

ENROLLED ORDINANCE 163-25

AMEND THE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE AND THE WAUKESHA COUNTY ZONING CODE, FOR THE TOWN OF VERNON BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 10, T5N, R19E, TOWN OF VERNON, WAUKESHA COUNTY, WISCONSIN, FROM THE A-5 MINI-FARM DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (SCZ-1674)

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 Sections 59.69 and 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, and the Waukesha County Zoning Code adopted on February 26, 1959, for the Town of Vernon, Waukesha County, Wisconsin, are hereby amended to conditionally rezone certain lands located in part of the NE ¼ of Section 10, T5N, R19E, Town of Vernon, Waukesha County, Wisconsin, from the A-5 Mini Farm District 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 (SCZ-1674), subject to the following conditions:

1. The Site Plan submitted with the application dated May 21, 2008 (Exhibit “B”) shall be an integral part of the conditions of the rezone.
2. The applicants (Mr. Paul Mindel, Mr. William Brooks and Proven Power) shall apply for and receive final approvals of a Certified Survey Map by the Town of Vernon, Village of Big Bend and Waukesha County. This condition is not an express or implied guarantee, warranty, or representation of any kind that such approval will be granted.
3. All required signatures shall be inscribed on the Certified Survey Map, including those required from the Village of Big Bend and Waukesha County, prior to the Town affixing any required signatures to the approved Certified Survey Map.
4. Required Plans. Prior to the rezoning being in full force and effect, the applicant shall submit to, and receive approval from the Town Planner, Town Engineer and the Waukesha County Staff of all the following:
 - Grading Plans
 - Drainage Plans
 - Erosion Control Plans
 - Stormwater Management Plans
 - Lighting/Landscaping Plans
 - Construction Plans

5. Town Planner Review. The applicant shall satisfy all comments, conditions, and concerns of the Town of Vernon Planner regarding the application prior to this conditional approval being effective.
6. Town Engineer Review. The applicant shall satisfy all comments, conditions, and concerns of the Town of Vernon Engineer regarding the application prior to this conditional approval being effective.
7. Town Attorney Review. The Plan Commission's recommendation shall not be in full force and effect until such time that the Town Attorney has reviewed the conditions and placed them in final form.
8. Subject to Acceptance. The applicant and the property owner shall acknowledge in writing the conditions for the issuance of the conditional rezoning, that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed not to have been approved, and that the application process would need to be recommenced.
9. The applicant shall satisfy all of the aforementioned conditions within two (2) years of the date of this conditional approval.
10. Professional Fees. Applicant shall, on demand, reimburse the Town of Vernon for all costs and expenses of any type that the Town incurs in connection with this Conditional Rezoning, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions. This condition is enforceable by the Town of Vernon only.
10. Payment of Charges. Any unpaid bills owed to the Town of Vernon by the Subject Property Owner or his or her agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval. This condition is enforceable by the Town of Vernon only.

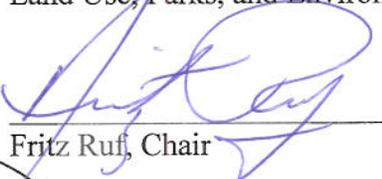
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Vernon.

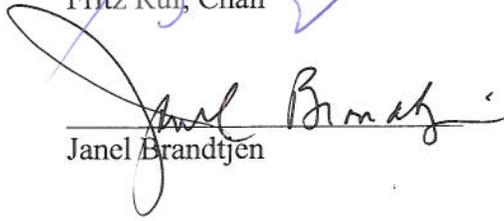
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

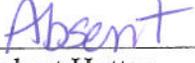
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

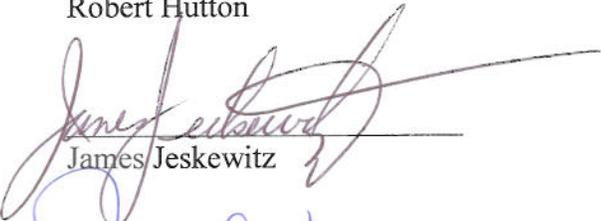
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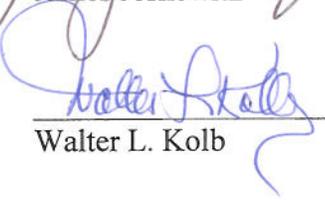
Presented by:
Land Use, Parks, and Environment Committee


Fritz Ruf, Chair

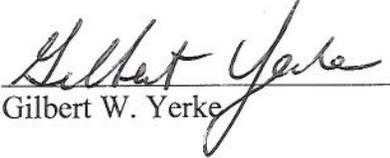

Janel Brandtjen


Robert Hutton


James Jeskewitz

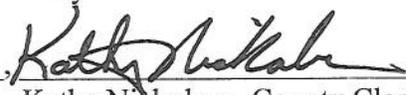

Walter L. Kolb


Ted Rolfs


Gilbert W. Yerke

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

Date: 8-29-08

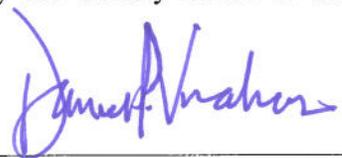

Kathy Nickolaus, County Clerk

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

Approved: X

Vetoed: _____

Date: 9-2-08


Daniel P. Vrakas, County Executive

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

DATE: July 17, 2008

FILE NO: SCZ-1671

AGENT: Tom Williamson
Yaggy Colby Associates
P.O. Box 180500
Delafield, WI 53018

PETITIONER: William D. Brooks
d/b/a Proven Power
N68 W36046 Hwy. "K"
Oconomowoc, WI 53066

OWNER: Paul Mindel
National Golf Center, LLC
4245 Peppercorn Circle
Brookfield, WI 53005

TAX KEY NO: VNT 2053.997

LOCATION:
Part of the NE ¼ of Section 10, T5N, R19E, Town of Vernon. More specifically the property is located at S74 W24255 National Avenue, one-half mile west of the intersection of S.T.H. 164 and National Avenue (C.T.H. "ES") on the south side of the National Ave., containing 3 acres.

PRESENT ZONING:
A-5, Mini-Farm District.

PRESENT LAND USE:
Excess land associated with the adjacent National Golf Center Driving Range

PROPOSED ZONING:
B-3, General Business District

PROPOSED LAND USE:
Development of a "John Deere" dealership including the sale and repair of outdoor power equipment and a retail business center for related outdoor equipment supplies.

PUBLIC HEARING DATE:
June 12, 2008

PUBLIC REACTION:
No one appeared in opposition to the proposed rezoning.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

The Town of Vernon Plan Commission, at their meeting of June 12, 2008, recommended approval of the requested rezoning, subject to a number of conditions.

The Town of Vernon Town Board, at their meeting of July 3, 2008, voted for approval of the requested rezoning of the subject 3-acre site, subject to the conditions outlined in attached Exhibit "A".

CONFORMANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF VERNON PLAN:

The Town and County Development Plans indicates this area south of C.T.H. "ES" and west of S.T.H. 164 is slated to be in a Commercial land use category. The proposed rezoning to accommodate this dealership would conform with said plans.

STAFF ANALYSIS:

The property in question is a remnant parcel adjacent to the National Golf Center, golf course/driving range, which was permitted a number of years ago, under a Conditional Use, (November 2000). The area in question for rezoning is on the northeast corner of the Golf Center property and is not used at the present time for the golf/driving range and is proposed to be sold to Proven Power for the subject outdoor equipment sales and service facility. The access to the site will be at an existing drive on the property and is in conformance with the County Public Works Ordinance for access to County trunk highways, as it does have good sight visibility in both directions along C.T.H. "ES" and meets the separation distance requirements. The proposed use includes a new building containing about 12,932 sq. ft. with a possible future addition of 3,750 sq. ft. on the east side of the structure. The proposed building includes a covered display area of 2,550 sq. ft as well as outdoor display area along with a fenced/gated space where equipment is stored and awaits repair outside to the east and south of the building. There is a parking area for a total of 54 spaces with the majority of the spaces lying to the west of the proposed building. A monument sign is being proposed at the entrance along the south side of C.T.H. "ES" and east of the entry/exit point. A raised display area is also being built on the which various items for sale at the business will be parked and is located on the west side of the property. A stormwater basin is also proposed on the far west side of the property, which is being designed in accordance with the Waukesha County Stormwater and Erosion Control Ordinance. The fenced area for the storage of equipment and items awaiting repair is a graveled area to the south and east side of the structure. The covered outdoor display is similar to what Proven Power's business has in the Town of Oconomowoc on the northwest corner of C.T.H. "P" and C.T.H. "K". The site will be served by an on-site waste disposal septic system on the far northeast corner of the property as well as a private well. This site is a fairly open site with few trees, although a couple of trees along C.T.H. "ES" will remain on the property. The building will contain inside and outdoor displays for equipment sales, along with various offices for use by the employees. A service department is also part of this business. The building façade will have a mixture of split face decorative block and architectural metal building panels, which will be subject to the Town of Vernon's Architectural Control Ordinance. The petitioner also indicates that a demonstration area is proposed for the grassy area lying between the building and C.T.H. "ES" as well as west of the parking lot, between the parking lot and the stormwater basin. A Lighting Plan is also identified on the Site Plan. The soils on the property are suitable for this proposed development and on-site waste disposal facilities. The projected hours of operation are from 6:00 a.m. to 11:00 p.m. on weekdays and 6:00 a.m. to 8:00 p.m. on weekends. It is also proposed that propane will be dispensed on the site accommodated with a large propane tank with the ability of the retail center to refill smaller propane bottles for use of customers. The scope of the business includes retail sales, repair, rental of outdoor power and lawn equipment, motorcycles, atv's, utility vehicles, contractor equipment, etc. and is more explicitly detailed in a Plan of Operation dated June 19, 2008.

It should be noted that a Certified Survey Map (CSM) to divide the three acre parcel from the National Golf Center property is also being required and provided for this business. The Town's conditional approval sets forth the requirement that all Drainage, Grading Plans, Erosion Control Plans, Stormwater Management Plans, Light and Landscaping Plans and Construction Plans be submitted for review and approval by the Town Planner and Town Engineer prior to the rezoning being in full force and effect, as well as the Town Attorney's review. The specific details of the Site Plan/Plan of Operation will be subject to further review and refinement as required in the B-3 General Business District being applied for.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved** as recommended by the Town of Vernon and as set forth below:

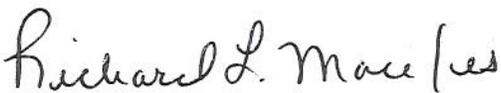
1. The Site Plan submitted with the application dated May 21, 2008 (Exhibit "B") be an integral part of the conditions of the rezone.
2. The applicants (Mr. Paul Mindel, Mr. William Brooks and Proven Power) applying for, and receiving final approvals of, a Certified Survey Map by the Town of Vernon, Village of Big Bend and Waukesha County, and no guarantee, warranty, or representation of any kind is either expressly or impliedly provided herein that such approval will be granted.
3. Receipt of all other required signatures being inscribed on the Certified Survey Map, including the Village of Big Bend and Waukesha County signatures, prior to the Town affixing any required signatures to the approved Certified Survey Map.
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and that upon failure to satisfy these conditions this approval is void, and the same is deemed not to have been approved and that the applicant would need to re-commence the application process.

9. Subject to applicant satisfying all of the aforementioned conditions within two (2) years of granting this conditional approval.
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We feel that the proposed use of this site conforms with the County Development Plan as well as the Town's Land Use Plan and will provide a needed service and sales opportunity for this expanding area in Waukesha County. The proposed use is compatible with the adjacent and surrounding uses and has good access to C.T.H. "ES" that will render a continued safe and adequate use of the County trunk highway as well as good accessibility and visibility for the proposed business.

Respectfully submitted,



Richard L. Mace
Planning and Zoning Manager

RLM:es

Attachments: Map
Exhibits "A" and "B"

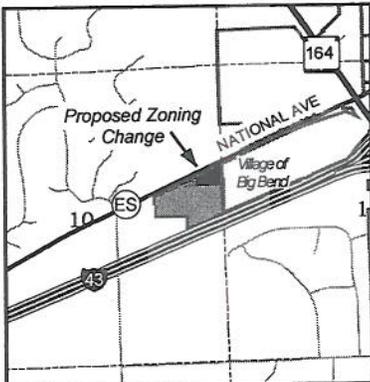
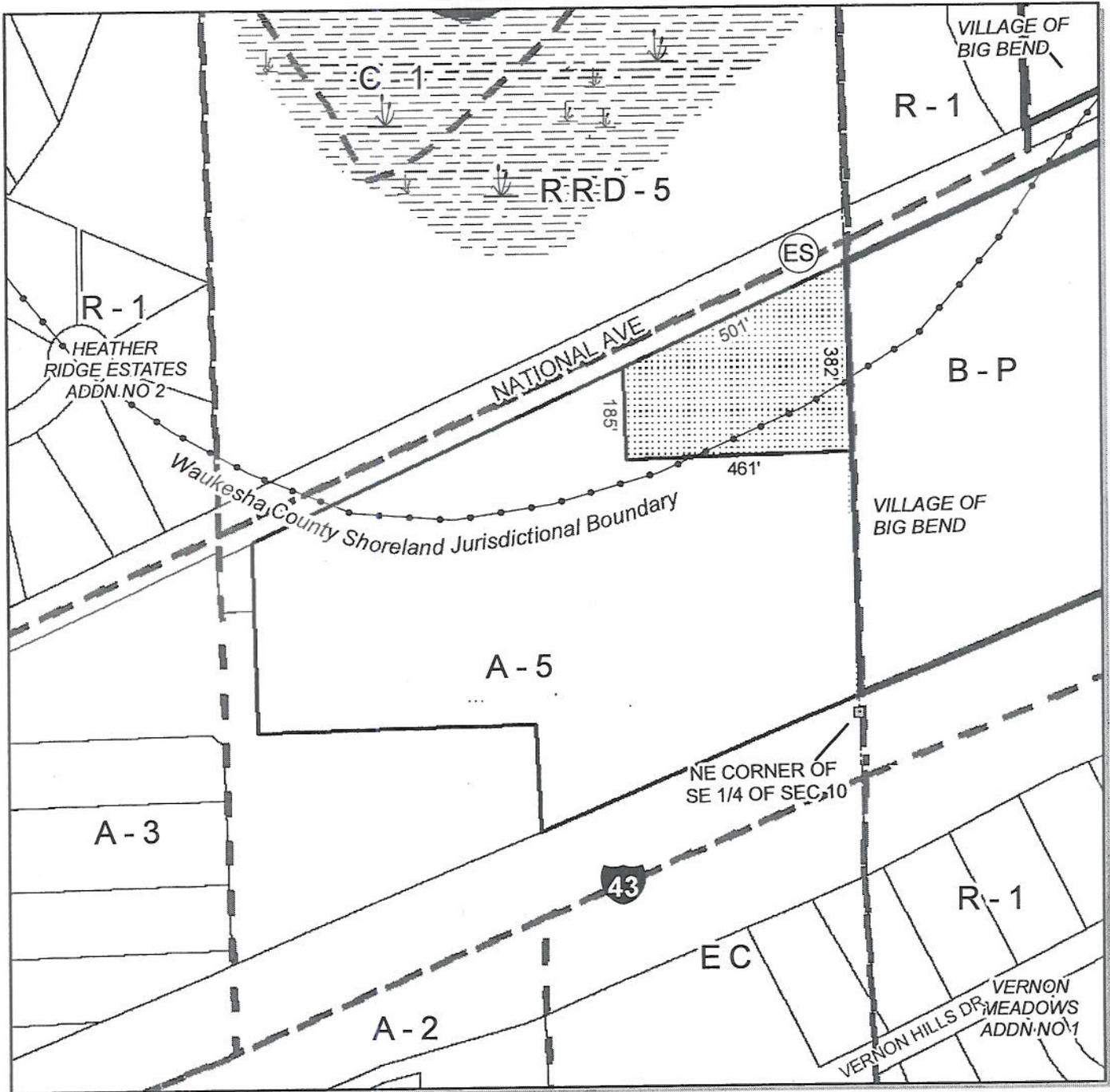
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163-0-026

7.

ZONING MAP AMENDMENT

PART OF THE NE 1/4 OF SECTION 10
TOWN OF VERNON



SHORELAND AND COUNTY ZONING CHANGE FROM
A-5 MINI FARM TO B-3 GENERAL BUSINESS DISTRICT

FILE.....SCZ-1674
 DATE.....07-17-08
 AREA OF CHANGE.....3.0 ACRES
 TAX KEY NUMBER.....VNT 2053-997-001



1 inch equals 300 feet
 0 50 100 200 300 Feet

Prepared by the Waukesha County Department of Parks and Land Use

163-0-026



EXHIBIT "A"

July 07, 2008

Mr. Richard Mace
Waukesha County Department of Parks and Land Use
1320 Pewaukee Road, Room 320
Waukesha, WI 53188-3868

Dear Mr. Mace:

RE: Rezone, William Brooks and S74 W24255 National Avenue
Foth Companies File No. 07V004.47

Please be advised that the Town Board of Supervisors recommends, to the Waukesha County Parks and Planning Commission, **conditionally approving** the rezone for William Brooks, to be located at S74 W24255 National Avenue, Big Bend WI 53103, subject to:

1. The applicants (Mr. Paul Mindel, Mr. William Brooks and Proven Power) applying for, and receiving final approvals of, a Certified Survey Map by the Town of Vernon, Village of Big Bend and Waukesha County, and no guarantee, warranty, or representation of any kind is either expressly or impliedly provided herein that such approval will be granted.
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Sincerely,

Foth Infrastructure & Environment, LLC



Jamie Rybarczyk
Town Planner

cc: Jamie Nelson, Town Clerk

PROPOSED BUILDING FOR:



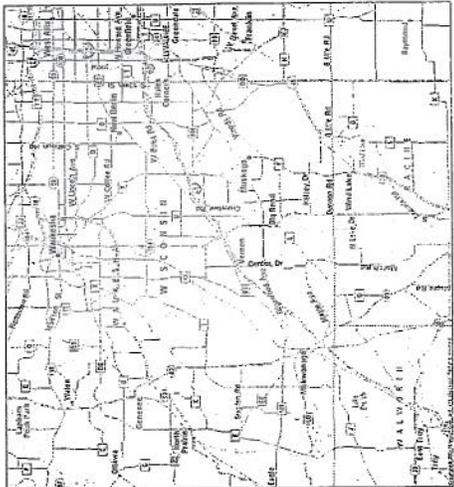
Power Equipment Sales, Service and Rental

**NATIONAL AVENUE
COUNTY HIGHWAY "ES"
TOWN OF VERNON,**

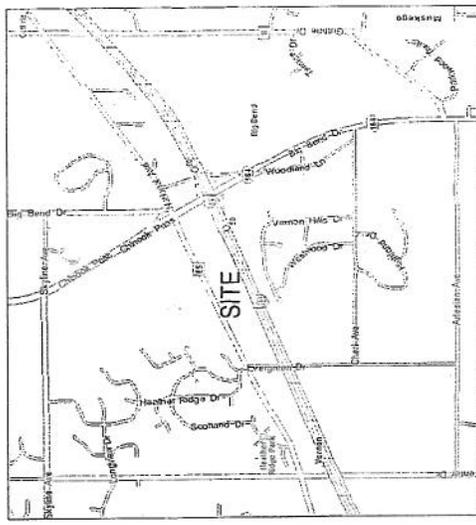
WISCONSIN

PROJECT LOCATION

LOT 2 - SEE YCA PLANS FOR LEGAL DESCRIPTION



VICINITY MAP



STAMP

BUILDING NOTES

- LOCAL INFORMATION**
- ZONING: B3 (GENERAL BUSINESS DISTRICT)
 - USE: MERCANTILE/SERVICE/REPAIR
- BUILDING INFORMATION**
- OCCUPANCY CLASSIFICATION: S1
 - SEPARATED OR NON-SEPARATED OCCUPANCY: NON-SEPARATED, MIXED USE

BUILDER:
Oliver Construction Co.
1770 Executive Dr
Oconomowoc, WI 53066
p: (262) 567-6877
f: (262) 567-4676
www.oliverconstruction.com

PROPERTY OWNER:
PROVEN POWER, INC.
N68 W36046 Hwy K
Oconomowoc, WI 53066
p: (920) 474-4890
f: (920) 474-7086

CONTACT:
William D. Brooks, President
E.O.B.
S.E.C. 1177



DESIGNER:
Robert Buchta
rbuch@oliverconst.com

PROJECT ENGINEER:
Charles Schmidt
chs@oliverconst.com

SHEET INDEX

SHEET NO.	DESCRIPTION
T1.0	TITLE SHEET / PROJECT LOCATION
SPI.0	SITE PLAN W/LANDSCAPING & LIGHTING
A1.0	FLOOR PLAN
A2.0	ELEVATIONS
NOTE:	ADDITIONAL PLANS ARE BEING SUBMITTED BY YAGGY COLBY ASSOCIATES
NOTE:	ADDITIONAL INFORMATION PREPARED BY DESIGN-FORUM WILL BE PROVIDED. THIS INFORMATION PERTAINS TO SIGNAGE, EXTERIOR COLORS, EXTERIOR DISPLAY AND INTERIOR FURNISHINGS.

EXHIBIT "B"

RECEIVED
2011.10.28

163-0-026

//

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-08/26/08

(ORD) NUMBER-1630026

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

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

TOTAL AYES-24

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS X

TOTAL VOTES-24