

ENROLLED ORDINANCE 164-104

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 SE ¼ OF THE SE ¼ OF SECTION 9, T7N, R17E, TOWN OF SUMMIT, WAUKESHA COUNTY, WISCONSIN, FROM THE NC NEIGHBORHOOD COMMERCIAL, R-2 RESIDENTIAL AND R-3 RESIDENTIAL DISTRICTS (TOWN) AND THE B-1 RESTRICTED BUSINESS, R-1 RESIDENTIAL AND A-3 SUBURBAN ESTATE DISTRICTS (COUNTY) TO THE NC NEIGHBORHOOD COMMERCIAL, R-2 RESIDENTIAL AND R-3 RESIDENTIAL DISTRICTS WITH A PLANNED DEVELOPMENT OVERLAY (PDO) DISTRICT (TOWN) AND THE B-2 LOCAL BUSINESS DISTRICT (COUNTY) (SZT-1700)

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, and

WHEREAS the Town of Summit Code provides for future changes as may be necessary to the specific conditions of the general development/site plan in the Planned Development Overlay (PDO) District to be approved by the Town Board and Plan Commission.

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 certain lands located in part of the SE ¼ of the SE ¼ of Section 9, T7N, R17E, Town of Summit, from the NC Neighborhood Commercial, R-2 Residential and R-3 Residential Districts (Town) and the B-1 Restricted Business, R-1 Residential and A-3 Suburban Estate Districts (County) to the NC Neighborhood Commercial, R-2 Residential and R-3 Residential Districts with a Planned Development Overlay (PDO) District (Town), subject to the conditions contained in the Town of Summit Amending Ordinance No. 294-10, and the B-2 Local Business District (County), 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-1700).

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

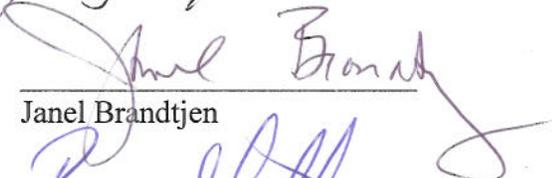
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

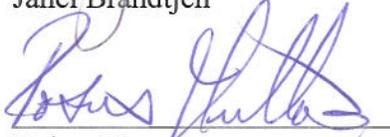
BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

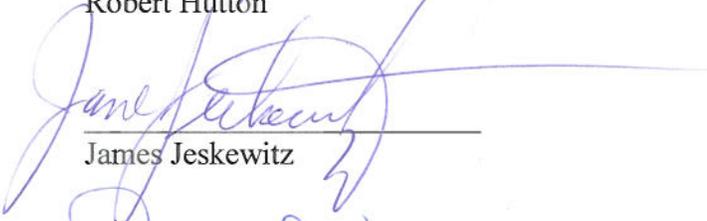
AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF SUMMIT AND THE TOWN OF SUMMIT ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF THE SE ¼ OF SECTION 9, T7N, R17E, TOWN OF SUMMIT, WAUKESHA COUNTY, WISCONSIN, FROM THE NC NEIGHBORHOOD COMMERCIAL, R-2 RESIDENTIAL AND R-3 RESIDENTIAL DISTRICTS (TOWN) AND THE B-1 RESTRICTED BUSINESS, R-1 RESIDENTIAL AND A-3 SUBURBAN ESTATE DISTRICTS (COUNTY) TO THE NC NEIGHBORHOOD COMMERCIAL, R-2 RESIDENTIAL AND R-3 RESIDENTIAL DISTRICTS WITH A PLANNED DEVELOPMENT OVERLAY (PDO) DISTRICT (TOWN) AND THE B-2 LOCAL BUSINESS DISTRICT (COUNTY) (SZT-1700)

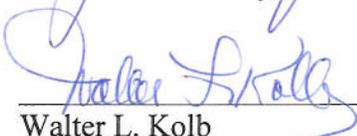
Presented by:  
Land Use, Parks, and Environment Committee

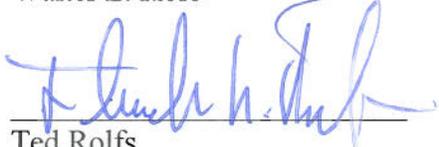
  
Fritz Ruff, Chair

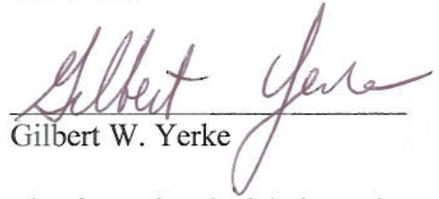
  
Janel Brandtjen

  
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:

4-16-2010

  
Kathy Nickolaus, County Clerk

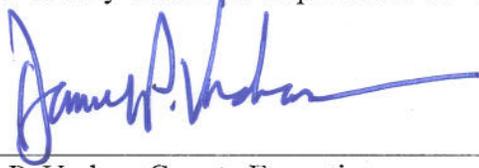
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved:

Vetoed:

Date:

4-19-10

  
Daniel P. Vrakas, County Executive

COMMISSION ACTION

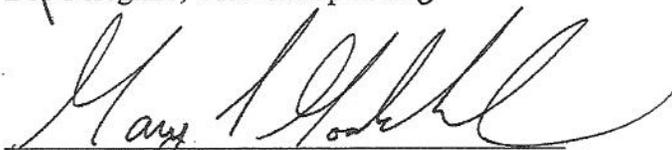
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance hereby recommends approval of SZT-1700 (Chuck's Lakeside, Inc.) in accordance with the attached "Staff Report and Recommendation".

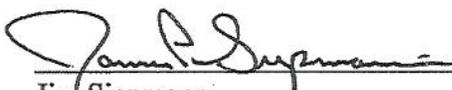
PARK AND PLANNING COMMISSION

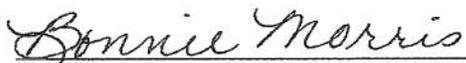
March 11, 2010

  
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William Mitchell, Chairperson

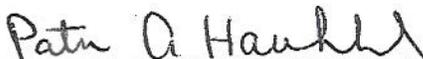
  
\_\_\_\_\_  
Bob Peregrine, Vice Chairperson

  
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Gary Goodchild

  
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Jim Siepmann

  
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Bonnie Morris

  
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Walter Kolb

  
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Pat Haukohl

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

**DATE:** March 11, 2010

**FILE NO.:** SZT-1700

**OWNER/PETITIONER:** Chuck's Lakeside Inc.  
Karlis Vecitis  
W355 N5023 Lakeview Court  
Oconomowoc, WI 53066

and

First Bank Financial Centre  
c/o Nick Collins  
155 West Wisconsin Avenue  
Oconomowoc, WI 53066

**AGENT:** Attorney Michael Schober  
16845 West Cleveland Avenue  
New Berlin, WI 53151

**TAX KEY NO(S):** SUMT 0612.963 and SUMT 0612.986.002

**LOCATION:**

Part of the SE ¼ of the SE ¼ of Section 9, T7N, R17E, Town of Summit. More specifically, the parcels are located on the north side of C.T.H. "B" and west of Dousman Road and immediately north of the WDNR Silver Lake boat launch facility. The properties contain approximately three (3) acres.

**PRESENT ZONING:**

NC Neighborhood Commercial, R-2 Residential and R-3 Residential Districts (Town) and B-1 Restricted Business, R-1 Residential and A-3 Suburban Estate Districts (County).

**PRESENT LAND USE:**

A vacant single family residence and supper club, previously known as Chuck's Supper Club, along with small accessory buildings and a parking lot.

**PROPOSED ZONING:**

NC Neighborhood Commercial, R-2 Residential and R-3 Residential Districts with a Planned Development Overlay PDO District (Town) applied to the NC Neighborhood and R-3 Residential areas and B-2 Local Business District (County).

**PROPOSED LAND USE:**

Repair and update the existing residence and attached garage, upgrade and update the existing former supper club to reopen as a new supper club.

164-0-107

3.

**PUBLIC HEARING DATE:**

February 18, 2010.

**PUBLIC REACTION:**

There was significant public reaction received from both neighbors of the proposed supper club and other persons who reside around the lake or nearby, all who were generally supportive of the proposed amendment. However, there was concern with fugitive light onto adjacent properties and the lake and the possibility of additional boat trailer parking, which would allow more access and boat activity on the lake than the WDNR launch provides for based upon the amount of parking available to the WDNR launch. There was also concern about the proposed deck to be attached to the restaurant to accommodate outdoor dining and waiting for seating in the restaurant on busier nights. In addition, there was concern regarding the impact of special events on the neighborhood and surface water runoff into the lake from the parking lot. Concern was expressed with fugitive lights and how that may affect adjacent properties and the lake, as well as the road and the possibility of increased parking on the two parcels.

**TOWN PLAN COMMISSION ACTION:**

A special meeting of the Town of Summit Plan Commission was held on February 24, 2010, at which time the Town Plan Commission recommended unanimously in favor of the proposed amendment, subject to a number of conditions, which are outlined in attached Ordinance (Exhibit "A") received from the Town.

**TOWN BOARD ACTION:**

On March 4, 2010, the Town Board of Summit approved the conditional PDO rezoning and recommended in favor of the rezoning of the property under the provisions of the Waukesha County Shoreland and Floodland Protection Ordinance.

**CONFORMANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF SUMMIT LAND USE PLAN:**

Both the Town and County Plans indicate these properties to be utilized for commercial purposes. The proposed rezoning is consistent with those recommendations.

**OTHER CONSIDERATIONS:**

The subject site has recently been foreclosed on by the First Financial Bank Centre in Oconomowoc and a contract to sell the property, which contains two (2) parcels (one with the residence and the second and larger parcel with the former supper club) to the petitioner Chuck's Lakeside Inc. which is owned and operated by Karlis Vecitis, who is a restaurateur in the Milwaukee area and owns and operates a popular restaurant called Kelly's Bleachers. The existing site, building and adjoining residence have been vacant for some time and are being sold as the result of a foreclosure action by the bank. The petitioner has a contract to acquire both sites and keep them together to function as a single entity. Under close examination of the existing survey, which was prepared for the property in January 2010, shows clearly that both parcels are involved in the business end of the supper club as a fairly substantial portion of the parking area and access ways around the business use are on the

residential parcel. It is imperative that the two (2) parcels be joined together as a single entity and business site since sharing various amenities. The properties are presently served with private septic systems which will be abandoned and replaced with public sewer, if this amendment is approved.

Uses around the property include a WDNR boat launch and boat/trailer combination parking lot to the south and west of the property. To the north, east and south are residential parcels ranging in size from approximately ½ acre to 2¼ acres and two residential parcels lying to the south of C.T.H. "B". The subject parcel has no frontage on the lake, although it is extremely close to the lake and is separated only by C.T.H. "B".

Historically, the WDNR boat launch site was once owned by the Chuck family who operated the original Chuck's Supper Club. The buildings are all setback the required amount of distance from the right-of-way and with the addition of the proposed deck, on the southwest corner of the building, that too will meet the minimum setback requirements. As indicated earlier, there was some concern about the deck being built on the premises, but it was the unanimous decision of the Town Plan Commission that the deck was an appropriate appurtenance to the business use and is being allowed under the terms of the Town's PDO Ordinance. This Ordinance is a complex Ordinance and is attached. Included in that Ordinance are numerous requirements and conditions for the use of the premises, along with attachments to said Ordinance as various exhibits. All of those are a part of this amending Ordinance to be reviewed by the Waukesha County Board of Supervisors. Many of the items contained in the Town's PDO Ordinance deal with issues that the County would normally deal with on a Site Plan/Plan of Operation approval which is subsequent to the amendment being approved for the general land use of the site. The County will require a Site Plan/Plan of Operation review and approval if the amendment is approved by the County Board which will include, most, if not all the requirements and conditions set forth in the Town's PDO Ordinance.

The building will also need to be reviewed and approved by the County's Environmental Health Division as they permit and license restaurant facilities. Another significant discussion point of the public hearing and at subsequent hearings was the parking and drive areas. As noted in the PDO Ordinance, the parking area needs to be separated from C.T.H. "B" and separate entrances and exits to the premises need to be clearly set forth, which were also items addressed by the Waukesha County Public Works Department. They felt that as the area is being redeveloped, the space between the new and relocated parking area and the travelled pavement of C.T.H. "B" will be landscaped and may include infiltration areas for surface water runoff to infiltrate into the ground before running off directly into the lake. This was an issue for residents of the area, as well as the Planning and Zoning Division Staff because at the present time, to continue the use of the presently configured parking lot as used throughout the many years of its operation, would be a detriment to the travelling public in that there is no clear entry and exit from the site and cars would enter and exit the premises at any point along the parcel's entire frontage. This change will represent a significant public benefit if approved. It should also be noted that the Board of Adjustment for Waukesha County is meeting on March 10, 2010, to review a request to vary the setback requirements of the parking standards for the property so that the parking lot, although, being relocated outside of the right-of-way, could be located much closer to the right-of-way than the Ordinance allows. (Note: The Waukesha County Board of Adjustment met on March 10, 2010, and approved the Variance request to allow parking next to the right-of-way and along the west lot line.) The Planning and Zoning Division Staff supports the Variance as outlined in its Staff Report and Recommendation to the Board of

Adjustment and feels that it is justified in light of the improvement to public safety that will result while recognizing the need to provide reasonable access around the building without jeopardizing needed parking spaces for the business and to avoid having to expand parking areas to the rear of the parcel to replace lost parking, thereby adding to the runoff of the hard surface parking areas which would need to be added in the event the Variance was not allowed.

The Planning and Zoning Division Staff recommended to the Board of Adjustment that the right-of-way established by the Street and Highway Width Map be formally dedicated to Waukesha County, especially in light of the fact that the parking will be eliminated from within said established right-of-way and that a clear definition of the right-of-way across the frontage of this parcel will now be provided through proper documentation.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request to amend the Town and County Shoreland Ordinance be approved. Not only does this use comply with the intent, purposes and provisions of the County and Town Comprehensive Plans, it also will reopen a long time use that was accepted by the community and neighborhood and will now be improved and be more compatible with the neighboring areas and the lake through the imposition of additional standards and requirements that have been a concern over the years. It is the Staff's opinion that the PDO as submitted and approved by the Town, is incorporated as transmitted and further, a condition be included in the County Shoreland Ordinance provisions that requires a 33' wide dedication along the entire frontage of the two subject parcels to Waukesha County to clarify the fact that this is a public right-of-way and will meet the intent and purposes of the County Street and Highway Width Map. It is felt, as conditioned, this use will be a very compatible use with the neighborhood, while providing some separation distance and other amenities that will protect those residential neighbors from any further adverse impacts and is compatible with the public launch facility and parking lot on the west side of the property. We feel the requirements for relocation of the parking for the business serves a substantial public need in that it removes and redesigns a parking area from the County right-of-way, especially since this is on the inside of a curve, which could overtime impede or restrict visibility and safety for individuals using C.T.H. "B"

Respectfully submitted,

*Richard L. Mace / kab*

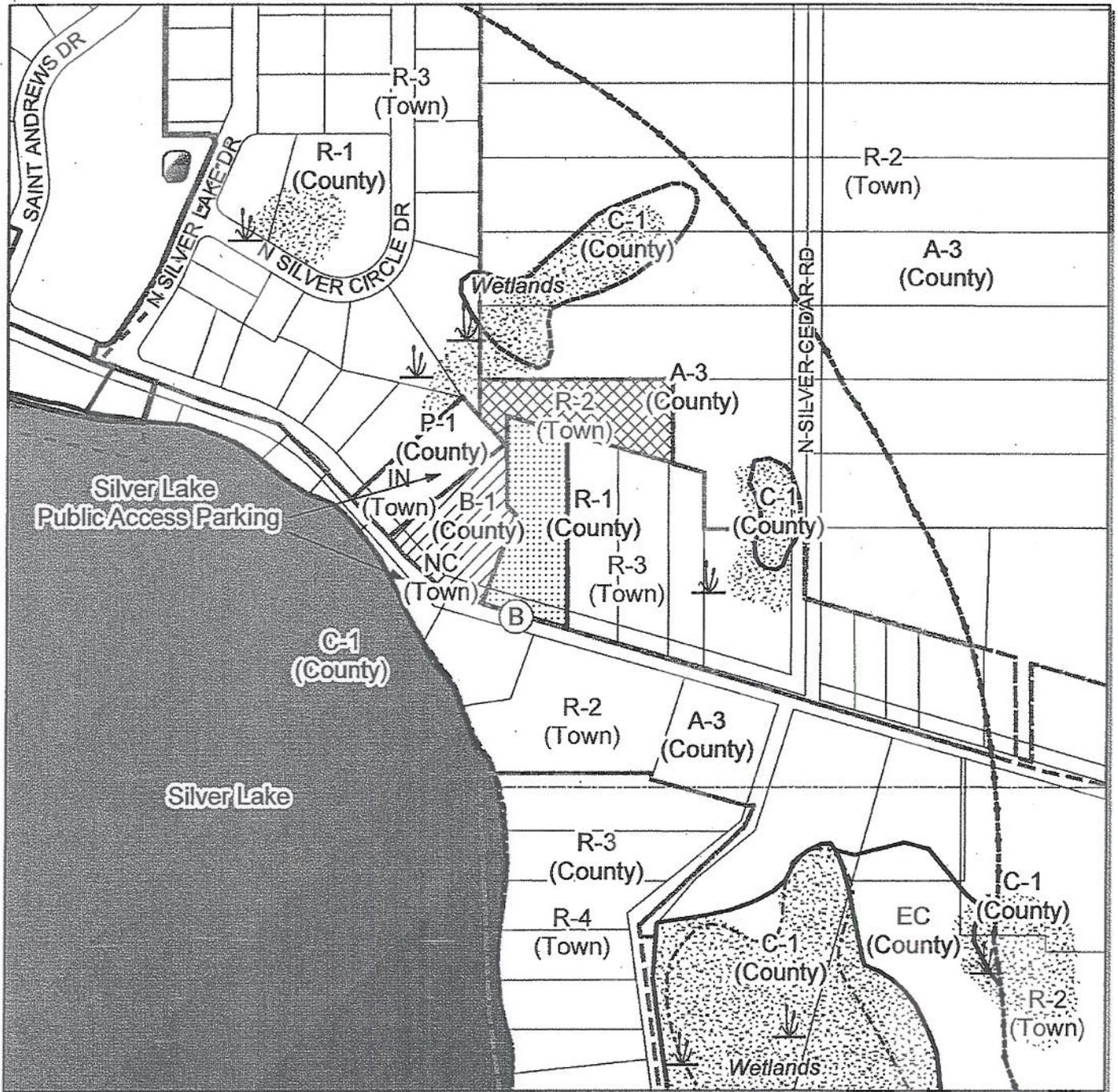
Richard L. Mace  
Planning and Zoning Division Manager

RLM:kab

Attachments: Town Ordinance  
Map

# ZONING MAP AMENDMENT

PART OF THE SE 1/4 OF SECTION 9  
TOWN OF SUMMIT



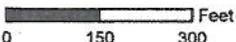
	CONDITIONAL SHORELAND ZONING CHANGE FROM R-1 RESIDENTIAL TO B-2 LOCAL BUSINESS DISTRICT AND TOWN ZONING TO REMAIN R-3 RESIDENTIAL BUT W/ PDO PLANNED DEVELOPMENT OVERLAY
	CONDITIONAL SHORELAND ZONING CHANGE FROM B-1 RESTRICTED BUSINESS TO B-2 LOCAL BUSINESS DISTRICT AND TOWN ZONING TO REMAIN NC NEIGHBORHOOD COMMERCIAL BUT W/ PDO PLANNED DEVELOPMENT OVERLAY
	CONDITIONAL SHORELAND ZONING CHANGE FROM A-3 SUBURBAN ESTATE TO B-2 LOCAL BUSINESS DISTRICT AND TOWN ZONING TO REMAIN R-2 RESIDENTIAL

FILE .....SZT-1700

DATE .....03/11/10

AREA OF CHANGE .....3.23 ACRES

TAX KEY NUMBER .....SUMT 0612.963 & SUMT 0612.986.002

  
 1 inch = 300 feet  


Prepared by the Waukesha County Department of Parks and Land Use

STATE OF WISCONSIN

TOWN OF SUMMIT

WAUKESHA COUNTY

ORDINANCE NO. 294-10

AN ORDINANCE TO  
CONDITIONALLY REZONE CERTAIN LANDS  
IN THE TOWN OF SUMMIT TO A  
NEIGHBORHOOD COMMERCIAL DISTRICT (NC), AND  
THE TOWN RESIDENTIAL DISTRICT (R-3)  
WITH A PLANNED DEVELOPMENT OVERLAY DISTRICT (PDO)

WHEREAS, a petition has been filed by Chuck's Lakeside, Inc., and First Bank Center ("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 apply a Planned Development Overlay District (PDO) to the existing zoning, 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/Site 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/Site 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 with a description of public dedication on the roadways;
- The basic storm drainage pattern;
- The general location, size, and character of open space areas;

- 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, owners association, deed restrictions, etc.
- Any other information deemed appropriate and necessary by the Town of Summit Plan Commission ("Plan Commission"); and

WHEREAS, the General Development/Site Plan provided by Petitioner has been available for public inspection, as contemplated by the Town of Summit's Zoning Code, in the office of the Town Clerk since January 4, 2010; and

WHEREAS, the area of the Subject Lands is located within the Waukesha County 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 February 18, 2010 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/Site Plan be approved upon satisfaction of certain conditions which are incorporated herein; 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 235-15(C) 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 property maintenance and preservation of any preserved lands as described and regulated under Section 235-15(B), 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 or protection of natural ecological resources.

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 Comprehensive Plan;

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

SECTION 1: Having found that the standards in Section 235-44(B) have been met, 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 apply a Planned Development District overlay to the properties as described on the attached Exhibit A 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/Site Plan for the planned development of the Subject Lands as described in Section 2 above, is granted subject to compliance with all of the following conditions:

1. There shall be no direct access to Silver Lake from this development.
2. The use of the Subject Lands shall fully comply with the Waukesha County Shoreland and Floodland Protection Ordinance, to the extent it is applicable, as determined by the Waukesha County Zoning Administrator.
3. The Single family Residential area identified on Exhibit B shall consist of a single family home, uses accessory to the residence limited to those set forth in Section 235-33(C) of the Summit Zoning Code, and off-street parking for both the residence and the restaurant on the adjacent parcel subject to the provisions of paragraph 9 below.
4. The Neighborhood Commercial area identified on Exhibit B shall consist of a single commercial building, off-street parking, signage, and landscaping related to a restaurant facility and subject to the provisions of Section 235-38 of the Town of Summit Zoning Code, Neighborhood Commercial District (NC), as amended from time-to-time, unless further restricted or otherwise specifically regulated by this Ordinance.
5. Permitted and conditional uses for the Residential area of the Subject Lands identified on Exhibit B shall be as set forth in Section 235-33, Town Residential District (R-3) in the Town of Summit Zoning Code, as amended from time-to-time.
6. Bulk Regulations set forth in Section 235-33, Town Residential District (R-3) in the Town of Summit Zoning Code, as amended from time-to-time, shall apply to the Residential area identified on Exhibit B except as follows:

- i. Minimum side yard setback and all other setbacks are approved as shown on the General Development/Site Plan. Any alteration to the footprint of the residential building shall require an amendment to this Ordinance;
  - ii. Minimum pavement setback shall be waived on the west, south, and north property lines as shown on the General Development/Site Plan dated February 4, 2010.
7. All lands identified on Exhibit B as Neighborhood Commercial (NC) shall be subject to the provisions of Section 235-38 of the Town of Summit Zoning Code, as amended from time-to-time, except as noted above and as follows:

Uses are limited to restaurant, with accessory office, off-site catering activities and parking as set forth in paragraph 9 below.

8. 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 front yard setback shall be 30 feet from the Valley Road right-of-way.
  - ii. Minimum side yard setback shall be 23 feet on the west property line and 14 feet on the east property line.
  - iii. Signage identifying the restaurant name and type of business shall be limited to the present building sign 3 X 10 feet located above the building overhang and lighted signs on either side identifying the "ENTRANCE" and "IMMEDIATE SEATING" and one monument sign in a location set forth in the approved Plan of Operation, the latter of which shall not exceed thirty-two square feet in area.
  - iv. Buildings shown on Exhibit B shall be hooked up to sewer prior to occupancy and Best Management Practices shall be implemented in all respects regarding such hook-up.
  - v. All fences shall be shown on the Precise Implementation Plan.
  - vi. Gravel parking areas shown on the Precise Implementation Plan may continue to be used and maintained for off-street parking without hard surface, impervious pavement. If any paving is proposed in the future, it shall be subject to the Town Plan Commission approving these changes and the site must meet all codes applicable at the time.
  - vii. The exterior deck area identified on the General Development/Site Plan shall be used as specified in the approved Plan of Operations.
  - viii. Parking stalls along the Valley Road right-of-way shall be separated and delineated from the right-of-way as shown on the Precise Implementation Plan.

- ix. Minimum pavement setback shall be waived to 0' on the west property line and along the Valley Road right-of-way as shown on the General Development/Site Plan dated February 4, 2010.
9. Requirements for parking set forth in Section 235-45 of the Zoning Code are amended as follows:
    - i. Notwithstanding the provisions of Section 235-45(A)(1) of the Town of Summit Code, the size of each parking space shall be not less than 9' x 18' (192 square feet) exclusive of the space required for ingress and egress.
    - ii. Notwithstanding the provisions of Section 235-45(C), there shall be a minimum of 85 off-street parking spaces on the property described on Exhibit A and shown in the Precise Implementation Plan. It is recognized that the building may, subject to other regulations controlling maximum capacity, serve up to 450 customers. Additional parking area, as needed, shall be provided as shown on the General Development/Site Plan as gravel.
    - iii. "NO BOAT OR WATER CRAFT TRAILER PARKING" signs shall be erected by the property owner at appropriate locations determined by the Summit Police Department for enforcement of such restrictions at the request of the property owner.
    - iv. Specific use of the parking areas shall be as shown on the Precise Implementation Plan, including tenants, patrons, catering and employee uses.
  10. Development of the Subject Lands, including but not limited to the lot layout, shall be in substantial conformity with the General Development/Site Plan submitted to the Plan Commission at their meeting on February 18, 2010.
  11. It is intended that all Precise Implementation Plans will be submitted contemporaneously with the consideration of this Ordinance. Said Precise Implementation Plans shall be subject to Town Plan Commission approval and shall contain all of the information required in Section 235-44(F) of the Zoning Code including but not limited to:
    - i. The specific designation of proposed land use including parking facilities, detailed lot layout and the arrangement of building groups;
    - ii. Specific deck, lighting and landscape plans (Section 235-44(F)(3));
    - iii. Detailed storm drainage and sanitary sewage disposal and water system plans; and

iv. Plan of Operations.

12. No specific use or building permit shall be issued for any part of the approved General Development/Site Plan except for an area covered by an approved Precise Implementation Plan and in conformity with such plan.
13. A Precise Implementation Plan may be submitted for any portion of the approved General Development/Site Plan provided such portion is in basic conformity with approved General Plan and represents a reasonable and appropriate stage of implementation of such plan.
14. 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 or required as part of a Conditional Use Permit consideration.
15. 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.
16. Detailed building, lighting 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.
17. Prior to the approval of any Precise Implementation Plan by the Town Plan Commission, Petitioner shall submit a signage plan to the Plan Commission and Town Engineer for their approval.
18. Any amendment to any of the aforementioned plans must be submitted to, and approved by the individuals, Town Plan Commission and Town Board that originally approved said plan(s), unless otherwise designated in this Ordinance
19. 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.
20. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Petitioner that the Subject Lands are subject to these conditions of approval. 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.

21. Petitioners, 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. Petitioner 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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 4<sup>th</sup> day of March, 2010.

TOWN OF SUMMIT

By: Len Susa  
Len Susa, Town Chair

Attest: Debra Schueler  
Debra Schueler, Town Clerk

Published/Posted the 5<sup>th</sup> day of March, 2010.

D:\Documents And Settings\Paul E. Alexy\My Documents\Word\Summit, Town OR\Land Use\Wood Farm\Conditional Rezoning Ordinance 091808 Clean.Doc

**EXHIBIT "A"**

**Legal Description**

All that part of the Southeast One-quarter (1/4) and Southwest One-quarter (1/4) of the Southeast One-quarter (1/4) of Section Nine (9), Township Seven (7) North, Range Seventeen (17) East, in the Town of Summit, Waushara County, Wisconsin, more fully described as follows: Commencing at the Northeast corner of Lot 42, of William Jones Silver Lake Beach Subdivision; thence South 01° 00' 00" West, along the East line of said subdivision; thence South 01° 00' 00" West, 317.41 feet to the point of beginning of the hereinafter described lands; thence South 88° 31' 00" East, 383.15 feet to a point; thence South 01° 00' 00" East, 157.58 feet to a point; thence North 72° 48' 00" West, 367.42 feet to a point; thence South 01° 00' 00" West, 180.00 feet to a point; thence South 43° 05' 00" West, 36.78 feet to a point; thence South 22° 00' 00" West, 190.00 feet to a point being on the deeded centerline of C.T.R. "B" (Valley Road); thence along said centerline on the following described courses; thence North 72° 48' 00" West, 71.85 feet to a point of curvature; thence 130.53 feet along the arc of a curve to the right, with a radius of 197.67 feet; whose chord bears North 53° 53' 00" West, 128.17 feet to a point of tangency; thence North 34° 58' 00" West, 41.97 feet to the terminus of said centerline; thence North 31° 14' 00" East, 311.24 feet to a point; thence North 41° 49' 00" West, 75.75 feet to a point being the southernmost corner of Lot 16, of William Jones Silver Lake Beach Subdivision; thence North 01° 00' 00" East, along the East line of said subdivision, 71.84 feet to the place of beginning. Reserving therefrom the Southernly 33.00 feet for public roadway purposes.

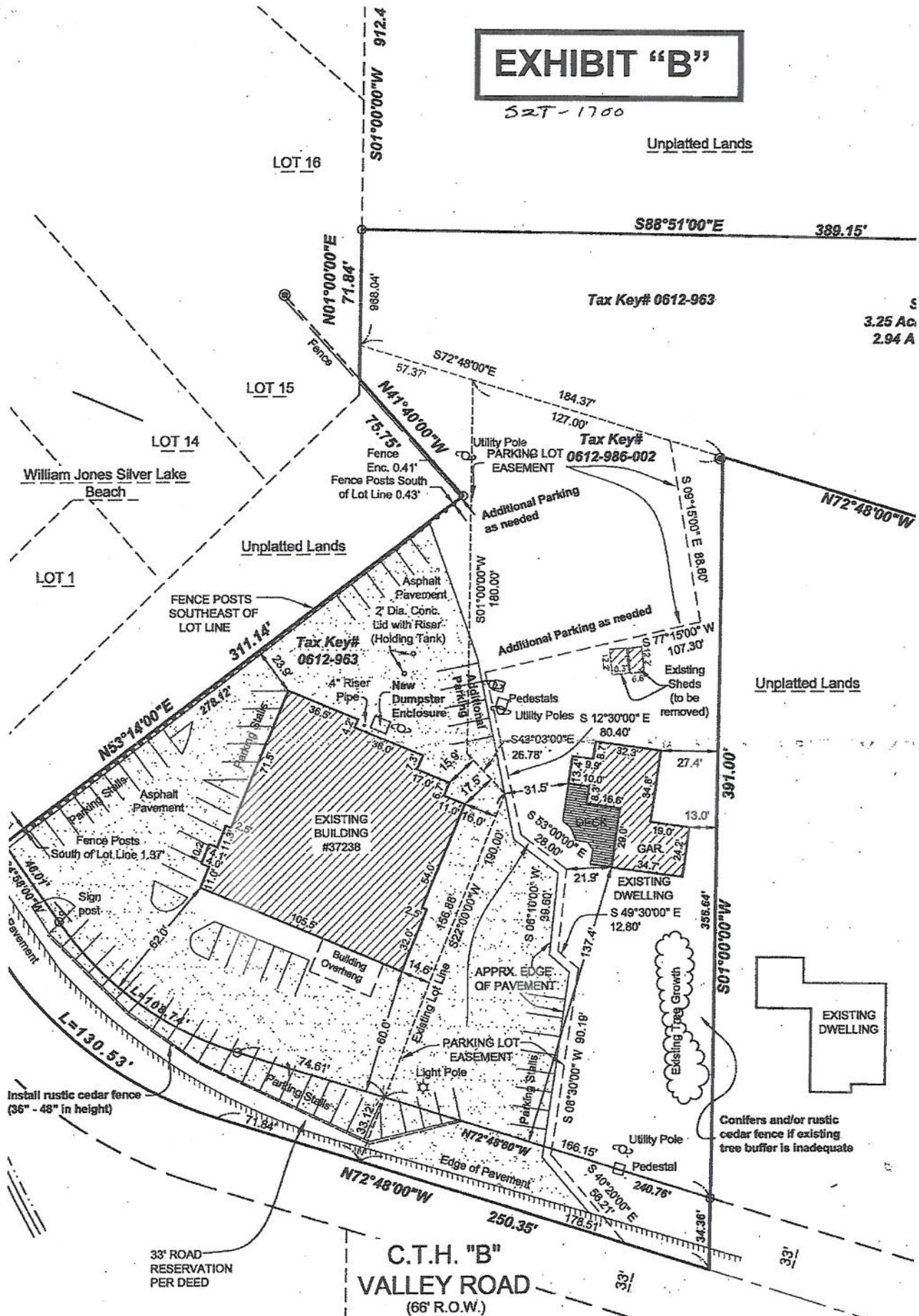
Also together with easements for the purpose of ingress and egress and further for the purpose of vehicular parking described as follows. Being a part of the Southeast One-quarter (1/4) of the Southeast One-quarter (1/4) of Section Nine (9), in Township Seven (7) North, Range Seventeen (17) East, in the Town of Summit, Waushara County, Wisconsin, more fully described as follows: Commencing at the Northeast corner of Lot 42, William Jones Silver Lake Beach Subdivision; thence South 01° 00' 00" West along the East line of said Subdivision, and the occupied 1/8th line, 968.04 feet to a point; thence South 72° 48' 00" East, 57.37 feet to the point of beginning of the hereinafter described easement; thence continuing South 72° 48' 00" East, 100.50 feet to a point; thence South 09° 15' 00" East, 38.59 feet to a point; thence South 77° 25' 00" West, 107.30 feet to a point; thence South 12° 30' 00" East, 80.40 feet to a point; thence South 33° 00' 00" East, 28.00 feet to a point; thence South 05° 10' 00" West, 34.68 feet to a point; thence South 49° 30' 00" East, 11.80 feet to a point; thence South 08° 30' 00" West, 50.12 feet to a point; thence South 40° 20' 00" East, 56.21 feet to a point being on the deeded centerline of C.T.R. "B" (Valley Road); thence North 72° 48' 00" West, along said centerline, 136.00 feet to a point; thence North 22° 00' 00" East, 190.00 feet to a point; thence North 43° 03' 00" West, 36.78 feet to a point; thence North 01° 00' 00" East, 180.00 feet to the place of beginning.

Parcel Identification No: Part of SURT 0612 394 001  
 Part of SURT 0612 386  
 Part of SURT 0612 001  
 Part of SURT 0612 385 002

Property Address: 37238 Valley Road

# EXHIBIT "B"

S2T-1700



Unplatted Lands

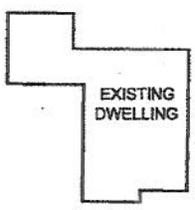
Tax Key# 0612-963

S  
3.25 Ac  
2.94 A

Tax Key# 0612-986-002

Tax Key# 0612-963

Unplatted Lands



Conifers and/or rustic cedar fence if existing tree buffer is inadequate

**C.T.H. "B"**  
**VALLEY ROAD**  
(66' R.O.W.)

NOTES:  
1) Signs will be in same location and same style as the existing "CHUCKS" signage.

164-0-107

18.

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-04/13/10

(ORD) NUMBER-1640107

1 D. FALSTAD.....AYE  
3 R. HUTTON.....AYE  
5 J. JESKEWITZ.....AYE  
7 P. HAUKOHL.....  
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 J. PLEDL.....  
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.....AYE  
24 W. KOLB.....AYE

TOTAL AYES-23

TOTAL NAYS-00

CARRIED \_\_\_\_\_

DEFEATED \_\_\_\_\_

UNANIMOUS   X  

TOTAL VOTES-23