

ENROLLED ORDINANCE 165-80

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF WAUKESHA ZONING CODE
BY REZONING CERTAIN LANDS LOCATED IN SECTION 12, T6N, R19E,
TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN,
FROM THE R-3 RESIDENTIAL AND C-1 CONSERVANCY
DISTRICTS TO THE I-1 LIMITED INDUSTRIAL AND
C-1 CONSERVANCY DISTRICTS (ZT-1708)

WHEREAS the subject matter of this Ordinance having been approved by the Waukesha Town Board on July 8, 2010, after Public Hearing, and the giving of requisite notice of said hearing, and duly referred to and considered by the Waukesha County Park and Planning Commission, and a recommendation for approval, thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.61 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Waukesha Zoning Code, adopted by the Town of Waukesha on June 24, 1979, is hereby amended to rezone from the R-3 Residential and C-1 Conservancy Districts to the I-1 Limited Industrial and C-1 Conservancy Districts, certain lands located in Section 12, T6N, R19E, Town of Waukesha, Waukesha County, Wisconsin, 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 ZT-1708 is hereby approved.

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

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.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 TOWN OF WAUKESHA ZONING CODE
BY REZONING CERTAIN LANDS LOCATED IN SECTION 12, T6N, R19E,
TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN,
FROM THE R-3 RESIDENTIAL AND C-1 CONSERVANCY
DISTRICTS TO THE I-1 LIMITED INDUSTRIAL AND
C-1 CONSERVANCY DISTRICTS (ZT-1708)

Presented by:
Land Use, Parks, and Environment Committee

Absent
Fritz Ruf, Chair

Absent
Robert Hutton

[Signature]
Michael J. Inda

[Signature]
James Jeskewitz

[Signature]
Walter L. Kolb

[Signature]
Ted Rolfs

Absent
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: 2/1/11, [Signature]
Kathy Nickolaus, County Clerk

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

Approved: X
Vetoed: _____
Date: 2-4-11, [Signature]
Daniel P. Vrakas, County Executive

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

DATE: December 9, 2010

FILE NO: ZT-1708

OWNER/PETITIONER: RBM Enterprises
W227 S2698 Racine Ave.
Waukesha, WI 53186

TAX KEY NO.: WAKT 1341.993.001 and WAKT 1342.979

LOCATION:

The properties are located in part of the NE ¼, SE ¼, SW ¼ and NW ¼ of Section 12, T6N, R19E, Town of Waukesha. More specifically, the properties are located southeast of the intersection of S.T.H. 59 and C.T.H. "Y" (Racine Avenue). The properties contain approximately 23.3 acres, of which approximately 1.5 acres is under the jurisdiction of the County Shoreland Ordinance.

PRESENT ZONING:

R-3 Residential and C-1 Conservancy Districts (Town) and C-1 Conservancy District (County).

PRESENT LAND USE:

Used auto parts dealer, auto salvage yard.

PROPOSED ZONING:

I-1 Limited Industrial and C-1 Conservancy Districts (Town) with the C-1 Conservancy District to remain unchanged (County).

PROPOSED LAND USE:

Expand auto salvage yard.

PUBLIC HEARING DATE:

July 8, 2010.

PUBLIC REACTION:

Three individuals spoke. One resident suggested a preference for a higher fence that is aesthetically pleasing. A representative for an adjacent residential development objected to the proposal. Finally, one resident spoke in support of the project and the added tax base that it would bring.

TOWN PLAN COMMISSION ACTION:

At its meeting following the public hearing on July 8, 2010, the Town of Waukesha Plan Commission recommended approval of the rezoning as a two-part approval. The original proposal included a request to rezone a third parcel, but that request has since been withdrawn.

TOWN BOARD ACTION:

At its meeting of July 8, 2010, the Town of Waukesha Board approved the request to rezone the subject 23.3 acres in accordance with the petitioner's request (See Exhibit "A"). The Town Board tabled the request to rezone a third parcel, but as noted above, the request relative to the third parcel has since been withdrawn.

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

The properties are designated on the Comprehensive Development Plan for Waukesha County and the Town of Waukesha Land Use Plan for "Commercial" use. The proposed change to Limited Industrial District follows the Development Plan recommendation to zone lands as used and brings this property into greater conformity with the land use plan, as the Limited Industrial District category allows for certain commercial uses in addition to light industrial uses. The auto parts sales and salvage yard business is a hybrid commercial/light industrial use.

OTHER CONSIDERATIONS:

The subject properties currently house the B & M Auto Sales and Parts operation, which recycles, salvages and sells auto parts and scrap material. The use is a legal non-conforming use, as salvage yards are not permitted in the Town's R-3 Residential District under the current effective code. The site includes a large building oriented towards Racine Avenue where business operations are conducted and an open storage structure, both of which are located on the west side of the site. The existing auto salvage yard is located east of these improvements and is approximately 4.78 acres in area (See Exhibit "B"). A proposed expansion would add approximately 2.4 acres to the north side of the salvage area, for a total of 7.1 acres. The outside salvage areas are currently fenced with an opaque metal fence for both security and aesthetic purposes. The expanded yard area is proposed to be fenced with similar material. A text amendment to the Town Zoning Code (ZT-1709) is being considered simultaneously to allow for salvage yards to occupy 30% of a site for outside storage, whereas the existing code allows for 20%. The proposed expansion would result in the outside storage area occupying 23.3% of the site. Salvage yards are permissible via a Conditional Use process under the current Town Zoning Code. The Conditional Use and Site Plan approval processes allow for the Town to consider specific site details relative to salvage yards prior to their approval. If the related proposed text amendment (ZT-1709) were to be defeated, the petitioner would have to decide whether to move forward with the request to expand the use. Regardless of whether an expansion is further pursued, the request to rezone the property is appropriate to consider relative to the existing salvage yard use.

The petitioner owns three adjacent properties to the west of the site that are not part of this request. The large wetland on the north side of the site buffers the proposed expansion area from nearby properties. A large property immediately north of the site is undeveloped wetlands. The closest residential areas to the expansion areas are located to the northeast of the site. Wetlands on site provide a significant natural buffer in that direction, as well, with the expanded salvage area being nearly 250' from the nearest residential lot. Vegetation in and around the wetlands provides screening of the salvage areas.

Wetlands on the site were delineated by Wetland and Waterway Consulting in 2008 and the delineation was concurred with by SEWRPC in 2009. The Primary Environmental Corridor (PEC) on the site has also been delineated, and the submitted Site Plan shows all expansion areas being situated outside of the PEC. The Town Zoning Code requires that a 30' no-disturbance buffer be maintained around all wetlands, and the submitted Site Plan provides this required buffer thus ensuring wetland protection.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved** in accordance with the Ordinance adopted by the Town of Waukesha on October 11, 2010 (See Exhibit "A").

The Planning and Zoning Division Staff believes that the proposed map amendment is appropriate, as the change will more accurately reflect the current use of the property, which is in keeping with the County Development Plan. The change brings the property into greater conformity with the plan, as the lands are currently zoned for residential use, whereas the Development Plan calls for commercial type uses. The proposal also establishes the C-1 Conservancy District boundaries in accordance with the wetland delineation accepted by SEWRPC, which affords the wetlands greater protection. Staff also feels that allowing such uses to expand in a reasonable manner may help to discourage the proliferation of such uses on various scattered sites.

Respectfully submitted,

Jason Fruth / Rab

Jason Fruth
Planning and Zoning Manager

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

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EXHIBIT "A"

STATE OF WISCONSIN

TOWN OF WAUKESHA

WAUKESHA COUNTY

**ORDINANCE REZONING PROPERTY FROM THE R-3 ZONING CLASSIFICATION TO THE I-1 and C-1 ZONING CLASSIFICATIONS
TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN**

THE TOWN BOARD OF THE TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN, DOES ORDAIN AS FOLLOWS:

SECTION 1: The following-described property is rezoned from the R-3 (Residential) zoning classification to the I-1 (Limited Industrial) and C-1 (Conservancy) zoning classifications:

See attached legal description which is appended as Exhibit A, and a map depicting the area of land rezoned, and designating those portions of the lands to be rezoned to the I-1 limited industrial zoning classification, and those portions of the land to be rezoned to the C-1 conservancy classification.

SECTION 2: All ordinances or parts of this ordinance, conflicting or contravening the provisions of this ordinance are hereby repealed.

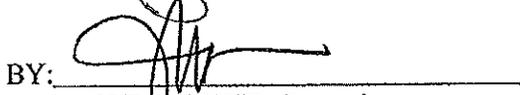
SECTION 3: This ordinance shall take effect upon passage and posting as provided by law.

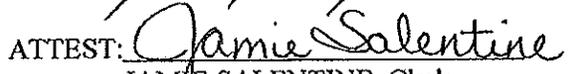
PASSED AND ADOPTED by the Town Board of the Town of Waukesha, Waukesha County, Wisconsin this 11 day of October, 2010.

TOWN BOARD, TOWN OF WAUKESHA,
WAUKESHA COUNTY, WISCONSIN

BY: 
ANGIE VAN SCYOC, Chairman

BY: 
EVERETT GERMAN Supervisor

BY: 
JOB BANSKE, Supervisor

ATTEST: 
JAMIE SALENTINE, Clerk

jwh\clients\waukesha, town\1-ordinanc\ord-rezoning from r-3 to i-1 and c-1 7-12-10 rev.doc

RECEIVED

OCT 20 2010

DEPT OF PARKS & LAND USE

165-0-081

November 8, 2010

EXHIBIT A

Survey No. 080330Z
B & M Auto

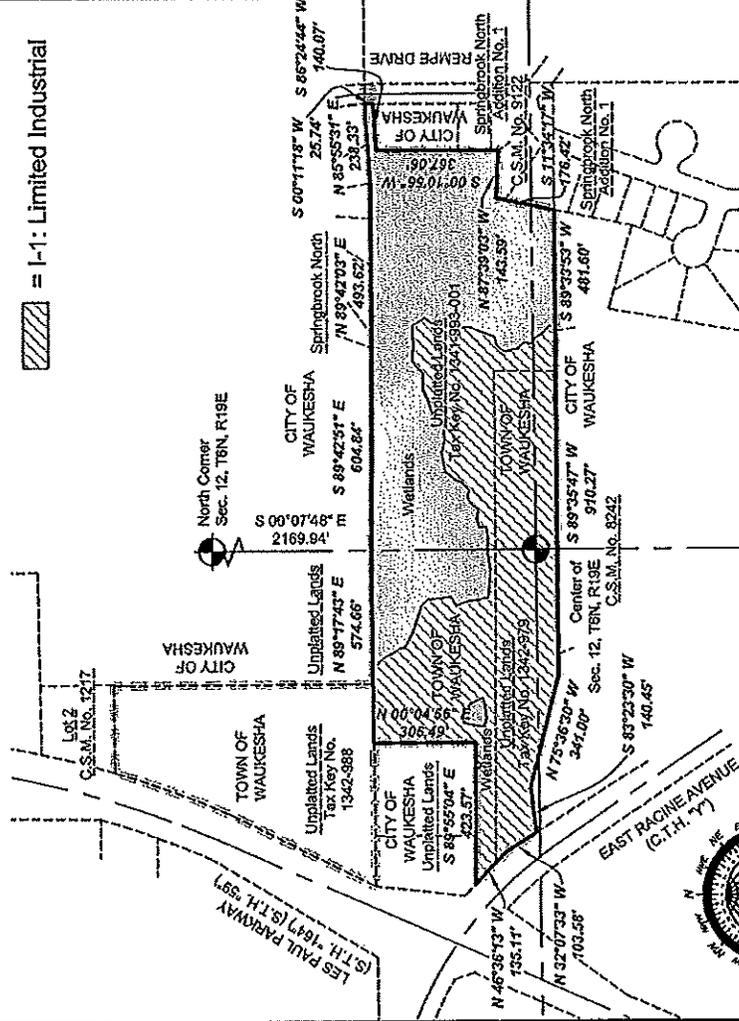
LEGAL DESCRIPTION:

That part of the Northeast 1/4, the Southwest 1/4 and the Northwest 1/4 of Section 12, Township 6 North, Range 19 East, in the Town of Waukesha, Waukesha County, Wisconsin, which is bounded and described as follows: Commencing at the North corner of said Section 12; Thence S 00°07'43" E, 2169.94 feet to the West line of the Northeast 1/4 of said Section 12 to the POINT OF BEGINNING; Thence S 89°42'51" E, 604.84 feet; Thence N 89°42'03" E, 493.62 feet; Thence N 85°55'31" E, 238.33 feet; Thence S 00°11'18" W, 25.74 feet; Thence S 86°29'44" W, 140.07 feet; Thence S 00°10'56" W, 367.08 feet; Thence N 87°39'03" W, 143.59 feet; Thence S 11°24'17" W, 176.42 feet; Thence S 86°33'53" W, 481.60 feet; Thence S 83°35'47" W, 910.27 feet; Thence N 75°36'30" W, 341.00 feet; Thence S 83°23'30" W, 140.45 feet; Thence N 82°07'33" W, 103.58 feet; Thence N 48°38'13" W, 135.11 feet; Thence S 89°55'04" E, 423.57 feet; Thence N 00°04'56" E, 306.49 feet; Thence N 89°17'43" E, 574.66 feet to the POINT OF BEGINNING.

Said lands containing 1,013,663 square feet, 23.27 acres.

ZONING

-  = C-1: Conservancy
-  = I-1: Limited Industrial



GRAPHIC SCALE
0' 200' 400' 600' 800'
1 INCH = 400 FEET

LANDCRAFT SURVEY AND ENGINEERING, INC.
REGISTERED LAND SURVEYORS AND CIVIL ENGINEERS
2077 South 116th Street, West Allis, WI 53227
PH. (414) 604-0674 FAX (414) 604-0677
INFO@LANDCRAFTSE.COM

DRAWING BY: ST

RECEIVED

NOV 18 2010

DEPT OF PARKS & LAND USE

Tax Key No. 1341-993-001:

All that part of the Northeast One-quarter (1/4), Northwest One-quarter (1/4) and the Southeast One-quarter (1/4) of Section Twelve (12), in Township Six (6) North, Range Nineteen (19) East, in the City and Town of Waukesha, County of Waukesha, State of Wisconsin, bounded and described as follows:

Commencing at the Northeast corner of said Northeast 1/4; thence South 00°11'57" West along the East line of said Northeast 1/4 1230.61 feet to the South right-of-way line of Cleveland Avenue, County Trunk Highway D; thence North 58°08'13" West along said South right-of-way line 322.00 feet to the place of beginning of the lands hereinafter described; thence continuing North 58°08'13" West along said South right-of-way line 1047.645 feet; thence Northwesterly 1577.951 feet along said south right-of-way line and along the arc of a curve of radius 2804.800 feet, center lies to the South chord of said arc bears North 74°15'14" West 1557.224 feet to the West line of said Northeast 1/4; thence South 00°07'46" East along the West line of said Northeast 1/4 2110.544 feet; thence South 89°17'43" West 574.932 feet; thence South 00°04'55" West 306.830 feet; thence North 89°55'04" West 424.550 feet to the East right-of-way line of Racine Avenue, County Trunk Highway Y; thence South 46°29'04" East along said East right-of-way line 87.270 feet; thence South 89°55'04" East 1000.780 feet; thence North 89°36'56" East 470.500 feet; thence South 00°04'56" West 185.180 feet; thence North 89°36'56" East 860.050 feet; thence North 00°08'56" East 568.309 feet; thence North 89°19'05" East 1258.204 feet to the East right-of-way line of said Northeast 1/4; thence North 00°11'57" East along the East line of said Northeast 1/4 132.789 feet to the Southeast corner of Certified Survey Map No. 5024 as recorded in Volume 41 of Certified Survey Maps on Pages 58 to 60, as Document No. 1369512; thence North 68°45'16" West along the South line of said Certified Survey Map No. 5024, 754.870 feet; thence North 31°51'47" East along the West line of said Certified Survey Map No. 5024, 820.000 feet to the place of beginning.

Excepting therefrom those lands platted as Springbrook North, Springbrook North Addition No. 1 and Certified Survey Map Nos. 7992 and 9122.

Also excepting therefrom those lands conveyed to the City of Waukesha in a Warranty Deed recorded on December 13, 1999 in Reel 3039, Image 1183, as Document No. 2525810.

Also excepting therefrom those lands in the Town of Waukesha lying East of Rempe Drive.

Per Warranty Deed by Bielinski Development, Inc.

165-0-081

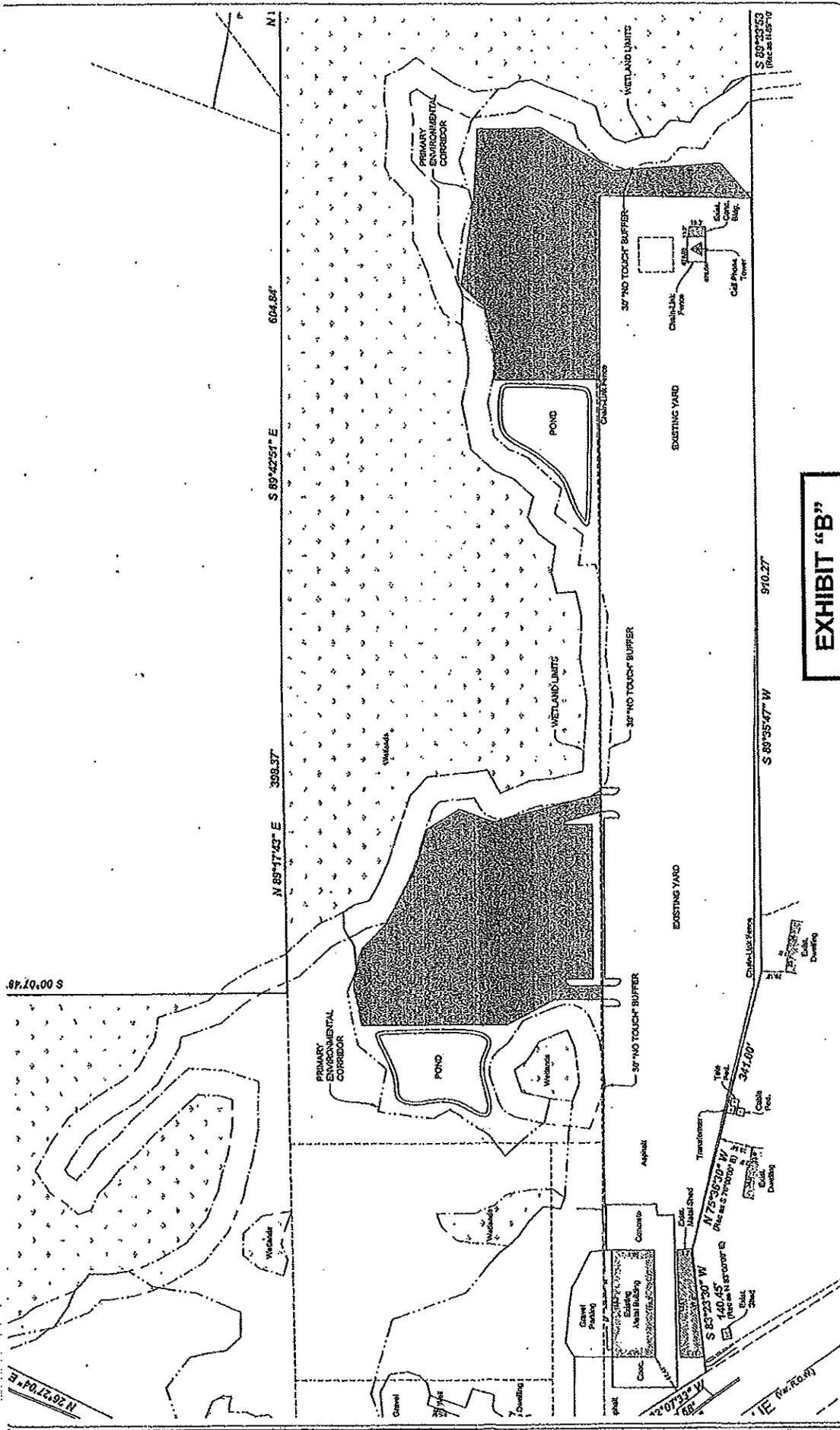
7.

Tax Key No. 1342-979:

All that part of the Northeast One-quarter (1/4) and the Southeast One-quarter (1/4) of Section Twelve (12), in Township Six (6) North, Range Nineteen (19) East, in the City and Town of Waukesha, County of Waukesha, State of Wisconsin, bounded and described as follows: Commencing at the Center of Section, South 65 feet, thence N 89°15' E, 65.8 feet to the Point of Beginning; thence N 89°15' E, 470.50 feet; thence North 185.18 feet; thence S 89°15' W, 470.50 feet; thence South 185.18 feet to the Point of Beginning. Also part of Section 12 Commencing 65 feet South of Center of Section; thence S 89°15' W, 374 feet; thence N 77°W, 341 feet; thence S 83°29' W, 222 feet; thence N 35°09' W, 76.65 feet; thence N81°18'30" E, 165 feet; thence S 36°12' E, 16.88 feet; thence S 88°21' E, 212.4 feet; thence North 67 feet; thence N 89°15' E, 640.2 feet; thence South 185.18 feet; thence S 89°15' W, 65.8 feet to the Point of Beginning. Also part of the West 1/4 Section 12 Commencing at the Center of Section South 65 feet; thence S 89°15' W, 374 feet; thence N 77° W, 341 feet; thence S83°29' W, 222 feet; thence N 35°09' W, 76.65 feet to the Point of Beginning; thence N 35°09' W, 81.45 feet; thence N 89°15' E, 431.15 feet; thence South 67 feet; thence N 88°21' W, 212.4 feet; thence N 36°12' W, 16.88 feet; thence S 81°18'30" W, 165 feet to the Point of Beginning. R1513/514.

Legal Description of Lands to be Rezoned in the Town of Waukesha per Field Survey:

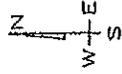
That part of the Northeast 1/4, the Southeast 1/4, the Southwest 1/4 and the Northwest 1/4 of Section 12, Township 6 North, Range 19 East, in the Town of Waukesha, Waukesha County, Wisconsin, which is bounded and described as follows: Commencing at the North corner of said Section 12; Thence S 00°07'48" E, 2169.94 feet along the West line of the Northeast 1/4 of said Section 12 to the POINT OF BEGINNING; Thence S 89°42'51" E, 604.84 feet; Thence N 89°42'03" E, 493.62 feet; Thence N 85°55'31" E, 238.33 feet; Thence S 00°11'18" W, 25.74 feet; Thence S 86°24'44" W, 140.07 feet; Thence S 00°10'56" W, 367.06 feet; Thence N 87°39'03" W, 143.59 feet; Thence S 11°34'17" W, 176.42 feet; Thence S 89°33'53" W, 481.60 feet; Thence S 89°35'47" W, 910.27 feet; Thence N 75°36'30" W, 341.00 feet; Thence S 83°23'30" W, 140.45 feet; Thence N 32°07'33" W, 103.58 feet; Thence N 46°36'13" W, 135.11 feet; Thence S 89°55'04" E, 423.57 feet; Thence N 00°04'56" E, 306.49 feet; Thence N 89°17'43" E, 574.66 feet to the POINT OF BEGINNING.
Said lands containing 1,013,663 square feet, 23.27 acres.



SITE PLAN
 D. B. AUTO
 TOWN OF WALKER, WALKER COUNTY, WISCONSIN

DESIGNED BY: ARK
 CHECKED BY: [Signature]
 APPROVED BY: [Signature]
 PROJECT NO.: 08033 - REV. DATE: MAY 14, 2010
 NOK: SCHEMATIC 1-B

EXHIBIT "B"

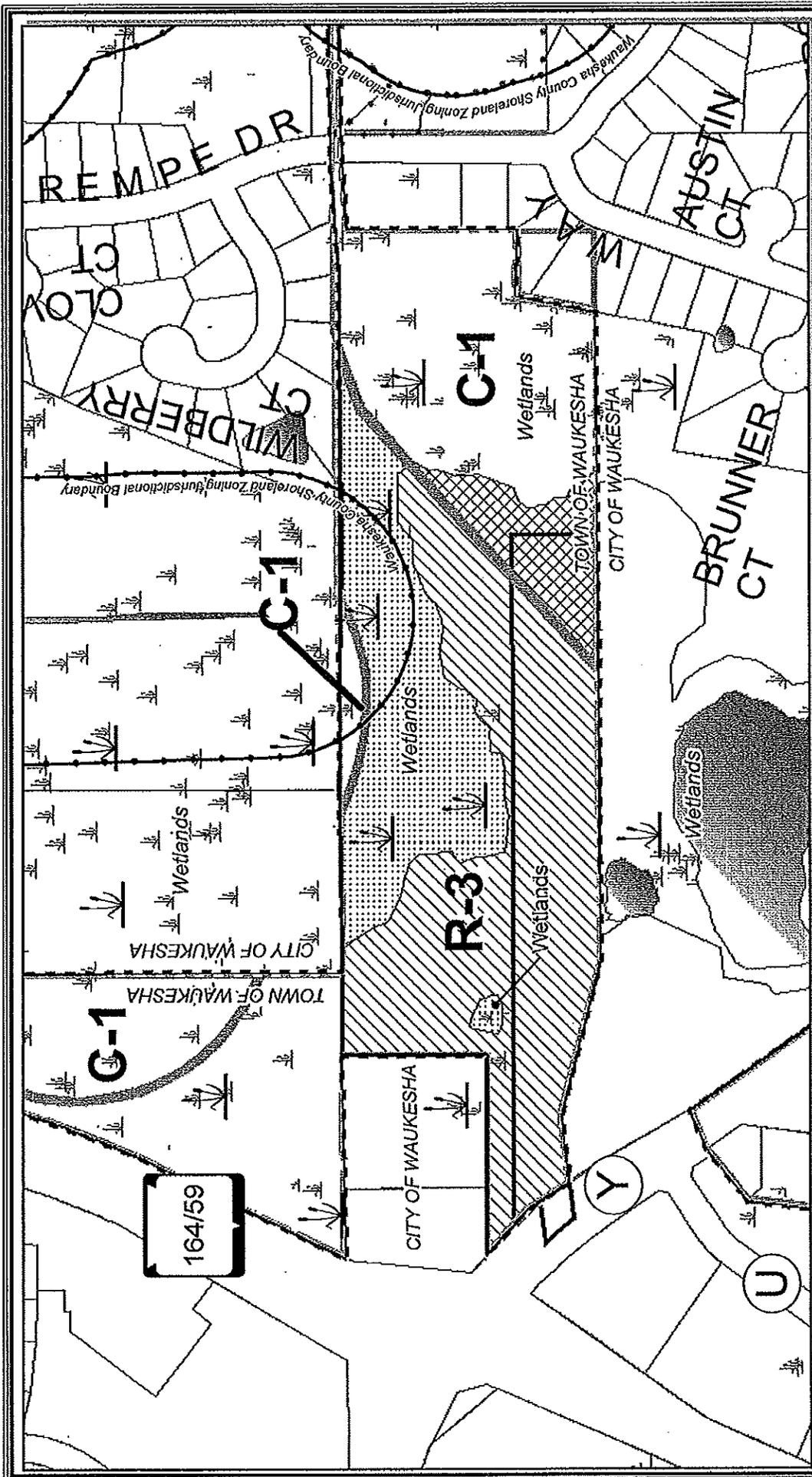


1. The owner warrants that the information presented on this plan was obtained from reliable sources and that the owner is not aware of any other information that would affect the accuracy of the information presented on this plan.

2. The owner warrants that the information presented on this plan was obtained from reliable sources and that the owner is not aware of any other information that would affect the accuracy of the information presented on this plan.

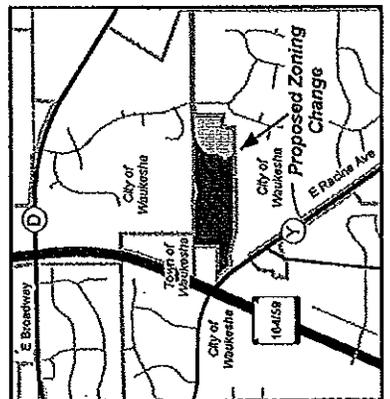
3. The owner warrants that the information presented on this plan was obtained from reliable sources and that the owner is not aware of any other information that would affect the accuracy of the information presented on this plan.

4. The owner warrants that the information presented on this plan was obtained from reliable sources and that the owner is not aware of any other information that would affect the accuracy of the information presented on this plan.



ZONING MAP AMENDMENT
 PART OF THE NE 1/4, NW 1/4, SW 1/4, & SE 1/4
 OF SECTION 12
 TOWN OF WAUKESHA

	TOWN ZONING CHANGE FROM R-3 RESIDENTIAL DISTRICT TO I-1 LIMITED INDUSTRIAL DISTRICT (10.02 ac)
	TOWN ZONING CHANGE FROM R-3 RESIDENTIAL DISTRICT TO C-1 CONSERVANCY DISTRICT (5.12 ac)
	TOWN ZONING CHANGE FROM C-1 CONSERVANCY DISTRICT TO R-3 RESIDENTIAL DISTRICT (1.65 ac)
FILE.....	ZT-1708
DATE.....	12/09/10
AREA OF CHANGE.....	16.79 ACRES
TAX KEY NUMBER.....	WAKT 1341.993.001 & WAKT 1342.979



Prepared by the Waukesha County Department of Parks and Land Use

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Waukesha Zoning Code hereby recommends **approval** of (ZT-1708 – RBM Enterprises) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

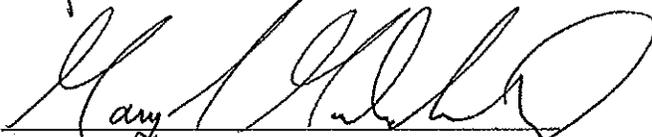
December 9, 2010



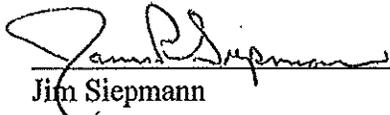
William Mitchell, Chairperson



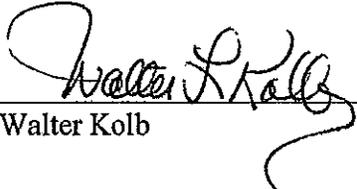
Bob Peregrine, Vice Chairperson



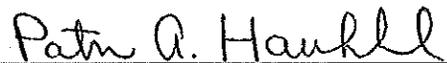
Gary Goodchild



Jim Siepmann



Walter Kolb



Pat Haukohl



Eritz Ruf

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-01/25/10

(ORD) NUMBER-1650081

1 D. FALSTAD.....AYE
3 R. HUTTON.....AYE
5 J. JESKEWITZ.....AYE
7 P. HAUKOHL.....AYE
9 J. HEINRICH.....AYE
11 F. RUF.....
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.....
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 

TOTAL VOTES-22