEC file at a later date but we are having issues with the collector app that we use on the tablet. Dave Anderson had the approximate pool location staked out and we determined that there will be an impact to the PEC with the current pool location.*
    b. *Please note that our Botanist Zach Kron identified Butternut (Juglans cinerea), a State-designated Special Concern species, within the PEC. Therefore, a Critical Species Habitat for Butternut will be designated within the PEC to be known "Anderson Woods". Zach did not find any Butternut trees in the area where the pool is to be located.*
5. A subsequent site evaluation was completed by Dave Meyer from Wetland & Waterway Consulting, LLC on June 16, 2022. In this evaluation Mr. Meyer states: *"The approximate location of the future pool was taped off when I arrived. It is clear the pool location will only affect the landscaped flower garden. Trees, shrubs, and/or moderate to high quality herbaceous vegetation within the corridor will not be affected."*

6. DCD staff also conducted another onsite verification on June 29th and has confirmed that, based upon direct conversation with homeowner and staking onsite, that no trees and/or high quality vegetation would be impacted. The footprint of the pool is in the same location as the homeowner's current garden (see pictures).

7. The applicant would like to install an in-ground pool. See attached pool and grading plan. The approximate area of disturbance is 5,000 sq. ft. In this situation, even though the pool and associated grading "will" partially fall within the corridor, as cited by SEWRPC, the impacts to any vegetation would be minimal or none at all. The homeowner has a garden in the current, planned location or the pool. No trees are in this location are anticipated to be directly impacted. To note, there may be one tree that potentially could be impacted with the adjacent grading and removal may be necessary to avoid it from becoming a hazard. Furthermore, based upon this DCD site visit, staff did not visualize or observe evidence that this specific area had ever had trees. It appears to always have been an opening in the corridor itself. Based upon DCD's site visit the "in-the-field" staked location of the pool appears to be the most optimal location to eliminate and/or reduce any impact(s) to the corridor.

8. The lot contains a large ANR Pipeline easements which will restricts development. See location map.
9. Plan Commission approved the request at their July 11, 2022 meeting. At the meeting it was determined that instead of a Conservation Easement, the city would only allow for a partial release

of restriction on the CSM No 6366 which will allow for the swimming pool. The staff report has been revised for the Common Council to reflect this action. The City Attorney has prepared the draft Partial Release of Restriction on CSM N0. 6366 and the Resolution attached.

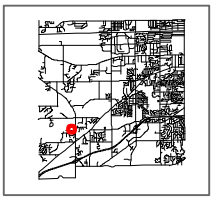
D.R.C. RECOMMENDATION: Recommend to the Common Council approval of Resolution No. 22-12 - Resolution of the City of New Berlin to Release Restriction on Certified Survey Map No. 6366 Pursuant to Wisconsin Statute Sec. 236.293 for the property located at 19880 W. Hickory Trails (Tax Key # 1266-993-004), subject to the application, plans on file and the following conditions: See Executive Summary.

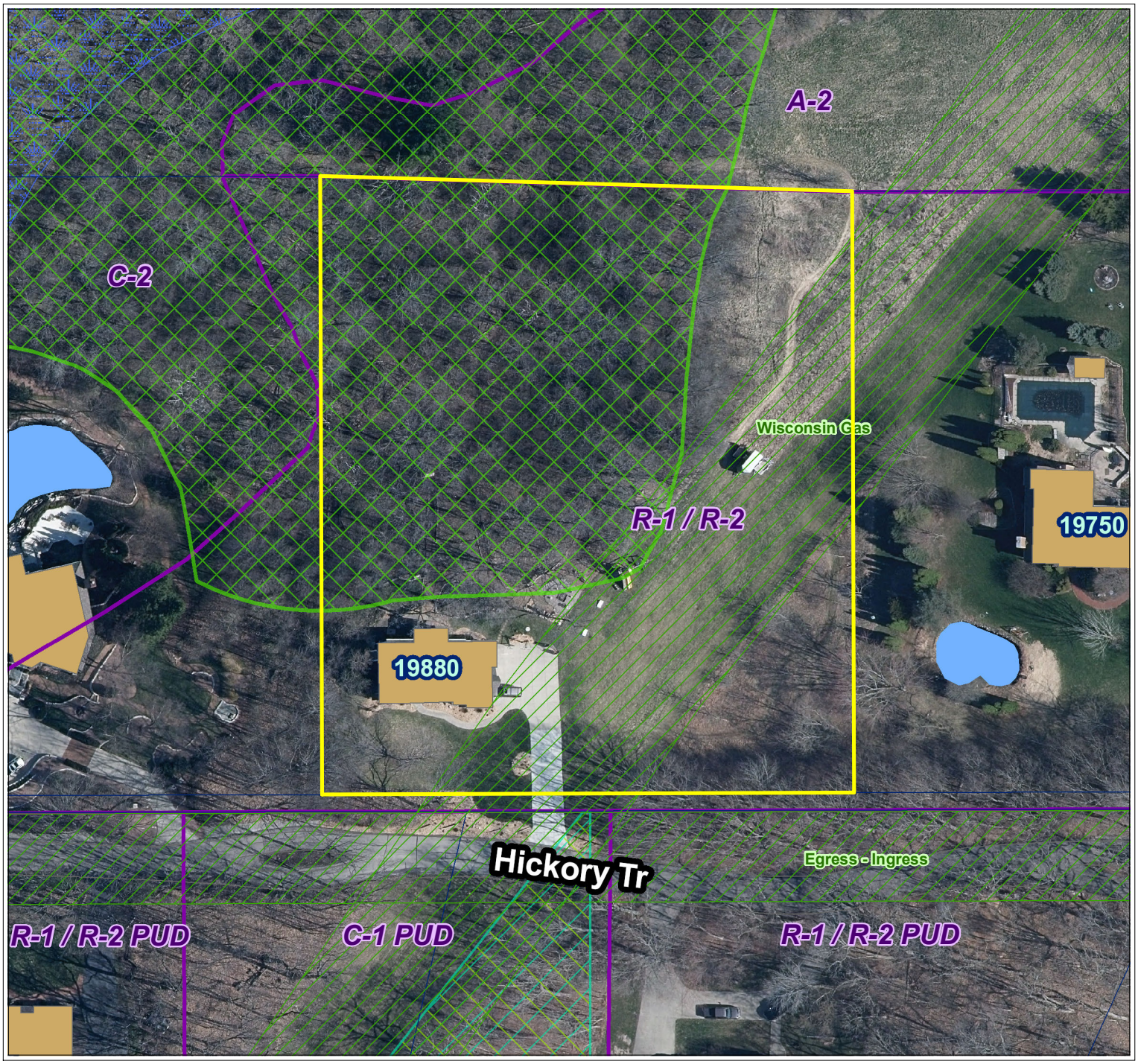
ATTACHMENTS:
Location Map
CSM
Letters
Letter from City Attorney Mark Blum with the following attachments:

- Resolution
- Partial Release of Restriction on Certified Survey Map NO. 6366

City of New Berlin
Community Development

UA-2201250
Dave and Peggy Anderson
Affidavit of Correction Request
19880 W. Hickory Trail





Legend

- Parcels
- Road Right-of-Way

Floodplain DFIRM (FEMA 2014)

Flood Zone

- FEMA DFIRM - Zone A
- FEMA DFIRM - Zone AE
- FEMA DFIRM - 0.2% Annual Chance
- Zoning Boundaries

Zoning Wetland Registration

Wetland Registration Type

- Registered Wetland
- Outside Wetland

Environmental Corridor

Corridor Type

- Isolated Natural Resource Area
- Primary Environmental Corridor
- Secondary Environmental Corridor

Sewer Service Area (MMSD)

Sewershed

- Current
- Ultimate

N

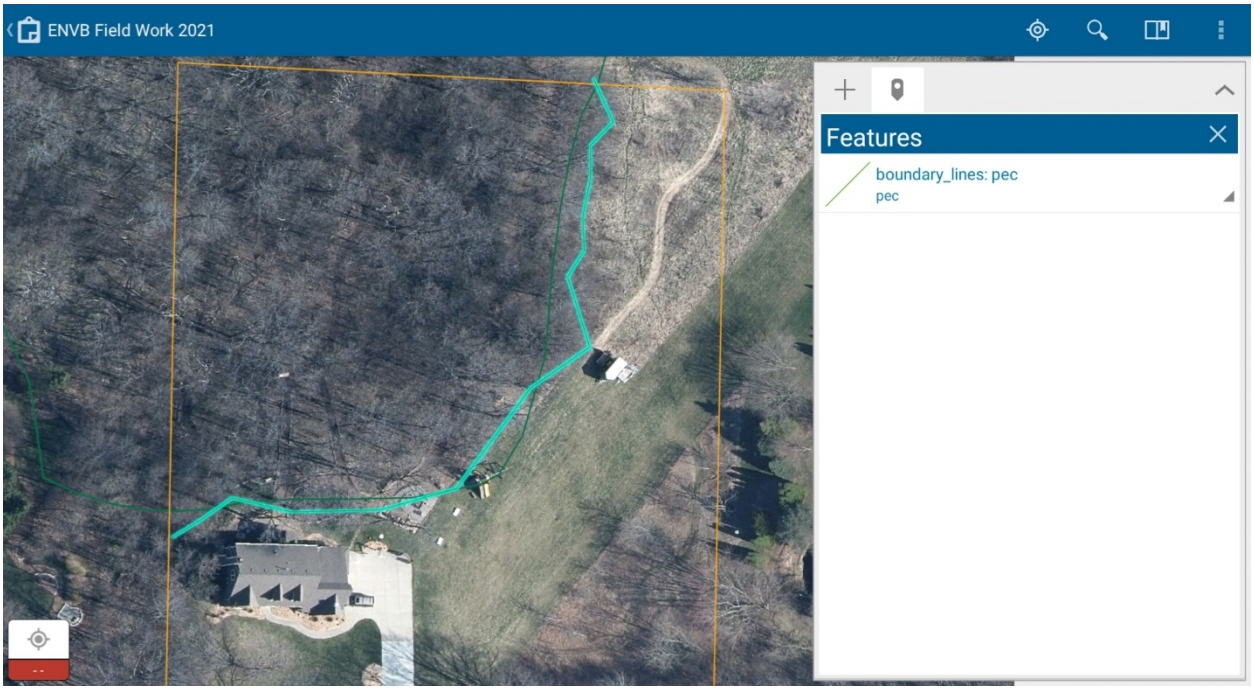
0 30 60 Feet

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

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

Map Printed: 6/28/2022 10:20:45 AM

SEWRPC PEC Boundary – April 5, 2022.



Wetland & Waterway Consulting, LLC
Dave Meyer
S83 W23915 Artesian Avenue • Big Bend, WI 53103
262-719-4286 • Fax 262-364-2197
E-Mail • *dave@wetlandwi.com*

6-28-2022

T. Michael Schober
Schober Schober & Mitchell, S.C.
2835 South Moorland Road
New Berlin, WI 53151

Dear Mr. Schober—

On June 16, 2022, I conducted a site visit on the Anderson property. The purpose of the site visit was to ascertain the viability of locating a swimming pool within the Primary Environmental Corridor that is mapped in their backyard.

The proposed location of the swimming pool is on the outer edge of a mapped PEC. In this location, the PEC line has been established at the dripline of the mature hardwood trees. The area between the dripline and the trunks of the trees, while within the corridor boundaries, consists of a landscaped flower garden and mowed and maintained lawn.

The approximate location of the future pool was taped off when I arrived. It is clear the pool location will only affect the landscaped flower garden. Trees, shrubs, and/or moderate to high quality herbaceous vegetation within the corridor will not be affected.

Large man-made features such as driveways and buildings are often found within mapped corridor boundaries. Locating a swimming pool in the proposed area will not be inconsistent with other structures found within corridor boundaries throughout southeast Wisconsin.

It is my opinion that no natural resources features of significance will be impacted. Further, the corridor boundary will still remain intact with no reduction in its reach.

Refer to the attached photograph showing site conditions in the proposed pool location.

Please contact me with questions.

Sincerely,

Dave Meyer

Wetland & Waterway Consulting, LLC
Dave Meyer
S83 W23915 Artesian Avenue • Big Bend, WI 53103
262-719-4286 • Fax 262-364-2197
E-Mail • *dave@wetlandwi.com*

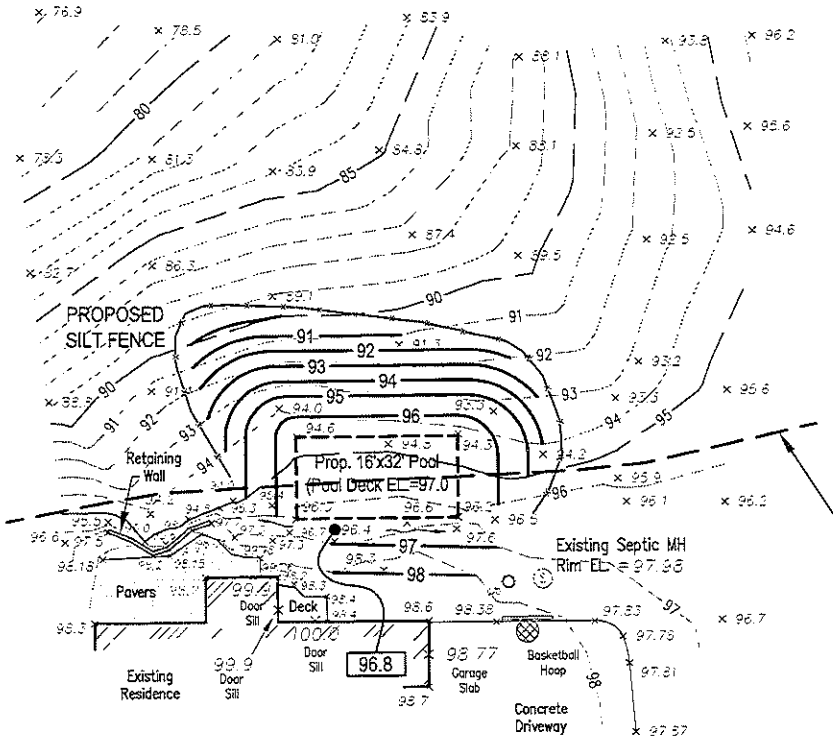
Dave Meyer is an independent environmental consultant providing wetland delineations, environmental permitting services, PEC/SEC/INRA delineations, site assessments, and planning advice. He obtained a master's degree in Natural Resources Management from Southern Illinois University-Carbondale in 1977. Mr. Meyer has held technical and administrative positions in wetland and water resources specialties with the Wisconsin Department of Natural Resources and the U.S. Army Corps of Engineers. He has satisfactorily completed the Reg IV Wetland Delineation training offered by the U.S. Army Corps of Engineers, the Advanced Wetland Delineation training conducted by the University of Wisconsin-LaCrosse in 2002 and 2007, the USACOE/WIDNR 1987 Wetland Delineation Manual Midwest Region Supplement Training in 2009, the USACOE/WIDNR 1987 Wetland Delineation Manual Northcentral/Northeast Region Supplement Training in 2010, the Basic Hydric Soil ID training conducted by the University of Wisconsin-LaCrosse in 2011, SEWRPC's Environmental Corridor Delineation Workshops in 2004 and 2015, and the Wetland Training Institute's Advanced Hydrology for Jurisdictional Determinations in 2016 and the Federal Wetland/Waters Regulatory Policy in 2019. Mr. Meyer is recognized by the Wisconsin Department of Natural Resources as an Assured Delineator.

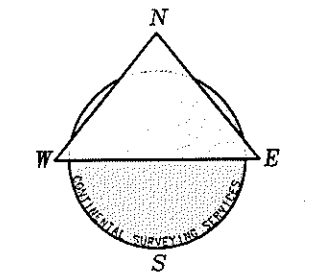
-Dave Meyer, WIDNR Assured Delineator
Wetland & Waterway Consulting, LLC
S83 W23915 Artesian Ave
Big Bend, WI 53103
Phone - 262-719-4286
FAX - 262-364-2197
e-mail – dave@wetlandwi.com

TOPOGRAPHIC EXHIBIT

Lot 4, Certified Survey Map No. 6366. being a part of the SE¼ of the NW¼ of Section 29, Town 6 North, Range 20 East, located in the City of New Berlin, Waukesha County, Wisconsin.

WISCONSIN
RICK R. HILLMANN
S-3005
MENOMONEE FALLS
WI.
LAND SURVEYOR





SCALE: 1"=30'

This map was drafted by: RRH

CLIENT:
David Anderson
19880 W. Hickory Trail
New Berlin, Wisconsin 53151

PROPERTY ADDRESS:
19880 W. Hickory Trail
New Berlin,
Wisconsin 53151

PARCEL INFO:
TAX KEY NUMBER: NBC 1266993004
PROJECT NO.: 20220105_TP00001
SERVICE PERFORMED: TPO

Rick R. Hillmann S-3005

Dated this 25th Day of JANUARY, 2022.

CONTINENTAL SURVEYING SERVICES LLC

Main Office:
3070 Helsan Drive, Suite "J"
Richfield WI. 53076

Phone: (262) 389-9200
Website: www.csssurveys.com
Email: survey@csssurveys.com

By the Graces of God and the talents given to us, we strive to provide the most Honest and Reliable Land Surveying Services

1652100

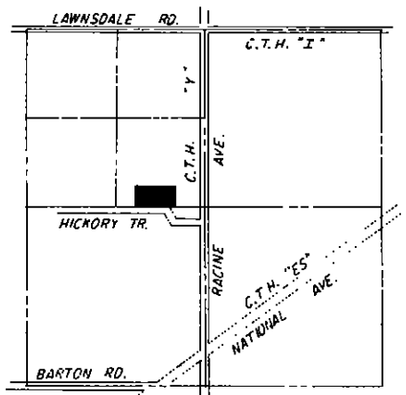
Stock No. 26273

FORM NO. 985-A H.C. Miller

WC0008747

CERTIFIED SURVEY MAP NO. 2366

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



LOCATION MAP
SECTION 29, T6N, R20E

-INDICATES ENVIRONMENTAL CORRIDOR AND WETLANDS (EDGE OF WOODS) SEE SHEET 3 FOR RESTRICTIONS

0 300 400
GRAPHIC SCALE
1" = 200'

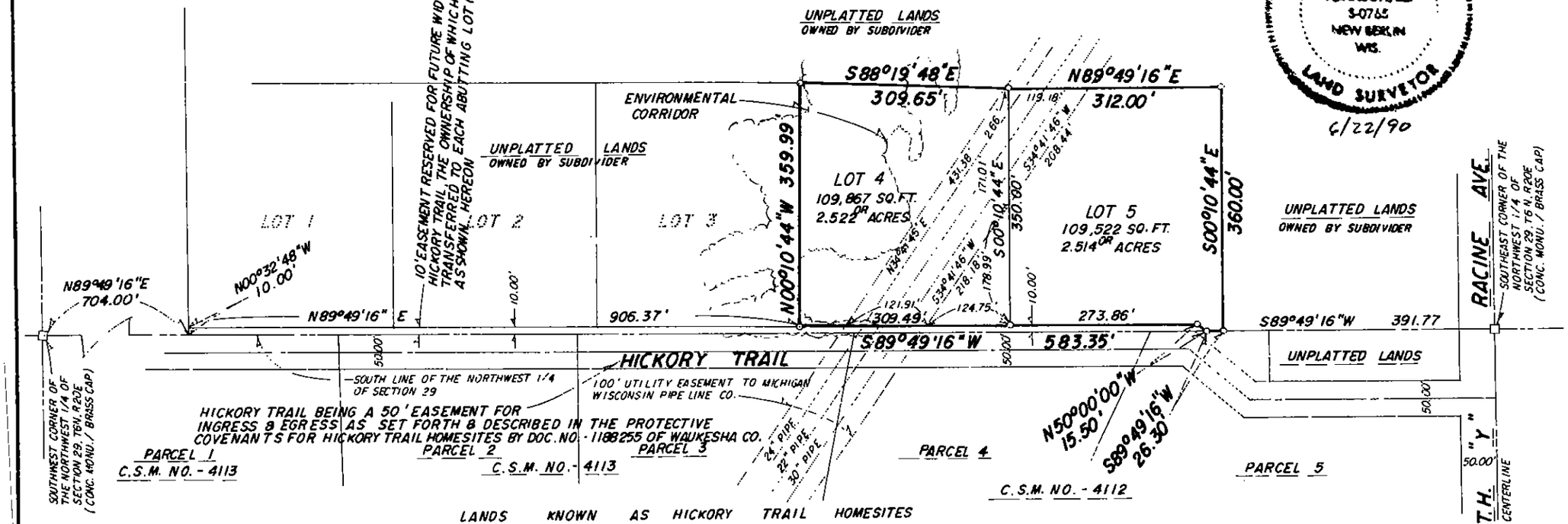
○- INDICATES 1"X 24" IRON PIPE, 1.13 LBS. PER LINEAL FOOT

SUBURBAN SURVEYS & ENGINEERING, INC.
PLANNERS ENGINEERS COMPUTERS SURVEYORS
NEW BERLIN, WISCONSIN

NORTH

IDENTIFIABLE DIRECTION - SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 29, T6N, R20E, S89°49'16"W, WISCONSIN PLANE COORDINATE SYSTEM, GRID NORTH, SOUTH ZONE

WISCONSIN
CLAUDE C. JOHNSON, JR.
S-0765
NEW BERLIN
WIS.
LAND SURVEYOR
6/22/90



THIS INSTRUMENT DRAFTED BY GREG L. BARLOW

FORM NO. 985-A
H.C. Miller
Stock No. 26273

CERTIFIED SURVEY MAP NO. 6366

That part of the SE¼ of the NW¼ of Section 29, Town 6 North, Range 20 East, City of New Berlin, Waukesha County, Wisconsin

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)
COUNTY OF WAUKESHA) SS

I, Claude C. Johnson, Jr., Registered Land Surveyor, do hereby certify that I have surveyed, divided and mapped all that part of the Southeast one-quarter of the Northwest one-quarter of Section 29, Town 6 North, Range 20 East, City of New Berlin, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the Southwest corner of the Northwest one-quarter of Section 29; thence North 89°49'16" East along the South line of said Northwest one-quarter 704.00 feet; thence North 00°32'48" West parallel to the West line of the aforementioned Northwest one-quarter 10.00 feet; thence North 89°49'16" East parallel to and 10 feet North of as measured to the South line of the Northwest one-quarter of Section 29, 906.37 feet to the point of beginning of the parcel hereinafter described; thence North 00°10'44" West 359.99 feet; thence South 88°19'48" East 309.65 feet; thence North 89°49'16" East parallel to the South line of said Northwest one-quarter 312.00 feet; thence South 00°10'44" East 360.00 feet to a point on said South line; thence South 89°49'16" West along the South line of the Northwest one-quarter of Section 29, 26.30 feet; thence North 50°00'00" West 15.50 feet to a point being 10 feet North of as measured normal to the South line of said Northwest one-quarter; thence South 89°49'16" West parallel to the South line of the aforementioned Northwest one-quarter 583.35 feet to the point of beginning, containing 235,482 square feet or 5.406 acres.

Including an easement 50 feet in width for ingress and egress to Racine Avenue (C.T.H."Y") as set forth and described in the protective covenants for Hickory Trail Homesites by Document No. 1188255 of Waukesha County, known as Hickory Trail.

That I have made this survey, land division and map by the direction of Mark Anderson and Kay Anderson, his wife, owners.

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

That I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and Ordinances of the City of New Berlin in surveying, dividing and mapping the same.

Date: June 22, 1990

SUBURBAN SURVEYS & ENGINEERING, INC.
Claude C. Johnson, Jr. S-0765

WISCONSIN
CLAUDE C. JOHNSON JR.
S-0765
NEW BERLIN WIS
LAND SURVEYOR

FORM NO. 985-A

H.C. Miller

Stock No. 26273

CERTIFIED SURVEY MAP NO. 6366

That part of the SE¼ of the NW¼ of Sec. 29, Town 6 North, Range 20 East, City of New Berlin, Waukesha County, Wisconsin

Environmental Corridor Notes:

No buildings may be constructed within the environmental corridor. Driveways may cross the environmental corridor for access to each residence, if no other location is available or feasible, however, care must be taken in regards to alteration of the existing grade and appearance of the environmental corridor. A minimum cross section of road shall be installed. Septic systems may be placed in the environmental corridor if no other suitable area outside the environmental corridor is available. The same care described in the construction of the driveways above must be used in the installation of these systems, other than stated above no filling or alterations of the primary corridor is allowed except that noxious weeds or standard accepted forestry practices may be used.

OWNER'S CERTIFICATE OF DEDICATION

As owners we hereby certify that we have caused the land described above to be surveyed, divided, mapped and dedicated as represented on this map in accordance with the requirements of Ordinances of the City of New Berlin, and any applicable sections of Chapter 236 of the Wisconsin Statutes.

Witness the hand and seal of said owners this 13 day of December, 1990.

In the presence of:

Mark Anderson

Kay Anderson

STATE OF WISCONSIN)
COUNTY OF WAUKESHA) SS

Personally came before me this 13 day of Dec, 1990, the above named Mark Anderson and Kay Anderson, his wife, to me known as the persons who executed the foregoing instrument and acknowledged the same.

My Commission Expires: 4-10-94

SCOTT B. PAGE NOTARY PUBLIC STATE OF WISCONSIN

Notary Public, Waukesha County, WI

CONSENT OF CORPORATE MORTGAGEE

First Wisconsin, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, mortgagee of the above described land, does hereby consent to the surveying, dividing, mapping and dedication of the land described on this plat, and does

WISCONSIN CLAUDE C. JOHNSON III S-0765 NEW BERLIN WIS. LAND SURVEYOR 6/22/90

317

FORM NO. 985-A

H.C. Miller

Stock No. 26273

CERTIFIED SURVEY MAP NO. 6366

That part of the SE¼ of the NW¼ of Section 29, Town 6 North, Range 20 East, City of New Berlin, Waukesha County, Wisconsin

hereby consent to the above certificate of Mark Anderson and Kay Anderson, owners.

IN WITNESS WHEREOF, ~~the~~ said First Wisconsin, ~~has~~ caused these presents to be signed by David L. Smith, Personal Banking Officer and countersigned by Charles D Wakefield, Asst Vice President, at Milwaukee, Wisconsin, and its corporate seal to be hereunto affixed this 12 day of December, 1990.

In the presence of:

FIRST WISCONSIN

Patricia A. Dolata

Lynn M Greenbaum

STATE OF WISCONSIN)
COUNTY OF Milwaukee) SS

Personally came before me this 12 day of December, 1990, David L. Smith and Charles D. Wakefield, of the above named corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such Personal Banking Off and Assistant Vice-Pres. of said corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

My Commission Expires:
1-5-92

Patricia A. Dolata
Notary Public, Milwaukee County, WI

CONSENT OF CORPORATE MORTGAGEE

First Financial, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, mortgagee of the above described land, does hereby consent to the surveying, dividing, mapping and dedication of the land described on this plat, and does hereby consent to the above certificate of Mark Anderson and Kay Anderson, owners.

IN WITNESS WHEREOF, the said First Financial, has caused these presents to be signed by Catherine Winslow, Personal Banker, and countersigned by Martha L. Kolins, Personal Banker, at Milwaukee, Wisconsin, and its corporate seal to be hereunto affixed this X day of X X X, 1990.

In the presence of:

FIRST FINANCIAL

Catherine Winslow

Martha L. Kolins

Personal Banker

Personal Banker

CLAUDE C. JOHNSON, III. S-0765 NEW BERLIN WIS. LAND SURVEYOR

6/22/90

FORM NO. 985-A

H.C. Miller

Stock No. 26273

CERTIFIED SURVEY MAP NO. 6366

That part of the SE¼ of the NW¼ of Section 29, Town 6 North, Range 20 East, City of New Berlin, Waukesha County, Wisconsin

STATE OF WISCONSIN) SS
COUNTY OF Milw)

Personally came before me this 12th day of December, 1990, ~~XXXXXX~~, Catherine Kinslow and Martha Johnson ~~XXXXXX~~, of the above named corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such Personal Bankers and _____ of said corporation, and as the deed of said corporation, by its authority.

My Commission Expires:

Jan 30 1994

Notary Public, Milw County, WI

PLANNING COMMISSION APPROVAL

Approval by the Plan Commission of the City of New Berlin on this 7th day of January, 1991.

Timothy K. Tully, Mayor

Steven K. Hoese, Secretary

COMMON COUNCIL APPROVAL

Approved by the Common Council of the City of New Berlin on this 22nd day of January, 1991.

Timothy K. Tully, Mayor

William Bowers, Clerk

REGISTER'S OFFICE) SS
Waukesha Co. Wis.) No. 1632100

RECEIVED FOR RECORD THE 30 DAY
January, A.D., 1991 AT 2:13
O'CLOCK P.M. & RECORDED IN Vol 52 Rel 16-
OF CSM's ON Pgs 315-319
Michael J Hasslinger
REGISTER
by Marlene Douglas, Deputy

WISCONSIN
CLAUDE C. JOHNSON, JR.
S-0765
NEW BERLIN
WIS.
LAND SURVEYOR
6/22/90

Sheet 5 of 5 sheets.

319

SCHOBER
SCHOBER & MITCHELL, S.C.
ATTORNEYS

Est. 1949

T. Michael Schober
Thomas G. Schober
John C. Schober
Robert F. Sullivan
Charles J. Stansberry, Jr.*
John J. Sage*
Todd M. Goodwin
Robert B. Peregrine
Terence P. Cahill
Quintin A. Sullivan

Thomas G. Kreul
Jeremy M. Klang
Jessica A. Braun
Patrick M. Ruelle*
Kevin J. Clark
Tyler M. Helsel
Andrew L. Otto*

**also admitted to practice in Illinois*

May 26, 2022

HAND DELIVERED
City of New Berlin Plan Commission

Members of the New Berlin Plan Commission:

David and Peggy Anderson own a home on West Hickory Trail here in New Berlin. The Trail is a private road that extends West of Racine Avenue approximately across from the City's Fire Station located on the East side of Racine Avenue. I would guess that there are about 14 single family homes on Hickory Trail.

When the Andersons moved to their home it was intended and important that they would have an in ground swimming pool as they did at their former residence. The most important use of the pool is to provide a place for their grandson, Maximus, to swim. Maximus is autistic and using a pool one of the activities that he enjoys. His medical care providers have identified the use of the pool as being therapeutic.

When the Andersons bought their parcel the primary environmental corridor was identified to be located only on the Northwest corner of the lot surrounding their new home. That left a great deal of room for a pool. A recent evaluation by SEWRPC placed the prior environmental corridor much closer to the Anderson home. SEWRPC does not regulate the uses within the primary environmental corridor (PEC), the City of New Berlin has exclusive authority in that regard. With the other constraints (an ANR high pressure gas line and septic line) that exist on the Anderson parcel there is no way to locate the pool north of the Anderson home site without intruding into the primary environmental corridor.

The Planning Staff provided me a copy of recent emails, diagrams and surveys that relate to this issue. Copies are included. As we see it there is absolutely no harm resulting from this modest intrusion into the PEC the intrusion has a beneficial medical impact, and from a humanitarian perspective, nothing but good results.

Sincerely yours,

SCHOBER SCHOBER & MITCHELL, S.C.

Mike

T. Michael Schober

Enclosure
cc: Nikki Jones, Associate Director New Berlin Dept. of Community Development
Mayor David Ament

2835 South Moorland Road, New Berlin, WI 53151-3743 ♦ Tel. (262) 785-1820 ♦ Fax (262) 786-1073
E-mail: tms@schoberlaw.com

Hogan, Kristen

From: Kessler, Greg
Sent: Monday, April 11, 2022 11:51 AM
To: panderson20@wi.rr.com; Hogan, Kristen; Jones, Nikki
Subject: FW: 19880 W Hickory Tr
Attachments: CSM 6366.pdf; PEC Field Verificaiton.pdf; Survey.pdf; PLN Grading.pdf

Good Morning Ms. Anderson:

I did receive your voicemail from last Friday and following up with Ms. Hogan in our department. I understand that she did call you and scheduled a meeting for tomorrow. To follow up myself, while I understand what you and your husband would like to do regarding your pool project unfortunately, the condition outlined below in Ms. Hogan's email dated 03/10 prohibits staff from issuing a building permit for project(s) within the primary environmental corridor (PEC). While I know SEWRPC has visited the site and conducted a new evaluation of the PEC please note, their comments are only advisory in nature and have no bearing as to what the City codes and/or ordinances will allow. They assess the size, location, quality and diversity within the PEC itself – nothing more. The City does have various ordinances though that regulate tree removal. In this case, when the Certified Survey Map (CSM) for this property was approved by the City both the Plan Commission and Common Council approved it with the development restriction below. And, as such, only the Plan Commission and Common Council may remove such a restriction. Until they do this, our Department cannot issue a permit that would violate that condition of approval.

I want to be sensitive to your time and time off of work. I'm not sure if an in-person meeting will change the scenario we're at at this point. I know Kristen will follow up with you this afternoon to discuss in more detail.

Please let us know if you have any additional questions?

Best Regards,
Greg

From: Hogan, Kristen <khogan@newberlin.org>
Sent: Thursday, March 10, 2022 4:34 PM
To: rickh@csssurveys.com; survey@csssurveys.com
Cc: panderson20@wi.rr.com; Kessler, Greg <gkessler@newberlin.org>; Jones, Nikki <njones@newberlin.org>
Subject: 19880 W Hickory Tr

Hi Rick,

Attached is the CSM that created this parcel in 1991. Page 3 of the CSM states the following:

Environmental Corridor Notes:

No buildings may be constructed within the environmental cc Driveways may cross the environmental corridor for access to eac residence, if no other location is available or feasible, howeve care must be taken in regards to alteration of the existing grad appearance of the environmental corridor. A minimum cross secti road shall be installed. Septic systems may be placed in the en mental corridor if no other suitable area outside the environmen corridor is available. The same care described in the construct the driveways above must be used in the installation of these sy other than stated above no filling or alterations of the primary corridor is allowed except that noxious weeds or standard accept forestry practices may be used.

After further digging through past approvals and discussing with the Director today, it would seem that very limited uses are permitted within the Primary Environmental Corridor (PEC) for this particular parcel. Our suggestion would be to reach out to SWRPC to verify the boundaries of the Corridor. Attached are SWRPC's findings from 1989. It does not seem that this type of use would be allowed within the PEC.

Please reply all to keep everyone on this email in the loop.

Thank you,
Kristen

Kristen Hogan
Principal Planner
City of New Berlin
3805 S. Casper Dr.
New Berlin, WI 53151

Phone: (262) 797-2445
Email: khogan@newberlin.org
Web: www.newberlin.org

City of New Berlin
city living with a touch of country

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
E-MAIL: MGBLUM@HRBLAWFIRM.COM

July 18, 2022

Via Email (gkessler@newberlin.org)
Mr. Greg Kessler,
City of New Berlin
3805 S. Casper Dr.
New Berlin, WI 53151

Via Email (njones@newberlin.org)
Ms. Nikki Jones,
City of New Berlin
3805 S. Casper Dr.
New Berlin, WI 53151

Re: Anderson Property Partial Restriction Release

Dear Greg and Nikki:

Enclosed is a draft Resolution that I have prepared concerning the Partial Release of Restriction on the Anderson property. I have also enclosed the Partial Restriction Release itself, which we would submit for recording, assuming the Common Council approves the Partial Restriction Release.

Please look over these documents and let me know if you have any comments, questions or concerns. As you can see, we will need an Exhibit B to both of these Resolutions which would include the legal description for the 5,000 square feet, plus or minus land that will be utilized for the construction of the Anderson swimming pool. I believe this can be pu down for action on July 26, 2022, although I am uncertain whether we will have the necessary description by that time. I certainly do not object to the Council taking action subject to our being able to complete the Partial Restriction Release once we have an acceptable description.

Please let me know if you have questions or concerns regarding this issue.

Sincerely,

Mark G. Blum

MGB/jb
Enc.

Document Number	**PARTIAL RELEASE OF RESTRICTION ON CSM NO. 6366** **Title of Document**

Please see the attached Partial Release.

Record this document with the Register of Deed.

Name and Return Address
Attorney Mark G. Blum
720 Clinton Street, P.O. Bpx 766
Waukesha, WI 53187

(Parcel Identification Number)

Drafted By:
Attorney xxx
Hippenmeyer, Reilly, Blum,
Schmitzer, Fabian & English, S.C.
720 Clinton St., PO Box 766
Waukesha, WI 53187-0766
Phone: (262) 549-8181
Email: mgblum@hrblawfirm.com

PARTIAL RELEASE OF RESTRICTION ON CERTIFIED SURVEY MAP NO. 6366

WHEREAS, the City of New Berlin approved Certified Survey Map No. 6366 on January 22, 1991, which was recorded with the Register of Deeds of Waukesha County as Document No.1632100 on January 30, 1991, a true and correct copy of which is attached hereto and marked as Exhibit A; and

WHEREAS, said CSM 6366 contains language concerning construction within the primary environmental corridor noted on said map; and

WHEREAS, the City has received an application from the owners of the property at 19880 West Hickory Trail, New Berlin, seeking to construct a swimming pool and conduct related grading within a portion of the aforementioned primary environmental corridor; and

WHEREAS, the area which the applicant wishes to utilize for its swimming pool consists of approximately 5,000 square feet, and is more specifically described in the attached legal description, Exhibit B; and

WHEREAS, the application was reviewed by the City of New Berlin Plan Commission on July 11, 2022, at which time the Commission recommended approval of a partial release of restriction to the Common Council to allow for the construction of the swimming pool within the primary environmental corridor; and

WHEREAS, the City finds that the lands shown on Exhibit B, which the applicant wishes to utilize for a swimming pool, has minimal vegetation and is on the outer edge of the mapped primary environmental corridor, hence the City believes there are no natural resource features of significance that will be impacted by this partial release and the construction of the swimming pool.

NOW, THEREFORE, the City of New Berlin, as the approving entity for CSM 6366, (Exhibit A) hereby consents, pursuant to Wis. Stats. sec. 236.293, to the partial release of the building restriction within the primary environmental corridor on CSM 6366 (Exhibit B), for the sole purpose of allowing for the construction of a swimming pool related appurtenances and related grading and hereby releases, from the primary environmental corridor building restriction in CSM 6366, the areas depicted in Exhibit B solely for this purpose.

This Partial Release shall only apply to the lands depicted in Exhibit B, the balance of the primary environmental corridor building restriction, as depicted on CSM 6366 shall remain in full force and effect.

The restriction release for the lands depicted in Exhibit B shall only be for the purpose of the construction of the swimming pool, related grading, and the construction related to appurtenances thereto. No other construction or improvements are permitted under this restriction release.

This release is approved by action of the Common Council of the City of New Berlin by a resolution on the 26th day of July 2022 and is documented by a Resolution No. 22-_____.

CITY OF NEW BERLIN

_____

David Ament, Mayor

Countersigned:

_____

Medina Rubina, City Clerk

Subscribed and sworn to before me this

_____day of _____, 2022.

_____

Notary Public, State of Wisconsin

My Commission Expires:_____

STATE OF WISCONSIN CITY OF NEW BERLIN WAUKESHA COUNTY

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF NEW BERLIN TO RELEASE RESTRICTION ON CERTIFIED SURVEY MAP NO. 6366 PURSUANT TO WISCONSIN STATUTE SEC. 236.293

WHEREAS, the Common Council of the City of New Berlin approved Certified Survey Map No. 6366, which Certified Survey Map was approved by the City of New Berlin on January 22, 1991, and was recorded as Document No. 1632100 with the Waukesha County Register of Deeds on January 30, 1991 (hereinafter "CSM 6366"); and

WHEREAS, said CSM 6366 contains a note restricting the construction of buildings or improvements within the primary environmental corridor delineated on said map; and

WHEREAS, a copy of said CSM6366 is attached hereto and marked Exhibit A; and

WHEREAS, David and Peggy Anderson are the owners of the property at 19880 West Hickory Trail, New Berlin, which property was created through the aforementioned CSM 6366; and

WHEREAS, the Andersons have indicated a desire to construct a swimming pool and engage in associated grading within the primary environmental corridor identified on CSM 6366; and

WHEREAS, the City of New Berlin Plan Commission has reviewed the request of the Andersons to encroach on the primary environmental corridor for the purpose of the construction of a swimming pool and associated grading and recommended to the Common Council approval of a restriction release to allow this to occur, which approval occurred at the City of New Berlin Plan Commission meeting on July 11, 2022; and

WHEREAS, the portion of the primary environmental corridor on the property at 19880 West Hickory Trail, New Berlin, which is to be released from the restriction set forth in CSM 6366, is approximately 5,000 square feet in size and is more specifically described in the attached description, Exhibit B; and

WHEREAS, Wis. Stats. sec. 236.932 permits the release of restrictions on a certified survey map by action of the Common Council.

NOW, THEREFORE, by the Common Council of the City of New Berlin does hereby resolve as follows:

BE IT RESOLVED that that portion of the primary environmental corridor on the property at 19880 West Hickory Trail, New Berlin, as described in Exhibit B is hereby released from the

primary environmental corridor building restriction set forth in CSM 6366, and the property owner at 19880 West Hickory Trail, New Berlin, shall hereby be permitted to construct a swimming pool and associated grading within the area noted on Exhibit B. No other construction or improvements shall be permitted within this area, aside from the construction of the pool and any associated utilities or appurtenances.

BE IT FURTHER RESOLVED that the primary environmental corridor restriction as set forth in CSM 6366 shall otherwise remain in full force and effect according to its terms.

BE IT FURTHER RESOLVED that the Mayor, and City Clerk are authorized to execute a release of restriction in accordance with this resolution and record the same with the Waukesha County Register of Deeds.

Dated at New Berlin, Wisconsin this _____ day of _____, 2022.

APPROVED:

_____
David Ament, Mayor

Countersigned:

_____
Medina Rubina, City Clerk

CITY OF NEW BERLIN
COMMITTEE OF THE WHOLE - MINUTES
Tuesday, June 14, 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

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, Police Chief Hingiss, City Attorney and Finance Director Ralph Chipman

APPROVAL OF MINUTES

ITEM: May 24, 2022 Committee of the Whole Meeting Minutes

MOTION: **Motion to approve the May 24, 2022 Committee of the Whole Meeting Minutes**

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

UTILITIES & FINANCE

ITEM: 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.

MOTION: **Motion to approve the June 15th, 2022 Water Utility, Sewer Utility, General City Claims and We Energies EFT as presented.**

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

LICENSES & PERMITS

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 licenses as presented.**

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

ITEM: 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

MOTION: **Motion to approve the Extension of Premise for Varsity Club**

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

ITEM: 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.

MOTION: **Motion to approve the Loudspeaker Variance for Holy Apostles Catholic Parish**

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

ITEM: 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.

MOTION: **Motion to approve the Loudspeaker Variance for St. Elizabeth Ann Seton**

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

MISCELLANEOUS

ITEM: 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.

Rubina, City Clerk spoke to the items outlined in the RAS.

MOTION: **Motion to approve the adoption of** 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.

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

DEFERRED, REFERRED & TABLED ITEMS

ADJOURN

MOTION: Motion to adjourn the meeting at 6:13pm.

Motion by: Kroupa
Second by: Maxey
Motion Passed: 7-0

Respectfully Submitted,

Rubina R. Medina, City Clerk

FINANCE DEPARTMENT UPDATE

Receipt the Money

• Tax Roll	$93.2 million
• Other City revenues	$ 9.0 million
• Utilities	$18.6 million
• Special Revenue Funds	$ 2.1 million
• Capital Projects	$ 20.5 million
• TOTAL	$143.4 MILLION

Invest the Money

- State Statutes and more restrictive City Investment Policy
- City has a “passive investment” policy
- Security, Liquidity, Return
- Majority of funds in the State Investment Pool, balance in CD’s and Federal Agencies
- WISC member, under the State contract for fees, substantial savings & all available funds invested.

Pay out the Money

- Other Taxing Districts $62.3 million
  - *Collect taxes for the 8 taxing districts in the City*
- Vendors $36.4 million
  - *6,277 checks issued*
- Employees $19.8 million
  - *415 W-2's issued, 253 1095-C's, 8,036 paychecks*
- Debt Service $ 22.8 million

- TOTAL $141.3 MILLION

Account for it All

- Financial Statements for City, Water, & Sewer
- Monthly financial, Quarterly CIP reports to council, mayor & department heads
- State Financial Report Form B, annually to the State-22 pages
- PSC Report, annually to the State – 72 pages
- Statement of Taxes
- Other non-public reports - W-2's, 1099's, 1095-C (ACA), Wisconsin Retirement

2021 Activities

- Assist Grant Reporting & application – Tourism, Supplemental law enforcement grant, JustGrant
- Numerous budget projections & updates
- Annual Audit done remotely
- 2020 Single Audit Completed
- Completed GASB 75 Actuarial Valuation Report for Audit

- Replaced credit cards with purchasing cards for reimbursement
- Transition to *KRONOS* for time & attendance for DPW employees
- Refunded debt – result in future value savings of $1,599,872

Other Tasks

- Calculate tax roll & generate tax bills
- Chairperson of Joint Review Board
- Coordinate annual Bond Issue for Capital Budget – significant amount of behind the scenes paperwork, 3 Bond issues, 2 Inter-fund Loans
- Maintain garbage/recycling database, add, remove, bill customers
- Maintain access & authorities in MUNIS
- Coordinates the operating & capital budget process for all city and enterprise funds
- Part of union negotiating team
- Reports & analysis for boards/commissions: Library, 4th of July, Tourism, Finance, etc.
- Prepare/file reports with State - Room tax, Levy Limit, Statement of Taxes, TID, Video Provider & Chargeback

Department Staffing

	Actual 2021	Budget 2022	Proposed 2023	Proposed 2024
Director of Finance/Treasurer	1.0	1.0	1.0	1.0
Deputy Director of Finance	-	-	1.0	1.0
Accounting Manager	0.9	0.6	-	-
Utility Accountant	0.1	0.4	1.0	1.0
Staff Accountant	-	-	-	1.0
Bookkeeper	1.0	1.0	1.0	1.0
Payroll coordinator	0.7	0.7	0.7	0.7
Payroll Associate	0.5	0.5	0.5	0.5
Cashier	1.0	1.0	1.0	1.0
Total	5.2	5.2	6.2	7.2

* Brookfield Finance department has 10.75 FTE's, Franklin has 7.23 and outsources payroll, and tax bill process, Greenfield has 7 FTE’s

Brookfield 2022 Budget	
Direct of Finance & admin	1
Deputy Finance Director	1
Finance Manager	1
Management Accountant	1
Payroll Management Accountant	1
Utility Accountant	1
Accountant	2
Accounting Clerk	1
Office Services Assistant	1.75
	10.75

Technology

- MUNIS is main operating system for the City, used for General Ledger, Payroll, Payables, Utility Billing, Tax Billing, Cash Receipting, and Permitting

  In place since July 2004, update to latest version approximately annually. No need to change into the foreseeable future. We were among the first to use this software, but has become the municipal standard in the state since. Brookfield, Waukesha, La Crosse, Sheboygan, Green Bay, Oshkosh, Madison, Sun Prairie, plus others including school districts & counties have been added since.

  Adobe to be phased out in 2022, major upgrade in process, to be done in November 2022 in addition to adding online payment capabilities

- Online Banking - review account activity online daily, use bill consolidator to mass process online checks, utility customers have direct debit capability, all paychecks are direct deposited.

- An ever vigilant attitude is needed to detect and prevent cybercriminal activity impact on workstations when using the Internet and accessing web-based systems. Early detection and quick action is important to minimize any potential impact

** Security of City assets & Employee information is TOP priority. Review done with bank annually. Several attempts at fraud during the year, no losses to the city, but a constant concern.

The Future

- Prepare for inevitable turnover, expand cross-training, create user manuals
- Continue transition to new time & attendance software
- Mandatory Medicare Ground Ambulance cost study participant
- Prepare for major operating software update in November 2022-includes managing the process & training staff
- Expand purchasing card use- earn rebates, become more efficient
- Record retention review, clean out old files

- Thank you!

- Any questions, concerns, etc, contact finance:

- Ralph Chipman, CPA
- rchipman@newberlin.org
- 262-797-2448

STATE OF WISCONSIN **WAUKESHA COUNTY** **CITY OF NEW BERLIN**

RESOLUTION NUMBER 22-13

A RESOLUTION TO APPROVE THE APPLICATION & BORROWING FOR THE RECREATION CENTER FINANCING IN THE AMOUNT OF $11,470,000

By the provisions of Sec. 24.66 of the Wisconsin Statutes, all municipalities may borrow money for such purposes in the manner prescribed, and,

By the provisions of Chapter 24 of the Wisconsin Statutes, the Board of Commissioners of Public Lands of Wisconsin is authorized to make loans from the State Trust Funds to municipalities for such purposes. (Municipality as defined by Sec. 24.60(2) of the Wisconsin Statutes means a town, village, city, county, public inland lake protection and rehabilitation district, town sanitary district created under Sec. 60.71 or 60.72, metropolitan sewerage district created under Sec. 200.05 or 200.23, joint sewerage system created under Sec.28 1.43(4), school district or technical college district.)

THEREFORE, BE IT RESOLVED, that the City of New Berlin**,** in the County of Waukesha, Wisconsin, borrow from the Trust Funds of the State of Wisconsin the sum of Eleven Million Four Hundred Seventy Thousand and 00/100 Dollars ($11,470,000) for the purpose of financing a recreation facility and for no other purpose.

The loan is to be payable within 2 years from the 15th day of March preceding the date the loan is made. The loan will be repaid in annual installments with interest at the rate of 4.50 percent per annum from the date of making the loan to the 15th day of March next and thereafter annually as provided by law.

RESOLVED FURTHER, that there shall be raised and there is levied upon all taxable property, within the City of New Berlin**,** in the County of Waukesha, Wisconsin, a direct annual tax for the purpose of paying interest and principal on the loan as they become due.

RESOLVED FURTHER, that no money obtained by the City of New Berlin by such loan from the state be applied or paid out for any purpose except **financing a recreational facility** without the consent of the Board of Commissioners of Public Lands.

RESOLVED FURTHER, that in case the Board of Commissioners of Public Lands of Wisconsin agrees to make the loan, that the mayor and clerk of the City of New Berlin**,** in the County of Waukesha**,** Wisconsin, are authorized and empowered, in the name of the City to execute and deliver to the Commission, certificates of indebtedness in such form as required by the Commission, for any sum of money that may be loaned to the City pursuant to this resolution. The mayor and clerk of the City will perform all necessary

actions to fully carry out the provisions of Chapter 24 Wisconsin Statutes, and these resolutions.

RESOLVED FURTHER, that this preamble and these Resolutions and the aye and no vote by which they were adopted, be recorded, and that the clerk of this City forward this certified record, along the application for the loan, to the Board of Commissioners of Public Lands of Wisconsin.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to publish this resolution in the Waukesha County NOW within 10 days of adoption by the Common Council.

RESOLUTION ADOPTED by the New Berlin Common Council this 26th day of July 2023.

_____

David Ament, Mayor

Countersigned:

_____

Rubina R. Medina, City Clerk