

ORDINANCE NO. XXXX

**THE ~~V~~PLANNED UNIT  
DEVELOPMENT DISTRICT  
FOR THE VILLAS OF NEW BERLIN**

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, Dan Kassees with Crosswind Homes LLC, located at W.338 S4571 Sleepy Hollow Ct, Dousman, Wisconsin, 53118, desires to develop a planned unit development and having submitted a PUD Petition on the 26<sup>th</sup> day of December, 2017, after which a public hearing was held on the 5<sup>th</sup> day of February, 2018, 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 VILLAS OF NEW BERLIN 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 VILLAS OF NEW BERLIN PUD shall consist of up to 10 duplex condominium sites located at 14128 W. Honeyager Drive through 14230 W. Honeayger Drive (Tax Key #'s: 1241-104 through 1241-085)

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 (two-family residential and conservancy) and flexibility from the rigid development standards of the underlying Rd-1 zoning district.

**SECTION III**

Rd-1/PUD VILLAS OF NEW BERLIN SINGLE-FAMILY ATTACHED RESIDENTIAL CONDOMINIUM DISTRICT

The Rd-1/PUD Single-Family Attached Residential District is intended to provide for a condominium development served by municipal sanitary sewer and water facilities.

- (1) Principal Uses (See also Chapters 275-33(B), and 275-41(B), and Table 275-33-1.
  - (a) Two-family dwellings with attached garages.
  - (b) Single-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 district.
- (2) Accessory Uses (See also Chapters 275-33(B), 275-42, and Table 275-33-1)
- (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) Home Occupations.
  - (d) Ground-mounted and building-mounted earth station dish and terrestrial antennas.
  - (e) Mailbox Kiosk.
  - (f) Gazebos, trellis, pergolas, and lampposts
  - (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 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 Rd 1/PUD district.~~
- (4) Setback and Yards (See also Chapter 275-46 and Table 275-33-2)
- (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 ~~(eaves)~~ and any internal lot line, or 30 feet ~~(eave to eave)~~ minimum separation between buildings.
  - (c) There shall be a rear yard setback of not less than 30 feet.
  - (d) There shall be a minimum lot depth of 170 feet.
  - (e) There shall be a wetland setback of not less than 10 feet from any structure.
  - (f) There shall be a minimum shore yard setback of 50 feet from the ordinary high-water mark of any navigable body of water.
  - (g) 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.
- (5) 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.
- (6) Building Area (See also Chapter 275-33(E))
- (a) The minimum floor area of a two-family dwelling unit shall be 1300 square feet.
  - (b) The minimum floor area of a single-family dwelling unit shall be 1400 square feet.
  - (c) The required attached garage shall have a minimum floor area of 400 square feet per dwelling unit.
- (7) Time Limits (See also Chapter 275-23(F))
- (a) If the development has not commenced, as evidenced by the securing of the initial Building Permits, and construction has not started within two

calendar years from the approval of the Villas of New Berlin PUD Planned Unit Development Overlay District Development Agreement, the PUD District ordinance shall expire and become null and void. The underlying zoning district shall remain in force regardless of whether the district was modified by the PUD or not.

(b) If the development requires an extension of the time limits of this Rd-1/PUD district, applicant shall adhere to steps outlined in Zoning Code Section 275-23F (Time Limits).

(b)(c) The Developer acknowledges that the code applicable to this development, not including the terms of this PUD shall be the code in effect as of the date that building permits are applied for. The application for this project shall be considered incomplete until the building permits are applied for.

- (9) Tree Cutting, Site Grading, or Grubbing Limited (See also Chapter 275-54)  
Parcels of land within the Rd-1/PUD District shall not be significantly cleared-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.
- (10) Traffic, Loading, Parking, and Access (See also Chapter 275-57)  
One (1) City of New Berlin Engineering Department approved access point is required prior to building permits being issued. 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.
- (11) Performance Standards (See also Chapter 275-60)
- (a) All plans, for the improvements to the public way and utilities to be dedicated to the City of New Berlin, are to be reviewed and approved by all regulating authorities prior to Development Agreement being written and zoning permit being issued. Improvements and utilities to be constructed and accepted by the City of New Berlin – City Engineer prior to building permits being issued as further described in Development Agreement.
- (b) Storm Water Management Plan (and erosion control plan) to be reviewed and approved by the Department of Community Development of prior to zoning permit being issued. Storm Water and erosion control structures to be installed and accepted prior to building permits being issued and as further described in Development Agreement.
- (c) Landscaping Plan to be reviewed and approved by the Department of Community Development prior to zoning permit being issued. Plan should address oversizing-of landscaping along eastern property line and shall identify those replacement trees, which are being installed as required by Sec. 275-54. Landscape surety to be submitted and initial installation of landscaping along eastern and northeastern property lines shall be completed prior to building permits being issued as required by Sec. 275-56.

- (d) Payment of current (per unit) Public Site and Open Space Fees required prior to each building permit being issued.
  - (e) All plans and an executed Development Agreement for the improvements to the public way are to be approved and infrastructure completed prior to building permits being issued. Public infrastructure includes the extension of Honeyager Drive, storm sewer, sanitary sewer, water main and associated storm water management.
- (12) Signs (See also Chapters 275-61)  
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 City has reviewed and approved the application for the sign permit.
- (13) Use and Site Plan Review (See also Chapter 275-53)  
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.
- (14) 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 for the zoning permit/use approval.
- (a) Approval of the detailed exterior architecture and material of the building by the Architectural Review Committee is required at Use Approval.
  - (b) Monotony: Buildings 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 rick material will be submitted. A key will be submitted for siding colors, brick or stone for each building.
  - (c) In addition to providing distinctive building styles of a single story ranch unit and the same unit with an optional second story, individual dwelling units will feature special architectural features such as dormers, entire porches, rear decks, stoops, patios, brick accents, optional window placements, ornamental "dental" treatments, and aesthetic fencing.
  - (d) Building scale and mass: Careful consideration and placement of the single story ranch unit relative to the optional second story dwelling unit will allow for appropriate scale analogous to surrounding structures.
  - (e) Building roof lines and shapes: The roofs shall consist of dimensional shingles.
  - (f) Materials: The exterior materials of the units will be a combination of brick veneer, concrete/fiber siding, wood components, and phypon accents to assure that the appearance is attractive at all times and reduce the need for maintenance.
  - (g) HVAC equipment-Units will be screened by landscaping.

- (h) Colors: The color selections will be earth tones and tasteful. Not less than two (2) exterior color themes and not less than one (1) roofing color.
- (i) Building location: The buildings shall be located in such a manner as to prevent removal of existing trees and ensure the continuation of the natural screening to the neighborhood.

C-2/PUD

HONEYAGER SHORELAND/WETLAND HOLDING DISTRICT

The C-2 Shoreland Wetland Holding District is intended to preserve, protect, and enhance the ponds, streams, and wetland areas of the City of New Berlin. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control stormwater runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the City.

(1) Principal Uses (See also Chapter 275-37(B)(4))

The following uses are permitted as a matter of right:

- (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.

(2) Conditional Uses (See also Table 275-37-1)

The following uses may be allowed by Conditional Use Permit. The City Plan Commission shall transmit a copy of each application for a conditional use in the C-2 Shoreland Wetland District to the Wisconsin Department of Natural Resources (DNR) at least 10 days prior to the public hearing. Action on the application shall not be taken for 30 days or until the DNR has made its recommendation, whichever comes first. A copy of all C-2 Shoreland Wetland District conditional use permits shall be transmitted to the DNR within (ten) 10 days of the effective date of such decision.

- (a) The establishment and development of public and private parks and recreation areas, public boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private habitat areas in the C-2 Shoreland Wetland District, provided that:
  - 1. Any private recreation or wildlife habitat area must be used exclusively for that purpose;
  - 2. No filling is to be done; and
  - 3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
  
- (b) The construction and maintenance of electric, gas, telephone, water, and sewer transmission and distribution lines, and related facilities in the C-2 Shoreland Wetland District by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to members located outside the C-2 district, provided that:
  - 1. The transmission and distribution lines and related facilities cannot as a practical matter be located outside a wetland; and
  - 2. Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance, and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.

(3) Lot Area and Width

- (a) It is hereby declared that the real property as described in Exhibit B attached shall be registered on the City of New Berlin Zoning Map.

(4) Prohibited Uses

- (a) Any use not listed as a principal use or a conditional use is prohibited unless the C-2 District lands concerned are first rezoned into another district.

**SECTION IV**

WHEREFORE, The VILLAS OF NEW BERLIN PLANNED UNIT DEVELOPMENT DISTRICT having been approved as a Planned Unit Development on the 13<sup>th</sup> day of March 2018, pursuant to Sec. 275-22 of the New Berlin Municipal Code, the Common Council hereby adopts this Planned Unit Development Ordinance for the VILLAS OF NEW BERLIN PLANNED UNIT DEVELOPMENT.

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

To the extent that the provisions of this ordinance conflict with the provisions of other portions of the municipal code of the City of New Berlin, the provisions of this ordinance shall control.

Dated this \_\_\_\_\_ day of March, 2018.

APPROVED:

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David A. Ament, Mayor

Countersigned/Certified:

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Dan Green, City Clerk

**Exhibit A**

**VILLAS OF NEW BERLIN**

**Rd-1/PUD Single-Family Attached Residential District**

**LEGAL DESCRIPTION**

Excepting that which is removed as part of the wetland field delineation identified in "Exhibit B" of this document as C-2/PUD Shoreland/Wetland Conservancy District.

**Exhibit B**

**VILLAS OF NEW BERLIN**

**C-2/PUD Shoreland/Wetland Conservancy District**

**LEGAL DESCRIPTION**

**Exhibit C**

**VILLAS OF NEW BERLIN**

**Site Plan**

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