

ENROLLED ORDINANCE 165-51

AMEND THE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 21, T8N, R17E, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN, FROM THE B-2 LOCAL BUSINESS AND R-1 RESIDENTIAL DISTRICTS TO THE B-3 GENERAL BUSINESS DISTRICT (SCZ-0253A)

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 a recommendation for approval thereon reported to the Land Use, Parks and Environment Committee, and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Section 59.692 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 adopted on June 23, 1970, for the Town of Oconomowoc, Waukesha County, Wisconsin, is hereby amended to conditionally rezone certain lands located in part of the NW ¼ of Section 21, T8N, R17E, Town of Oconomowoc, Waukesha County, Wisconsin from the B-2 Local Business and R-1 Residential Districts to the B-3 General Business District, 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, is hereby approved with the following conditions:

1. The uses of the area being rezoned to the B-3 General Business District shall be limited to a Landscape Supply Center with topsoil screening and special events only. No other B-3 General Business District uses are allowed, unless the conditional zoning is amended, following all proper procedures of the Waukesha County Shoreland and Floodland Protection Ordinance.
2. A Certified Survey Map (CSM) combining both lots into one parcel shall be submitted to the Town of Oconomowoc Plan Commission, Town of Oconomowoc Board, and Waukesha County for review and approval. Said CSM shall be submitted to the Town of Oconomowoc and Waukesha County no later than October 31, 2010 and shall comply with all the requirements of the Town of Oconomowoc Land Division Ordinance, the Waukesha County Shoreland and Floodland Subdivision Control Ordinance, and the Waukesha County Shoreland and Floodland Protection Ordinance.
3. All access points onto C.T.H. “K” shall be reviewed and approved by the Waukesha County Department of Public Works.
4. A new updated Site Plan/Plan of Operation for the proposed expanded use shall be submitted to the Town of Oconomowoc and Waukesha County Planning and Zoning Division Staff for review and approval prior to the issuance of a Site Plan/Plan of Operation Permit.

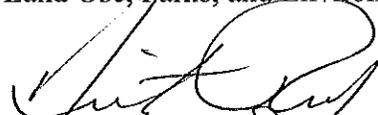
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Oconomowoc.

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

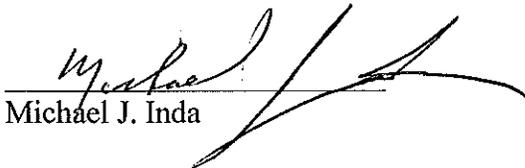
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

AMEND THE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 21, T8N, R17E, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN, FROM THE B-2 LOCAL BUSINESS AND R-1 RESIDENTIAL DISTRICTS TO THE B-3 GENERAL BUSINESS DISTRICT (SCZ-0253A)

Presented by:
Land Use, Parks, and Environment Committee



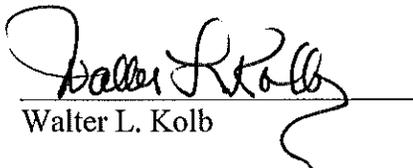
Fritz Ruf, Chair

Robert Hutton

Michael J. Inda

absent

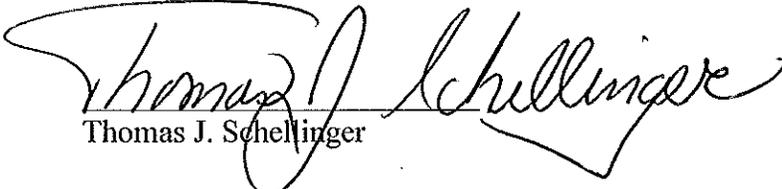
James Jeskewitz



Walter L. Kolb

absent

Ted Rolfs



Thomas J. Schellinger

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

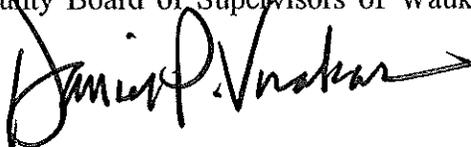
Date: Oct 29, 2010, 

Kathy Nickolaus, County Clerk

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

Approved: X

Vetoed: _____

Date: 10-27-10, 

Daniel P. Vrakas, County Executive

COMMISSION ACTION

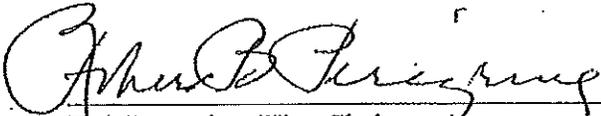
The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends approval of (SCZ-0253A Terry Van Lare) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

September 16, 2010



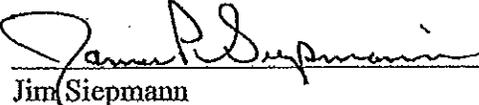
William Mitchell, Chairperson



Bob Peregrine, Vice Chairperson



Gary Goodchild



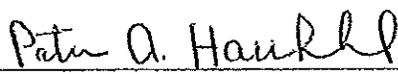
Jim Siepmann

(Absent)

Fritz Ruf



Walter Kolb



Pat Haukohl

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
ZONING MAP AMENDMENT

DATE: September 16, 2010

FILE NO: SCZ-0253A

PETITIONER/OWNER: Terry Van Lare
N68 W37850 C.T.H. "K"
Oconomowoc, WI 53066

TAX KEY NO.: OCOT 0514.992 and OCOT 0514.993

LOCATION:

OCOT 0514.992: Located in part of the S ½ of the NW ¼ of Section 21, T8N, R17E, Town of Oconomowoc. More specifically, the property is located on the corner of C.T.H. "K" and Lake Road (formerly S.T.H. 67). The property is approximately 50.8 acres in size.

OCOT 0514.993: Lot 1, Certified Survey Map No. 896, located in part of the NW ¼ of Section 21, T8N, R17E, Town of Oconomowoc. More specifically, the property is located on the north side of C.T.H. "K" just west of the entrance to the former Town of Oconomowoc Recycling Center. The property is approximately one (1) acre in size.

PRESENT ZONING:

OCOT 0514.992: B-2 Local Business, A-5 Mini-Farm and C-1 Conservancy Districts.

OCOT 0514.993: R-1 Residential District.

PRESENT LAND USE:

OCOT 0514.992: This property is currently used as a landscape supply company known as "Oconomowoc Landscape Supply Center"

OCOT 0514.993: This property was formerly used for residential purposes, the residence has since been removed.

PROPOSED ZONING:

OCOT 0514.992: Rezone the portions of the property currently zoned B-2 Local Business District to the B-3 General Business District. The portions of the property zoned A-5 Mini Farm and C-1 Conservancy Districts are not proposed to change.

OCOT 0514.993: Rezone the entire property from the R-1 Residential District to the B-3 General Business District.

PROPOSED LAND USE:

OCOT 0514.992: Continued operation of the Oconomowoc Landscape Supply Center

OCOT 0514.993: To use the parcel for an expansion of the Oconomowoc Landscape Supply Center use.

PUBLIC HEARING DATE: July 19, 2010.

PUBLIC REACTION:

Several residents of the adjacent subdivision to the east of the subject properties spoke in opposition to the request. They indicated that they had concerns with the dust and dirt that comes from the operation and the use of trucks with back-up alarms at early hours. One neighbor inquired as to the use of pesticides on site and chemicals/pesticides in the soil that is screened onsite. Another resident was concerned if the rezone was approved it would allow other intense uses on the site in the future, should the current owner choose to leave.

The owner and the Town Planner indicated that most of the dust comes from traffic on the road to the current Town Recycling Center that the Town is working on relocating. In addition, the owner indicated that they do not open until 7:00 a.m. so any trucks on site before then would be Town of Oconomowoc vehicles. The owner indicated that balled plants do not require pesticides but he could not speak to the chemicals or pesticides in the soil that is screened as it comes from nearby farm and grass fields. He did indicate that they do not apply anything to the soil onsite.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

At their meeting on August 2, 2010, the Town of Oconomowoc Plan Commission, voted to recommend that the Town Board approve the request to rezone the property. At their meeting on September 7, 2010, the Town Board recommended approval of this request subject to a number of conditions, see attached Exhibit "A."

CONFORMANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY AND THE TOWN OF OCONOMOWOC LAND USE PLAN

The property on which the Oconomowoc Landscape Supply Center is currently located is designated as Commercial, Prime Agricultural and Isolated Natural Resource Area on the Comprehensive Development Plan of Waukesha County and the Town of Oconomowoc Land Use Plan. The area that is proposed to be rezoned is in the Commercial category. Commercial uses are defined in the Comprehensive Development Plan for Waukesha County as "retail, office, service activities, general business activities, and/or research and development and related off-street parking." The proposed rezone of this property complies with both Plans.

The one (1) acre property is designated as Commercial and Isolated Natural Resource Area on the Comprehensive Development Plan and the Town of Oconomowoc Land Use Plan. It should be noted that although a small portion of the one (1) acre property is designated as Isolated Natural Area on the Plans, a wetland delineation was completed in 2003, which revealed no wetlands on the site. The rezone and use of this property complies with both Plans.

STAFF ANALYSIS:

The larger property is approximately 50.8 acres in size and is located at the northeast corner of C.T.H. "K" and Lake Road (formerly S.T.H. 67), and currently contains the Oconomowoc Landscape Supply Center as well as some agricultural lands. The northern portion of the property is zoned A-5 Mini-Farm District and is used for

agricultural purposes. The portion of the property that contains the Oconomowoc Landscape Supply Center is zoned B-2 Local Business District and the wetland areas on the site are zoned C-1 Conservancy District. It is important to note that the areas of property used for the business operation were rezoned from the A-P Prime Agricultural District to the B-2 Local Business District through a Comprehensive Zoning Map change in 2003. The B-2 Local Business District was selected to accommodate, at the time, the proposed Landscape Supply Center and Town Recycling Center uses. Subsequently, the Waukesha County Shoreland and Floodland Protection Ordinance was amended and language has been added to suggest that these types of uses may be more appropriate in the B-3 General Business District and Industrial Zoning Districts. Since the owner recently acquired the adjacent one (1) acre parcel and is proposing to rezone the parcel to expand the business operation, it is appropriate that the entire area that is proposed to be used for the business operation be rezoned to the B-3 General Business District to be consistent with the current Ordinance. The proposed use of the 50.8 acre parcel will be the continued operation of the Oconomowoc Landscape Supply Center and the agricultural use of the lands to the north will continue.

Furthermore, the petitioner has exceeded the parameters of the original 2003 Site Plan/Plan of Operation approval of the site as it relates to the size of the topsoil storage piles. It should be noted that topsoil screening and storage piles were approved with the original Site Plan/Plan of Operation. However, since the size of the piles has been increased from what was originally proposed, the Town Plan Commission and the Waukesha County Park and Planning Commission reviewed a revised Site Plan/Plan of Operation in 2005 for the enlarged piles. The request was approved subject to the condition that the property ultimately be rezoned to the B-3 General Business District. If the property is not rezoned to the B-3 General Business District, the topsoil screening operation and topsoil piles, must be brought into compliance with what the size originally approved in 2003.

As noted above, the petitioner is also proposing to rezone a one (1) acre parcel that is located on C.T.H. "K" and is bounded on the other three sides by the aforementioned 50.8 acre parcel. This parcel is proposed to be rezoned from the R-1 Residential District to the B-3 General Business District. The existing residence on the property has been removed but the detached garage will remain and will be used as part of the business operation. It should be noted that the platted 66 ft. wide right-of-way on the east side of this parcel has recently been vacated by the Town Board. The petitioner is proposing to combine the one acre parcel with the larger parcel and use the area for additional space for greenhouses and a nursery area for the Oconomowoc Landscape Supply Center Operation. The property is bounded on the south by C.T.H. "K", on the west and north by the existing Oconomowoc Landscape Supply Center operation, and on the east by a large wetland that is part of the larger 50.8 acre parcel. A conceptual Development Plan for this site has been submitted, see attached Exhibit "B." However, if the request to rezone is approved, a detailed Site Plan/Plan of Operation review of the proposed development of the site will be completed by the Town of Oconomowoc Plan Commission and the Planning and Zoning Division Staff prior to the operation commencing on the site.

STAFF RECOMMENDATION:

It is the recommendation of the Planning and Zoning Division Staff that this request for rezoning be approved subject to the following conditions recommended by the Town of Oconomowoc as modified herein (modifications are in bold):

1. The uses of the area being rezoned to the B-3 General Business District shall be limited to a Landscape Supply Center with topsoil screening and special events only. No other B-3 General Business District uses are allowed, unless the conditional zoning is amended, following all proper procedures of the Waukesha County Shoreland and Floodland Protection Ordinance.
2. A Certified Survey Map (CSM) combining both lots into one parcel shall be submitted to the Town of Oconomowoc Plan Commission, Town of Oconomowoc Board, and Waukesha County for review and approval. Said CSM shall be submitted to the Town of Oconomowoc and Waukesha County no later than October 31, 2010 and shall comply with all the requirements of the Town of Oconomowoc Land Division Ordinance, the Waukesha County Shoreland and Floodland Subdivision Control Ordinance, and the Waukesha County Shoreland and Floodland Protection Ordinance.
3. All access points onto C.T.H. "K" shall be reviewed and approved by the Waukesha County Department of Public Works.
4. A new updated Site Plan/Plan of Operation for the proposed expanded use shall be submitted to the Town of Oconomowoc and Waukesha County Planning and Zoning Division Staff for review and approval prior to the issuance of a Site Plan/Plan of Operation Permit.

The approval of this request will allow the continued operation of the existing use on the site in a more appropriate zoning district. In addition, the approval of this request will allow a parcel that is bounded on three sides by the current operation, to be combined with the larger parcel and used as part of the existing operation. The proposed rezone is consistent with both the Comprehensive Development Plan for Waukesha County and the Town of Oconomowoc Land Use Plan. The detailed review of the Site Plan/Plan of Operation by the Town of Oconomowoc Plan Commission and the Planning and Zoning Division Staff should ensure the proposed use will be reasonably compatible with the surrounding uses in the area.

Respectfully submitted,

Peggy Tilley/Kab

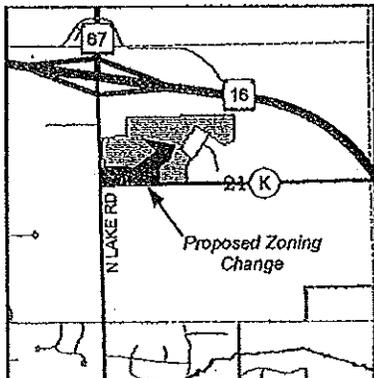
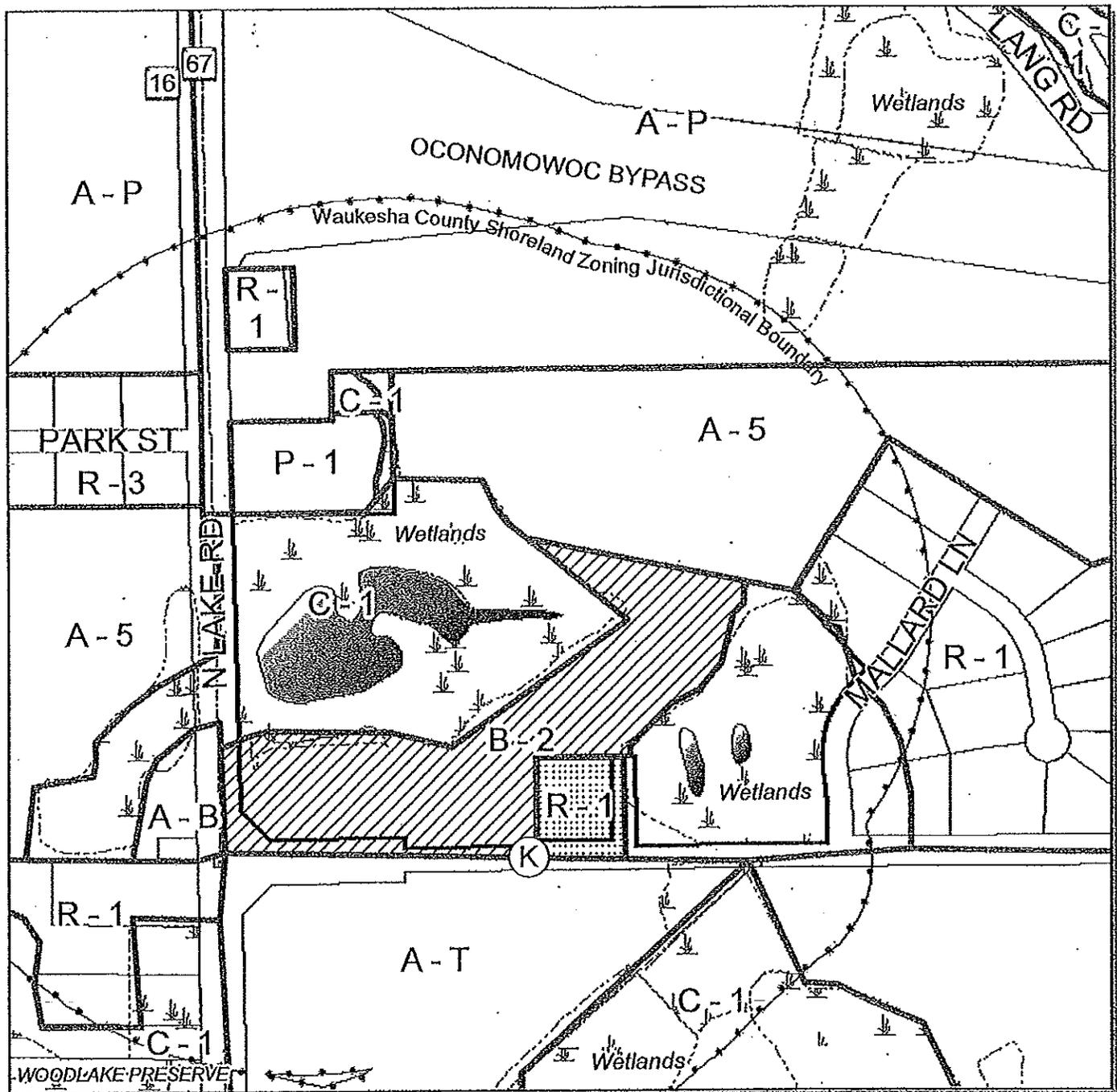
Peggy Tilley
Senior Land Use Specialist

Attachment: Exhibits "A", "B", and Map

N:\PRKANDLU\Planning and Zoning\Rezoning\Staff Reports\0253A Van Lare oct.doc

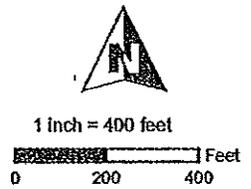
ZONING MAP AMENDMENT

PART OF THE NW 1/4 OF SECTION 21
TOWN OF OCONOMOWOC



-  CONDITIONAL COUNTY ZONING CHANGE FROM B-2 LOCAL BUSINESS DISTRICT TO B-3 GENERAL BUSINESS DISTRICT (11 acres)
-  CONDITIONAL COUNTY ZONING CHANGE FROM R-1 RESIDENTIAL DISTRICT TO B-3 GENERAL BUSINESS DISTRICT (1.5 acres)

FILE.....SCZ-0253A
 DATE.....09/16/10
 AREA OF CHANGE.....12.5 ACRES
 TAX KEY NUMBER.....OCOT 0514.992, .993



Prepared by the Waukesha County Department of Parks and Land Use

RESOLUTION NO. 2010-18

RESOLUTION RECOMMENDING APPROVAL OF REZONING
(OCONOMOWOC LANDSCAPE SUPPLY CENTER
AND FORMER ESSER PARCELS)

WHEREAS, Terry Van Lare, on behalf of Oconomowoc Landscape Supply Center, owner, has petitioned to rezone a parcel of land located in the NW ¼ of Section 21, in the Town of Oconomowoc from B-2 Local Business District to B-3 General Business District (Oconomowoc Landscape Supply Center parcel) and Lot 2 of Certified Survey Map No. 896 from R-1 Residential District to B-3 General Business District (former Esser parcel) which carry Tax Key Nos. OCOT 0514.992 and OCOT 0514.993; and

WHEREAS, Terry Van Lare has purchased the so-called Esser property which is Lot 1 of Certified Survey Map No. 896, razed the building, and intends to combine said parcel with the Oconomowoc Landscape Supply Center business operation; and

WHEREAS, the B-3 General Business District zoning is more suitable zoning for the Oconomowoc Landscape Supply Center operation; and

WHEREAS, on July 19, 2010, a joint public hearing was held with the Waukesha County Department of Parks and Land Use and the Town of Oconomowoc Plan Commission; and

WHEREAS, the Town of Oconomowoc Comprehensive Land Use Plan-2035 designates these parcels in a commercial land use category; therefore, the proposed use is consistent with the goals and objectives of the Town of Oconomowoc Comprehensive Land Use Plan-2035; and

WHEREAS, after hearing the petitioner's presentation and comments by all interested persons at the joint public hearing, the Plan Commission recommended the rezoning of Tax Key No. OCOT 0514.993 from R-1 Residential District to B-3 General Business District and Tax Key No. OCOT 0514.992 from B-2 Local Business District to B-3 General Business District. Lands lying within the subject parcels which are zoned A-5 Mini-Farm District and C-1 Conservancy District are not to be rezoned. The rezoning is subject to the conditions set forth in the Planner's report dated July 29, 2010, which is attached hereto and incorporated herein by reference; and

WHEREAS, the Town Planner also recommends the aforementioned rezoning, subject to the conditions in his report dated July 29, 2010.

NOW THEREFORE, BE IT HEREBY RESOLVED that for the reasons set forth in the recital paragraphs of this resolution and in the Planner's report, the Town Board of the Town of Oconomowoc does hereby recommend that Waukesha County rezone Tax

Key Nos. OCOT 0514.992 and OCOT 0514.993, except those parts thereof that are currently zoned A-5 Mini-Farm District and C-1 Conservancy District, to B-3 General Business District, subject to the conditions in the Planner's report dated July 29, 2010, which is attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Waukesha County Department of Parks and Land Use for presentation to appropriate county committees and ultimately the County Board.

DATED: September 7, 2010

TOWN OF OCONOMOWOC
By: Robert C. Hultquist
Robert C. Hultquist, Chairman

ATTEST:
JoAnn Lesser
JoAnn Lesser, Clerk

**TOWN OF OCONOMOWOC PLAN COMMISSION AND TOWN BOARD
PLANNER'S REPORT & RECOMMENDATION
ZONING MAP AMENDMENT**

PROJECT NAME: Oconomowoc Landscape Supply Center
TAX KEY NUMBER: OCOT 0514.992
OCOT 0570.993
DATE: July 29, 2010
NAME OF OWNER: Terry Van Lare
d/b/a Oconomowoc Landscape Supply Center
N68 W37850 C.T.H. K
Oconomowoc, WI 53066

LOCATION OF PROPERTY:
Part of the NW ¼ of Section 21, T8N, R17E, in the Town of Oconomowoc. More specifically, the property is located on the north side C.T.H. K, just west of the entrance to the former Town of Oconomowoc Recycling Center.

PRESENT ZONING:
R-1 Residential District.
B-2 Local Business District.
A-5 Mini-Farm District.
C-1 Conservancy District.

PROPOSED ZONING:
B-3 General Business District.
A-5 Mini-Farm District.
C-1 Conservancy District.

PRESENT LAND USE:
Landscape Supply Center with a Topsoil Screening Operation and the Town of Oconomowoc Recycling Center.

PROPOSED LAND USE:
Expanded Landscape Center and Nursery Stock.

PUBLIC HEARING DATE:
July 19, 2010.

COMPLIANCE WITH THE TOWN OF OCONOMOWOC LAND USE PLAN - 2020:
The Town of Oconomowoc Comprehensive Land Use Plan - 2035 designates this area in a commercial category. Therefore, the proposed use complies with the goals and objectives of the Town of Oconomowoc Comprehensive Land Use Plan - 2035.

PROPOSED REQUEST:

The owner/petitioner has been operating the Oconomowoc Landscape Supply Center from this property since 2005. The petitioner has increased the intensity of the topsoil screening operation beyond what was approved in 2005. Therefore, Waukesha County has required the owner to amend the zoning on the property to B-3 General Business District or reduce the size of the topsoil screening operation to what was proposed in 2005. In addition, the owner purchased the adjacent one (1) acre parcel previously owned by the Esser family and is requesting to rezone this property from the R-1 Residential District to the B-3 General Business District. This will allow both parcels to be zoned the same. The owner has agreed to combine the parcels by Certified Survey Map.

There are additional zoning districts on the property. All areas currently zoned A-5 Mini-Farm District and C-1 Conservancy District will remain as is. These areas will not be rezoned at this time.

PLANNER'S RECOMMENDATION:

It is the opinion of the Town Planner that the Town Plan Commission recommend to the Town Board to approve this request subject to the following conditions:

1. The uses of the area being rezoned to the B-3 General Business District shall be limited to a Landscape Supply Center with Topsoil Screening and Special Events only. No other B-3 General Business District uses are allowed, unless the conditional zoning is amended, following all proper procedures of the Waukesha County Zoning Code.
2. A Certified Survey Map (CSM) combining both lots into one parcel shall be submitted to the Town of Oconomowoc Plan Commission and Town Board for review and approval. Said CSM shall be submitted to the Town of Oconomowoc no later than October 31, 2010 and shall comply with all the requirements of the Town of Oconomowoc Land Division Ordinance.
3. All accesses onto C.T.H. K shall be reviewed and approved by the Waukesha County Department of Public Works.
4. A new updated Site Plan and Plan of Operation shall be submitted for the proposed expanded Use prior to the issuance of a Use Permit.

Respectfully submitted,

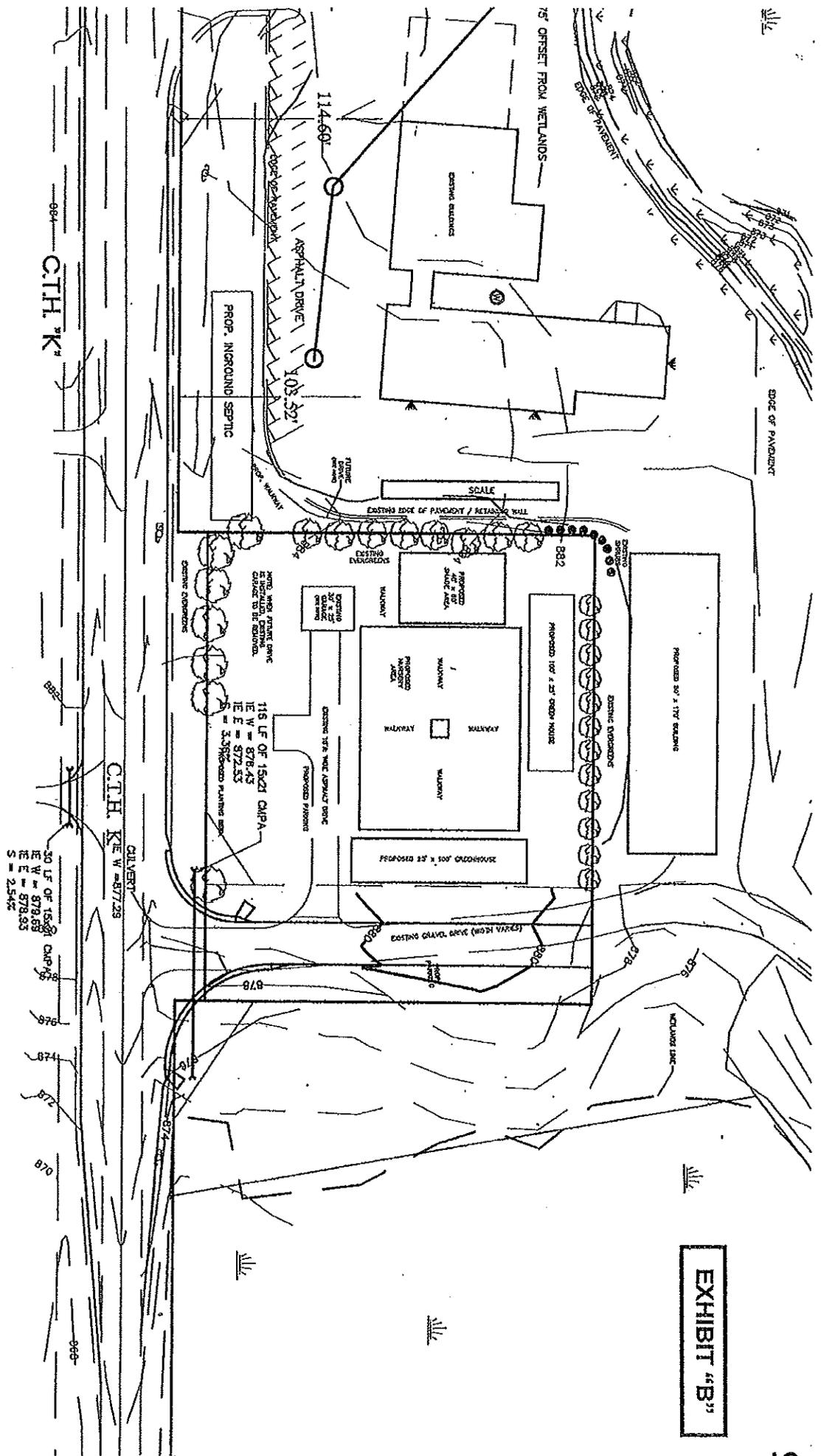
Jeffrey C. Herrmann, AICP
Town Administrator/Planner

cc: Town of Oconomowoc Clerk
Town of Oconomowoc Building Inspector
Waukesha County Department of Parks and Land Use
Terry Van Lare
File

EDGE OF PAVEMENT

EDGE OF PAVEMENT

EXHIBIT "B"



WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-10/26/10

(ORD) NUMBER-1650052

- 1 D. FALSTAD.....
- 3 R. HUTTON.....AYE
- 5 J. JESKEWITZ.....
- 7 P. HAUKOHL.....AYE
- 9 J. HEINRICH.....AYE
- 11 F. RUF.....AYE
- 13 P. DECKER.....AYE
- 15 P. MEYERS.....AYE
- 17 J. TORTOMASI.....AYE
- 19 S. WIMMER.....AYE
- 21 W. ZABOROWSKI.....AYE
- 23 K. CHIAVEROTTI....AYE
- 25 G. YERKE.....AYE

- 2 T. ROLFS.....
- 4 J. DWYER.....AYE
- 6 J. BRANDTJEN.....AYE
- 8 T. SCHELLINGER....AYE
- 10 D. SWAN.....AYE
- 12 P. WOLFF.....AYE
- 14 M. INDA.....AYE
- 16 D. PAULSON.....AYE
- 18 K. CUMMINGS.....AYE
- 20 P. JASKE.....AYE
- 22 P. GUNDRUM.....AYE
- 24 W. KOLB.....AYE

TOTAL AYES-22

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS X

TOTAL VOTES-22