

ORDINANCE NO. 2631

**City of New Berlin Redevelopment Plan / Burghardt LLC Planned Unit
Development**

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

SECTION I

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

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

WHEREAS, Lynn Burghardt with Burghardt LLC, along with the City of New Berlin have submitted an application for a Planned Unit Development Overlay District located at 15333 W. National Avenue and 15343 W. National Avenue (Tax Key #: 1207-965 and 1207-965-002) in accordance with Sections 275-23 and 275-39(B)(1) of the New Berlin Municipal Code; and

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

WHEREAS, a public hearing was held on April 13, 2020 before the Plan Commission, and;

WHEREAS, based upon the recommendation from the Plan Commission at a meeting held on May 4, 2020 to approve the City of New Berlin Redevelopment Plan / Burghardt LLC Planned Unit Development, and;

NOW, THEREFORE, BE IT HEREBY RESOLVED AND ADOPTED BY THE CITY OF NEW BERLIN, the City of New Berlin Redevelopment Plan / **Burghardt LLC** Planned Unit Development Ordinance is hereby adopted pursuant to Chapter 275-39(B)(1) of the New Berlin Municipal Code as follows:

SECTION II

Planned Unit Development Summary

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

Unless specified otherwise by this ordinance, any regulation not listed shall be regulated in accordance with the Zoning Ordinance dated June 11, 2019 and underlying zoning district Section 275-34B(1), Shopping Center District.

The parcels of land that is the subject of this ordinance is located at 15333 W. National Avenue and 15343 W. National Avenue in the City of New Berlin, which are legally described below. The property is approximately 8.82 acres in size.

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

15333 W. National Avenue / Tax Key #: 1207965

PARCEL 1 C.S.M. #7554 DOC.#2009791 V64 P245 BEING A REDIVISION OF PCL 1 C.S.M. #6872 BEING PT NW.25 & SW.25 OF SW.25 SEC 14 T6N R20E R2131 I1205 #3094095 10/23/03 EX .717AC TO CITY OF NEW BERLIN DOC #3599289 REC 09/17/2008

15343 W. National Avenue / Tax Key #: 1207965002

PARCEL 2 C.S.M. #7554 V64 P245 DOC.#2009791 BEING A RE-DIVISION OF CSM #6872 BEING PT NW.25 & SW.25 OF SW.25 SEC 14 T6N R20E R2131 I1205

SECTION III

B-1/PUD: City of New Berlin Redevelopment Plan / Burghardt LLC Planned Unit Development District

The overall purpose of this PUD is to begin to establish a set parameters and requirements for the creation of a cohesive mixed-use development that can serve as New Berlin's true city center rather than a continuous, repetitive, bland, homogenous and isolated set of land uses by parking lots, drive aisles and very little to no connectivity. The lands that are subject to this PUD represent only a portion of the larger retail center. Ultimately, the City should incorporate the balance of these lands into this PUD in order to organize public & private spaces; fully interconnect streets, drive aisles, walk-ways, & bikeways within the development and to the surrounding neighborhoods; support retail shops & services; create active & secure pedestrian-friendly settings; and to make "parking" ultimately a shared resource available in support of "all" users within the PUD rather than just on a parcel-by-parcel basis. Appendix "A" dated April 2020 represents a conceptual master plan that reflects the City's desired revitalization of the entire retail center by incorporating the aforementioned smart growth and new urbanist design principles. The plan is meant to be flexible and not ridged, and to provide guidance for future development over the years.

The B-1/PUD: City of New Berlin Redevelopment Plan / Burghardt LLC Planned Unit Development District is intended to provide for additional commercial uses consistent with the B-1 Shopping Center District. The District will allow for additional uses to be included as principal uses including screen printing, embroidery services, sorting and packaging, in addition to a variety of indoor and outdoor recreational/public uses outlined below, and warehouse as an accessory use to one of the principal uses in this zoning district.

Unless specified otherwise by this section, all new development shall be in accordance with the B-1 Zoning District, per Section 275-34B(1) Shopping Center District.

1. Principal Uses (See also Chapters 275-34C, 275-41C and Table 275-34-1)
 - a. Screen Printing
 - b. Embroidery Services
 - c. Sorting and Packaging
 - d. Educational facilities, interpretive centers, learning centers.
 - e. Nature based learning centers
 - f. Tournament/sporting events
 - g. Active parks and recreational facilities (this might include volley ball, basketball, baseball, soccer, pickle ball, etc.)
 - h. Indoor recreational facilities (this might include volley ball, basketball, baseball, soccer, pickle ball, etc.)

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- i. Recreational camps, before/after care school programming, and school's out day programming.
2. Accessory Uses (See also Chapters 275-34C, 275-42, and Table 275-34-1)
 - a. Warehouse as an accessory use to one of the principal uses listed in this PUD for Burghardt LLC .
3. Conditional Uses (See also Chapters 275-34C, 275-27 and Table 275-34-1)
4. Lot Area and Width (See also Chapters 275-44, 275-45, and 275-46)
 - a. Parcels of land subject to this PUD Ordinance may be configured in any manner by Subdivision, CSM or meets and bounds transfer subject to City review and approval under Wisconsin Statutes CH. 236 and New Berlin Municipal Code Chapter 275 and 235. (See the attached redevelopment plan).
 - b. In order to maintain maximum flexibility with the redevelopment plans, there shall be a zero lot line setback from internal property lines if developed as part of a unified project. Along major arterials (National Avenue and Moorland Road), the front setback shall be 10'. These setback requirements shall be subject to the requirements of other governmental regulatory bodies with jurisdiction. These setbacks assume adequate vision triangles, parking and circulation. The Plan Commission shall have the authority to require larger setbacks on a case-by-case basis in order to accommodate for safety and/or to further the redevelopment vision for this area.
5. Setback and yards (See also Chapter 275-34D and Table 275-34-2)
 - a. Table 275-34-2 shall not apply.
 - i. All buildings along major arterials (National Avenue and Moorland Road), shall have a front setback of 10'.
 - ii. All buildings shall be setback a 30' from the rear lot line to the east. The 30' setback is made up of the preservation easement and utility easement that are in place.
 - iii. All buildings may have a zero lot line setback from Wall Street.
 - iv. No building shall be closer than 25' to another building except as provided for in 5(a)(iii) below.
 - v. 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. These setback requirements shall be subject to the requirements of other governmental regulatory bodies with jurisdiction.
 - vi. 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 minimized 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.
6. Lot Coverage (See also Chapter 275-34D and Table 275-34-3)

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- a. Table 275-34-3 shall not apply, however, through redevelopment efforts, the City and this applicant would not be able to achieve this amount of open space on the newly created parcels, given the urban setting and the existing cross access easements for shared parking and utilities. The applicant and the City will work together to achieve additional green space around the building / future building(s) with planters and other urban design measures, and adding additional plantings. Future development shall coordinate with the City on any storm water management requirements.
7. Time Limits (See also Chapter 275-23(F))
 - a. If the development has not commenced, as evidenced by the securing of the initial re-occupancy permit for Burghardtia LLC and building permits for construction of the party wall to divide the building, and construction has not started within one calendar year from the approval of this ordinance, the City of New Berlin Redevelopment Plan / Burghardtia LLC Planned Unit Development Overlay District ordinance shall expire and become null and void. The underlying basic use district shall remain in force.
 - b. If the developer requires an extension of the time limits, any extension shall be requested by the developer in writing explaining the hardship and sent via Certified Mail to the Department of Community Development not less than 60 days prior to the expiration of this PUD. The Common Council may allow multiple extensions in the sole exercise of its discretion.
 8. Use and Site Plan Review (See also Chapters 275-24 and 275-53)
 - a. No principal or accessory use, development or structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, occupied, or reoccupied, no site or premise shall be altered, used, changed, modified, occupied, or building permit approved until after the owner has applied for and received approval of the application for the zoning permit/use approval. An approved PUD Ordinance shall not be construed as a Zoning Permit or any other approval until the Plan Commission has granted an approval and staff has determined that all conditions of that approval have been satisfied.
 9. Parking & Circulation (See also Chapter 275-57)
 - a. Overhead doors / loading doors may face the right-of-way on Wall Street. Loading may also occur along Wall Street, however, it shall be limited and done during off-peak hours when possible.
 - b. Parking lots may be located at the property line as long as circulation, vision triangles, and/or drainage are taken into consideration.
 - c. There is shared parking amongst the parcels owned respectively by Burghardtia LLC and the City even though each use would have dedicated parking as identified by their own lot configuration and plan of operation. Said shared parking shall be subject to a separate reciprocal easement and maintenance agreement between the parties.
 - d. Any additional buildings and/or loss of parking for greenspace(s) will require a thorough review by DCD to determine whether or not the loss of parking will have a detrimental impact on the uses on site.
 10. Architecture (See also Chapter 275-59)
 - a. No principal or accessory use, development, structure or sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, structurally altered, occupied, or reoccupied and no site or premise shall be altered, used, changed, modified, building permit approved, or occupied until after the owner has applied for and the Architectural Review Committee of the Plan Commission has reviewed and approved the architecture for the zoning permit/use approval.

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11. Signage (See also Chapter 275-61J(4))
 - a. Per Zoning Code Section 275-61J(4) Special Commercial Areas – City Center. This area is identified within the City Center.
 - i. Off premise signage along Moorland Road, Howard Avenue and/or Wall Street may be permitted under this PUD to provide additional signage for a cohesive development. This statement modifies Zoning Code Section 275-61J(4)(c)[3].
 - ii. Zoning Code Section 275-61J(4)(c)[5] is modified to allow for an overall sign height of 15 ft. due to the site constraints along National Avenue, which include steep grade change, retaining walls/fences, heavy landscaping, sidepaths, and large county right-of-way. Currently the code reads, *“The total monument sign height shall not exceed 13 feet.”*
 - iii. Zoning Code Section 275-61J(4)(c)[6][b] is modified to allow for a sign face up to 50 sq. ft. Currently the code reads, *“The area for multi-tenant master identification monument sign that incorporates tenant names shall not exceed 36 square feet per side.”*
 - iv. Additional City wayfinding signage is allowed.
 - v. See the appendix section of a sample monument sign.

12. Integration

The City of New Berlin will be participating as an owner of a portion of the lands within this PUD. The purchase agreement between the City and the Applicant for these lands may contain specific provisions which place further limits and restrictions on the use by the City and Burghardtia LLC. of said lands. Nothing within this ordinance shall be deemed to alter the agreements between Burghardtia LLC and the City in this regard. The approval of this ordinance shall not be considered as the approval of the other agreements which are part of the purchase by the City of a portion of the lands within this PUD. The approval of those documents shall be subject to the review and approval by the Common Council.

SECTION IV

WHEREFORE, The B-1/PUD: City of New Berlin Redevelopment Plan / Burghardtia LLC Planned Unit Development Overlay District Ordinance having been approved as a Planned Unit Development on May 12, 2020, pursuant to Chapter 275-23 of the New Berlin Zoning Code, the Common Council hereby adopts this Ordinance and approves the rezoning of land described in Section II to B-1/PUD to be named the City of New Berlin Redevelopment Plan / Burghardtia LLC Planned Unit Development Overlay District, pursuant to the conditions set forth herein.

The Mayor and City Clerk are authorized to execute this Ordinance No. 2631 on behalf of the City of New Berlin.

This ordinance shall take effect upon the passage and publication as required by law, and upon the final approval of the Development Plans as recommended by the Plan Commission, and the City Clerk shall so amend the Code of Ordinances and zoning map of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

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

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

PASSED AND ADOPTED by the Common Council this 12th day of May, 2020.

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APPROVED:

David A. Ament, Mayor

Countersigned:

Georgia Stanford, City Clerk

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APPENDIX A

CITY OF NEW BERLIN REDEVELOPMENT PLAN

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New Berlin City Center Site Data

Building	New (To Remain)	Footprint (sf)
01	To Remain	13,000
02	To Remain	4,700
03	New	5,250
04	To Remain	9,400
05	New	7,800
06	To Remain	4,500
07	New	9,600
08	New	7,000
09	New	58,600
10	To Remain	85,325
11	To Remain	7,320
12	New	5,380
13	New	13,300
14	New	11,500
15	To Remain	98,000
Total Area		340,675
Total off-street parking stalls		807

NOTE: All building area calculations are approximate using ArcGIS; All parking calculations are approximate using aerial photography

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APPENDIX B

SIGN EXAMPLES

“CONCEPTUAL ONLY”



APPENDIX C

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