



Staff Report:

To: Plan Commission
From: Department of Community Development
Date: March 10, 2025
Topic: Item 4.a.: Request of The Grove Homeowners Association, Inc., 700 Larry Court, Waukesha, WI 53186 – c/o Mark Hogan, Director of The Grove Condominiums, for approval of an Amended and Restated Declaration of Condominium Ownership, and for an Amended and Restated Bylaws of The Grove Homeowners Association, Inc., regarding the multi-family condominium development, The Grove, located along Walnut Grove Court and Chestnut Grove Court on the north side of North Avenue. (SE ¼ of Section 14) – RV

Report:

1. The site of the existing condominium development consists of one lot not located in a Targeted Investment Area. It is comprised of paired (side-by-side) condominium units totaling twenty (20) units across ten (10) buildings, storm water retention pond, and two private streets (Walnut Grove Court and Chestnut Grove Court) with public easements regarding access, water main, and sanitary sewer main serving the lot. Per applicant’s email dated December 4, 2024 (attached to this report as the application letter), The Grove Homeowner’s Association board (HOA Board) has worked with their hired counsel to review and amend their governance documents, including the Declaration of Condominium Ownership (Declaration) and Bylaws of The Grove Homeowners Association, Inc., (Bylaws) documents. The Declaration and Bylaws both require the approval of the Plan Commission to be amended. The HOA Board has voted and successfully passed the proposed Declaration Amendment and proposed Bylaw Amendment attached to this report (results of vote tally also attached). The applicant is requesting the Plan Commission approve the Declaration Amendment and Bylaw Amendment, with the Bylaw Amendment including updated provision that removes the requirement for the Plan Commission to approve any future amendments to the document.
2. Submitted redline Declaration Amendment consists of updates which bring the Declaration into alignment with current conditions and include governance changes desired by the HOA Board. Examples of updates to current conditions include removal of references to “Developer,” updating share of ownership to match current unit distribution, and removal of references to expanding condominium and construction of future units. Examples of desired governance changes include the use of units (e.g., leasing and occupancy) being set forth in the Bylaws and Rules and Regulations, property maintenance responsibilities (e.g., driveways,

landscape beds, roofs, rain gutters), covenant for assessments, insurance requirements, and addition of language pertaining to claims and remedies under general provisions. Proposed amendment to Article VII “Rights and Obligations of the Association” Section 1. “The Common Elements” (page 14 of Redlined Declaration) includes removal of, “maintenance of the private water system,” from the section regarding responsibilities of the Association as set forth in the Development Agreement with the City of Brookfield (a copy of the Development Agreement is attached to this report for reference).

3. Regarding the removal of “maintenance of the private water system,” City staff notes that public easements were established for the six-inch water mains serving the development and the mains were dedicated, but the private water service laterals serving each two-unit building were left private, per City policy. The applicant’s desire to remove public-dedicated water service improvements from the “Common Elements” is a reasonable amendment in City staff’s opinion, provided the Declaration clarifies the responsibility of the Association, or condominium unit owners, on the maintenance of private water laterals serving each building. The applicant has incorporated the addition of subsection (iv) to Article V, Section 13(a) in the proposed amendment to specify that the water and sewer laterals, that may connect from the mains to the condo units, are the responsibility of the unit owners, consistent with the direction given by the City Attorney on staff’s opinion outlined above.
4. Submitted redline Bylaws Amendment mostly consists of updates to governance changes desired by the HOA Board. Similar to the Declaration Amendment, it removes references to “Developer” throughout and revised language to be consistent with current conditions, best practices, and State Statutes. Examples of desired governance changes include meeting procedures (e.g., include virtual meeting option), board of directors selection, assessments, and leasing restrictions. Proposed change to Article XIV “Amendments” includes removal of language which requires, “that these By Laws may not be amended without the approval of the Plan Commission of the City of Brookfield, Wisconsin.” City staff have no concerns regarding the removal of this language.
5. The City Attorney has reviewed the applicant’s submitted amendments. She provided direction to the applicant’s legal representative on necessary modifications to the proposed Amended and Restated Declaration of Condominium Ownership, and the applicant’s submitted document incorporates the City Attorney’s noted changes. The City Attorney has stated that she has no issues with the submitted Bylaws Amendment.

Staff Recommendation: The Plan Commission approves the submitted Amended and Restated Declaration of Condominium Ownership, and submitted Amended and Restated Bylaws of The Grove Homeowners Association, Inc., subject to:

1. City Attorney review and approval of the final documents prior to recording.
2. Payment of applicable fees to the Community Development Department:
 - \$ 390.00 Community Development Special Review Fee
 - \$ TBD Engineering Review Fee

\$ TBD City Attorney Review Fee

*Attachments:

1. 2024-08-28 Application Letter.pdf
2. 2024-11-27 Declaration & Bylaw Vote.pdf
3. 2024-10-15 The Grove Amended and Restated Bylaws Redlined.pdf
4. 2024-10-15 The Grove Amended and Restated Bylaws Final.pdf
5. 2025-02-04 Second Amended and Restated Declaration of The Grove Redlined.pdf
6. 2025-02-04 Second Amended and Restated Declaration of The Grove Final.pdf
7. Grove Condominium - Development Agreement.pdf
8. Grove Condominium - Dedication of Public Facilities.pdf
9. PC Draft Res. - The Grove Amended and Restated Bylaws and Declaration.pdf

* Copies available for viewing at Community Development Department at 2000 N. Calhoun Road, Brookfield, WI 8 am to 5 pm, Monday to Friday.