

ENROLLED ORDINANCE 166-71

AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF SECTION 26, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE B-2 LOCAL BUSINESS DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (CZ-1721)

WHEREAS the subject matter of this Ordinance having been duly referred to and considered by the Waukesha County Park and Planning Commission, after Public Hearing, and the giving of requisite notice of said hearing, and a recommendation for approval thereon reported to the Land Use, Parks and Environment Committee, and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Section 59.69 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Town of Oconomowoc 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 SW ¼ of Section 26, T8N, R17E, Town of Oconomowoc, from the B-2 Local Business 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 CZ-1721, subject to the following conditions:

1. The Zoning Amendment to the B-3 General Business District shall be limited to an amusement place for the operation of a laser tag business. No other B-3 General Business District uses are permitted unless the zoning is amended, following all proper procedures of the Waukesha County Zoning Code.
2. Notwithstanding the conditional rezoning of the subject property to the B-3 General Business District, the future use of the subject property shall be that of its former and continued use of a retail and tropical fish and pet store, aquarium company and video sales and rentals, and all other uses set forth in the B-2 Local Business District. No other B-3 General Business District use shall be allowed on said parcel except for laser tag, an amusement place.
3. A Site Plan/Plan of Operation Permit for the laser tag business shall be submitted, reviewed and approved by the Town Plan Commission and Waukesha County Planning and Zoning Division Staff prior to occupancy of the building.

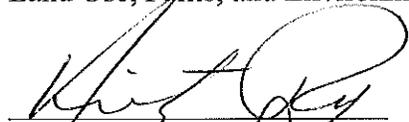
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Oconomowoc.

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

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

AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF SECTION 26, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE B-2 LOCAL BUSINESS DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (CZ-1721)

Presented by:
Land Use, Parks, and Environment Committee


Fritz Ruff, Chair


Robert Hutton


Michael J. Inda


James Jeskewitz

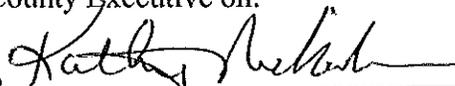

Walter L. Kolb


Ted Rolfs


Thomas J. Schellinger

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

Date: 11-23-11

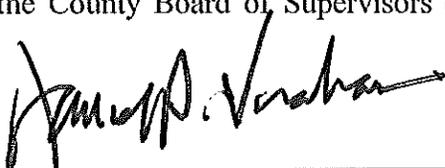

Kathy Nickolaus, County Clerk

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

Approved: X

Vetoed: _____

Date: 11-23-11


Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-11/22/11

(ORD) NUMBER-1660071

1 D. FALSTAD.....AYE
3 R. HUTTON.....
5 J. JESKEWITZ.....
7 P. HAUKOHL.....AYE
9 J. HEINRICH.....
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 D. DRAEGER.....AYE
25 G. YERKE.....AYE

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

TOTAL AYES-21

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS X

TOTAL VOTES-21

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-1721 James Chapman) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

October 20, 2011



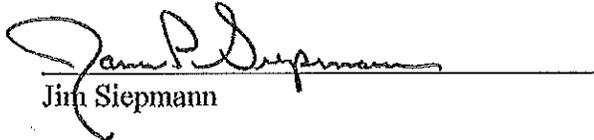
Gary Goodchild, Chairperson

Absent

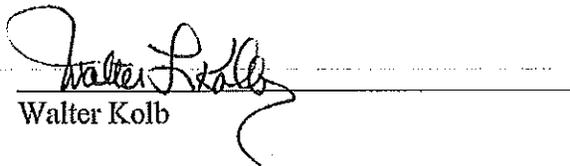
Bob Peregrine, Vice Chairperson



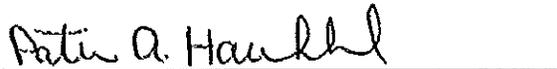
William Mitchell



Jim Siepmann



Walter Kolb



Pat Haukohl

Absent

Fritz Ruf

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

FILE NO.: CZ-1721

DATE: October 20, 2011

OWNER/PETITIONER: James Chapman
W359 N5740 Brown Street
Oconomowoc, WI 53066

TAX KEY NO.: OCOT 0535.995.004

LOCATION:

Lot 3, Certified Survey Map No. 4889, Volume 39, Page 303, located in the SW ¼ of Section 26, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at the Brown Street address cited above. The property contains approximately 77,972 sq. ft.

EXISTING ZONING:

The property is zoned B-2 Local Business District under the Waukesha County Zoning Code, requiring a minimum lot size of 30,000 sq. ft.

PROPOSED ZONING:

The owner has proposed conditionally rezoning the property to the B-3 General Business District under the Waukesha County Zoning Code, which requires a minimum lot size of 30,000 sq. ft. The conditional rezone would allow for a tactical laser tag facility with associated retail sales and video game uses, but no other B-3 uses. All B-2 uses would continue to be permitted. It should be noted at the time of application, there was a party interested in leasing the building for this use. At this time, however, the parties have not been able to agree on lease terms, so there is not a pending proposed operation at this point. The owner of the property wishes to proceed with the request.

COMPLIANCE WITH THE TOWN OF OCONOMOWOC COMPREHENSIVE DEVELOPMENT PLAN AND THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:

The property is designated as Commercial on both the Comprehensive Development Plan for Waukesha County and the Town of Oconomowoc Comprehensive Development Plan. Therefore, the proposed use complies with both plans.

PUBLIC HEARING DATE:

August 29, 2011.

PUBLIC REACTION:

None.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On September 6, 2011, the Town of Oconomowoc Plan Commission voted to recommend approval of the zoning change to the Town Board, subject to the conditions contained in the Town Planner's Report dated September 1, 2011 (attached Exhibit "A"). On September 19, 2011, the Town Board adopted a resolution (Resolution No. 2011-17) recommending approval of the rezone, subject to conditions. The resolution is attached as Exhibit "B".

EXISTING LAND USES:

The L-shaped property contains a 22,000 square foot multi-tenant warehouse/retail and office building, which is largely vacant and has been for the past three (3) years (see attached Exhibits "C" and "D"). The property is served with a 30' wide common driveway easement from C.T.H. "P", and has a private onsite waste treatment system and a well. Previously, Aquatic World Discount Pet Center occupied approximately 18,600 sq. ft. There are two remaining businesses in the building, Ocean Dreams and Vanguard Video II. Ocean Dreams is an acrylic aquarium product design, sales and consulting business which also sells tropical fish and pets and occupies approximately 2,632 sq. ft. of the building, according to the most recent approval for this business in 2007. Vanguard Video II has been a longtime tenant and currently occupies 1,160 sq. ft. of the building, according to its most recent approval in 2006. Aquatic World, Inc. had been operating from this building since 1996. The business was sold in 2004 resulting in receivership to James Chapman in 2006. After three months, the business was sold to Mike Bukosky, who operated under the name "Aquatic World Discount Pet Center", which went out of business in 2008. The interior of the structure was remodeled in 2009 to create two (2) larger tenant spaces (approximately 10,000 and 6,300 sq. ft.) and four (4) smaller units. A loading dock is located on the northeast corner of the building. There is an identification sign located along C.T.H. "P".

PROPOSAL AND STAFF ANALYSIS:

The proposed use is for a laser tag facility with associated retail sales and video games. The building currently contains two businesses that will remain, Vanguard Video and Ocean Dreams. The Town and the County have determined that the proposed use fits under the B-3 category of "*theaters, dance halls, arcades, video game parlors, and other amusement places*". In general, laser tag is an organized group activity that requires a large open space. It is a team or individual sport or recreational activity where players attempt to score points by "tagging" targets, typically with a hand-held infrared-emitting targeting device. Infrared-sensitive targets are commonly worn by each player and are sometimes integrated within the arena in which the game is played. Laser tag can consist of both indoor and outdoor styles of play, although in this case, the use will be located entirely indoors. The use sometimes also includes simulations of combat, role play-style games, or competitive sporting events including tactical configurations and precise game goals. Laser tag is popular with a wide range of ages. When compared to paintball, laser tag is painless because it uses no physical projectiles, and the indoor version of the game may be considered less physically demanding because most indoor venues prohibit running or roughhousing. It should be noted that we do not have any details on an actual proposed laser tag business, as there is not a proposed laser tag business at this time.

For retail establishments and clubs, the Waukesha County Zoning Code requires seven parking spaces per 1,000 sq. ft. of primary floor area devoted to the primary use of the building. However, a variance granted in 1996 provided relief from this requirement and 38 stalls were approved at that time. The exact square footage to be devoted to the proposed use is not available at this time, but based on the size of the building, adequate parking would need to be analyzed further. The submitted Site Plan also indicates space for at least five (5) additional

tenants. The 2006 and 2007 permits indicated that the property has 29 paved parking spaces to the west of the building and 10 additional parking spaces on the north side of the building.

It should be noted that the number of available parking spaces is currently in question because the parking lot was recently expanded without permits. This issue was raised at the September 6, 2011, Town Plan Commission meeting by some adjoining property owners. A nearby landowner indicated that the parking lot was currently undergoing a significant expansion and was concerned about possible drainage issues and that the parking lot was possibly expanded over the existing septic system. Another nearby landowner questioned whether a septic system can be under a parking lot and expressed concerns about police issues at the building for the proposed use. The landowner is currently working to obtain the proper permits for the parking lot expansion before continuing with any further work.

The subject property is bordered by other B-2 zoned properties to the north and abuts residential properties to the south and east. The range of business uses permitted in the B-2 zone do not differ drastically from the proposed laser tag use. Given the surrounding residential uses, the Town did not wish to allow additional, more intensive B-3 uses in this area.

STAFF RECOMMENDATION:

Based upon the above information, the Planning and Zoning Division Staff recommends approval of the petitioner's request subject to the following conditions, which include the Town of Oconomowoc's conditions with amendments (in bold):

1. The Zoning Amendment to the B-3 General Business District shall be limited to an amusement place for the operation of a laser tag business. No other B-3 General Business District uses are permitted unless the zoning is amended, following all proper procedures of the Waukesha County Zoning Code.
2. Notwithstanding the conditional rezoning of the subject property to the B-3 General Business District, the future use of the subject property shall be that of its former and continued use of a retail and tropical fish and pet store, aquarium company and video sales and rentals, and all other uses set forth in the B-2 Local Business District. No other B-3 General Business District use shall be allowed on said parcel except for laser tag, an amusement place.
3. A Site Plan/Plan of Operation Permit for the laser tag business shall be submitted, reviewed and approved by the Town Plan Commission and Waukesha County Planning and Zoning Division Staff prior to occupancy of the building.

With a conditional rezoning of the property, the issue of spot zoning is avoided, as any other proposed use of the building would require the property to revert to the B-2 Local Business District. To ensure that the proposed laser tag use is compatible with the surrounding land uses and that the proposed use and its attendant parking, lighting, signage and related needs do not adversely affect the surrounding land uses, the Town of Oconomowoc Plan Commission and the Waukesha County Planning and Zoning Division Staff are required to review and approve a Site Plan and Plan of Operation for the proposed use. Any concerns related to these issues can be further addressed in those reviews.

Respectfully submitted,

Handwritten signature of Sheri Lieftring in cursive script.

Sheri Lieftring
Senior Land Use Specialist

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

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

PROJECT NAME: Chapman – Zoning Amendment

TAX KEY NUMBER: OCOT 0535.995.004

DATE: September 1, 2011

NAME OF OWNER: James Chapman
W359 N5740 Brown Street
Oconomowoc, WI 53066

RECEIVED
SEP 08 2011
DEPT OF PARKS & LAND USE

LOCATION OF PROPERTY:
Lot 3 of Certified Survey Map No. 4889, being a part of the SW ¼ of the SW ¼ of Section 26, T8N, R17E, in the Town of Oconomowoc.

PRESENT ZONING:
B-2 Local Business District.

PROPOSED ZONING:
B-3 General Business District.

PRESENT LAND USE:
Multi-Tenant Building.

PROPOSED LAND USE:
Laser Tag (Amusement Facility).

PUBLIC HEARING DATE:
August 26, 2011.

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

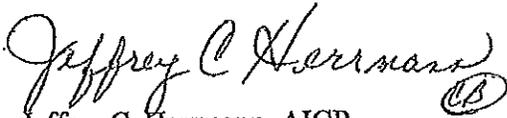
PROPOSED REQUEST:
On August 26, 2011, the Town of Oconomowoc and Waukesha County conducted a joint public hearing to discuss a zoning amendment request of James Chapman to rezone his property located at W359 N5740 Brown Street from B-2 Local Business District to B-3 General Business District. During the public hearing the petitioners requested the zoning be amended to allow an amusement place for the operation of a laser tag facility. This use is not allowed in the B-2 Local Business District, but is allowed in the B-3 General Business District. This is the only use proposed in the B-3 Zoning District.

PLANNER'S RECOMMENDATION:

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

1. The Zoning Amendment to the B-3 General Business District shall be limited to an amusement place for the operation of a laser tag business or similar operation only. No other B-3 General Business District uses are allowed unless the zoning is amended, following all proper procedures of the Waukesha County Zoning Code, to allow said use.
2. A Site Plan and Plan of Operation shall be submitted for the proposed Laser Tag business prior to the issuance of an occupancy permit.

Respectfully submitted,



Jeffrey C. Herrmann, AICP
Town Administrator/Planner

cc: Town of Oconomowoc Clerk
Town of Oconomowoc Building Inspector
Waukesha County Department of Parks and Land Use
James Chapman

2

RESOLUTION NO. 2011-17RESOLUTION RECOMMENDING APPROVAL OF REZONING
(JAMES CHAPMAN PROPERTY)

WHEREAS, James Chapman petitioned to rezone property owned by him located at W359 N5740 Brown Street, Tax Key No. OCOT 0535.995.004, from B-2 Local Business District to conditional B-3 General District; and

WHEREAS, the purpose of the rezoning is to allow the improvements on the parcel to be used for laser tag, an amusement place; and

WHEREAS, on August 29, 2011, a joint public hearing was held with the Waukesha County Department of Parks and Land Use to consider amending the zoning map to place the above referred to parcel in the B-3 General Business District conditionally for the operation of laser tag, an amusement place; and

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

WHEREAS, after hearing the petitioner's presentation and comments by all interested persons, the Plan Commission, at a Plan Commission meeting held on September 6, 2011, and after review of the Town Planner's report dated September 1, 2011, recommended rezoning to conditional B-3 General Business District, subject to the conditions set forth in the Planner's Report which is attached hereto and incorporated herein by reference; and

WHEREAS, the Town Planner and the Town Plan Commission recommend the aforementioned rezoning, subject to the limited use of laser tag and appropriate conditions set forth in the required site plan and plan of operation and conditions that might be imposed by Waukesha County.

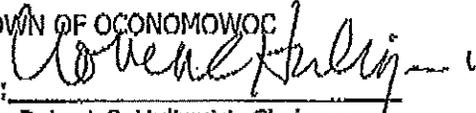
NOW THEREFORE, BE IT HEREBY RESOLVED that for the reasons set forth in the recital paragraphs of this resolution and in the Town Planner's report, the Town Board of the Town of Oconomowoc does hereby recommend that Waukesha County rezone the parcel with Tax Key No. OCOT 0535.995.004 located at W359 N5740 Brown Street from B-2 Local Business District to conditional B-3 General Business District for the purpose of allowing laser tag, an amusement place.

BE IT FURTHER RESOLVED that notwithstanding the conditional rezoning of the subject property to B-3 General Business District, the future use of the subject property shall be that of its former and continued use of a retail tropical fish and pet store and video sales and rentals, and all other uses set forth as permitted uses in the B-2 Local Business; however, no other B-3 General Business District use shall be allowed on said parcel except for laser tag, an amusement place.

BE IT FURTHER RESOLVED that this recommendation is for a conditional rezoning which shall not take effect unless and until the site plan and plan of operation has been approved by the Town Plan Commission and the Waukesha County Department of Parks and Land Use.

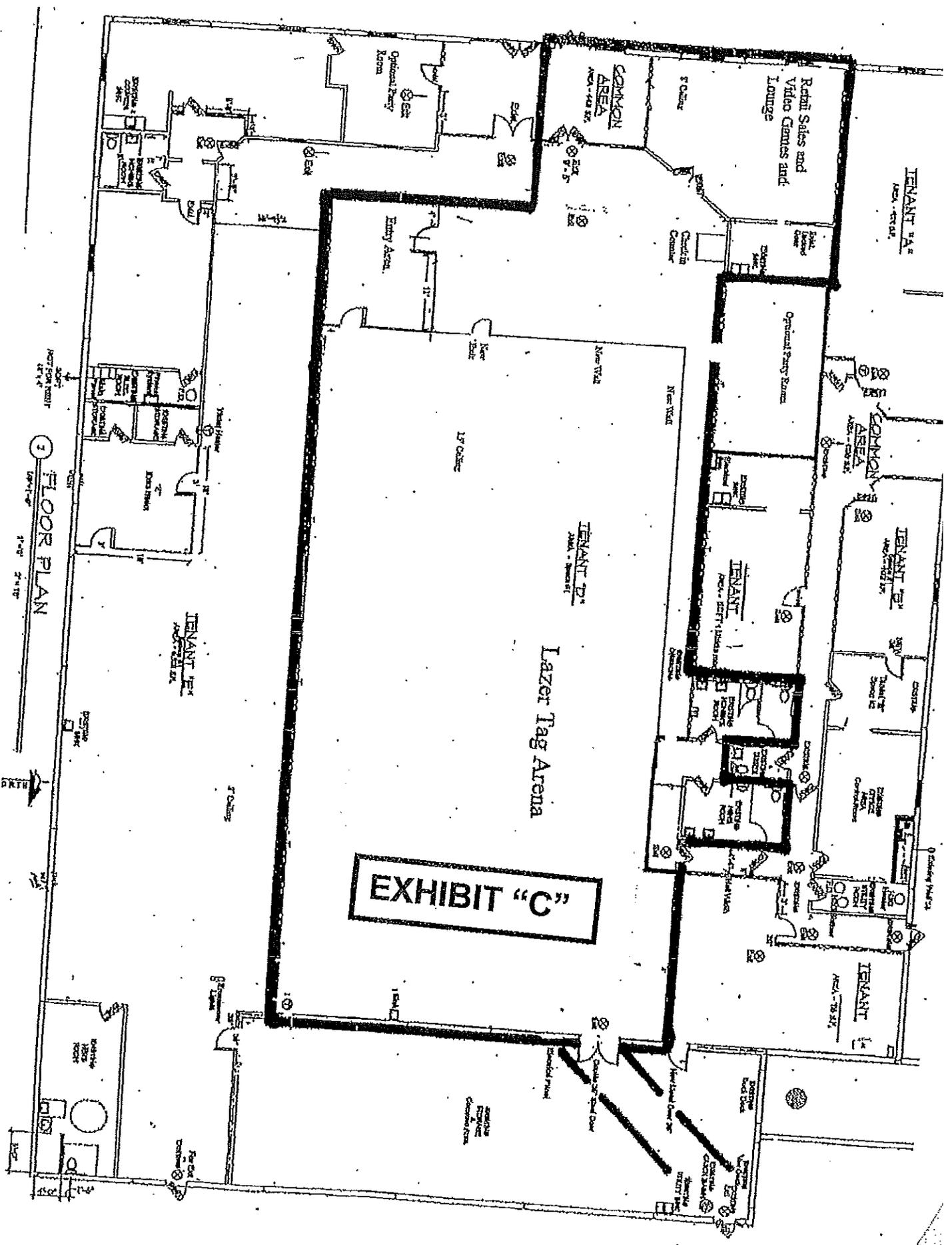
BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Waukesha County Department of Parks and Land Use for presentation to appropriate county committees, and ultimately the County Board.

DATED: September 19, 2011

TOWN OF OCONOMOWOC
By: 
Robert C. Hultquist, Chairman

ATTEST:

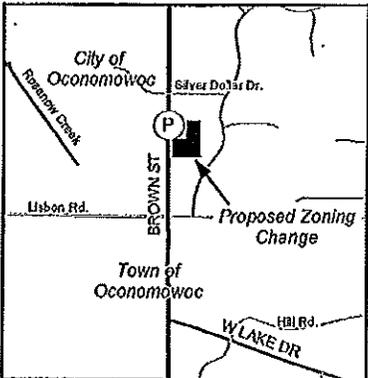
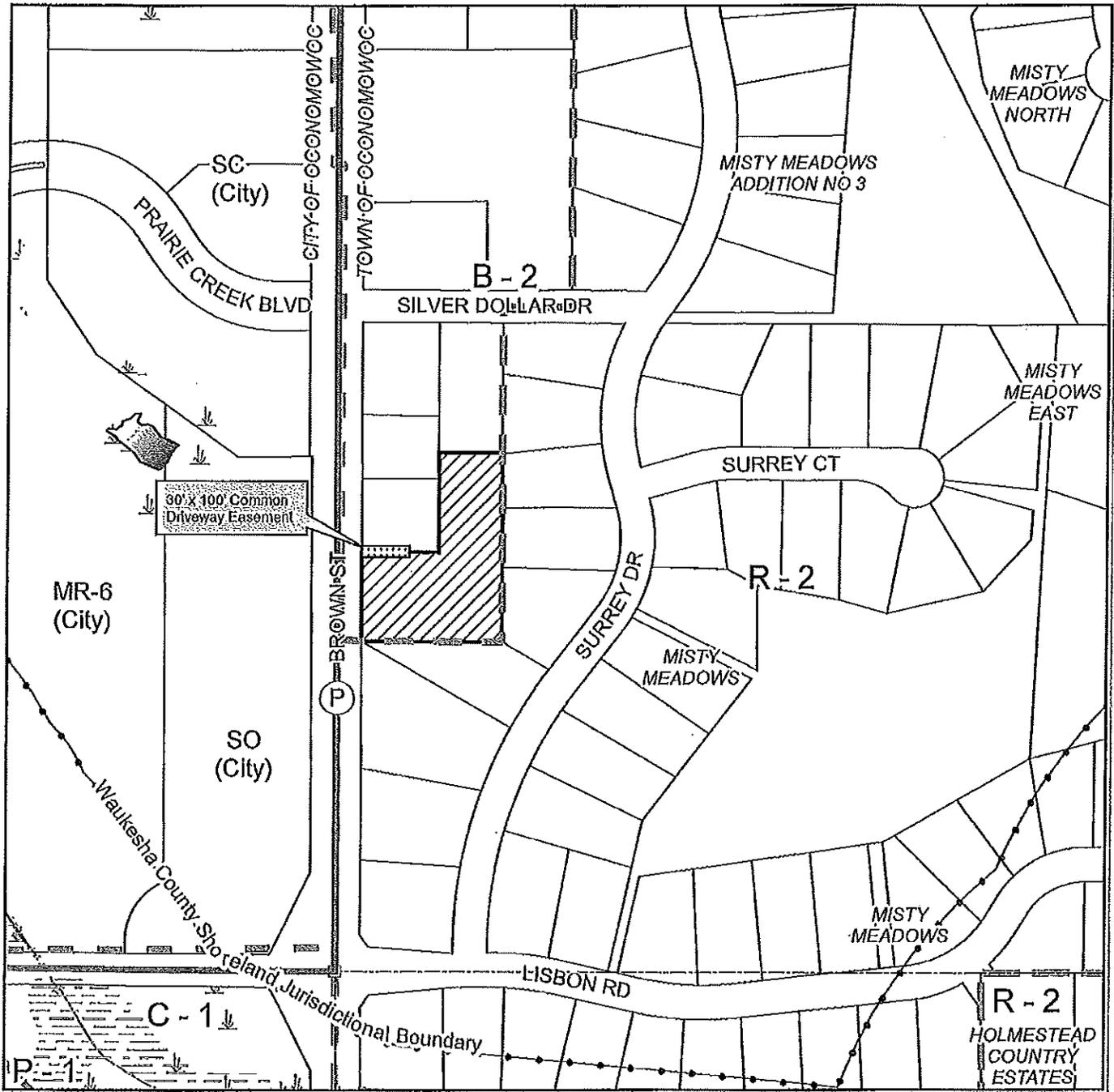
JoAnn Lesser, Clerk



3 FLOOR PLAN
1-00 2-4 10'

ZONING MAP AMENDMENT

PART OF THE SW 1/4 OF SECTION 26
TOWN OF OCONOMOWOC



CONDITIONAL COUNTY ZONING CHANGE FROM B-2 LOCAL BUSINESS DISTRICT TO B-3 GENERAL BUSINESS DISTRICT (1.79 AC)

FILE.....CZ-1721

DATE.....10/20/11

AREA OF CHANGE.....1.79 ACRES

TAX KEY NUMBER.....OCOT 0535.995.004



1 Inch = 300 feet

