

---

**ORDINANCE NO. 2526**  
**(text revised)**  
**THE NEW BERLIN CITY CENTER**  
**PLANNED UNIT DEVELOPMENT**  
**OVERLAY DISTRICT**

---

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

**SECTION 1**

WHEREAS, the Plan Commission for the City of New Berlin adopted the City of New Berlin 2020 Comprehensive Plan as a whole and Chapter 15 – Neighborhood E – National Avenue East Corridor to replace the Land Use and Urban Design Plan for the City of New Berlin: 2010 on the 2nd day of November, 2009, and

WHEREAS, the City of New Berlin 2020 Comprehensive Plan as a whole and Chapter 15 – Neighborhood E – National Avenue East Corridor shall be used as a guide for development within the New Berlin City Center Development, and

WHEREAS, the City of New Berlin allows planned unit developments, pursuant to Sec. 275-23 and 275-39 of the New Berlin Municipal Code, and

WHEREAS, the original NB Commercial Center, LLC (NBCC) located at P.O. Box 437, Pewaukee, Wisconsin, 53072-0437, by its managing member, Ed Carow in conjunction with the Decade Land Opportunity Fund, a limited partnership (DLOF) located at 250 Patrick Blvd, Suite 140, Brookfield, Wisconsin, 53045-5864, by its partnership manager, Michael Sweet, desire to develop “The New Berlin City Center Development,” described in Exhibit A, as a planned unit development and having submitted a PUD Petition on the 7th day of June, 2000, after which a public hearing was held on the 1st day of August, 2000, pursuant to Sec. 17.1100 of the New Berlin Municipal Code; and

WHEREAS, the Common Council for the City of New Berlin approved of the New Berlin City Center PUD Petition on the 26th day of September, 2000; and

WHEREAS, the Plan Commission for the City of New Berlin approved textual changes to the New Berlin City Center PUD on the 5th day of March 2001; and

WHEREAS, the Common Council for the City of New Berlin approved textual changes to the New Berlin City Center PUD on the 13th day of March, 2001;

WHEREAS, the Plan Commission for the City of New Berlin approved boundary amendments to add additional land located at 14901-14905 W. National Avenue (former Sims property) into the New Berlin City Center PUD via Ordinance #2330 on the 11th day of September, 2006;

WHEREAS, the Common Council for the City of New Berlin approved boundary amendments to add additional land located at 14901-14905 W. National Avenue (former Sims property) into the New Berlin City Center PUD via Ordinance #2330 on the 26th day of September, 2006;

WHEREAS, the Plan Commission for the City of New Berlin approved boundary amendments to add additional land located at 14967 and 15055 W. National Avenue (former H&G Simplicity & carwash) into the New Berlin City Center PUD via Ordinance #2360 on the 10th day of September, 2007;

WHEREAS, the Common Council for the City of New Berlin approved boundary amendments to add additional land located at 14967 and 15055 W. National Avenue (former H&G Simplicity & carwash) into the New Berlin City Center PUD via Ordinance #2360 on the 25th day of September, 2007;

WHEREAS, the Common Council for the City of New Berlin initiated an update to the City Center Ordinance and approved Resolution No. 2010-19 on June 8, 2010 suspending the receipt of development applications within the New Berlin City Center area for a period of 90 days, expiring on Monday, September 6th, so that the City could review the City Center Plan, the City Center Planned Unit Development Ordinance and future land uses with regard to their consistency with the City's recently adopted Comprehensive Plan and, to recommend changes (if applicable).

WHEREAS, the Common Council for the City of New Berlin directed the City's Plan Commission to serve as the Steering Sub-Committee for any changes to these aforementioned documents.

WHEREAS, The Common Council of the City of New Berlin approved a 120-day extension of moratorium on September 1, 2010, expiring January 6, 2011.

WHEREAS, The Common Council of the City of New Berlin approved a 120-day extension of the moratorium on December 14, 2010, expiring May 5, 2011.

WHEREAS, The Common Council of the City of New Berlin approved a 30-day extension of the moratorium on DATE, expiring June 4, 2011.

WHEREAS, The Common Council of the City of New Berlin approved a 60-day extension of the moratorium on May 24, 2011, expiring August 3, 2011.

WHEREAS, The Department of Community Development has actively gone through the process of seeking public input and reviewing the aforementioned documents. Significant outreach took place. Below is a list of the public participation activities completed as of February 7, 2011.

1. 6/29/2010 – Special Plan Commission Meeting (to present historical overview of City Center)
2. 7/22/2010 – District 5 Focus Group
3. 7/26/2010 - District 2 Focus Group
4. 7/27/2010 – 9/9/2010 – 26 – staff “open-office” hour sessions (held Monday through Thursday from 9 a.m. to 10 a.m.)
5. 7/28/2010 – City Center Business Owner Focus Group
6. 7/29/2010 & 8/3/2010 – Real Estate Broker Interviews
7. 8/2/2010 – Plan Commission Update & Focus Group
8. 8/10/2010- Ald. Hopkins Interview
9. 8/10/2010 – Ald. Wysocki Interview

10. 8/10/2010 – Ald. Liska Interview
11. 8/12/2010 – Ald. Moore Interview
12. 8/23/2010 – Ald. Siedl Interview
13. 8/26/2010 – Ald. Harenda Interview
14. 9/1/2010 – Mayor Interview
15. 9/3/2010 - Ald. Ament Interview
16. 9/21/2010 – District 7 Focus Group
17. 9/22/2010 – Districts 3 & 4 Focus Groups
18. 9/23/2010 – District 1 Focus Group
19. 9/27/2010 – District 6 Focus Group
20. 10/18/2010 – Chamber of Commerce Focus Group

WHEREAS, Staff from the Department of Community Development & Consultant made a series of presentations of recommendations and actions to the Plan Commission on February 7, 2011 and continued discussion on February 17, 2011, March 7, 2011, March 21, 2011 and April 4, 2011.

WHEREAS, as the City of New Berlin held a Citywide open house on February 24, 2011 to accept public feedback on the suggested changes.

WHEREAS, the City of New Berlin Plan Commission held a Public Hearing on May 2, 2011.

WHEREAS, the Plan Commission for the City of New Berlin approved textual changes to The New Berlin City Center PUD via Plan Commission Resolution # 11-03 on the 2nd day of May 2011; and

WHEREAS, the Common Council for the City of New Berlin approved textual changes to the New Berlin City Center PUD via Ordinance #2459 on the 2nd day of August, 2011;

WHEREAS, the City and the United States Department of Justice entered into a Consent Decree which was approved by the United States District Court For the Eastern District of Wisconsin on April, 19, 2012 which provides for changes to this **New Berlin City Center Planned Unit Development Overlay Ordinance** relating to multi-family housing;

WHEREAS, the Common Council for the City of New Berlin approved these textual changes to the **New Berlin City Center Planned Unit Development Overlay District** via Ordinance #2486 on the 22<sup>nd</sup> day of May, 2012;

WHEREAS, the Plan Commission for the City of New Berlin approved textual changes to remove “Exhibit I – City Center Sign Guidelines” and all references to Exhibit I from The New Berlin City Center Planned Unit Development Overlay District on the 7<sup>th</sup> day of July, 2014;

NOW, THEREFORE, BE IT HEREBY RESOLVED AND ADOPTED BY THE CITY OF NEW BERLIN, that the New Berlin City Center shall hereby be developed pursuant to this Planned Unit Development Overlay District Ordinance, adopted pursuant to Sec. 275-23 and 275-39 the New Berlin Municipal Code as follows:

## PLANNED UNIT DEVELOPMENT SUMMARY

This PUD is a pedestrian friendly neo-traditional mixed-use development. While combining traditional residential neighborhoods with neo-traditional commercial development, this PUD may also include; single-family residential, duplex residential, condominiums, townhomes, apartments, commercial, office, institutional, and an area for active as well as passive recreation and community type activities.

The New Berlin City Center Development is a village atmosphere with a mix of distinct areas as outlined in the City Center Land Use Map Exhibit G (See the City of New Berlin 2020 Comprehensive Plan as a whole and Chapter 15 – Neighborhood E – National Avenue East Corridor) , which is incorporated within this PUD. The New Berlin City Center Development will consist of common open space, plazas, central community use, a retail /shopping area mixed with an office and/or professional office area, residential areas built as separate multiple-family or senior housing communities (as identified on the City Center Land Use Map Exhibit G), along with integrated residential areas (individual dwelling units built as part of the commercial development within City Center), and a single-family housing district.

The purpose of this Ordinance is to create zoning districts that allow for creative project design with mixed land uses to produce a well designed village layout in a neo-traditional\* manner including; strict architectural standards for all new construction, tree-lined avenues, village greens, public open space, broad greenbelts and conservancy areas, while incorporating the limitations associated with the land and the economics of the marketplace. The key issues for the City of New Berlin and its residents are the mutual benefits associated with the roadway improvements to facilitate a safer environment, a city center / hub type identity for the City of New Berlin, a pedestrian friendly village atmosphere, joint/shared parking for the creation of a destination point effect along with open spaces for the promotion of pedestrian travel, the use of village type housing to create a welcoming ambiance for the developed setting. The development will achieve a cluster affect of specific uses that are tied together through high quality architecture as defined in the Design Guidelines (Exhibit H). The cluster effect also serves to define and protect the natural open spaces, which are part of the New Berlin City Center Development while at the same time providing storm water management, and passive recreational areas.

*\*Neo-traditional – An approach to land-use planning and urban design that promotes the building of neighborhoods with a mix of uses and housing types, architectural variety, a central public gathering place, interconnecting streets, and edges defined by greenbelts or boulevards. The basic goal is integration of the activities of potential residents with work, shopping, recreation, and transit all within walking distance.*

Please refer to the Architecture Sections of this PUD for more specific architectural requirements.

The roadway connections of Michelle Witmer Memorial Drive, Library Lane, Wall Street, Howard Avenue and Wilbur Drive will provide connections to the New Berlin City Center from the North, South, East, and West of the development. These connections will help to alleviate traffic concerns in the area for the City.

Additionally, the project will facilitate the development of park lands and wetland enhancement through mitigation, as permitted by governing agencies, and the dedication of conservancy districts, as well as the added benefit of a new community use in the hub of the new "City Center" development.

This PUD shall provide mutual benefits for both the community and the developer as it evolves. It is understood that this project shall evolve over time and must remain flexible to incorporate as many goals of the City of New Berlin.

**The maximum number of housing units permitted in the City Center shall be 310. Housing units constructed in the area zoned as R-4.5 in Exhibit D shall not be included for purposes of determining the maximum amount of housing units hereunder.**

Along with any road extension and/or development proposals in the B-2/O-1/PUD, R-4.5/PUD, and C-1/C-2 PUD areas of the City Center, (lands in the southern half identified by the following tax keys: 1207-976; 1207-976-001; 1207-976-002; 1207-996-003, and 1207-976-004) development proposals shall be field verified for wetland and upland boundaries per Section 275-37B in addition to correctly verifying and surveying the zoning boundaries.

Any inconsistencies between the City Center Design Guidelines (as attached as Exhibit H) and this PUD shall be reconciled in favor of this PUD.

### **B-2/PUD VILLAGE DISTRICT**

The Village District, as Described in Exhibit B, is intended to provide for neighborhood retail, residential, office, and community uses. The District is also intended to provide for attractive cluster groupings of retail, office and financial service uses in aesthetically pleasing multi-story structures. This district is intended to accommodate the requirement of shared parking and loading facilities, and a pedestrian-oriented neighborhood environment. Designs for this type of use shall be consistent with those of familiar downtown districts that offer downtown public plazas & promenades, outdoor seating, pedestrian walkways including, but not limited to City of Waukesha Downtown Main Street, Downtown Cedarburg & Burlington, VT (Please refer to pictures in the Appendix). Amenities would include decorative street lighting, banners on street lights, creative landscaping, benches, bike racks, decorative paving, varying roof lines, ornamental/architectural details as part of the building facades, bay windows, large awnings, outdoor display/advertising boards;

### **USES**

#### **1. Principal Uses (See also Section 275-24)**

The following general list of uses provided that they shall be retail, office, multi-family housing, or service establishments:

- a) Bakeries;
- b) Banks, savings and loan associations, and other financial institutions;
- c) Barber shops;
- d) Bars and taverns;
- e) Beauty shops;
- f) Bookstores;
- g) Brew pub;
- h) Camera and photographic supply stores and studios;
- i) Clothing stores;
- j) Computer and computer supply stores;
- k) Comedy Clubs;
- l) Confectionery, ice cream, and yogurt stores;

- m) Day Care Center;
- n) Delicatessens;
- o) Pharmacies;
- p) Fish markets;
- q) Florists ( including small scale green houses);
- r) Fruit stores;
- s) Furriers and fur apparel;
- t) Garden Center;
- u) Gift stores;
- v) Grocery stores;
- w) Health clubs;
- x) Hobby and craft shops;
- y) Hotel;
- z) Jewelry stores;
- aa) Library;
- bb) Mail services;
- cc) Meat markets;
- dd) Medical and dental practitioners;
- ee) Multi-family residential units, up to 18.89 units per acre, with attached garage or underground garage parking and accommodated visitor parking. See the Parking and Circulation section for requirements;
- ff) Museum;
- gg) Music stores;
- hh) Newspaper and magazine stores;
- ii) Optical stores;
- jj) Packaged beverage stores;
- kk) Paint, glass and wallpaper stores;
- ll) Pet and pet supply stores;
- mm) Printing, including photocopying and small-scale printing;
- nn) Professional, business, financial, insurance, government, and real estate offices;
- oo) Public Uses – (Such uses might include, but are not limited to, ice skating rink, public concert/gazebo area, farmer’s market, community center building for special events and banquets, etc.)
- pp) Radio and television stores;
- qq) Residential units integrated into commercial buildings or above commercial uses.
- rr) Restaurants;

- ss) Self-Service laundry and dry cleaning establishments;
- tt) Shoe stores and leather goods stores;
- uu) Soda fountains;
- vv) Sporting goods stores;
- ww) Stationery stores;
- xx) Supermarkets;
- yy) Community Theaters;
- zz) Tobacco stores;
- aaa) Variety stores;
- bbb) Vegetable stores;
- ccc) Videotape sales and rental;
- ddd) Winery or wine bar; and
- eee) Any other use that the Plan Commission finds will be similar in nature, operation, and function to uses allowed within the district.

**2. Accessory Uses & Structures (See also Section 275-42)**

- a) Outside seating/dining, sales, carts, kiosks, display of merchandise provided the use does not obstruct traffic, sidewalk or fire lane areas; and is listed on the Plan Commission approved plan of operation; and
- b) Ground-mounted and building-mounted earth station dish and terrestrial antennas provided they are screened from view or are integrated with the architecture;
- c) Community Building (public or private);
- d) Essential services;
- e) Gardening, including community gardens, tool and storage sheds incidental to the residential or commercial use;
- f) Home occupations;
- g) Landscape/garden artwork (fountains, statues, gazebos, tables, benches, bike stands, newspaper boxes, etc.);
- h) Pool & Fitness Center to serve residents;
- i) Property manager's offices;
- j) Staff offices;
- k) Storage and maintenance areas;
- l) Tennis Courts, volley ball courts, or other recreational areas;
- m) Utilities; and
- n) Any other use that the Plan Commission finds will be similar in nature, operation, and function to accessory uses allowed within the district.
- o) Business Center as incorporated within a residential development to serve residents.

**3. Conditional Uses (See also Section 275-27)**

- a) Non-residential buildings exceeding 30,000 square feet. In considering applications for non-residential buildings exceeding 30,000 square feet, the Plan Commission shall consider the applications relative size of the buildings, the amount of open space being provided, traffic impacts, as well as other amenities, and the overall architectural character and it's consistency with surrounding architecture;
- b) Any other use that the Plan Commission finds will be similar in nature, operation, and function to conditional uses allowed within the district.

**4. Prohibited Uses (See also Section 275-34C; Table 275-34-1)**

- a) General automotive;
- b) Automotive services and repair;
- c) Automotive rental;
- d) Automotive sales;
- e) Carports;
- f) Contractor bulk sales;
- g) Farm equipment sales and service;
- h) Funeral services;
- i) Freight service;
- j) Industrial warehouses;
- k) Self-storage;
- l) Trucking facilities or rental services; and
- m) Any use that the Plan Commission finds will not be similar in nature, operation, and function to other City Center character and uses established by this ordinance, envisioned in the City Center Plan, or the City of New Berlin Comprehensive Plan as a whole and Chapter 15 – Neighborhood E – National Avenue East Corridor.

**PARKING AND CIRCULATION**

**5. Parking Requirements (See also Section 261-4 and reference the City Center Design Guidelines in Exhibit H)**

- a) Garages for storage of vehicles used in conjunction with the operation of a business, except semi-tractors, semi-trailers, and construction vehicles and equipment;
- b) Parking for multi-family dwelling units. Two parking spaces per dwelling unit, plus 1/10 of a space for guest parking. A minimum of one parking space per dwelling unit shall be in an attached garage or underground garage;
- c) Parking for stand-alone senior housing. One covered parking space (attached garage or underground garage) per dwelling unit, plus 1/10 of a space for guest parking.
- d) Parking for senior housing integrated into commercial buildings. One parking space per dwelling unit, plus 1/10 of a space for guest parking.
- e) Parking for residential units integrated into commercial buildings. One space per dwelling unit, plus 1/10 of a space for guest parking shall be clearly delineated in the parking plan.

- f) Off-street parking and loading areas. Minimum parking stall dimension 9'x18';
- g) The parking and storage of semi-tractors and semi trailers, except for pickup and deliveries, is prohibited. Parking or storage of construction vehicles and equipment, except during periods of permitted construction activity, is prohibited. Temporary access shall be deemed acceptable for permitting and development. (See also Section 275-57 ); and
- h) All parking is to be located at the rear or side, within a common parking area, or provided for on the street. On street parking shall not count towards satisfying required parking requirements for residential development.

## **SITE DEVELOPMENT**

### **6. Lot Area and Width (See also Sections (Article VI – Measurement – 275-44 Lot Measurement & Requirements; 275-45 (Height measurement & Requirements); 275-46 (Yard/setback Measurement & Requirements); 257-44 (Lot of Record))**

- a) Parcels of land within the B-2 Village District may be configured in any manner by subdivision, CSM or metes and bounds transfer subject to City review and approval under, WI Statues Ch. 236 and New Berlin Municipal Code Chapter 275 and 235; and

### **7. Setback and Yards (See also Sections (Article VI – Measurement and 257-44 (Lot of Record))**

- a) Minimum building setback of 20 feet from the base setback line of National Avenue shall be required;
- b) All buildings shall be subject to a minimum setback of 15 feet (side yard) and 25 feet (rear yard) from all external boundaries of this PUD;
- c) Buildings shall be setback a minimum of 10 feet from the curb or edge of pavement of an approved private street;
- d) All buildings fronting a public street shall have front setbacks, with a maximum front yard setback of 15 feet from the base setback line, except where: (a) site shape or size prohibits; (b) environmental conditions prohibit.
- e) No building shall be closer than 25 feet to another building except as provided for in (f);
- f) No building or structure shall be located closer than 10 feet from an internal lot line. The 10-foot setback shall be waived for buildings, multi-tenant structures; zero-lot line dwellings, town house/row house that by necessity have common walls or are physically attached;
- g) There shall be a minimum building setback of 50 feet from the ordinary high-water mark of any navigable body of water;
- h) All impervious surfaces shall have a minimum setback of 10' from wetlands, except grading and landscaping can be within the setback.
- i) No accessory building or structure 120 square feet or less in area, or parking lot or driveway, shall be located closer than five (5) feet to an internal lot line;
- j) The Plan Commission may waive side yard and rear yard setbacks if adjacent developments are designed as a unified project;
- k) No parking lot shall be located closer than 10' to a public ROW;
- l) In all cases building locations and setbacks must provide adequate spacing so land, buildings, and structures are readily accessible to emergency vehicles and the handicapped; and

- m) Respecting the creative design process, the Plan Commission reserves the right to require greater setbacks owing to health, safety and welfare concerns to ensure, the proposed onsite buildings, structures, and entry ways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/ exterior traffic flow, storm water drainage, erosion, grading, lighting, and parking, as specified by this Ordinance or any other codes or laws.

**BUILDING CHARACTER (REFER TO THE CITY CENTER DESIGN GUIDELINES IN EXHIBIT H)**

**8. Building Height (See also Sections 275-45 (Height measurement & Requirements); and 275-42 (Accessory Uses & Structures))**

- a) No residential building shall exceed 42 feet in height as measured pursuant to Section 275-45 of the City's Zoning Ordinance.
- b) No commercial and/or office building shall exceed 40 feet in height except when the Plan Commission conditionally approves a maximum height of 50 feet for a special feature or unique condition.
- c) No commercial and/or office structure shall exceed 35 feet in height within 75 feet of the Right of Way of an arterial street.
- d) No accessory building or structure shall exceed 15 feet in height.

**9. Building Area**

- a) The minimum floor area of a multi-family housing Unit shall not be less than 950 sq. ft. for a two bedroom dwelling unit plus 200 square feet per additional bedroom, 600 sq. ft. for a one bedroom dwelling unit; efficiency units shall not be less than 500 sq. ft.
- b) Minimum dwelling unit size for an individual senior living unit designed for a single person occupancy one bedroom unit shall be 600 square feet. An additional 100 square feet shall be required for each additional bedroom. Efficiency units shall be a minimum of 500 square feet.

**PERFORMANCE STANDARDS**

**10. Performance Standards (See also Section 275-60)**

All plans for the improvements to the public way, including, but not limited to utilities, storm water, roads, sanitary sewer, grading, water, lighting, landscaping, pedestrian ways, are to be approved and completed, or guaranteed to be completed, under terms addressed in a Developer's Agreement prior to City signing a Final CSM dedicating "Michelle Witmer Memorial Drive" (Michelle Witmer Memorial Drive /Howard Avenue extended).

**SIGNS** (See Section 275-61 and, also refer to the City Center Design Guidelines, Exhibit H)

**LANDSCAPE** (See Section 275-56 and, also refer to the City Center Design Guidelines, Exhibit H)

**REVIEW AND APPROVAL PROCESS**

**11. Use and Site Plan Review (See also Section 275-24) Refer to City Center Design Guidelines, Exhibit H)**

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 the Staff and/or Plan Commission has reviewed and approved the application for the zoning permit/use approval. The site character of the Village District shall attempt to incorporate the following elements to reflect neo-traditional architectural components:

- a) Plazas, Malls, Formal Gardens, village greens and/or other common areas;
- b) Underground, attached garages, multi -level, or rear loaded parking;
- c) Seasonal outside dining areas;
- d) Maximum front setbacks, where applicable (allowing for minimum setback from ROW):
- e) On street parking for non-residential uses;
- f) Traffic calming measures;
- g) Building and landscape lighting;
- h) Landscaping, including, but not limited to tree-lined avenues, raised brick planting beds, coordinated above ground planters;
- i) Trails;
- j) Pedestrian Walks;
- k) Bike racks;
- l) Sitting areas w/tables or benches;
- m) Vehicular connection to Howard Avenue; and
- n) Pedestrian connection to Howard Avenue.

## **12. Architectural Review (See also Section 275-24)**

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 or occupied until after the owner has applied for and the Architectural Review Sub-Committee of the Plan Commission has reviewed and approved the architecture for the zoning permit/use approval.

The architectural character of the City Center shall attempt to incorporate the following neo-traditional architectural elements in addition to those identified in the City of New Berlin 2020 Comprehensive Plan as a whole, Chapter 15 – Neighborhood E – National Avenue East Corridor, and the City Center Design Guidelines (Exhibit H):

- a) Elements in commercial mixed-use areas may include:
  - i. Visual continuity of roofs and their contributing elements; parapet walls, cornices, coping, chimneys, spires, cupolas;
  - ii. Multi-story buildings;
  - iii. Mixed uses;
  - iv. Four-sided architecture using brick or stone facades;
  - v. Varied facades, no more than 50 linear feet of any one facade shall be in the same plane. The use of recesses or protrusions should be used to break the continual mass. Oriels, pilasters and turrets should also be considered as ways of breaking up the massing;
  - vi. Pitched roofs;

- vii. Flat roofs which are capped with a brick, stone or Precast concrete cornice that includes such ornamentation as corbelling, dentils, brackets and false pediments;
  - viii. Split faced CMU used for bases, decorative banding or pilasters. CMU usage shall not represent more than 15% of the total perimeter of anyone structure, or structures, for zero side yard setback buildings;
  - ix. Street level retail buildings to have a minimal of 60% glazing facing the street, or its pedestrian walkway or plaza;
  - x. Awnings or pedestrian arcades;
  - xi. Punched window openings;
  - xii. Clear or minimal tinted glazing along storefronts;
  - xiii. Windowed store fronts;
  - xiv. Plazas, Malls, Formal Gardens, and other common areas;
  - xv. Underground parking, rear loaded parking, or side loaded parking;
  - xvi. Shared parking lots;
  - xvii. Planters;
  - xviii. Banners; and
  - xix. Street, outdoor, and landscape lighting
  - xx. Four-sided architectural detailing at the roof level.
- b) Elements in residential areas may include the following elements (Subject to a Staff and/or Plan Commission approval);
- i. Clap board type siding;
  - ii. Brick;
  - iii. Stone or natural materials;
  - iv. Decorative CMU block;
  - v. Architectural lighting;
  - vi. Attached or underground parking; and
  - vii. Extensive landscaping to include plazas, malls, formal gardens, and other common areas using fountains, gazebos, and other yard (garden) art;
- c) Prohibited Elements in all areas of the City Center:
- i. Exposed mechanicals (roof mounted units or cooling towers);
  - ii. Aboveground utilities (shall be rear loaded, the maximum extent practicable);
  - iii. Aboveground telecommunication facilities (does not include dish type satellite receivers);
  - iv. Flush or ribbon windows;
  - v. Smooth-faced or scored CMU; and
  - vi. Chain-link fencing
  - vii. Exposed interior walls of roof level facades.

## **B-2/PUD VILLAGE DISTRICT / O-1/PUD VILLAGE DISTRICT (B-2/O-1/PUD)**

The combined B-2/O-1/PUD district is intended to provide for neighborhood retail, residential, office, and community uses. The District is also intended to provide for attractive cluster groupings of retail, office and other commercial uses in aesthetically pleasing multi-story structures. This district is intended to accommodate the requirement of shared parking and loading facilities, and a pedestrian-oriented neighborhood environment. The district is not intended to be solely one use, but a mix of uses integrated with the City Center character. Designs for this type of use shall be consistent with those of familiar downtown districts that offer downtown public plazas & promenades, outdoor seating, pedestrian walkways including, but not limited to the City of Waukesha Downtown Main Street, Downtown Cedarburg & Burlington, VT (Please refer to pictures in the Appendix). Amenities would include decorative street lighting, banners on street lights, creative landscaping, benches, bike racks, decorative paving, varying roof lines, ornamental/architectural details as part of the building facades, bay windows, large awnings, and outdoor display/advertising boards.

### **USES**

#### **1. Principal Uses (See also Section 275-24)**

The following is a general list of commercial uses not exceeding 30,000 sq. ft.:

- a) Bakeries;
- b) Bars and taverns;
- c) Barber shops;
- d) Beauty shops;
- e) Bookstores;
- f) Brew pub;
- g) Camera and photographic supply stores and studios;
- h) Clothing stores;
- i) Computer and computer supply stores;
- j) Comedy Clubs;
- k) Confectionery, ice cream, and yogurt stores;
- l) Day Care Center;
- m) Delicatessens;
- n) Drive through facilities;
- o) Educational Institutions (profit or non-profit);
- p) Financial Institutions including, but not limited to, banks, savings and loan associations
- q) Fish markets;
- r) Florists ( including small scale green houses);
- s) Fruit stores;
- t) Furriers and fur apparel;
- u) Garden Center;

- v) Gift stores;
- w) Grocery stores;
- x) Health clubs;
- y) Hobby and craft shops;
- z) Hotel;
- aa) Jewelry stores;
- bb) Library;
- cc) Mail services;
- dd) Meat markets;
- ee) Medical and dental practitioners;
- ff) Medical and dental offices including those that offer alternative healing therapies, including but not limited to, massage, acupuncture, tattooing related to medical issues, etc.;
- gg) Multi-family residential units, up to 18.89 units per acre, with attached garage or underground garage parking and accommodated visitor parking. See the Parking and Circulation section for requirements
- hh) Museum;
- ii) Music stores;
- jj) Newspaper and magazine stores;
- kk) Optical stores;
- ll) Packaged beverage stores;
- mm) Paint, glass and wallpaper stores;
- nn) Personal Services as defined in 275-41C(11) of the Zoning Code;
- oo) Pet and pet supply stores;
- pp) Pharmacies;
- qq) Printing, including photocopying and small-scale printing;
- rr) Professional, business, financial, insurance, government, and real estate offices;
- ss) Public Uses – (Such uses might include, but are not limited to, ice skating rink, public concert/gazebo area, farmer’s market, community center building for special events and banquets, etc.)
- tt) Radio and television stores;
- uu) Residential units integrated into commercial buildings or above commercial uses.
- vv) Office units integrated into commercial buildings or above commercial uses.
- ww) Restaurants;
- xx) Self-Service laundry and dry cleaning establishments;
- yy) Shoe stores and leather goods stores;
- zz) Soda fountains;

- aaa) Sporting goods stores;
- bbb) Stationery stores;
- ccc) Supermarkets;
- ddd) Community Theaters;
- eee) Tobacco stores;
- fff) Variety stores;
- ggg) Vegetable stores;
- hhh) Videotape sales and rental;
- iii) Winery or wine bar; and
- jjj) Any other use that the Plan Commission finds will be similar in nature, operation, and function to uses allowed within the district.

**2. Accessory Uses & Structures (See also Section 275-42)**

- a) Outside seating/dining, sales, carts, kiosks, display of merchandise provided the use does not obstruct traffic, sidewalk or fire lane areas; and is listed on the Plan Commission approved plan of operation; and
- b) Ground-mounted and building-mounted earth station dish and terrestrial antennas provided they are screened from view or are integrated with the architecture;
- c) Community building (public or private, development);
- d) Essential services;
- e) Gardening, including community gardens, tool and storage sheds incidental to the residential or commercial use;
- f) Home occupations;
- g) Landscape/garden artwork (fountains, statues, gazebos, tables, benches, bike stands, newspaper boxes, etc.);
- h) Pool & Fitness Center to serve residents;
- i) Club House and/or Pool;
- j) Property manager's offices;
- k) Staff offices;
- l) Storage and maintenance areas;
- m) Tennis Courts, volley ball courts, or other recreational areas;
- n) Utilities; and
- o) Any other use that the Plan Commission finds will be similar in nature, operation, and function to accessory uses allowed within the district.
- p) Business Center.
- q) Business Center as incorporated within a residential development to serve residents.

**3. Conditional Uses (See also Section 275-27)**

- a) Non-residential buildings exceeding 30,000 square feet. In considering applications for non-residential buildings exceeding 30,000 square feet, the Plan Commission shall consider the applications relative size of the buildings, the amount of open space being provided, traffic impacts, as well as other amenities, and the overall architectural character and it's consistency with surrounding architecture;
- b) Any other use that the Plan Commission finds will be similar in nature, operation, and function to conditional uses allowed within the district.

**4. Prohibited Uses (See also Section 275-34C; Table 275-34-1)**

- a) Adult oriented establishments;
- b) General automotive;
- c) Automotive services and repair;
- d) Automotive rental;
- e) Automotive sales;
- f) Carports;
- g) Contractor bulk sales;
- h) Distribution centers;
- i) Farm equipment sales and service;
- j) Funeral services;
- k) Freight service;
- l) Heavy industrial;
- m) Industrial sales;
- n) Industrial warehouses;
- o) Light industry;
- p) Manufacturing of animal feed;
- q) Recycling center;
- r) Self-storage;
- s) Transportation depots;
- t) Truck terminals;
- u) Trucking facilities or rental services;
- v) Underground tanks; and
- w) Any use that the Plan Commission finds will not be similar in nature, operation, and function to other City Center character uses established by this ordinance, envisioned in the City Center Plan, or the City of New Berlin Comprehensive Plan as a whole and Chapter 15 – Neighborhood E – National Avenue East Corridor.

**PARKING AND CIRCULATION**

**5. Parking Requirements (See also Section 261-4 and reference the City Center Design Guidelines in Exhibit H)**

- a) Garages for storage of vehicles used in conjunction with the operation of a business, except semi-tractors, semi-trailers, and construction vehicles and equipment;
- b) Parking for multi-family dwelling units. Two parking spaces per dwelling unit, plus 1/10 of a space for guest parking. A minimum of one parking space per dwelling unit shall be in an attached garage or underground garage;
- c) Parking for stand-alone senior housing. One covered parking space (attached garage or underground garage) per dwelling unit, plus 1/10 of a space for guest parking.
- d) Parking for senior housing integrated into commercial buildings. One parking space per dwelling unit, plus 1/10 of a space for guest parking.
- e) Parking for residential units integrated into commercial buildings. One space per dwelling unit, plus 1/10 of a space for guest parking shall be clearly delineated in the parking plan.
- f) Off-street parking and loading areas. Minimum parking stall dimension 9'x18';
- g) The parking and storage of semi-tractors and semi trailers, except for pickup and deliveries, is prohibited. Parking or storage of construction vehicles and equipment, except during periods of permitted construction activity, is prohibited. Temporary access shall be deemed acceptable for permitting and development. (See also Section 275-57 ); and
- h) All parking is to be located at the rear or side, within a common parking area, or provided for on the street. On street parking shall not count towards satisfying required parking requirements for residential development.

**SITE DEVELOPMENT**

**6. Lot Area and Width (See also Sections, (Article VI – Measurement – 275-44 Lot Measurement & Requirements; 275-45 (Height measurement & Requirements); 275-46 (Yard/setback Measurement & Requirements); 257-44 (Lot of Record))**

- a) Parcels of land within City Center may be configured in any manner by subdivision, CSM or metes and bounds transfer subject to City review and approval under, WI Statues Ch. 236 and New Berlin Municipal Code Chapter 275 and 235; and

**7. Setback and Yards (See also Sections, (Article VI – Measurement and 257-44 (Lot of Record))**

- a) All buildings shall be subject to a minimum setback of 15 feet (side yard) and 25 feet (rear yard) from all external boundaries of this PUD;
- b) Buildings shall be setback a minimum of 10 feet from the curb or edge of pavement of an approved private street;
- c) All buildings fronting a public street shall have front setbacks, with a maximum front yard setback of 15 feet from the base setback line, except where (a) site shape or size prohibits; (b) environmental conditions prohibit;
- d) No building shall be closer than 25 feet to another building except as provided for in (e);
- e) No building or structure shall be located closer than 10 feet from an internal lot line. The 10-foot setback shall be waived for buildings, multi-tenant structures; zero-lot line dwellings, town house/row house that by necessity have common walls or are physically attached;

- f) There shall be a minimum building setback of 50 feet from the ordinary high-water mark of any navigable body of water;
- g) All impervious surfaces shall have a minimum setback of 10' from wetlands, except grading and landscaping can be within the setback;
- h) No accessory building or structure 120 square feet or less in area, or parking lot or driveway, shall be located closer than five (5) feet to an internal lot line;
- i) The Plan Commission may waive side yard and rear yard setbacks if adjacent developments are designed as a unified project;
- j) No parking lot shall be located closer than 10' to a public ROW;
- k) In all cases building locations and setbacks must provide adequate spacing so land, buildings, and structures are readily accessible to emergency vehicles and the handicapped; and
- l) Respecting the creative design process, the Plan Commission reserves the right to require greater setbacks owing to health, safety and welfare concerns to ensure, the proposed onsite buildings, structures, and entry ways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress, interior/ exterior traffic flow, storm water drainage, erosion, grading, lighting, and parking, as specified by this Ordinance or any other codes or laws.

**8. Lot Coverage and Open Space**

The sum total of all buildings, accessory structures, outside storage areas, surface parking, driveways, and loading areas shall occupy not more than 75 percent of the total lot area. Pedestrian walkways, plazas, landscaped areas, green belts, storm water management facilities, storm water best management practices (BMP), to include but not limited to, pervious surfaces, bio-swales, and rain gardens or other Department of Community Development approved BMP techniques and other open space shall occupy a minimum of 25 percent.

BUILDING CHARACTER (refer to the City Center Design Guidelines in Exhibit H)

**9. Building Height (See also Sections 275-45 (Height measurement & Requirements); and 275-42 (Accessory Uses & Structures))**

- a) No residential building shall exceed 42 feet in height as measured pursuant to Section 275-45 of the City's Zoning Ordinance.
- b) No commercial and/or office building shall exceed 40 feet in height except when the Plan Commission conditionally approves a maximum height of 50 feet for a special feature or unique condition.
- c) No accessory building or structure shall exceed 15 feet in height.

**10. Building Area**

- a) The minimum floor area of a multi-family housing Unit shall not be less than 950 sq. ft. for a two bedroom dwelling unit plus 200 square feet per additional bedroom, 600 sq. ft. for a one bedroom dwelling unit; efficiency units shall not be less than 500 sq. ft.
- b) Minimum dwelling unit size for an individual senior living unit designed for a single person occupancy one bedroom unit shall be 600 square feet. An additional 100 square feet shall be required for each additional bedroom. Efficiency units shall be a minimum of 500 square feet.

## **PERFORMANCE STANDARDS**

### **11. Performance Standards (See also Section 275-60)**

All plans for the improvements to the public way, including, but not limited to utilities, storm water, roads, sanitary sewer, grading, water, lighting, landscaping, pedestrian ways, are to be approved and completed, or guaranteed to be completed, under terms addressed in a Developer's Agreement prior to City signing a Final CSM dedicating "Michelle Witmer Memorial Drive" (Howard Avenue extended).

**SIGNS** (See Section 275-61 and, also refer to the City Center Design Guidelines, Exhibit H)

**LANDSCAPE** (See Section 275-56 and, also refer to the City Center Design Guidelines, Exhibit H)

## **REVIEW AND APPROVAL PROCESS**

### **12. Use and Site Plan Review (See also Section 275-24)**

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 Staff and/or the Plan Commission has reviewed and approved the application for the zoning permit/use approval. The site design theme of the Village District shall attempt to incorporate the following elements to reflect the neo-traditional architectural components of the development:

- a) Plazas, malls, formal gardens, village greens and/or other common areas;
- b) Underground, attached garages, multi-level, or rear loaded parking;
- c) Seasonal outside dining areas;
- d) Maximum front setbacks, where applicable (allowing for minimum setback from the ROW);
- e) On street parking for non-residential uses only;
- f) Traffic calming measures;
- g) Building and landscape lighting;
- h) Landscaping, including, but not limited to tree-lined avenues, raised brick planting beds, coordinated aboveground planters;
- i) Trails;
- j) Pedestrian walks;
- k) Bike racks;
- l) Sitting areas with tables or benches;
- m) Vehicular connection to Howard Avenue; and
- n) Pedestrian connection to Howard Avenue.

### **13. Architectural Review (See also Section 275-24)**

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 or occupied until after the owner has applied for

and the Architectural Review Sub-Committee of the Plan Commission has reviewed and approved the architecture for the zoning permit/use approval.

The architectural character of the City Center shall attempt to incorporate the following neo-traditional architectural elements in addition to those identified in the City of New Berlin 2020 Comprehensive Plan as a whole, Chapter 15 – Neighborhood E – National Avenue East Corridor, and the City Center Design Guidelines (Exhibit H):

- a) Required elements in the commercial mixed-use areas may include:
  - i. Visual continuity of roofs and their contributing elements; parapet walls, cornices, coping, chimneys, spires, cupolas;
  - ii. Multi-story buildings;
  - iii. Mixed uses;
  - iv. Four-sided architecture using brick or stone facades;
  - v. Varied facades, no more than 50 linear feet of any one facade shall be in the same plane. The use of recesses or protrusions should be used to break the continual mass. Oriels, pilasters and turrets should also be considered as ways of breaking up the massing;
  - vi. Pitched roofs;
  - vii. Flat roofs which are capped with a brick, stone or Precast concrete cornice that includes such ornamentation as corbelling, dentils, brackets and false pediments;
  - viii. Split faced CMU used for bases, decorative banding or pilasters. CMU usage shall not represent more than 15% of the total perimeter of anyone structure, or structures, for zero side yard setback buildings;
  - ix. Street level retail buildings to have a minimal of 60% glazing facing the street, or its pedestrian walkway or plaza;
  - x. Awnings or pedestrian arcades;
  - xi. Punched window openings;
  - xii. Clear or minimal tinted glazing along storefronts;
  - xiii. Windowed store fronts;
  - xiv. Plazas, Malls, Formal Gardens, and other common areas;
  - xv. Underground parking, rear loaded parking, or side loaded parking;
  - xvi. Shared parking lots;
  - xvii. Planters;
  - xviii. Banners; and
  - xix. Street, outdoor, and landscape lighting
  - xx. Four-sided architectural detailing at the roof level.
- b) Elements in residential areas may include the following elements (Subject to a Staff and/or Plan Commission approval);
  - i. Clap board type siding;
  - ii. Brick;

- iii. Stone or natural materials;
  - iv. Decorative CMU block;
  - v. Architectural lighting;
  - vi. Attached or underground parking; and
  - vii. Extensive landscaping to include plazas, malls, formal gardens, and other common areas using fountains, gazebos, and other yard (garden) art;
- c) Prohibited Elements in all areas of the City Center:
- i. Exposed mechanicals (roof mounted units or cooling towers);
  - ii. Aboveground utilities (shall be rear loaded, the maximum extent practicable);
  - iii. Aboveground telecommunication facilities (does not include dish type satellite receivers);
  - iv. Flush or ribbon windows;
  - v. Smooth-faced or scored CMU; and
  - vi. Chain-link fencing
  - vii. Exposed interior walls of roof level facades.

#### **R-4.5/PUD SINGLE-FAMILY RESIDENTIAL DISTRICT**

The R-4.5/PUD Single-Family Residential District, as described in Exhibit D, is intended to provide for a medium-density single-family residential development matching or exceeding the existing adjacent subdivisions served by municipal sewer, water facilities on streets with curb, gutter and storm sewer.

#### **USES**

##### **1. Principal Uses (See also Section 275-24 and 275-33)**

- a) Single-family detached dwellings with attached garages; and
- b) Any other use that the Plan Commission finds will be similar in nature, operation, and function to uses allowed within the district.

##### **2. Accessory Uses & Structures (See also Section 275-42)**

- a) Private garages for storage of vehicles and equipment accessory to each dwelling;
- b) Gardening, tool and storage sheds incidental to the residential use;
- c) Essential services; and
- d) Any other use that the Plan Commission finds will be similar in nature, operation, and function to accessory uses allowed within the district.

##### **3. Conditional Uses (See also Section 275-27 and 275-33 )**

- a) Any other use that the Plan Commission finds will be similar in nature, operation, and function to uses allowed within the district.

#### **PARKING AND CIRCULATION**

##### **4. Parking Requirements (See also Section 261-4 and reference the City Center Design Guidelines in Exhibit H )**

Determination of the location of a City of New Berlin Community Development Department approved public street access point is required prior to building permits being issued. Temporary access shall be deemed acceptable for permitting and development. The parking and storage of semi-tractors and semi trailers, except for pickup and deliveries, is prohibited. Parking or storage of construction vehicles and equipment, except during periods of permitted construction activity, is prohibited. (See also Section 275-57).

## **SITE DEVELOPMENT**

### **5. Lot Area and Width (See also Section (Article VI – Measurement – 275-44 Lot Measurement & Requirements; 275-45 (Height measurement & Requirements); 275-46 (Yard/setback Measurement & Requirements); , 257-44 (Lot of Record))and 275-54 & 275-56)**

All new single-family residential lots created:

- a) Shall be developed to allow for the City of New Berlin Standard Building Envelope of 67'x54';
- b) Shall be a minimum of 12,000 square feet in area;
- c) Lots shall not be less than 100 feet in width. Comer lots shall not be less than 110 feet in width;
- d) Single-fronted lots shall not be less than 120 feet in depth; and
- e) Double fronted lots shall not be less than 140 feet in depth.

### **6. Setback and Yards (See also Sections 275-33, 275-44, 275-45, and 275-46))**

All new single-family residential lots created shall meet the following;

- a) A minimum front yard setback of 30 feet from the base setback line shall be required;
- b) There shall be a minimum side yard of 15 feet from each side of all structures;
- c) There shall be a rear yard setback of not less than 35 feet;
- d) There shall be a minimum wetland setback of 10 feet;
- e) There shall be a minimum shore yard setback of 50 feet from the ordinary high-water mark of any navigable body of water; and
- f) No accessory building or structure 120 square feet or less in area shall be located closer than five (5) feet to an internal lot line.

### **7. Tree Cutting, Site Grading, or Grubbing Limited**

Parcels of land within the R-4.5/PUD Single-Family Residential Housing District shall not be clear-cut of trees, shrubbery, or underbrush; and no land shall be pre-graded for development until a building permit has been secured from the City of New Berlin. Normal pruning, trimming, and shearing of vegetation; removal of dead, diseased, or insect-infested vegetation; and silvacultural thinning conducted under the recommendation of a forester shall be exempt from this restriction, but only after an initial occupancy permit has been issued.

## **BUILDING CHARACTER**

### **8. Building Height (See also Sections 275-45 (Height measurement & Requirements); 275-42 (Accessory Uses & Structures**

All new residential lots created shall meet the following:

- a) No building or parts of a building shall exceed 35 feet in height; and

b) No accessory building or structure shall exceed 15 feet in height.

**9. Building Area**

All new single-family residential lots created shall meet the following:

a) The minimum floor area of a principal building shall be as follows:

	Minimum total Living Area (sq. ft.) (a)		Minimum First Floor area (sq. ft.)	
	One-Story	Multi-Story	One-Story	Multi-Story
<b>Two Bedroom Dwelling</b>	1200	1600	1200	900
<b>Three Bedroom Dwelling</b>	1350	1600	1350	900
<b>Four or More Bedroom Dwelling</b>	1450(b)	1600(b)	1450(b)	900

i. Dwellings with basements of less than 600 square feet shall add 200 square feet to the total minimum area required.

ii. Add 150 square feet for each bedroom exceeding four (4).

b) The required attached garage shall have a minimum floor area of 400 square feet.

c) The Plan Commission shall consider demonstrated agricultural needs in reviewing agricultural buildings.

**10. Nonconforming Uses, Structures, and Lots (See also Article VII (Nonconformities) Section 275-47 (General Provisions); 275-48 (Nonconforming Uses); 275-49 (Nonconforming structures); 275-50 (Nonconforming Lots); and 275-51 (Nonconforming Signs) )**

**PERFORMANCE STANDARDS**

**11. Performance Standards (See also Section 275-60)**

All plans for the improvements to the public way, including, but not limited to utilities, storm water, roads, sanitary sewer, grading, water, lighting, landscaping, pedestrian ways, are to be approved and completed, or guaranteed to be completed, under terms addressed in a Developer’s Agreement prior to building permits being issued.

**SIGNS** (See Section 275-61 and, also refer to the City Center Guidelines, Exhibit H)

**LANDSCAPE** (See Section 275-56 and, also refer to the City Center Design Guidelines, Exhibit H)

**REVIEW AND APPROVAL PROCESS**

**12. Use and Site Plan Review (See also Section 275-24)**

No non-single-family 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 the Plan Commission has reviewed and approved the application for the zoning permit/use approval.

### **13. Architectural Review (See also Section 275-24)**

No non-single-family 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 or occupied until after the owner has applied for and the Architectural Review Sub-Committee of the Plan Commission has reviewed and approved the architecture for the zoning permit/use approval.

### **C-1/C-2/PUD GREENBELT DISTRICT**

The C-1/C-2/PUD Greenbelt District, as described in Exhibit D, is intended to provide areas where the required open space of the B-2/PUD Village District and outdoor recreational needs of the citizens may be met along with the preservation/restoration of environmental areas and protection of natural resources with storm water management. This district is intended to avoid the conversion of such lands to other urban uses.

### **USES**

#### **1. Principal Uses (See also Section 275-24)**

Areas delineated as shoreland / wetland areas the following uses will be allowed:

- a) Hiking, fishing, trapping, swimming, and boating, unless prohibited by other ordinances and laws.
- b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
- c) The practice of silviculture, including the planting, thinning, and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavation is done except for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact on silvicultural activities if not corrected.
- d) Construction and maintenance of fences.
- e) Existing agricultural cultivation and pasturing provided they do not involve extension of or creation of new drainage systems, and further provided they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
- f) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing drainage system only to the extent necessary to maintain the level of drainage required to continue the existing use.
- g) The construction and maintenance of piers, docks, and walkways, bicycle and recreational trails, including those built on pilings.
- h) The maintenance, repair, replacement, and reconstruction of existing streets, roads, and bridges.

- i) Golf Course fairways and roughs.
- j) Areas delineated as outside shoreland/wetland areas the following uses will be allowed:
- k) Archery ranges.
- l) Bicycle and recreational trails
- m) Boat rentals and boat access sites.
- n) Botanical gardens and arboretums.
- o) Controlled studies of ecosystems for educational purposes
- p) Forest reserves (wilderness refuges).
- q) Fishing.
- r) Historic and monument sites.
- s) Ice skating (outdoors).
- t) Interpretive Center (nature center).
- u) Parks--general recreation.
- v) Parks--leisure and ornamental.
- w) Picnicking areas,
- x) Playfields, athletic fields, soccer fields, or outdoor courts.
- y) Playgrounds.
- z) Play lots or tot lot.
- aa) Roller skating (outdoors).
- bb) Skiing (cross-country).
- cc) Sledding and tobogganing.
- dd) Stormwater management facilities
- ee) Tennis courts (outdoors).
- ff) Any other use that the Plan Commission finds will be similar in nature, operation, and function to uses allowed within the district.

**2. Accessory Uses & Structures (See also Section 275-42)**

- a) Hunting, fishing and archery clubs.

- b) Nature centers.
- c) Comfort Stations
- d) Buildings and structures accessory to the principal use.
- e) Off-street parking and loading areas.
- f) Essential services
- g) Any other use that the Plan Commission finds will be similar in nature, operation, and function to accessory uses allowed within the district.

**3. Conditional Uses (See also Section 275-27)**

- a) Any other use that the Plan Commission finds will be similar in nature, operation, and function to uses allowed within the district.

**PARKING AND CIRCULATION**

**4. Parking Requirements (See also Section 261-4 and reference the City Center Design Guidelines in Exhibit H)**

The parking and storage of semi-tractors and semi trailers, except for pickup and deliveries, is prohibited. Parking or storage of construction vehicles and equipment, except during periods of permitted construction activity is prohibited. (See also Section 275-57) Temporary access shall be deemed acceptable for permitting and development.

**SITE DEVELOPMENT**

**5. Lot Area and Width (See also Sections (Article VI – Measurement – 275-44 Lot Measurement & Requirements; 275-45 (Height measurement & Requirements); 275-46 (Yard/setback Measurement & Requirements); 257-44 (Lot of Record))and 275-54 & 275-56)**

- a) The C-1/PUD Greenbelt District shall provide sufficient area for a principal structure and its accessory structures, off street parking and loading areas, and all required yards.

**6. Setback and Yards (See also Sections (Article VI – Measurement and 257-44 (Lot of Record))**

- a) No building or structure shall be located closer than 50 feet to the base setback line or any property line.
- b) No building or structure shall be located closer than 50 feet to any navigable body of water other than bridges, dams, water-dependent facilities, and revetments.
- c) No accessory use or parking lot shall be located closer than five (5) feet to an internal of line.
- d) Where necessary to facilitate the development of a cluster layout, zero lot line development shall be allowed. For such allowances, cross access easement will be required for shared parking purposes.

e) The Plan Commission may modify the yard requirements and setbacks in the C-1/C-2/PUD Greenbelt District where they deem the requirement to serve no public purpose.

**7. Nonconforming Uses, Structures, and Lots (See also Section Article VII (Nonconformities) Section 275-47 (General Provisions); 275-48 (Nonconforming Uses); 275-49 (Nonconforming structures); 275-50 (Nonconforming Lots); and 275-51 (Nonconforming Signs) )**

**BUILDING CHARACTER**

**8. Building Height (See also Sections 275-45 (Height measurement & Requirements); 275-42 (Accessory Uses & Structures)**

a) No building or parts of a building shall exceed 35 feet in height.

b) No accessory building or structure shall exceed 15 feet in height.

**SIGNS** (See Section 275-61 and, also refer to the City Center Design Guidelines, Exhibit H)

**LANDSCAPE** (See Section 275-56 and, also refer to the City Center Design Guidelines, Exhibit H)

**REVIEW AND APPROVAL PROCESS**

**9. Use and Site Plan Review (See also Section 27524)**

No principal or accessory use, development or structure 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 or occupied until after the owner has applied for and the Plan Commission has reviewed and approved the application for the zoning permit/use approval.

**10. Architectural Review (See also Section 27524)**

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 or occupied until after the owner has applied for and the Architectural Review Sub-Committee of the Plan Commission has reviewed and approved the architecture for the zoning permit/use approval.

WHEREFORE, The New Berlin City Center Development Planned Unit Development District having textual changes been approved on the 22<sup>nd</sup> day of May 2012 , pursuant to Sec. 275-23 & 275-39B(1) of the New Berlin Municipal Code, the Common Council hereby adopts the textual revisions to this Planned Unit Development Ordinance for The New Berlin City Center.

## SECTION II

### Exhibit A The New Berlin City Center Development LEGAL DESCRIPTION

All that part of the SW 114 of Section 14, T 6 N, R 20 E, in the City of New Berlin, Waukesha County, Wisconsin, bounded and described as follows: Commencing at the Southeast corner of said SW 114 Section; thence S 89 degrees 21' 48" W along the South line of said SW 114 Section, 700.15 feet to the place of beginning of the lands to be described; thence continuing S 89 degrees 21' 48" W along said South line, 681.68 feet to the East Right Of Way line of Fremont Lane and a point of curvature of a curve which has a center lying to the Southeast, a radius of 270.00 feet and a chord bearing N 17 degrees 06' 33" E, 164.59 feet; thence Northeasterly along the arc of said curve 167.25 feet to the point of tangency of said curve; thence N 34 degrees 51' 17" E, 43.30 feet to the point of curvature of a curve which has a center lying to the Northwest, a radius of 230.00 feet and a chord bearing N 24 degrees 34' 54" E, 82.04 feet; thence Northeasterly along the arc of said curve 82.48 feet to the point of curvature of a curve which has a center lying to the Northwest, a radius of 230.00 feet and a chord bearing N 07 degrees 01' 56" E, 58.26 feet; thence Northeasterly along the arc of said curve 58.42 feet to the point of tangency of said curve; thence N 00 degrees 14' 38" W, 25.09 feet to the South Right of Way line of Howard; thence N 89 degrees 45' 22" E, 40.00 feet along the South Right of Way line of Howard; thence N 01 degrees 14' 38" W, 80.00 feet to the North Right of Way line of Howard Avenue; thence S 89 degrees 45' 22" W, 100.00 feet along the North Right of Way line of Howard Avenue to a point on the west line of the SW 114 of said SW 114; thence N 00 degrees 14' 42" W along the West line of said SW 114 and its extension 1457.16 feet; thence N 45 degrees 32' 56" W, 228.77 feet to a point on the Southeasterly line of W. National Avenue; thence N 43 degrees, 35', 39" E along said Southeasterly line, 791.98 feet to a point on the North line of said SW 114 Section; thence N 88 degrees 51' 54" E, 897.23 feet to a concrete monument at the NE corner of the SW 114 of said Section; thence S 00 degrees 17' 01" E, 1334.96 feet along the East line of the SW 114 of said Section to a point on the North line of the SE 1/4 of the SW-114 of said section; thence S 00 degrees 16' 35" E along said East line 984.86 feet, said point being N 00 degrees 16' 35" W, 349.87 feet from the Southeast corner of said SW 114 Section; thence S 89 degrees 21' 48" W, 700.00 feet; thence S 00 degrees 16' 35" E, 349.87 feet to the place of beginning.

Said Parcel containing 74.68 acres more or less.

Also known as Approx. 15155 W. National Ave.

This area also includes additional land added to the PUD for the following Tax Key #'s: 1206-996, 1206-995, 1206-995001; and 1206-995002.

**Exhibit B**  
**B-2 Village District**  
**LEGAL DESCRIPTION**

**Commercial Area West of Michelle Witmer Memorial Drive & Library:**

Tax Key #'s: 1207-999004, 1207-999008, and 1207-999006

**Residences at City Center:**

Tax Key #'s: 1207-118, 1207-119, 1207-120, 1207-121, 1207-122, 1207-123, 1207-124, 1207-125, 1207-126, 1207-127, 1207-128, 1207-129, 1207-130, 1207-131, 1207-132, 1207-133, 1207-134, 1207-135, 1207-136, 1207-137, 1207-138, 1207-139, 1207-140, 1207-141, 1207-142, 1207-143, 1207-144, 1207-145, 1207-146, 1207-147, 1207-148, 1207-149, 1207-150, 1207-151, 1207-152, 1207-153, 1207-154, 1207-155, 1207-156, 1207-157, 1207-158, 1207-159, 1207-160, 1207-161, 1207-162, 1207-163, 1207-164, 1207-165, 1207-166, 1207-167, 1207-168, 1207-169, 1207-170, 1207-171, 1207-172, 1207-173, 1207-174, 1207-175, 1207-176, 1207-177, 1207-178, 1207-179, 1207-180, 1207-181, 1207-182, 1207-183, 1207-184, 1207-185, 1207-186, 1207-187, 1207-188, 1207-189, 1207-190, 1207-191, 1207-192, 1207-193, 1207-194, 1207-195, 1207-196, 1207-197, 1207-198, 1207-199, 1207-200, 1207-201

**Outlots:**

Tax Key #'s: 1207-999013 & 1207-999014

**Commercial Area East of Michelle Witmer Memorial Drive & Medical Office Building:**

Tax Key #'s: 1206-996, 1206-995, 1206-995001, 1206-995002, 1207-999009, 1207-999017, 1207-999-018, 1207-999-019

**Deer Creek Parkway Homes:**

Tax Key #'s: 207-001, 1207-002, 1207-003, 1207-004, 1207-005, 1207-006, 1207-007, 1207-008, 1207-009, 1207-010, 1207-011, 1207-012, 1207-013, 1207-014, 1207-015, 1207-016, 1207-017, 1207-018, 1207-019, 1207-020, 1207-021, 1207-022, 1207-023, 1207-024, 1207-025, 1207-026, 1207-027, 1207-028, 1207-029, 1207-030, 1207-031, 1207-032, 1207-033, 1207-034, 1207-035, 1207-036, 1207-037, 1207-038, 1207-039, 1207-040, 1207-041, 1207-042, 1207-043, 1207-044, 1207-045, 1207-046, 1207-047, 1207-048, 1207-049, 1207-050, 1207-051, 1207-052, 1207-053, 1207-054, 1207-055, 1207-056, 1207-057, 1207-058, 1207-059, 1207-060, 1207-061, 1207-062, 1207-063, 1207-064, 1207-065, 1207-066, 1207-067, 1207-068, 1207-069, 1207-070, 1207-071, 1207-072, 1207-073, 1207-074, 1207-075, 1207-076, 1207-077, 1207-078, 1207-079, 1207-080, 1207-081, 1207-082, 1207-083, 1207-084, 1207-085, 1207-086, 1207-087, 1207-088, 1207-089, 1207-090, 1207-091, 1207-092, 1207-093, 1207-094, 1207-095, 1207-096, 1207-097, 1207-098, 1207-099, 1207-100, 1207-101, 1207-102, 1207-103, 1207-104, 1207-105, 1207-106, 1207-107, 1207-108, 1207-109, 1207-110, 1207-111, 1207-112, 1207-113, 1207-114, 1207-115, 1207-116, 1207-117

**Outlot:**

Tax Key #'s: 1207-999016, 1208-995005, and 1208-995007

**Exhibit C**  
**B-2/O-1/PUD**  
**LEGAL DESCRIPTION**

This area includes Tax Key #'s: 1207976, and 1207976001, 1207976002, and 1207976003.

(Note: Along with any road extension and/or development proposals in the B-2/O-1/PUD, R-4.5/PUD, and C-1/C-2 PUD areas of the City Center, (lands in the southern half identified by the following tax keys: 1207-976; 1207-976-001; 1207-976-002; 1207-996-003, and 1207-976-004) development proposals shall be field verified for wetland and upland boundaries per Section 275-37B in addition to correctly verifying and surveying the zoning boundaries.)

**Exhibit D**  
**R-4.5 Single-Family Residential District**  
**LEGAL DESCRIPTION**

All that part of the SW ~ of Section 14, T 6 N, R 20 E, in the City of New Berlin, Waukesha County, Wisconsin, bounded and described as follows: Commencing 'at the Southeast corner of said SW ~ Section; thence S 89° 21' 48" W along the South line of said SW ~ Section, 700.15 feet to the place of beginning of the lands to be described; thence continuing S 89° 21' 48" W along said South line, 681.68 feet to the East Right Of Way line of Fremont Lane and a point of curvature of a curve which has a center lying to the Southeast, a radius of 270.00 feet and a chord bearing N 1 r 06' 33" E, 164.59 feet; thence Northeasterly along the arc of said curve 167.25 feet to the point of tangency of said curve; thence N 34° 51' 17" E, 43.30 feet to the point of curvature of a curve which has a center lying to the Northwest, a radius of 230.00 feet and a chord bearing N 24° 34' 54" E; 82.04 feet; thence Northeasterly along the arc of said curve 82.48 feet to the point of curvature of a curve which has a center lying to the Northwest, a radius of 230.00 feet and a chord bearing N 07° 01' 56" E, 58.26 feet; thence Northeasterly along the arc of said curve 58.42 feet to the point of tangency of said curve; thence N 00° 14' 38" VV, 25.09 feet to the South Right of Way line of Howard; thence N 89° 45' 22" E, 40.00 feet along the South Right of Way line of Howard; thence N 01 ° 14' 38" VI, 40.00 feet to the center line of Howard Avenue; thence N 89° 45' 22" E, 270.98 feet along the center line of Howard Avenue extended to the point of curvature of a curve which has a center lying to the Northwest, a radius of 200.00 feet and a chord bearing N 66° 31' 59" E, 157.72 feet; thertce Northeasterly along the arc of said curve 162.13 feet to a point; thence S 48° 40' 32" E, 147.05 feet from said point; thence S 00° 16' 35" E, 349.87 feet to the place of beginning.

Said Parcel containing 5.54 acres more or less.

Excepting therefrom those lands to be used as Public Rights of Way.

This area includes Tax Key#: 1207-976-004.

(Note: Along with any road extension and/or development proposals in the B-2/O-1/PUD, R-4.5/PUD, and C-1/C-2 PUD areas of the City Center, (lands in the southern half identified by the following tax keys: 1207-976; 1207-976-001; 1207-976-002; 1207-996-003, and 1207-976-004) development proposals shall be field verified for wetland and upland boundaries per Section 275-37B in addition to correctly verifying and surveying the zoning boundaries.)

**Exhibit E**  
**C-1/C-2/PUD Greenbelt District**  
**LEGAL DESCRIPTION**

All that part of the SW ~ of Section 14, T 6 N, R 20 E, in the City of New Berlin, Waukesha County, Wisconsin, bounded and described as follows: Commencing at the Southeast corner of said SW Yt Section; thence S 89° 21' 48" W along the South line of said SW ~ Section, 700.15 feet to a point on said South line; thence N 00° 16' 35" W, 349.87 to the place of beginning of the lands to be described; thence N 48° 40' 32" W, 147.05 feet to the point of curvature of a curve which has a center lying to the Northwest, a radius of 200.00 feet and a chord bearing N 29° 42' 48" E, 94.04 feet; thence Northeasterly along the .arc of said curve 94.92 feet to the point of tangency of said curve; thence N 16° aT 00" E, 927.64 feet to a point; thence S 73° 53' 00" E, 98.19 feet from said point to the point of curvature of a curve which has a center lying to the Northeast, a radius of 200.00 feet and a chord bearing S 82° 23' 56" E, 59.23 feet; thence Southwesterly along the arc of said curve 59.45 feet to the point of tangency of said curve; thence N 89° 05' 08" E, 348.17 feet to a point on the East line of the SW 14 of said Section; thence S 00° 17' 01" E, 47.86 feet along the East line of the SW ~ of said Section to a point on the North line of the SE ~ of the SW 14 of said section; thence S 00° 16' 35" E along said East line 984.86 feet, said point being N 00° 16' 35" W, 349.87 feet from the Southeast corner of said SW 14 Section; thence S 89° 21' 48" W, 700.00 feet to the place of beginning.

Said Parcel containing 15.69 acres more or less.

Excepting therefrom those lands to be used as Public Rights of Way.

This area includes Tax Key #'s: 1207976, and 1207976001, 1207976002, and 1207976003.

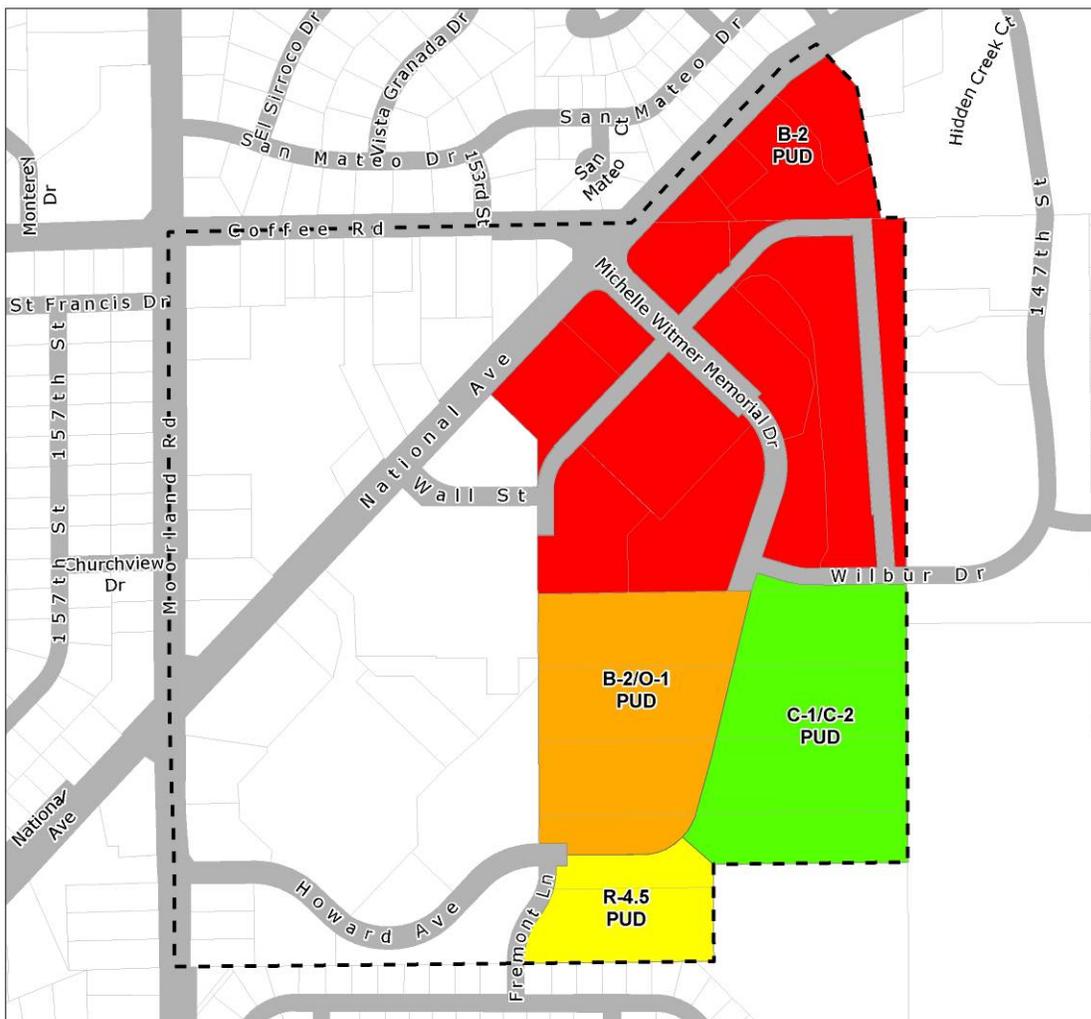
(Note: Along with any road extension and/or development proposals in the B-2/O-1/PUD, R-4.5/PUD, and C-1/C-2 PUD areas of the City Center, (lands in the southern half identified by the following tax keys: 1207-976; 1207-976-001; 1207-976-002; 1207-996-003, and 1207-976-004) development proposals shall be field verified for wetland and upland boundaries per Section 275-37B in addition to correctly verifying and surveying the zoning boundaries.)

## Exhibit F City Center PUD Zoning Map

### New Berlin City Center

### PUD Zoning Map

Adopted August, 2011 Ord. #2459



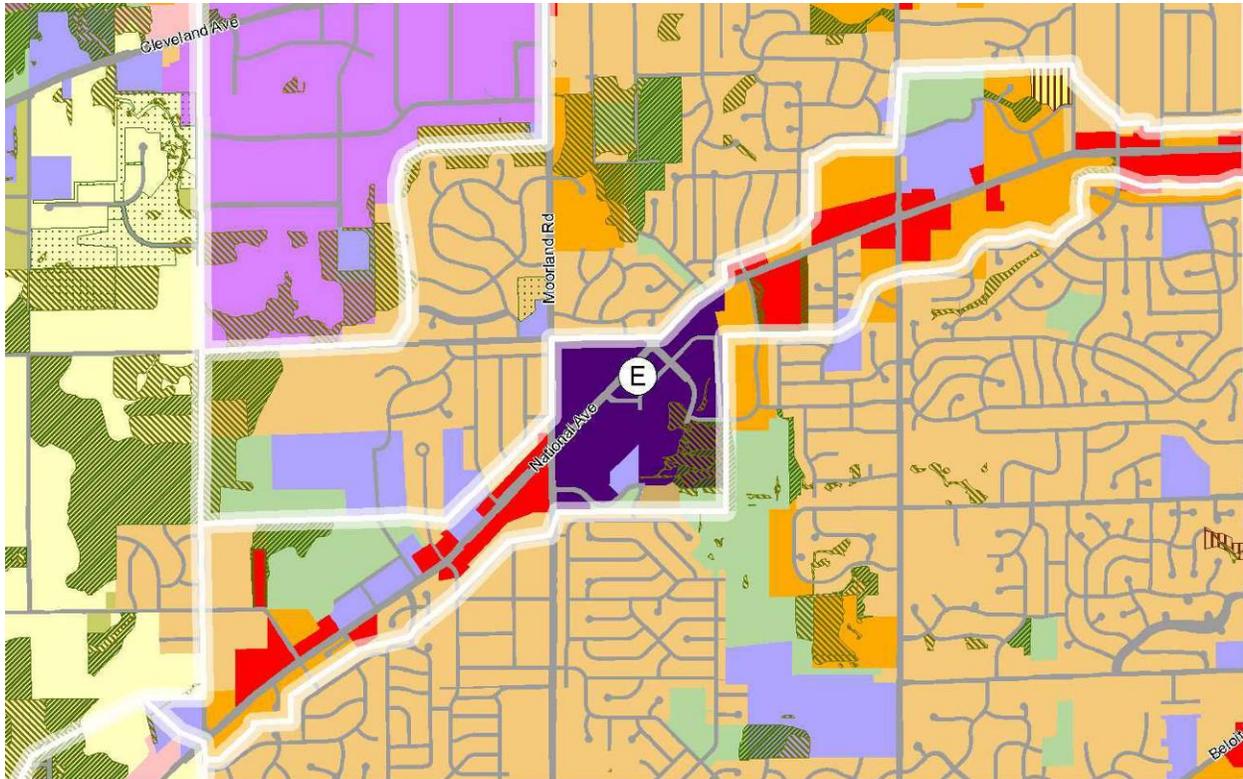
#### LEGEND

- |                   |                      |
|-------------------|----------------------|
| <b>PUD Zoning</b> | City Center Boundary |
| B-2               | Road Right of Way    |
| B-2/O-1           | Parcel               |
| C-1/C-2           |                      |
| R-4.5             |                      |



City of New Berlin Community Development - GIS/LIS Services - 3805 S. Casper Drive, New Berlin, WI 53151 - 262-797-2445 - [www.newberlin.org/dcd](http://www.newberlin.org/dcd)  
CCB 8/8/2011  
P:\DCD\Projects\PG\PG-830 City Center\FLU\_District\_Changes\_2011.mxd

## Exhibit G City Center Future Land Use Map



### LAND USE PLAN DISTRICTS

- |                                |                                  |
|--------------------------------|----------------------------------|
| Business Park / Industrial     | Urban Residential                |
| City Center Mixed Use          | Suburban Residential             |
| Suburban Commercial            | Country Residential              |
| Rural Commercial               | Residential Estate               |
| Mixed Use Residential          | Planned Conservation Development |
| City Center Single Family Res. | Park                             |

- Quarry
- Institutional
- Transportation
- Water

### Zoned Conservancy Districts

- C-1 Upland Resource
- C-2 Shoreland Wetland
- C-3 Permanent Open Space/Conserv. Lands
- Conservation Easement

**Exhibit H**  
**CITY CENTER DESIGN GUIDELINES**

The City Center Design Guidelines as approved by the Plan Commission on 3/5/2007 via PC Resolution # 07-01 have been amended by the Plan Commission on May 2, 2011 via PC Resolution #: 11-02. They independently stand alone and are being incorporated here as a reference and ease in use of the PUD document.

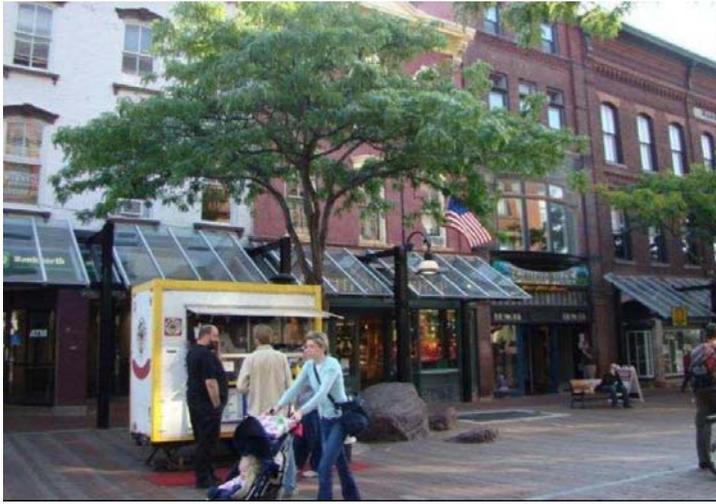
Any inconsistencies between the City Center Design Guidelines (as attached as Exhibit H) and the PUD shall be reconciled in favor of the PUD.

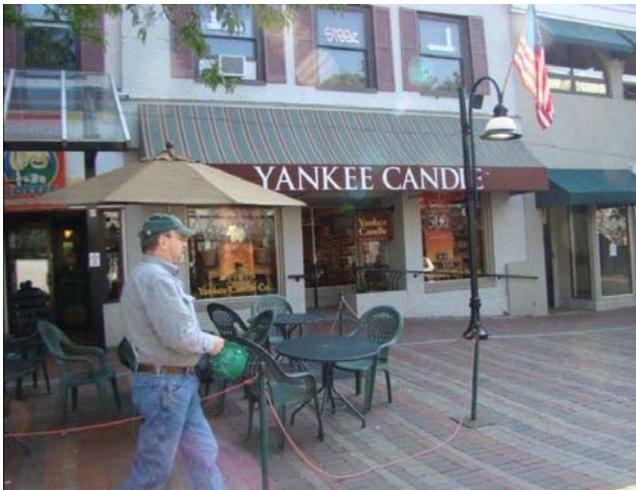
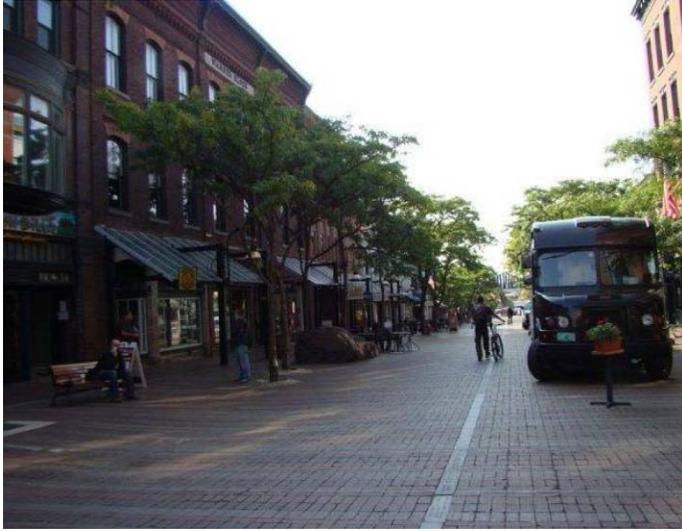
**Exhibit I  
DEVELOPMENT PHOTOS**

Burlington, Vermont











Lancaster, Pennsylvania

Kitchen Kettle Village





### SECTION III

The Plan Commission of the City of New Berlin by a majority vote of the Commission present and recorded in its official minutes, recommended to the Common Council the adoption of the amendments to the **“City Center Planned Unit Development Overlay District.”**

### SECTION IV

The City held a public hearing on June 2, 2014 on the PUD 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 amendments to, **“The New Berlin City Center Planned Unit Development Overlay District”** which was originally enacted September 26, 2000 and subsequently amended March 13, 2001, August 2, 2011 and on May 22, 2012. This enactment is made pursuant to section 66.1001(4)(c) of the Wisconsin Statutes. A true and correct copy of said amended ordinance as well as attachments thereto is attached hereto and incorporated herein as though fully set forth. The entire text of the amendment is available for review during normal business hours in the office of the City of New Berlin City Clerk and the Department of Community Development.

### SECTION VI

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed. The City will update any references to **The New Berlin City Center Planned Unit Development Overlay District** ordinance number during the next annual update to the Comprehensive Plan to reflect the new ordinance number.

### SECTION VII

The several 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 VIII**

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.

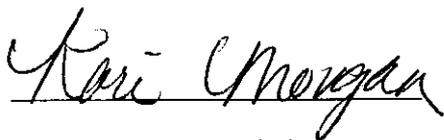
**PASSED AND ADOPTED** by the Common Council this 22<sup>nd</sup> day of July, 2014.

APPROVED:

A handwritten signature in black ink, appearing to read "David A. Ament", written over a horizontal line.

David A. Ament, Mayor

Countersigned:

A handwritten signature in black ink, appearing to read "Kari Morgan", written over a horizontal line.

Kari Morgan, City Clerk