

ENROLLED ORDINANCE 161-79

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF SUMMIT AND THE TOWN OF SUMMIT ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 22, T7N, R17E, TOWN OF SUMMIT, FROM THE A-P AGRICULTURAL LAND PRESERVATION, AD-10 AGRICULTURAL DENSITY-10 AND C-1 CONSERVANCY DISTRICTS (COUNTY) AND THE A-1 AND A-2 AGRICULTURAL DISTRICTS (TOWN) TO THE R-3 RESIDENTIAL, B-2 LOCAL BUSINESS AND C-1 CONSERVANCY DISTRICTS (COUNTY) AND THE NC NEIGHBORHOOD COMMERCIAL AND MF-2 MULTI-FAMILY RESIDENTIAL DISTRICTS WITH A PLANNED DEVELOPMENT OVERLAY DISTRICT (TOWN)  
(SZT-1586A)

WHEREAS the subject matter of this Ordinance having been duly referred to and considered by the Waukesha County Park and Planning Commission, after Public Hearing, and the giving of requisite notice of said hearing and the recommendation thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Sections 59.692 and 60.61 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Town of Summit, Waukesha County, Wisconsin, adopted on June 23, 1970, and the Town of Summit Zoning Ordinance adopted on August 12, 2003, are hereby amended to conditionally rezone from the A-P Agricultural Land Preservation, AD-10 Agricultural Density-10 and C-1 Conservancy Districts (County) and the A-1 and A-2 Agricultural Districts (Town) to the R-3 Residential, B-2 Local Business and C-1 Conservancy Districts (County) and the NC Neighborhood Commercial and MF-2 Multi-Family Residential Districts with a Planned Development Overlay District (Town), as noted in the Town of Summit amending Ordinance No. 273-06, adopted by the Town of Summit on November 2, 2006, certain lands located in part of the NE ¼ of Section 22, T7N, R17E, Town of Summit, and more specifically described in the "Staff Report and Recommendation" and map on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference (SZT-1586A) subject to the following conditions:

1. All conditions of the Town of Summit Board and Plan Commission shall be incorporated as an integral part of this Conditional Rezoning (See Staff Recommendation, Exhibit "A").
2. The site layout must remain in substantial compliance with the development plan dated December 2006 and referenced as Exhibit "B" (See Staff Recommendation).
3. A Conditional Use Permit for a Commercial and Residential Mixed Planned Unit Development must be obtained from Waukesha County.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Summit.

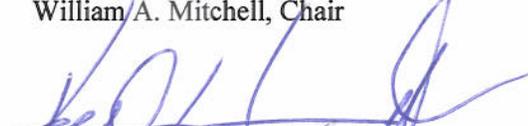
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

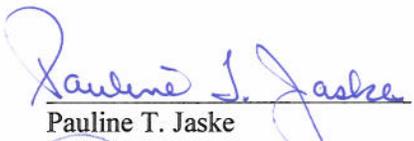
AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF SUMMIT AND THE TOWN OF SUMMIT ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 22, T7N, R17E, TOWN OF SUMMIT, FROM THE A-P AGRICULTURAL LAND PRESERVATION, AD-10 AGRICULTURAL DENSITY-10 AND C-1 CONSERVANCY DISTRICTS (COUNTY) AND THE A-1 AND A-2 AGRICULTURAL DISTRICTS (TOWN) TO THE R-3 RESIDENTIAL AND B-2 LOCAL BUSINESS DISTRICTS (COUNTY) AND THE NC NEIGHBORHOOD COMMERCIAL AND MF-2 MULTI-FAMILY RESIDENTIAL DISTRICTS WITH A PLANNED DEVELOPMENT OVERLAY DISTRICT (TOWN) (SZT-1586A)

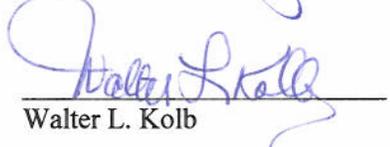
Presented by:  
Land Use, Parks, and Environment Committee

  
William A. Mitchell, Chair

  
Keith Hammitt

  
Keith Harenda

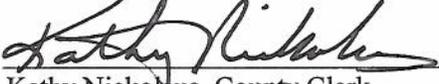
  
Pauline T. Jaske

  
Walter L. Kolb

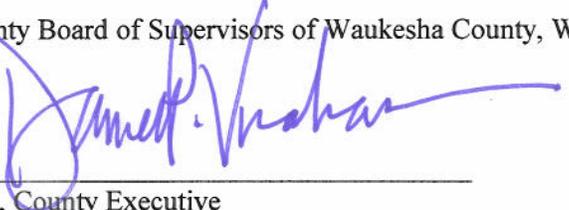
Absent  
Vera Stroud

  
Peter M. Wolff

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

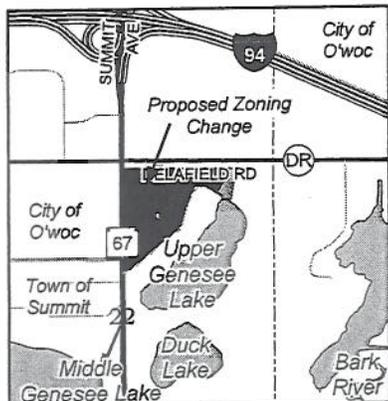
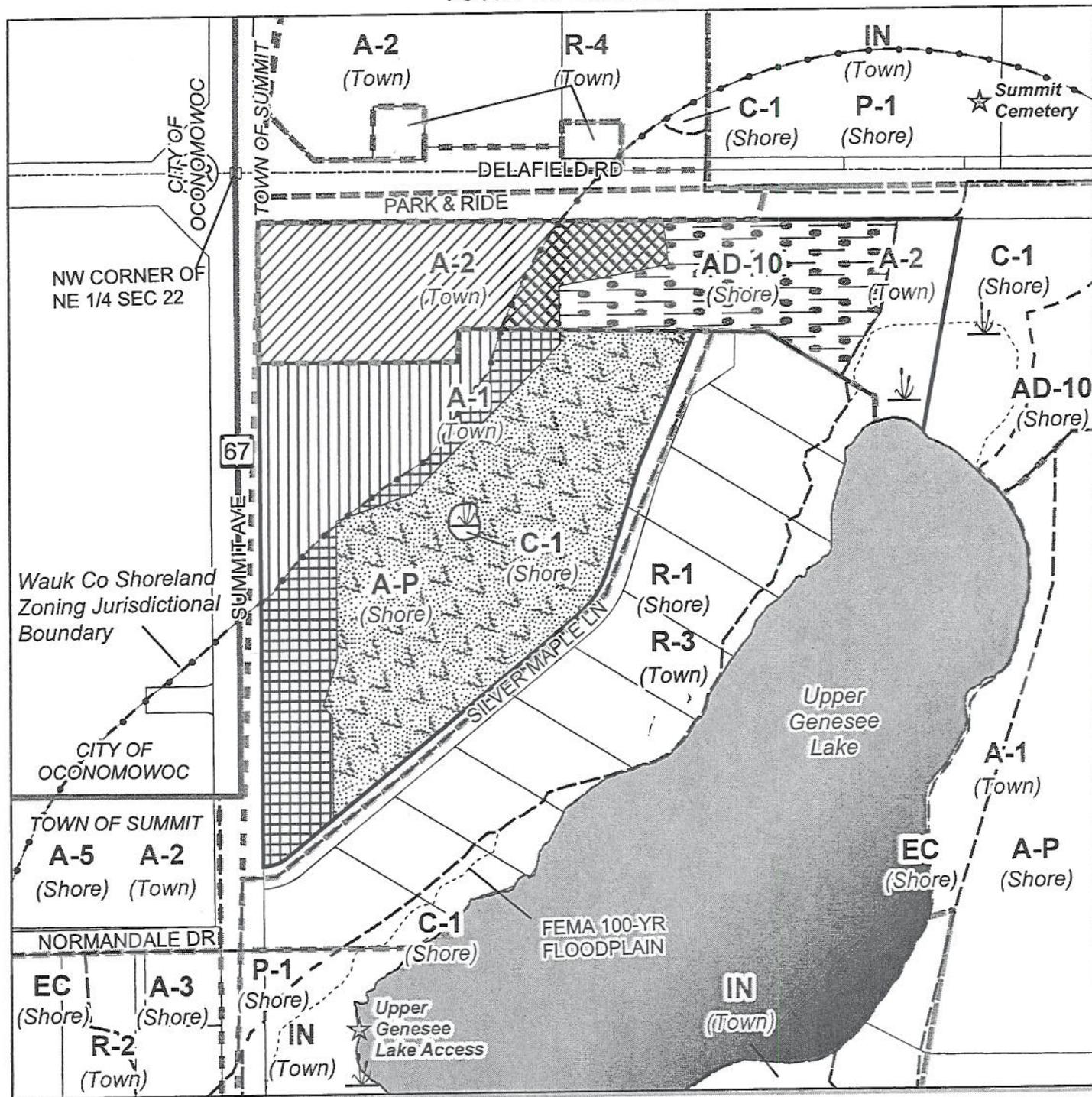
Date: 3-2-07,   
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X  
Vetoed: \_\_\_\_\_  
Date: 3-5-07,   
Daniel P. Vrakas, County Executive

# ZONING MAP AMENDMENT

PART OF THE NE 1/4 OF SECTION 22  
TOWN OF SUMMIT



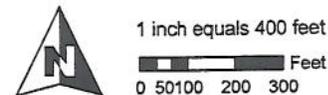
### Shoreland Zoning Change

-  AD-10 to B-2 (1.6 AC)
-  A-P to B-2 (4.7 AC)
-  AD-10 to R-3 (5.6 AC)
-  A-P to R-3 (14.4 AC)

### Town Zoning Change

-  A-2 to NC/PDO (7.7 AC)
-  A-1 to NC/PDO (10.1 AC)
-  A-2 to MF2/PDO (5.6 AC)
-  A-1 to MF-2/PDO (14.4 AC)

FILE.....SZT-1586A  
 DATE.....01-11-07  
 AREA OF CHANGE.....37.8 ACRES  
 TAX KEY NUMBER.....SUMT 0661.997 & .998



Prepared by the Waukesha County  
Department of Parks and Land Use

161-0-088

STATE OF WISCONSIN

TOWN OF SUMMIT

WAUKESHA COUNTY

ORDINANCE NO. 273-06

AN ORDINANCE TO  
CONDITIONALLY REZONE CERTAIN LANDS  
IN THE TOWN OF SUMMIT TO  
THE  
NEIGHBORHOOD COMMERCIAL DISTRICT (NC), AND  
THE MULTIFAMILY RESIDENTIAL DISTRICT (MF-2)  
WITH A PLANNED DEVELOPMENT OVERLAY DISTRICT (PDO)

WHEREAS, a petition has been filed by TKLW, LLC, a domestic limited liability company ("Petitioner"), as the owner of certain lands in the Town of Summit, to rezone certain lands described herein and incorporated by reference as Exhibit A (the "Subject Lands"); and

WHEREAS, said rezoning petition was submitted in order to rezone the Subject Lands from the A-1 and A-2 Agricultural Districts to the Neighborhood Commercial District (NC), and Multifamily Residential District (MF-2) with a Planned Development Overlay District (PDO), which shall overlay the afore-stated residential and commercial districts; and

WHEREAS; the Petitioner has supplied all required data pursuant to the Town of Summit Zoning Code, and

WHEREAS, Petitioner has provided a General Development Plan pursuant to Section 235-44(D)(2) of the Town of Summit Zoning Code providing a general concept plan for the entire area covered by the Planned Development Overlay District (PDO) in sufficient detail to permit the evaluation of the approval criteria set forth in Section 235-44(B) of the Town of Summit Zoning Code; and

WHEREAS, the General Development Plan (a copy of which is attached hereto and incorporated by reference as Exhibit B) sets forth all of the following information required under Section 235-44(D)(2) of the Town of Summit Zoning Code:

- The pattern of proposed land use, including general size, shape and arrangement of lots and specific use areas, proposed density of residential development; proposed building square footage for commercial or industrial development; general environmental character of common open spaces, parking and drive areas, recreation facilities, principal landscaping features, floodplain and/or wetlands and other major components of the proposed project;
- The basic street pattern;

- The basic storm drainage pattern;
- The general location, size, and character of recreational and open space areas including designation of any such areas to be classified as "preserved lands";
- Documents or related information or plans showing the architectural designs of buildings;
- Appropriate statistical data relative to the development;
- General outline of intended organizational structure related to property owner's association, deed restrictions, etc.; and
- Any other information deemed appropriate and necessary by the Town of Summit Plan Commission ("Plan Commission"); and

WHEREAS, the General Development Plan provided by Petitioner has been available for public inspection in the office of the Town Clerk/Treasurer since May 22, 2006; and

WHEREAS, a Precise Implementation Plan in conformity with the requirements set forth in Section 235-44(E)(2) of the Town of Summit Zoning Code must be submitted by the Petitioner for that portion of the Subject Lands for which specific development approval is requested concurrent with the General Development Plan approval; and

WHEREAS, the proposed residential area and a portion of the proposed commercial area of the Subject Lands is located within the Waukesha County 1,000' shore land zoning jurisdictional area; and

WHEREAS, upon referral of the petition by the Town Clerk, the Plan Commission scheduled a public hearing for the Plan Commission and a representative of Waukesha County; and

WHEREAS, notice having been given as required under Section 235-81 of the Zoning Code of the Town of Summit, the Plan Commission and a representative of Waukesha County's Department of Parks and Land Use held a public hearing on August 9, 2006 at 6:30 p.m. as required by said Section 235-81; and

WHEREAS, the Plan Commission has recommended to the Town Board of Supervisors for the Town of Summit ("Town Board" that the requested zoning be made and that the General Development Plan be approved upon satisfaction of certain conditions; and

WHEREAS, the Plan Commission in making its recommendation, and the Town Board, having carefully reviewed the recommendation of the Plan Commission in making its determination as to the approval of the zoning requested, have given

consideration to the approval requirements in Section 235-44(B) of the Town of Summit Zoning Code set forth below and are satisfied as to the following:

- (A) That the proposed development is consistent with the spirit and intent of the Town of Summit Zoning Code and with the Development Goals set forth in Section 265-15C of the Zoning Code and has been prepared with competent professional advice and guidance and produces significant benefits in terms of improved environmental design and in contributing to the aforesaid Development Goals to justify the application of the Planned Development concept;
- (B) That the site development plan reflects sensitive consideration of the physical nature of the site with particular concern for conservation of natural features, preservation of open space and careful shaping of terrain to minimize scarring, insure proper drainage and preservation of natural terrain wherever appropriate;
- (C) That the general character and intensity of use of the development produces an attractive environment appropriate to the uses proposed and which is compatible with existing development in the surrounding area and with general community development plans and policies;
- (D) That the development can be provided with appropriate municipal services and would not conflict with or cause overload on such facilities as schools, highway, police, fire, or utility services;
- (E) That proposed design standards provide adequately for practical functioning and maintenance based on actual functional need in terms of circulation, parking, emergency services, delivery services, and snow plowing;
- (F) That adequate provision has been made to insure proper maintenance and preservation of any "preserved lands" as described and regulated under Section 235-15B of the Town of Summit Zoning Code provided for the recreational, and aesthetic enhancement of the development, for the preservation of the rural environmental character of the area, for preservation of agricultural lands, or for preservation of protection of natural ecologic resources. Such provisions may be made by dedication to the public or by retention in private ownership with appropriate covenants. Private ownership may be in common or individual ownership subject to the following:

- a. The "preserved lands" shall be protected against future development by conveying as part of the conditions for development plan approval, an "open space easement" over such areas running with the land to the Town and each property owner restricting the area against any future building or use except as is consistent with the use as designated on the approved plan for recreational or aesthetic purposes, agricultural preservation, or the preservation of rural environmental character.
- b. The care and maintenance of such "preserved lands" shall be insured by adequate covenants and deed restrictions, running to the Town as well as each individual property owner, where such maintenance is not carried out to the satisfaction of the Town, it shall be authorized to treat such area as a special service district and to provide the necessary maintenance service and to levy the cost thereof as a special assessment on the tax bills of all properties within such service areas.

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the Town of Summit, will not be contrary to the public health, safety, or general welfare of the Town of Summit, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the Town of Summit master plan;

NOW, THEREFORE, the Town Board of the Town of Summit, Waukesha County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Commencing upon the date hereof, the Zoning Map of the Town of Summit is hereby conditionally amended to rezone and add overlay districts on the Subject Lands, specifically to rezone the Subject Lands to the Neighborhood Commercial District (NC) and Multifamily Residential District (MF-2) with a Planned Development District overlay, all as set forth on the attached Exhibit B and subject to the conditions stated in Section 2 of this Ordinance being fully met.

SECTION 2: CONDITIONS IMPOSED.

The rezoning of the Subject Lands and the General Development Plan for the construction of a Planned Development for residential and commercial development, continuation of the public road system, is hereby granted subject to compliance with all of the following conditions:

1. There shall be no re-division of any of the original lots/outlots in the Subject Lands after approval of the division set forth in Exhibit B. A note must be placed on the Final Plat in a form satisfactory to the Town Attorney stating that there can be no re-division of any of the original lots/outlot(s) in the development.
2. There shall be no more than six (6) residential units and zero (0) commercial units having access to the lake. A note shall be placed on the Final Plat in a form satisfactory to the Town Attorney stating that no more than six (6) residential units and zero (0) commercial units may have lake access.
3. The Subject Lands shall be subject to the provisions of Waukesha County's Shore Land Ordinance allowing one (1) residential unit per 10,500 sq. ft., which is equivalent to 4.5 units/acre, and shall be further subject to the density limitations set forth within this Ordinance.
4. A one hundred foot (100') building setback shall be required off of Silver Maple Lane with a two (2) residential unit/acre maximum density along the north side of Silver Maple Lane.
5. There shall be a maximum of eighty (80) residential condominium units developed in the Multifamily Residential area identified on Exhibit B. Said eighty residential condominium units shall be comprised of a mix of two-, four-, five-, and six-unit residential condominiums as follows:
  - a. There shall be sixteen (16) Two-family residential condominiums, totaling of Thirty-two (32) residential condominium units;
  - b. The remaining forty-eight (48) residential condominium units shall be allocated amongst Four-, Five-, and Six-family residential condominiums as follows provided, however, that the Plan Commission may reallocate said forty-eight residential condominium units amongst a mix of Four-, Five-, and Six-family residential condominiums as part of the approval process for Precise Implementation Plan(s) when, in the Plan Commission's

discretion, such reallocations are consistent with the intent of this Ordinance:

- i. Three (3) Four-family residential condominium buildings, totaling twelve residential condominium units; and
  - ii. Six (6) Six-family residential condominiums, totaling thirty-six residential condominium units.
6. All of the Subject Lands identified on Exhibit B as residential shall be subject to the provisions of Section 235-36 of the Town of Summit Zoning Code, Multifamily Residential District (MF-2), as amended from time-to-time, unless further restricted or otherwise specifically authorized by this Ordinance.
7. Permitted and conditional uses for the Residential area of the Subject Lands identified on Exhibit B shall be as set forth in Section 235-36, Multifamily Residential District (MF) in the Town of Summit Zoning Code, as amended from time-to-time.
8. Bulk Regulations set forth in Section 235-36, Multifamily Residential District (MF) in the Town of Summit Zoning Code, as amended from time-to-time, shall apply to the Multifamily Residential area identified on Exhibit B except as follows:
  - i. Minimum front/street setbacks shall equal five (5) feet from the Right-of-Way line for local streets and any private roads permitted by the Town Board and nine (9) feet from the Right-of-Way line for any arterial streets.
9. All lands identified on Exhibit B as Commercial/Retail shall be subject to the provisions of Section 235-38 of the Town of Summit Zoning Code, as amended from time-to-time, unless further restricted or otherwise specifically regulated by this Ordinance.
10. The Commercial/Retail area of the Subject Lands identified on Exhibit B shall consist of a mix of office type uses and retail type uses. Permitted and conditional uses allowed shall be as defined in Section 235-38 Neighborhood Commercial District (NC) in the Town of Summit Zoning Ordinance, as amended from time-to-time
11. Bulk Regulations set forth in Section 235-38 Neighborhood Commercial District (NC) in the Town of Summit Zoning Code, as amended from time-

to-time, shall apply to the Commercial/Retail area of the Subject Lands identified on Exhibit B except as follows:

- i. Minimum Lot Area shall equal 30,000 sq. ft.
  - ii. Minimum Lot Width shall equal 100 ft.
  - iii. Minimum front/street yard setback:
    1. Six feet (6') from any local/private road;
    2. Thirteen feet (13') from any arterial street/public road.
    3. Minimum pavement setback shall equal zero feet (0').
12. Requirements for parking set forth in Section 235-45 of the Zoning Code are amended as follows:
- Notwithstanding the provisions of Section 235-45(A)(1) of the Town of Summit Zoning Code, the size of each parking space shall be not less than 9' x18' (162 square feet) exclusive of the space required for ingress and egress.
  - Notwithstanding the provisions in Section 235-45(C), there shall be a minimum of 5 spaces for each 1,000 sq. ft. of floor area.
13. Petitioner shall submit a plan and receive approval of same from the Plan Commission, Town Board, and State of Wisconsin Department of Transportation for a land lease and right-of-way purchase of land adjacent to STH 67 and Highway DR pertaining to the existing Park and Ride operated on said property. Said plan shall set forth the existing situation, the current development plan, and the ultimate development plan for the Park and Ride site if the Park and Ride is no longer required by the State of Wisconsin and Waukesha County.
14. Development of the Subject Lands, including but not limited to the Road Plan and lot layout, shall be in substantial conformity with the General Development Plan submitted to the Plan Commission and the Town Board at their meeting on August 9, 2006.
15. All Precise Implementation Plans shall be submitted within 6 months of the date of this Ordinance, unless extended in writing by the Town Board. Said Precise Implementation Plans shall be subject to Plan Commission

and Town Board approval and shall contain all of the information required in Section 235-44(F) of the Zoning Code as follows:

- a. An accurate identification of the area of the precise implementation plan as it relates to the General Development Plan (Section 235-44(F)(1);
  - b. The specific designation of proposed land use including the pattern of public and private roads, driveways, walkways and parking facilities; detailed lot layout and the arrangement of building groups, including single-family homes if applicable; and the specific treatment of any "preserved lands" to be kept as common open space or amenities (Section 235-44(F)(2);
  - c. Specific landscape plans for all common open space, amenities, or housing groups, including private single-family homes (Section 235-44(F)(3);
  - d. Detailed storm drainage, sanitary sewage disposal and water system plans (Section 235-44(F)(4);
  - e. Proposed engineering standards for all roads, parking areas and walkways (Section 235-44(F)(5); and
  - f. Agreements, bylaws, covenants and other documents providing for permanent preservation and maintenance of any "preserved lands", common open areas and amenities (Section 235-44(F)(6).
16. No specific use or building permit shall be issued for any part of the approved General Development Plan except for an area covered by an approved Precise Implementation Plan and in conformity with such plan.
  17. A Precise Implementation Plan may be submitted for any portion of the approved General Development Plan provided such portion is in basic conformity with approved General Plan and represents a reasonable and appropriate stage of implementation of such plan.
  18. Requests for approval of Precise Implementation Plan(s) for subsequent Development phases shall be submitted to the Plan Commission for approval. No public hearing shall be required unless deemed desirable by the Plan Commission.

19. Building plans shall be submitted to the Plan Commission for its review and approval prior to the issuance of any building permits for the Subject Lands.
20. Detailed building and landscape plans, as well as all other commitments, contractual agreements with the Town, plans, and specifications related to a Precise Implementation Plan shall be made a part of the official record and shall be considered supplementary to the underlying District Regulations and this Ordinance.
21. Deed Restrictions shall be placed on the Subject Lands in a form approved by the Plan Commission and Town Board, the Town Planner, and the Town Attorney, giving notice that the storm water facilities are part of a Planned Development and that the density of the Planned Development is contingent upon the perpetual care and maintenance of the storm water facilities, which must be maintained as parks or open space pursuant to the Zoning Code of the Town of Summit.
22. All Deed Restrictions and owners' association documents for the commercial and residential developments of the Subject Lands shall be submitted to the Plan Commission and Town Board, Town Planner, and Town Attorney for the Town of Summit for approval.. Further, all such Deed Restrictions and owners' association documents shall be in conformity with all Planned Development conditions and Final Development Plan conditions. If there is a conflict between any of the aforementioned provisions and/or conditions, the more restrictive shall apply. Amendments to the Deed Restrictions, owners' association documents, Planned Development conditions, and the final Development Plan conditions, must be filed with, and shall be subject to the approval of, the Plan Commission, Town Attorney, and the Staff of the Waukesha County Department of Parks and Land Use. When the Plan commission finds such an amendment to be substantial, the Plan Commission shall refer the matter to the Town Board and, in such event, such amendment shall be subject to the Town Board's additional approval.
23. Subject to submittal to, and comments by, the Plan Commission and Town Board, and approval by the Waukesha County Land Resources Division and Town Engineer of an Erosion Control and Storm Water Management Plan, and approval by the Town Engineer and Town Attorney of a Storm Water Management and Maintenance Plan. All engineering plans, grading, drainage, utility relocation, paving, and landscaping and other materials and/or labor required to complete the work is the responsibility of the Developer. In the review of the Storm Water and Erosion Control

Plans, special precautions shall be taken to prevent any adverse impact on adjacent properties as it relates to drainage.

24. Petitioner shall submit a signage plan to the Plan Commission and Town Engineer for their approval.
25. The condominium associations created by the condominium documents for the Subject Lands shall have the responsibility for properly maintaining any signage identifying common areas for the development and maintaining any entrance areas, and any common areas of the developments. The requirements of Section 235-44(l) of the Town of Summit Zoning Code must be satisfied. In the event the associations do not properly maintain any signage, entryway, or common area(s), the Town of Summit may, but is not required to, do so and charge its costs and expenses to the applicable owners' associations and/or lot owners. Failure to pay said costs and expenses shall result in a special charge being placed on the tax roll against the lot owners pursuant to Wis. Stat. 66.0627.
26. All roads must be constructed to Town standards, unless the Town Board grants an exception(s). Petitioner shall submit a road construction plan to the Town Board, Plan Commission, Town Engineer, and Town Board for approval. Said plan shall clearly delineate any and all requested deviations from Town of Summit standard road requirements.
27. An agreement satisfactory to the Town Board must be entered into by the Petitioner with the Town and the City of Oconomowoc for the provision of municipal water and sanitary sewerage treatment service for the Subject Lands.
28. Any amendment to any of the aforementioned plans must be submitted to, and approved by the individuals, body, and/or bodies that originally approved said plan(s), unless otherwise designated in this Ordinance.
29. The Petitioner must pay all fees, costs, and assessments due and owing to the Town of Summit and all costs and expenses incurred by the Town of Summit, including legal and engineering fees and costs, by any aspect of the Petition and subsequent development of the Subject Lands as provided under Section 125-1 of the Town of Summit Code of Ordinances.
30. Developer(s) of the Subject Lands shall delineate to the satisfaction of the Plan Commission any utility company that will provide service to the Subject Lands.

31. Petitioner must submit to the Plan Commission a written acknowledgement stating that the Subject Lands are subject to conditions of approval, including the condition that the owner(s) of the Subject Lands sign a Developer's Agreement with the Town of Summit and record required deed restrictions, and if any owner(s) do not do so, the development of the Subject Lands cannot proceed. Petitioner waives any claim(s) that it may have against the Town of Summit, including, but not limited to, claims for damages, costs, and expenses, and claims of vested rights to the proposed development of the Subject Lands, in the event any owner(s) of the Subject Lands do not agree to the required terms.
32. Petitioner must submit a Developer's Agreement to the Plan Commission and to the Town Attorney for their review and approval prior to commencement of any earth-disturbing activities on the Subject Lands.
33. Developers shall agree, by said Developer's Agreement, to comply with all applicable laws and regulations including, but not limited to, this Ordinance and any conditions and restrictions adopted to regulate the development of the Subject Lands. Developer shall further agree that, in the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.
34. Petitioner shall furnish a letter of credit to the Town from a lending institution in a form acceptable to the Town Attorney. The letter of credit shall be in an amount equal to the costs of all improvements, plus fees and special assessments, and the amount must be submitted to and approved by the Town Engineer and Town Clerk.
35. Development of the Subject Lands with respect to architectural design, materials, and layout must be in substantial conformity with the development plan submitted and any representations made by the Petitioner at Plan Commission hearings, which were commenced on August 9, 2006 provided, however, that the Town Board may, in its discretion, permit the following variations:
  - a. Installation and operation of private roads subject to the following:
    - i. Recordation of deed restrictions in a form acceptable to the Plan Commission and the Town Attorney granting the State, Waukesha County, and the Town of Summit and its successors the right to enter upon said private roads.

- ii. Recordation of deed restrictions in a form acceptable to the Plan Commission and the Town Attorney providing that any private roads approved by the Town shall, thereafter, remain private in perpetuity, without contribution or offset by the Town with regard to maintenance, repair, and/or reconstruction of any such private road(s).
  - iii. A limitation on the number of residential units that may front upon any private road.
- b. Variation of the maximum density for commercial square footage.
- 36. Petitioner shall, in all respects, satisfy all terms and conditions of the Town of Summit Zoning Code, including but not limited to all terms and conditions of the planned development sections of the same, and the Town of Summit ordinance regulating the division and platting of land except as may otherwise expressly modified by this Ordinance.
  - 37. Petitioner shall satisfy all comments and concerns of the Town Engineer, including whether or not all conditions of the ordinance regarding a general implementation plan have been satisfied.
  - 38. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In the case of a question as to the classification of use, the question shall be submitted to the Plan Commission for determination.
  - 39. No use is hereby authorized unless that use is conducted in a lawful, orderly, and peaceful manner. Nothing in this Ordinance shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order, or rule of either the Town of Summit, the County of Waukesha, the State of Wisconsin, the United States of America, or other duly constituted authority except only to the extent that it authorizes a nonconforming use of the Subject Lands in specific respects expressly described herein. This Ordinance shall not be deemed to constitute a building permit, nor shall this Ordinance constitute any other license or permit required by Town Ordinance or other law or regulation.
  - 40. Upon filing of the Final Plat with the Register of Deeds, the rezoning of the Subject Lands shall be effective.

41. Any violation of this Ordinance shall constitute a violation of the Zoning Ordinance for the Town of Summit and shall be subject to the enforcement procedures contained in Section 235-84 of the Town of Summit Zoning Code, as amended from time-to-time.

**SECTION 3: SEVERABILITY.**

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other Ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

**SECTION 4: EFFECTIVE DATE.**

This Ordinance shall take effect immediately upon its passage and posting/publication as provided by law.

This Ordinance passed this 2<sup>nd</sup> day of November, 2006.

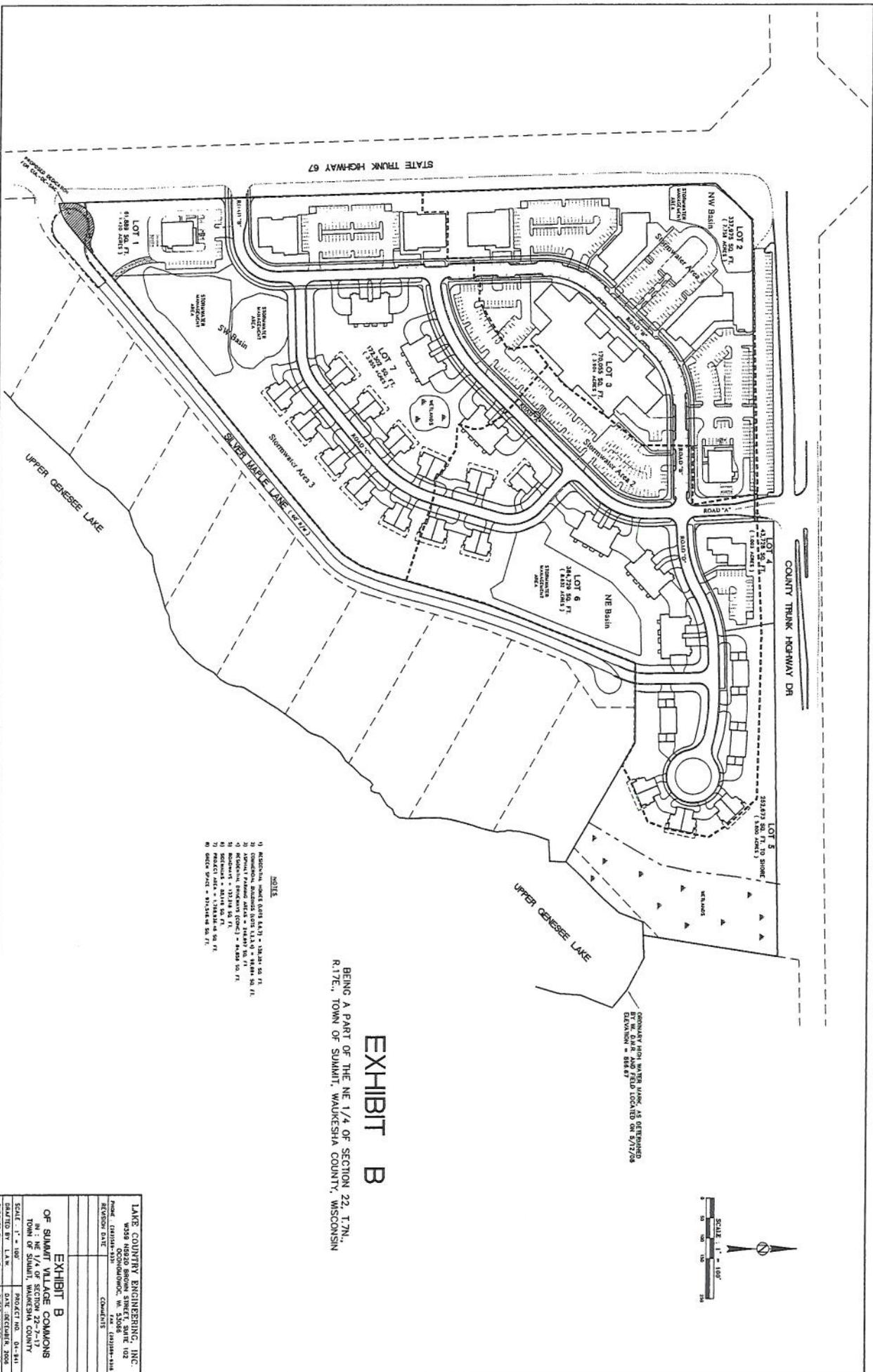
TOWN OF SUMMIT

By: Len Susa  
Len Susa, Town Chair

Attest: Henry Elling  
Henry Elling, Town Clerk/Treasurer

Published/Posted the 11<sup>th</sup> day of December 2006.

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- NOTES**
- 1) REVISION: ADJUST LOT 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 2) CONSTRUCTION: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 3) ADJUST: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 4) REVISION: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 5) CONSTRUCTION: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 6) REVISION: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 7) CONSTRUCTION: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 8) REVISION: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 9) CONSTRUCTION: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.
  - 10) REVISION: ADJUST LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

**EXHIBIT B**  
 BEING A PART OF THE NE 1/4 OF SECTION 22, T.7N.,  
 R.17E., TOWN OF SUMMIT, WAUKESHA COUNTY, WISCONSIN



<b>LAKE COUNTRY ENGINEERING, INC.</b>	
1000 W. WISCONSIN ST., SUITE 100 WISCONSIN DRUMMOND, WI 53008 PHONE: (262) 771-1111 FAX: (262) 771-1111	
PROJECT NO.	COMMENTS
DATE	
<b>EXHIBIT B</b>	
<b>OF SUMMIT VILLAGE COMMONS</b>	
TOWN OF SUMMIT, WAUKESHA COUNTY	
SCALE: 1" = 100'	DATE: DECEMBER, 2008
DRAWN BY: L.A.W.	CHECKED BY: D.A.P.
PROJECT NO. 08-011	SHEET NUMBER 1 OF 1



WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-02/27/07

(ORD) NUMBER-1610088

1 K. HERRO.....AYE  
 3 T. ROLFS.....NAY  
 5 J. MARCHESE.....AYE  
 7 J. JESKEWITZ.....AYE  
 9 P. HAUKOHL.....AYE  
 11 K. HARENDA.....AYE  
 13 J. MORRIS.....AYE  
 15 D. SWAN.....AYE  
 17 J. BEHREND.....AYE  
 19 W. MITCHELL.....AYE  
 21 W. KOLB.....AYE  
 23 J. TORTOMASI.....AYE  
 25 K. CUMMINGS.....AYE  
 27 D. PAULSON.....AYE  
 29 T. BULLERMANN.....AYE  
 31 V. STROUD.....  
 33 K. HAMMITT.....AYE  
 35 P. MEYER.....AYE

2 R. THELEN.....AYE  
 4 R. HUTTON.....AYE  
 6 D. BROESCH.....AYE  
 8 J. DWYER.....AYE  
 10 S. WOLFF.....  
 12 T. SCHELLINGER.....AYE  
 14 S. WIMMER.....AYE  
 16 R. STEVENS.....AYE  
 18 B. MORRIS.....AYE  
 20 P. WOLFF.....AYE  
 22 G. BRUCE.....  
 24 J. VITALE.....AYE  
 26 F. RUF.....AYE  
 28 P. JASKE.....AYE  
 30 K. NILSON.....  
 32 P. GUNDRUM.....AYE  
 34 R. SINGERT.....AYE

TOTAL AYES-30

TOTAL NAYS-01

CARRIED X

DEFEATED \_\_\_\_\_

UNANIMOUS \_\_\_\_\_

TOTAL VOTES-31