

ORDINANCE NO. XX-XXTHE HICKORY HILLS ASSOCIATES, LLC PLANNED UNIT  
DEVELOPMENT DISTRICT

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

**SECTION I**

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

WHEREAS, HICKORY HILLS ASSOCIATES LLC ~~HICKORY HILLS DEVELOPMENT, LLC~~ ~~was is~~ located at 11040 W. Bluemound Road #103, Wauwatosa, Wisconsin 53226-3473 S. 27<sup>th</sup> Street, Milwaukee, Wisconsin 53213, and desires ~~to develop~~ to develop ~~amend at the existing~~ planned unit development #2205 and having submitted a PUD Petition on the ~~11<sup>th</sup>~~ 14<sup>th</sup> day of ~~June~~ October, 2017~~02~~, after which a public hearing was held on the ~~27<sup>th</sup>~~ 2<sup>nd</sup> day of ~~December~~ July, 2017~~02~~, pursuant to Chapter 275-20(D) of the New Berlin Municipal Code; and

NOW, THEREFORE, BE IT HEREBY RESOLVED AND ADOPTED BY THE CITY OF NEW BERLIN, that the HICKORY HILLS ASSOCIATES, LLC PLANNED UNIT DEVELOPMENT shall hereby be developed pursuant to this Planned Unit Development Overlay District Ordinance, adopted pursuant to Chapter 275-23 of the New Berlin Municipal Code as follows:

**SECTION II**

## PLANNED UNIT DEVELOPMENT SUMMARY

The HICKORY HILLS ASSOCIATES, LLC PUD shall consist of up to -72 units – 20 two-family and 8 four-family plex 26 – fourplex ~~condominium sites~~ on the following described property at:

~~14602 West Beloit Road (NB Tax # 1253.996)  
14800 West Beloit Road (NB Tax # 1254.999)  
14980 West Beloit Road (NB Tax # 1254.999.001)  
15030 West Beloit Road (NB Tax # 1254.998)  
15050 West Beloit Road (NB Tax # 1254.997)  
and NB Tax # 1254.984~~

Approximately the following addresses and tax keys:

- 14613 W. Hickory Hills Drive through 14898 W. Hickory Hills Drive;
- 4728 S. Lynn Drive through 4895 S. Lynn Drive;
- 4803 S. Acorn Drive through 4899 S. Acorn Drive;
- Tax Key #'s: 1253-111 through 1253-178 AND 1254-211 through 1254-246

See EXHIBIT A for legal description:

The purpose of this Ordinance is to create a zoning district that allows creative project design with a mix of land uses (multi-family residential and conservancy) and flexibility from the rigid development standards of the underlying RM-1 zoning district. While the Rm-1 zoning district allows for a density of seven units per acre, this development will limit the density not to exceed 3.385-14 units ~~per~~ acre. Benefit to the city and the neighborhood will be a high quality development that provides for perpetual open space. The PUD ordinance shall specify all elements of what is to be modified or added to the basic underlying district, and provisions of the underlying basic use district not specifically enumerated as changed, modified, or deleted shall remain in full effect.

The parcels of land that are the subject of this ordinance include approximately the following addresses and tax keys:

- 14613 W. Hickory Hills Drive through 14898 W. Hickory Hills Drive;
- 4728 S. Lynn Drive through 4895 S. Lynn Drive;
- 4803 S. Acorn Drive through 4899 S. Acorn Drive;
- Tax Key #'s: 1253-111 through 1253-178 AND 1254-211 through 1254-246  
14602, 14800, 14980, 15030-15050 West Beloit Road and NB Tax # 1254.984, which is legally described on Exhibit A, B and C and shown on the map attached hereto as Exhibit D.

### SECTION III

#### RM-1/PUD MULTI-FAMILY ATTACHED RESIDENTIAL CONDOMINIUM DISTRICT

The RM-1/PUD Multi-Family Attached Residential District is intended to provide for a condominium development served by municipal sanitary sewer and water facilities within the areas described in Appendix A.

(1) Principal Uses (See also Chapters 275-33(B), and 275-41(B), and Table 275-33-1)

- a) Two-family and fFour-family dwellings with attached garages.
- b) Essential services.
- c) Any other use that the Plan Commission finds will be similar in nature, operation, and function to uses allowed within the RM-1/ PUD district.

(2) Accessory Uses (See also Chapters 275-33(B), 275-42, and Table 275-33-1)

- a) Attached private garages for storage of vehicles and equipment accessory to each dwelling.
- b) Gardening, tool and storage sheds incidental to the condominium development (not for individual units).
- c) On site sales office and or trailer – subject to Use Approval.
- d) Home Occupations pursuant to Chapters 275-42 (G) (4).
- e) Ground-mounted and building-mounted earth station dish and terrestrial antennas.
- f) Mailbox Kiosk.
- g) Gazebos, trellis, pergolas, and lampposts.
- h) Any other use that the Plan Commission finds will be similar in nature, operation, and function to accessory uses allowed within the RM-1/ PUD district.

(3) Conditional Uses (See also Chapter 275-27 and Table 275-33-1)

- a) Any other use that the Plan Commission finds will be similar in nature, operation, and function to uses allowed within the RM-1/ PUD district.

(4) Setback and Yards (See also Chapter 275-46 and Table 275-33-2)

- a) There shall be a front yard setback of 50 feet from the base setback line.
- b) There shall be a building setback including overhang of 25' from all private roads.
- c) There shall be a minimum side yard of 15 feet from each side of all structures (eaves) and any internal lot line, or 30 feet (eave to eave) minimum separation between buildings.
- d) There shall be a rear yard setback of not less than 100 feet from the right-of-way of the Rock Freeway (I-43).
- e) There shall be a 50 feet setback from the East property line.
- f) There shall be a 75 feet setback from the West property line.
- g) There shall be a 30 feet minimum wetland setback for any structure or impervious surface.
- h) There shall be a minimum shore yard setback of 50 feet from the ordinary high-water mark of any navigable body of water.
- i) No accessory building or structure 120 square feet or less in area shall be located closer than twenty (20) feet to lot line.

(5) Buffer Yard and Screening (See also Chapter 275-56 and Table 275-56-2)

- a) There shall be a 100 foot buffer along the rock freeway with significant berming and enhanced landscaping as approved by the City of New Berlin Department of Community Development.
- b) There shall be a waiver from Wisconsin DOT for construction of stormwater ponds and landscaping berm within the 50' freeway setback.
- c) There shall be a 25' buffer yard along the residential property to the West with landscaping as required by Chapter 275-56 (F) (4).

(6) Density

- a) The maximum ~~gross~~ density shall not exceed ~~3.38~~ ~~204.77~~ units per acre, or 20 duplex condominium sites and 8 four-family sites ~~26 fourplexes~~ for a maximum of 72 units ~~104 units~~. The areas within the C-1 and the C-2 districts shall NOT be used to compute density.

(7) Building Height (See also Chapter 275-45 and Table 275-33-2)

- 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.

(8) Building Area (See also Chapter 275-33(E))

- a) The minimum floor area of a dwelling unit shall be 1600 square feet.
- b) The required attached garage shall have a minimum floor area of 400 square feet per dwelling unit.

(9) Time Limits (See also Chapter 275-23(F))

- a) If the development has not commenced, as evidenced by the securing of the initial Building Permit, and construction has not started within one calendar year from the approval of the Hickory Hills Developer's Agreement, the Planned Unit Development Overlay District ordinance shall expire and become null and void. Note, the PUD has commenced, as of 2017 eight (8) four-family buildings have been constructed. The zoning on the properties located at 14602, 14800 and 14980 West Beloit Avenue respectively shall revert back to I-1 Institutional District,

~~C-1 Upland Resource Conservancy District, C-2 Shoreland Wetland District and R-4 Low-Density Single Family Residential District.~~

- b) If the development requires an extension of the time limits of this Rm-1/PUD, C-1, C-2 district, any extension in the time limits approved by this PUD require notice by Certified mail and approval by the Common Council not less than 60 days prior to the expiration of this PUD.
- c) An extension shall not be requesting after the expiration of this PUD.

(10) Tree Cutting, Site Grading, or Grubbing Limited (See also Chapter 275-54)

- a) Parcels of land within the RM-1/PUD 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.
- b) The buildings shall be located in such a manner as to prevent removal of existing high quality trees and ensure the continuation of the natural screening to the neighborhood.
- c) Normal pruning, trimming, and shearing of vegetation; removal of dead, diseased, or insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a forester shall be exempt from this restriction, but only after an initial occupancy permit has been issued.
- d) Adherence to Article VIII Section 275-54 in its entirety is required as part of the Zoning Permit/ Use, Site and Architectural Approval process.

(11) Traffic, Loading, Parking, and Access (See also Chapter 275-57)

- a) Any traffic enhancement required by Waukesha County DOT along Beloit Road shall be the responsibility of the developer.
- b) One (1) City of New Berlin approved access point is required prior to Building Permit being issued.
- c) The parking and storage of semi-tractors and semi trailers, except for pickup and deliveries, is prohibited.
- d) Parking or storage of construction vehicles and equipment, except during periods of permitted construction activity is prohibited.

(12) Adequate Public Facilities (See also Chapter 275-58)

- a) All plans, for the utilities to be dedicated to the City of New Berlin, are to be reviewed and approved by all regulating authorities prior to Developer's Agreement being written and Zoning Permit being issued. Phased and utilities to be constructed and accepted by the City of New Berlin prior to Building Permit being issued as further described in Developer's Agreement.
- b) Storm Water Management Plan (and erosion control plan) to be reviewed and approved by the Engineering Services Division prior to Zoning Permit being issued.
- c) Storm Water and erosion control structures to be installed and accepted prior to Building Permit being issued and as further described in Developer's Agreement.
- d) Payment of current (per unit) Public Site, Open Space, and Trail Fees required prior to each building permit being issued.
- e) All plans and an executed developer's agreement for the improvements to the public way are to be approved and infrastructure completed prior to Building Permit being issued.

(13) Signs (See also Chapters 275-61)

- a) Development monument signs shall be required for this development.
- b) No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, used, changed, or modified until after the owner has applied for and the Plan Commission has reviewed and approved the application for the sign permit.

(14) Use and Site Plan Review (See also Chapter 275-53)

- a) No principal or accessory use, development or structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, occupied, or reoccupied, no site or premise shall be altered, used, changed, modified, occupied, or building permit approved until after the owner has applied for and the Plan Commission has reviewed and approved the application for the zoning permit/use approval.
- b) Landscaping Plan to be reviewed and approved by the Department of Community Development prior to Zoning Permit being issued. Plan shall address oversizing of landscaping along I-43 and shall identify those replacement trees, which are being installed as required by Sec. 275-54. Installation Bond and Maintenance Bond to be submitted and initial installation of landscaping along eastern and northeastern property lines shall be completed prior to Building Permit being issued as required by Sec. 275-56.
- c) Lot coverage shall not exceed 30%.

(15) Architectural Review (See also Chapter 275-59)

No principal or accessory use, development, structure or sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, occupied, or reoccupied and no site or premise shall be altered, used, changed, modified, building permit approved, or occupied until after the owner has applied for and the Architectural Review Committee of the Plan Commission has reviewed and approved the architecture prior to issuance of a Zoning Permit.

- a) Approval of the detailed exterior architecture and material of the building by the Architectural Review Committee is required at Use Approval.
- b) Four-family buildings with frontage on Beloit Road must have increased extensive brick treatment as indicated on the sites plans. Two-family buildings with frontage on Beloit Road must have additional stone or brick treatment as indicated on the sites plans submitted with File #: UA-1701153.
- c) Appearance: All dwellings shall be designed to be tasteful residential condominium dwelling units attractive to a market of distinction.
- d) Monotony: Buildings, ~~while similar in footprint,~~ shall vary in color, exterior material, and design in order to be attractive. The applicant will vary the two-family buildings slightly by switching out building materials and building styles to create variety. A second stone or brick material will be submitted. A key will be submitted for siding colors, trick and brick or stone for each building.
- e) Building scale and mass: Careful consideration and placement of the single story portion of the buildings shall allow for appropriate scale to surrounding structures.
- f) Building roof lines and shapes: The four-family building roofs shall be cedar shake with a minimum 6:12 pitch. The two-family building roofs shall consist of dimensional shingles.

- g) Materials: The exterior materials of the buildings shall be a combination of stone veneer, stucco, concrete/fiber siding, wood components, and accents to assure that the appearance is attractive at all times and reduce the need for maintenance.
- h) On-grade HVAC equipment - units shall be aesthetically screened by landscaping.
- i) Colors: The color selections shall be earth tones and tasteful so as to attract a high quality market. —The four-family buildings shall ~~N~~ot have less than three (34) exterior color themes and not less than three (34) roofing colors shall provide a diversity of exterior appearance as well as maintain a cohesive neighborhood identity. ~~The two-family buildings shall not have less than three (3) exterior color themes and not less than one (1) roofing color.~~
- j) Building location-The buildings shall be located in such a manner as to prevent removal of existing high quality trees and ensure the continuation of the natural screening to the neighborhood.

**SECTION IV**

WHEREFORE, The HICKORY HILLS ASSOCIATES, LLC PLANNED UNIT DEVELOPMENT DISTRICT, having been approved as a Planned Unit Development on the ~~1240<sup>th</sup>~~ day of ~~September~~ June, ~~2017~~2003, pursuant to Sec. 275-22 of the New Berlin Municipal Code, the Common Council hereby adopts this Planned Unit Development Ordinance for the HICKORY HILLS ASSOCIATES, LLC PLANNED UNIT DEVELOPMENT.

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

Dated this 19<sup>th</sup> day of September, 2017.

APPROVED

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

Countersigned/Certified

\_\_\_\_\_  
Daniel Green, City Clerk

## EXHIBIT A

To ~~remain be re~~ zoned to RM-1/PUD.

All that part of the NE1/4 of the NW1/4 and the NW1/4 of the NE1/4 of section 26, Town 6 North, Range 20 East in the City of New Berlin, Waukesha County, Wisconsin bounded and described as follows:

Parcels 1 and 2 of CSM 513 plus the following described parcel: commencing at the northeast corner of the northwest ¼ of Section 26, T6N, R20E; thence S1° -04'-47"E 548.47 feet to the point of beginning; thence northerly along an arc whose length is 633.46 feet and whose radius is 3659.72 feet and whose chord bears N71° -45'-35"E, 632.67 feet to a point; thence S01°-04'47"E. 931.23 feet to a point; thence 89°-53'-40"W, 604.60 feet to a point; thence N1° -04'-47"W, 733.43 feet back to the point of beginning, and:

All that part of the NE1/4 of the NW1/4 and the NW ¼ of the NE ¼ of Section 26, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin bounded and described as follows

Commencing at the northeast corner of the northwest ¼ of Section 26, T6N, R20E; thence West 660 feet to a point; thence 485 feet to the point of beginning; thence West 218 feet to a point; thence South 786 feet to a point; thence South 79 52' East, 221.5 feet, thence North 825 feet back to the point of beginning. Except the highway Right of Way, Except lands lying north of freeway, and:

All that part of the NE1/4 of the NW1/4 and the NW ¼ of the NE ¼ of Section 26, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin bounded and described as follows

Commencing at the northeast corner of the northwest ¼ of Section 26, T6N, R20E; thence West 660 feet to a point; thence 485 feet to a point; thence West 218 feet to a point; thence South 552.47 feet to the point of beginning; thence South 233.53 feet to a point; thence S 79 52'E 100 feet to a point; thence N 13 30'W 251.55 feet to a point; thence West 83.07 feet to the point of beginning. Except the highway Right of Way, and:

All that part of the NE1/4 of the NW1/4 and the NW ¼ of the NE ¼ of Section 26, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin bounded and described as follows

Commencing at the northeast corner of the northwest ¼ of Section 26, T6N, R20E; thence West 660 feet to a point; thence 485 feet to a point; thence West 218 feet to a point; thence South to South line of Highway 15 to the point of beginning; thence South to North line of Beloit Road; thence Westerly to Southeasterly line of Highway 15; thence Northeasterly along an arc whose radius is 603 feet to the point of beginning.

**EXHIBIT B**

50 feet along the east property line will remain as C-1 Upland Resource Conservancy.

**EXHIBIT C**

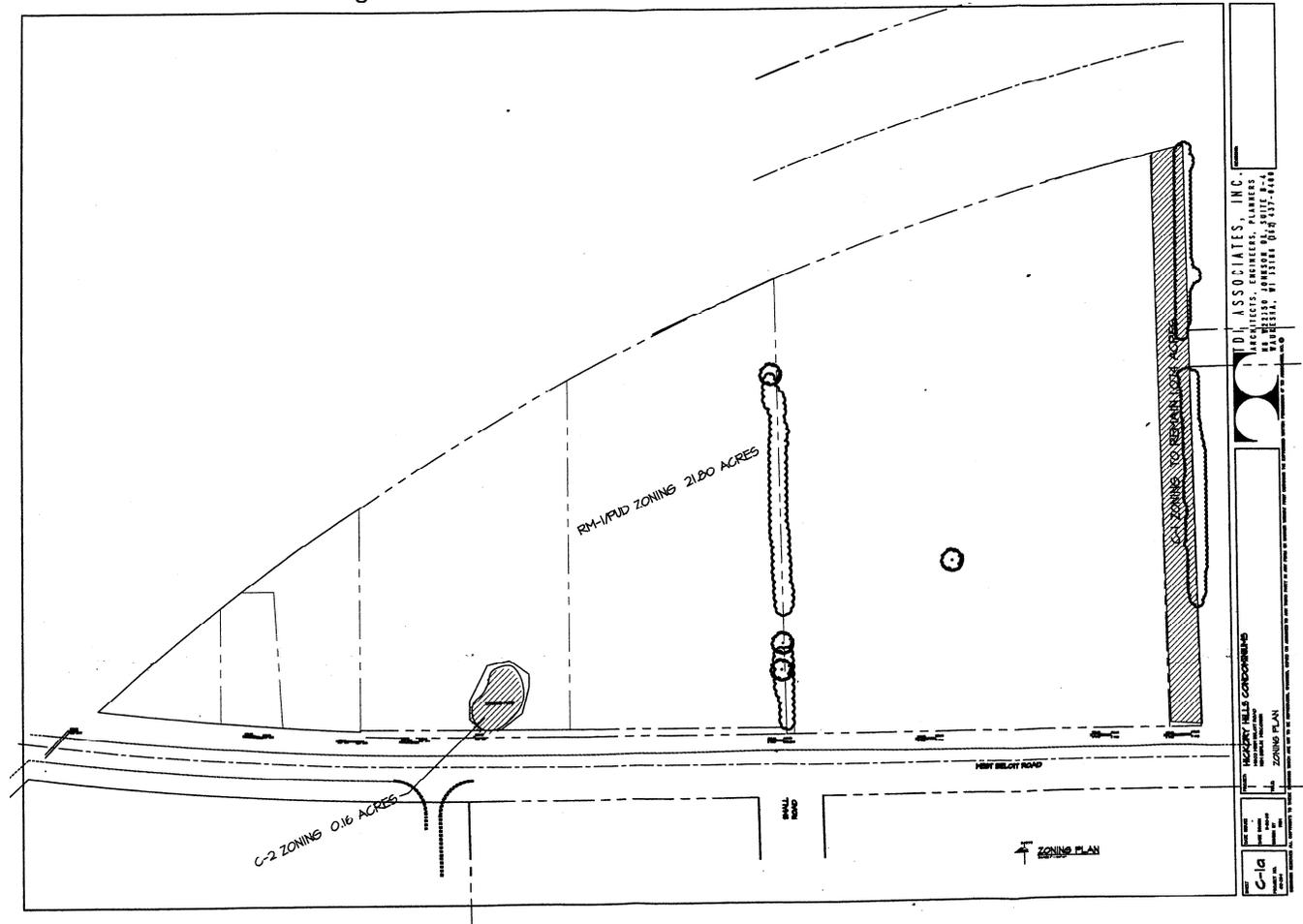
To ~~remain be~~ rezoned to C-2.

All that part of the NE1/4 of the NW1/4 and the NW1/4 of the NE1/4 of section 26, Town 6 North, Range 20 East in the City of New Berlin, Waukesha County, Wisconsin bounded and described as follows:

Commencing at the northeast corner of the northwest ¼ of Section 26, T6N, R20E, thence S1°-04'-47"E, 1272.00 feet to a point; thence N89°-57'-07"W, 450.84 feet to the point of beginning; thence N52° 37'-08"E, 43.11 feet to a point; thence N14°-23'-36"E, 44.93 feet to a point; thence North, 18.41 feet to a point; thence N54°-29'-43"W, 38.42 feet to a point; thence S77° -17'-11: W, 35.49 feet to a point, thence S27°-3'-4"W, 61.39 feet to a point; thence S1°-2'-33"W, 30.69 feet to a point; thence S48° 10'-11"E, 25.83 feet to a point, thence S89° 57'-7"E, 29.69 feet back to the point of beginning. Said total parcel contains 7762.29 square feet (0.1782 acres).

EXHIBIT D

See attachment titled Zoning Plan



J.D. ASSOCIATES, INC.  
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PROPOSED DEVELOPMENT  
ZONING PLAN

C-1a

Exhibit D