

Enrolled 158-14
PROPOSED ORDINANCE 158-14

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AMEND THE TOWN OF GENESEE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF GENESEE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 27, T6N, R18E, TOWN OF GENESEE, FROM THE CONDITIONAL B-2 LOCAL BUSINESS DISTRICT TO THE CONDITIONAL B-3 GENERAL BUSINESS DISTRICT (CZ-882D)

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 Environmental Committee, and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Section 59.69 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Town of Genesee District Zoning Map of the Waukesha County Zoning Code, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors, on February 26, 1959, is hereby amended to conditionally rezone certain lands located in part of the NW ¼ of Section 27, T6N, R18E, Town of Genesee, from the Conditional B-2 Local Business District to the Conditional 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 (CZ-882C), subject to the following conditions:

1. A Deed Restriction shall be placed on the property stating that no single-family, two-family, multi-family, residential or condominium uses may be developed on the subject property.
2. Conditions No. 3, 4, and 5 of the Waukesha County Board of Supervisors Ordinance No. 146-112, remain in effect and must be complied with as it pertains to the Certified Survey Map for the subject property.
3. The B-3 uses allowed on the subject property shall consist of a dance hall associated with a restaurant facility and no other B-3 uses shall be allowed.
4. Prior to commencement of construction and issuance of the Zoning Permit and Sanitary Permit, a Building and Site Plan/Plan of Operation must be approved by the Town of Genesee Plan Commission and the Planning and Zoning Division Staff.
5. Signs associated with the permitted use must be submitted to and approved by the Town of Genesee Plan Commission and the Planning and Zoning Division Staff.
6. The proposed Certified Survey Map must be approved by the Town of Genesee and the Planning and Zoning Division Staff and be recorded prior to the issuance of any Zoning Permit.
7. Prior to the zoning becoming effective, documentation must be presented from the

Referred on: 05/13/03	File Number: 158-O-010	Referred to: LU
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Southeastern Wisconsin Regional Planning Commission stating whether the appropriate sewer capacity was part of the sewer service amendment recently approved, to accommodate a restaurant and dance hall with a total capacity of 700 persons.

8. Prior to the rezoning becoming effective, documentation must be presented from the Waukesha County Department of Parks and Land Use, Land Resources Division verifying the existing stormwater facility and drainage easements have been constructed in accordance with the previously approved plans and are adequate to accommodate runoff from the total amount of impervious surface on the subject site.

9. The Town Attorney shall review and determine whether there is a conflict in the drainage and stormwater easements as they seem to be within the public road right-of-way, and establish how the property owners in the entire commercial development have the authority to work within the public road right-of-way for maintenance. Any conflicts need to be resolved prior to the recording of the Certified Survey Map.

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

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 TOWN OF GENESEE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF GENESEE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 27, T6N, R18E, TOWN OF GENESEE, FROM THE CONDITIONAL B-2 LOCAL BUSINESS DISTRICT TO THE CONDITIONAL B-3 GENERAL BUSINESS DISTRICT (CZ-882D)

Presented by:
Land Use, Parks, and Environment Committee



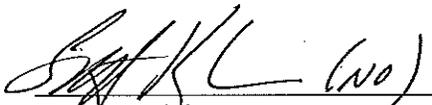
Walter L. Kolb, Chair



Pauline T. Jaske

Absent

James Jeskewitz



Scott J. Klein



Daniel Pavelko



Vera Stroud

Absent

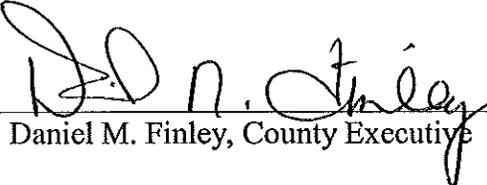
Matt Thomas

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

Date: 5-30-03, 

Kathy Nickolaus, County Clerk

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

Approved: _____
Vetoed: _____
Date: 5-31-03, 

Daniel M. Finley, County Executive

COMMISSION ACTION

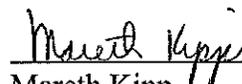
The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Zoning Code, hereby recommends approval of (CZ-882D Diane Zach) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

April 17, 2003

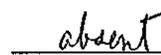

Betty Willert, Chairperson


Vy Janusonis


Mareth Kipp


Ellen Gennrich


Walter Kolb


Joseph LaPorte


Walter Baade

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

FILE NO.: CZ-882D

DATE: April 17, 2003

PETITIONER: Diane Zach
W309 S4860 Commercial Drive
North Prairie, WI 53153

OWNER: Jim and Patricia Williams
N905 Lone Tree Road
Elm Grove, WI 53122

TAX KEY NO.: GNT 1546.972.001

LOCATION:
Part of Lots 1 and 3, Certified Survey Map (CSM) 8608, being part of the NW ¼ of Section 27, T6N, R18E, Town of Genesee. More specifically the property is located on the northwest corner of Commercial Drive and Executive Drive, containing approximately 4.76 acres.

PRESENT ZONING:
Conditional B-2 Local Business District.

PRESENT LAND USE:
Small commercial building.

PROPOSED ZONING:
Conditional B-3 General Business District.

PROPOSED LAND USE:
Restaurant with attached dance hall.

PUBLIC HEARING DATE:
March 27, 2003.

PUBLIC REACTION:
One resident who lives along S.T.H. 83 objected to any B-3 General Business uses in this area of the Town of Genesee. Another resident felt that business uses should be supported in the Town.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:
The Town of Genesee Plan Commission, at their meeting of March 27, 2003, recommended approval of the request to the Conditional B-3 General Business District, subject to the following conditions:

1. Any use permitted in the B-2 Local Business District except a residential use, shall be permitted only in conjunction with or an accessory to an otherwise permitted use.

158-0-010

2. The following businesses and trades of a more general nature, normally serving a larger trade area provided the location, building and Site Plan/Plan of Operation are submitted to and approved by the Town of Genesee Plan Commission:
 - a. Theaters, dance halls, arcades, video game parlors and other amusement places.
3. Signs associated with the permitted use as approved by the Town of Genesee Plan Commission.

The Town of Genesee Board approved the request in accordance with Exhibit "A" on April 14, 2003.

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN:

The Waukesha County Development Plan designates the property in the Commercial category. The proposal as recommended by the Town Plan Commission and Town Board complies with the Waukesha County Development Plan.

OTHER CONSIDERATIONS:

The property was previously the subject of a Conditional B-2 Local Business District rezoning in May 1989 and January 1992. Those conditions included the prohibition of residential uses, a particular road design pattern must be accomplished and the County approval of Certified Survey Maps (CSM's). The applicant is now proposing to construct a restaurant, which is conforming in the B-2 Local Business District, however, there is a large dance hall associated with the restaurant which does not qualify as a B-2 Local Business District use, therefore requiring a B-3 General Business District use.

The proposed dance hall facility will have a total capacity of 500 and the restaurant will have a capacity of 120, with 25 additional bar stools. It is anticipated that the total capacity will be approximately 700 persons. The parcel on which the project will be constructed, contains an existing commercial use with a holding tank and is approximately 4.76 acres in size. The lot lines are being reconfigured and a new CSM is being proposed. A sewer service amendment was recently approved by the Waukesha County Board of Supervisors for the subject parcel, which indicates it is for a restaurant facility. It is unclear as of this writing, whether the appropriate capacity for a dance hall facility and restaurant was part of the sewer service amendment.

STAFF RECOMMENDATION:

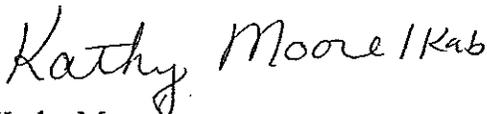
It is the opinion of the Planning and Zoning Division Staff this request be **approved** subject to the following conditions:

1. A Deed Restriction shall be placed on the property stating that no single-family, two-family, multi-family, residential or condominium uses may be developed on the subject property.
2. Conditions No. 3, 4, and 5 of the Waukesha County Board of Supervisors Ordinance No. 146-112, remain in effect and must be complied with as it pertains to the Certified Survey Map for the subject property.
3. The B-3 uses allowed on the subject property shall consist of a dance hall associated with a restaurant facility and no other B-3 uses shall be allowed.

4. Prior to commencement of construction and issuance of the Zoning Permit and Sanitary Permit, a Building and Site Plan/Plan of Operation must be approved by the Town of Genesee Plan Commission and the Planning and Zoning Division Staff.
5. Signs associated with the permitted use must be submitted to and approved by the Town of Genesee Plan Commission and the Planning and Zoning Division Staff.
6. The proposed Certified Survey Map must be approved by the Town of Genesee and the Planning and Zoning Division Staff and be recorded prior to the issuance of any Zoning Permit.
7. Prior to the zoning becoming effective, documentation must be presented from the Southeastern Wisconsin Regional Planning Commission stating whether the appropriate sewer capacity was part of the sewer service amendment recently approved, to accommodate a restaurant and dance hall with a total capacity of 700 persons.
8. Prior to the rezoning becoming effective, documentation must be presented from the Waukesha County Department of Parks and Land Use, Land Resources Division verifying the existing stormwater facility and drainage easements have been constructed in accordance with the previously approved plans and are adequate to accommodate runoff from the total amount of impervious surface on the subject site.
9. The Town Attorney shall review and determine whether there is a conflict in the drainage and stormwater easements as they seem to be within the public road right-of-way, and establish how the property owners in the entire commercial development have the authority to work within the public road right-of-way for maintenance. Any conflicts need to be resolved prior to the recording of the Certified Survey Map.

It is felt as conditioned, that this rezoning is appropriate and is consistent with the Commercial category of the Waukesha County Development Plan.

Respectfully submitted,



Kathy Moore
Senior Planner

KM:kb

Attachments: Map

N:\PLU FILES\PLANNING & ZONING\REZONES (RZ)\STAFF REPORTS\0882C (DIANE ZACH)_GNT.DOC

CERTIFICATION

This is to certify that the
attached is a true and accurate copy
of Resolution 03-3R
approved April 14, 2003

Barbara A. Whitmore
Barbara A. Whitmore, Clerk
Town of Genesee

Subscribed and sworn to before me
this 15 day of April, 2003

Elizabeth Gredlein
Notary Public, State of Wisconsin
My commission expires on: 2-6-2005

RESOLUTION 03-3R**TOWN BOARD OF THE TOWN OF GENESEE****A Municipal Corporation**

WHEREAS, a rezoning request was filed by Diane Zach, for the property owned in part by James & Patricia Williams and in part by Diane Zach to amend the District Zoning Map of the Waukesha County Zoning Code for the Town of Genesee from a conditional B-2 Local Business District to B-3 General Business District, on the property described as follows:

Lot 4 of unrecorded Certified Survey Map attached hereto as exhibit "A"

WHEREAS, A Joint Public Hearing was held by the Town of Genesee Plan Commission and the Waukesha County Parks and Plan Commission on March 27, 2003 at 7:00 p.m. at the Genesee Town Hall located at S43 W31391 Highway 83 Genesee Depot, Wisconsin to consider said request: and

WHEREAS, the Town of Genesee Plan Commission held a public meeting discuss said request. After discussion in regards to said request, by motion, properly made and seconded, the Genesee Town Plan Commission voted to recommend to the Town Board an approval of the request.

WHEREAS, the Genesee Town Board held a public meeting on Monday April 14, 2003 to discuss said request. BASED UPON THE SAME:

IT IS HEREBY RESOLVED BY THE TOWN BOARD OF THE TOWN OF GENESEE, it being the town affected by said proposed zoning amendment,

THAT, the request for the petitioner be approved based upon the following conditions:

1. The existing zoning district shall be amended to B-3 General Business District

158-0-010

8.

- 2. The uses allowed on the property are limited to the following:
 - A. Subject to any use permitted in the B-2 Local Business District, except that residential use shall be permitted only in conjunction with or accessory to an otherwise permitted use.
 - B. Subject to the following business and trades of a more general nature, normally serving a larger trade area, providing the location, building and site plan and plan of operation are submitted to and approved by the Town of Genesee Plan Commission:
 - 1. Theaters, dance halls, arcades, video game parlors and other amusement places
 - C. Subject to signs associated with a permitted use as approved by the Genesee Plan Commission.
- 3. That a deed restriction shall be placed on the property, in a form acceptable to the Waukesha County Parks and Land Use staff, giving notice this property is subject to a conditional re-zoning,
- 4. Subject to the petitioner making payments in full to the Town of Genesee, all costs and assessments, including reimbursement for professional fees, due and owing to the Town of Genesee, prior to the zoning amendment becoming valid.

AND FURTHER BE IT RESOLVED;

BY THE TOWN BOARD OF THE TOWN OF GENESEE, that the Town of Genesee does hereby give notice to the County that it conditionally approved the zoning amendment request of Diane Zach for the property owned in part by James & Patricia Williams, and in part by Diane Zach.

Dated this _____ day of _____, 2003

TOWN OF GENESEE

Sharon L. Leair, Town Chairman

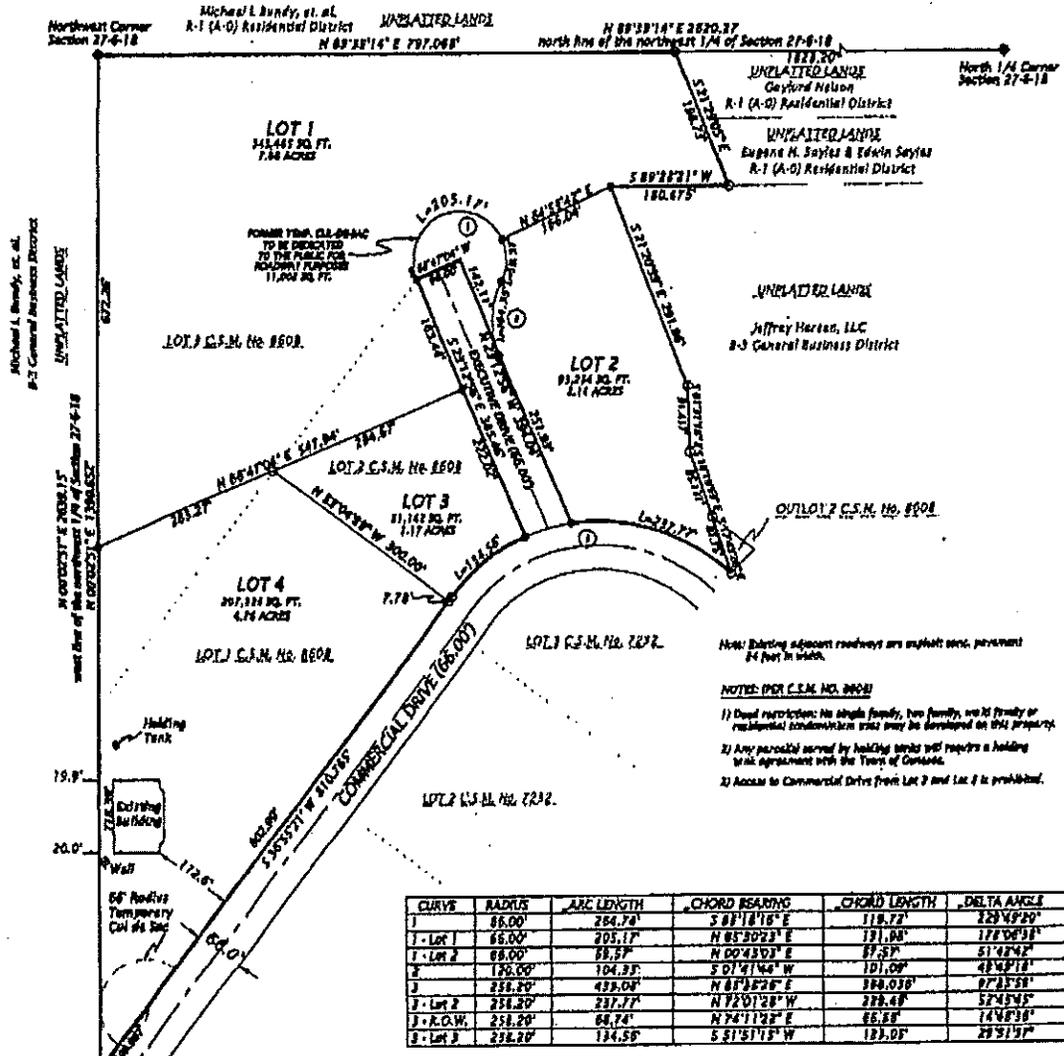
ATTEST:

Barbara A. Whitmore, Town Clerk

**DODGER
BLUEPRINT
COMPANY, INC.**
(262) 542-8200

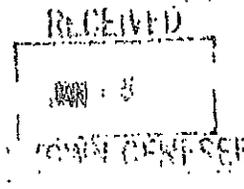
FORM BBC-101

**CERTIFIED SURVEY MAP NO. _____
BEING A REDIVISION OF LOT 1, LOT 2 AND LOT 3, OF CERTIFIED
SURVEY MAP No. 8608 IN THE NORTHWEST 1/4 AND SOUTHWEST 1/4
OF THE NORTHWEST 1/4 OF SECTION 27, TOWN 6 NORTH, RANGE 18 EAST,
TOWN OF GENESEE, WAUKESHA COUNTY, WISCONSIN.**



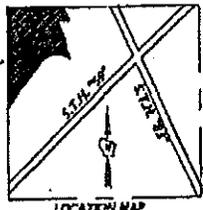
- NOTE:** Existing adjacent roadways are asphalt conc. pavement 24 feet in width.
- NOTE: (PER C.S.M. NO. 8608)**
- 1) Deed restrictions: No single family, two family, or 3 family or residential subdivisions shall ever be developed on this property.
 - 2) Any parcel(s) served by holding tanks will require a holding tank agreement with the Town of Genesee.
 - 3) Access to Commercial Drive from Lot 2 and Lot 3 is prohibited.

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH	DELTA ANGLE
1	66.00'	264.74'	S 87°18'16" E	118.72'	228°49'29"
1 - Lot 1	66.00'	205.17'	N 85°30'23" E	131.04'	178°06'58"
1 - Lot 2	66.00'	155.53'	N 00°43'03" E	87.53'	51°45'42"
2	125.00'	104.33'	S 01°21'54" W	101.06'	48°45'12"
3	255.00'	438.03'	N 81°18'26" E	388.03'	97°21'58"
3 - Lot 2	255.00'	237.77'	N 73°01'38" W	228.48'	57°45'15"
3 - R.O.W.	255.00'	68.74'	N 76°11'28" E	66.55'	14°46'38"
3 - Lot 3	255.00'	134.55'	S 51°51'15" W	133.07'	28°51'37"

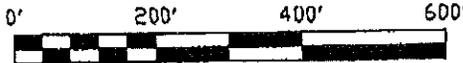


BEARINGS REFERENCED TO GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE

Prepared For:
Jim & Patricia Williams
905 Lone Tree Road
Elm Grove, WI 53122



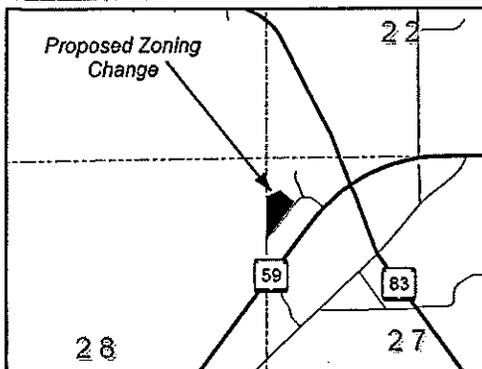
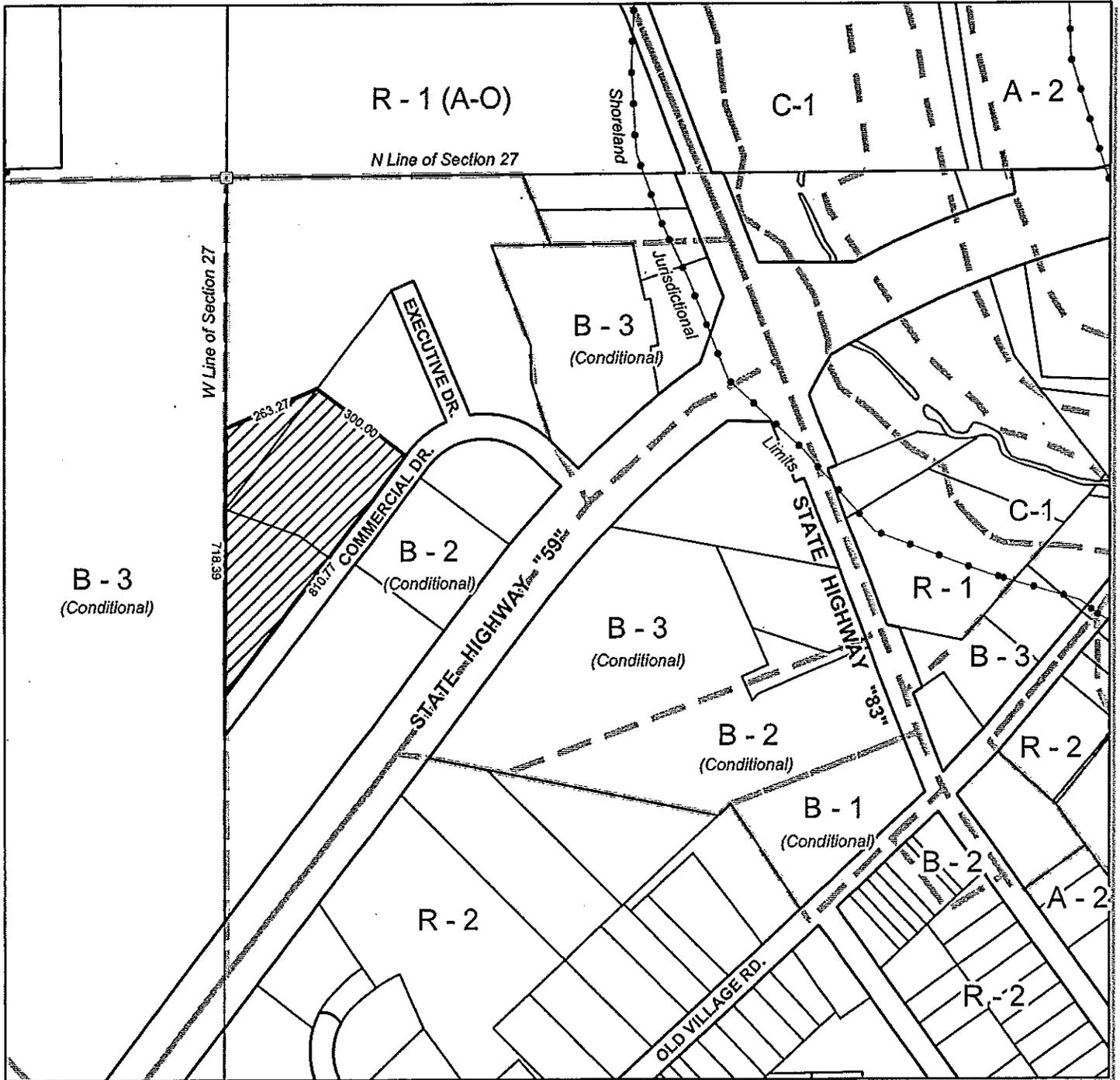
Bernklew Surveying, Inc.
W64 N24801 Main Street, Suite 103
Sussex WI, 53089
(262) 246-0718

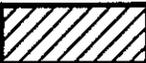


THIS INSTRUMENT DRAFTED BY THOMAS H. REAPREAU
PAGE 1 OF 6

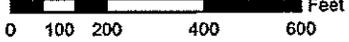
ZONING MAP AMENDMENT

PART OF THE NORTHWEST 1/4 OF SECTION 27
TOWN OF GENESEE



 **CONDITIONAL ZONING CHANGE FROM B-2 LOCAL BUSINESS DISTRICT TO B-3 GENERAL BUSINESS DISTRICT**

FILE.....CZ-882D
 DATE.....4-17-03
 AREA OF CHANGE.....4.76 ACRES
 TAX KEY NUMBER.....GNT 1546.972.001


 1 inch equals 400 feet
 Feet
 0 100 200 400 600

Prepared by the Waukesha County Department of Parks and Land Use

WAUKESHA COUNTY BOARD OF SUPERVISORS

E0 158-14

V

DATE-05/25/03

(ORD) NUMBER-1580010

- 1 K. HERRO.....AYE
- 3 D. STAMSTA.....AYE
- 5 J. MARCHESE.....AYE
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....NAY
- 11 K. HARENDA.....AYE
- 13 J. MORRIS.....AYE
- 15 D. SWAN.....AYE
- 17 J. BEHREND.....AYE
- 19 M. SONNENTAG.....
- 21 W. KOLB.....AYE
- 23 P. PRONOLD.....AYE
- 25 K. CUMMINGS.....NAY
- 27 D. PAULSON.....AYE
- 29 M. THOMAS.....AYE
- 31 V. STROUD.....AYE
- 33 D. PAVELKO.....AYE
- 35 C. SEITZ.....

- 2 R. THELEN.....AYE
- 4 H. CARLSON.....AYE
- 6 D. BROESCH.....AYE
- 8 J. DWYER.....AYE
- 10 S. WOLFF.....AYE
- 12 J. GRIFFIN.....AYE
- 14 J. LA PORTE.....AYE
- 16 R. MANKE.....AYE
- 18 D. FANFELLE.....
- 20 M. KIPP.....AYE
- 22 G. BRUCE.....AYE
- 24 A. SILVA.....AYE
- 26 S. KLEIN.....NAY
- 28 P. JASKE.....AYE
- 30 K. NILSON.....AYE
- 32 P. GUNDRUM.....AYE
- 34 R. SINGERT.....AYE

TOTAL AYES-29

TOTAL NAYS-03

CARRIED X

DEFEATED _____

UNANIMOUS _____

TOTAL VOTES-32