

ENROLLED ORDINANCE 169-4

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MERTON ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ AND NE ¼ OF SECTION 35, T8N, R18E, TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN, FROM THE R-2 RESIDENTIAL AND C-1 CONSERVANCY DISTRICTS TO THE B-2 LOCAL BUSINESS DISTRICT (ZT-1780)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Merton Town Board on March 10, 2014, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.61, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Merton Zoning Code, adopted by the Town of Merton on October 23, 2007, is hereby amended to rezone from the R-2 Residential and C-1 Conservancy Districts to the B-2 Local Business District, certain lands located in part of the NW ¼ and NE ¼ of Section 35, T8N, R18E, Town of Merton, 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-1780, is hereby approved.

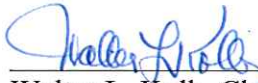
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Merton.

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

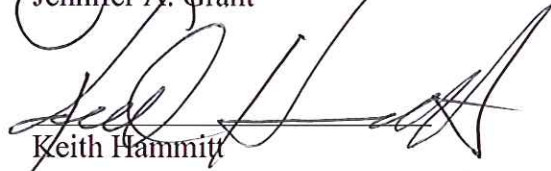
AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MERTON ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ AND NE ¼ OF SECTION 35, T8N, R18E, TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN, FROM THE R-2 RESIDENTIAL AND C-1 CONSERVANCY DISTRICTS TO THE B-2 LOCAL BUSINESS DISTRICT (ZT-1780)

Presented by:
Land Use, Parks, and Environment Committee

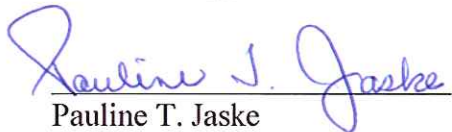

Walter L. Kolb, Chair


Jim Batzko


Jennifer A. Grant


Keith Hammit


Eric Highum

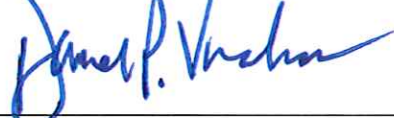

Pauline T. Jaske


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: 5/27/2014, 
Kathleen Novack, County Clerk

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

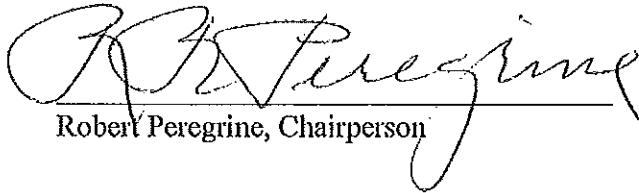
Approved: X
Vetoed: _____
Date: 6-2-14, 
Daniel P. Vrakas, County Executive

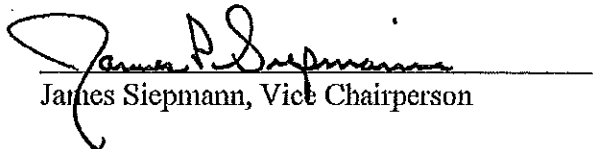
COMMISSION ACTION

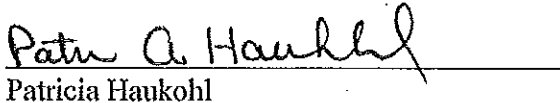
The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Town of Merton Zoning Code, hereby recommends approval of ZT-1780 (Town of Merton Board/James H. Harmann/Mid-City Properties) in accordance with the attached "Staff Report and Recommendation".

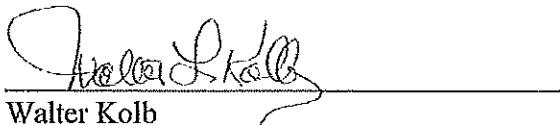
PARK AND PLANNING COMMISSION

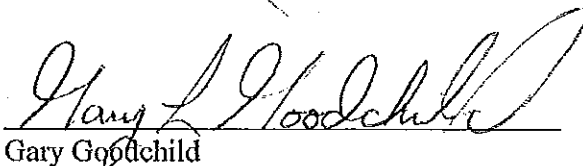
April 17, 2014

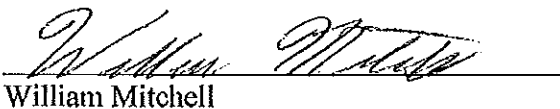

Robert Peregrine, Chairperson

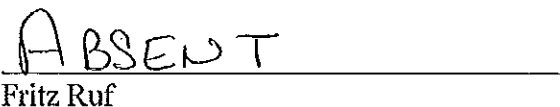

James Siepmann, Vice Chairperson


Patricia Haukohl


Walter Kolb


Gary Goodchild


William Mitchell


Fritz Ruf

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

DATE: April 17, 2014

FILE NO.: ZT-1780

TAX KEY NOS.: MRTT 0425.983 and MRTT 0425.989

PETITIONER: Town of Merton Board
W314 N7624 S.T.H. 83
North Lake, WI 53064-0128

OWNERS: James H. Harmann
W320 N9189 S.T.H. 83
Hartland, WI 53029

Mid-City Properties, LLC
N68 W34240 C.T.H. "K"
Oconomowoc, WI 53066

LOCATION:

Part of the NW ¼ and the NE ¼ of Section 35, T8N, R18E, Town of Merton. More specifically the properties are located at N55 W29519 C.T.H. "K" and N55 W29151 C.T.H. "K", to the west of the intersection of C.T.H. "KC" (Merton Avenue) and C.T.H. "K" (Lisbon Road).

PRESENT ZONING CLASSIFICATION:

R-2 Residential, B-2 Local Business and C-1 Conservancy Districts.

PRESENT LAND USE:

Landscape contractor yard (west parcel), commercial (east parcel).

PROPOSED ZONING:

B-2 Local Business District (Town). County shoreland zoning designation of B-2 to remain unchanged.

PROPOSED LAND USE:

Continuation of commercial uses on both parcels with anticipated future abandonment of the contractor's yard and possible expansion of Mid-City Sports business to both parcels.

PUBLIC HEARING DATE:

March 5, 2014.

PUBLIC REACTION:

None.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On March 5, 2014, the Town Plan Commission recommended approval of the request. On March 10, 2014, the Town Board approved the rezoning request.

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF MERTON LAND USE PLAN:

The properties were the subject of a 2014 Town and County land use plan amendment. A change to the County plan designation of Commercial and Office Park was approved on April 8, 2014. The proposed rezoning to a commercial zoning category would be consistent with the Commercial and Office Park plan designation.

OTHER CONSIDERATIONS:

The subject rezone involves two adjacent parcels (3 acres and 0.72 acres, respectively) that are located at a commercial node just west of Merton Avenue (C.T.H. "KC") and south of Lisbon Road (C.T.H. "K"). There is a gas station to the east, the Village of Hartland Park to the west and residential uses to the south/southeast. The easterly parcel is currently occupied by a sports apparel and sports equipment business, while the westerly parcel houses a landscape contractor.

The Town and County land use plans had split the designation of these properties (commercial on the north side/residential south) until recently when the plan designation was amended to place the properties entirely within the Commercial and Office Park category. The Town zoning map currently shows a large area of the properties zoned C-1 Conservancy District.

However, the Town's zoning map is not reflective of the most current wetland and floodplain inventories and is out of date relative to the subject property. The Town has requested that Waukesha County Planning and Zoning Division Staff prepare a comprehensive update to the Town zoning map to update natural resource boundaries townwide and that update process is already underway. The proposal is to rezone the C-1 lands that are erroneously mapped and the R-2 lands in the southeast corner of the properties to the B-2 Local Business District to match the B-2 zoning that already applies to the north part of the site (see map).

The Town has indicated that Mid-City Sports apparel/equipment business would like to expand its operations to the west parcel in the future. The landscaping contractor that occupies the west parcel plans to get out of that business within the next several years and the subject request would allow for the future Mid-City Sports business expansion to occur.

Both parcels abut a number of residential properties that are located to the east along Merton Avenue, and Staff believes that is the reason that the Development Plan had split the land use plan and zoning designations such that the south acreage was planned and zoned residential. However, actual use of the subject site has been commercial for many years. The owners of the west property noted at the public hearing for the related plan amendment that their site is considerably lower in elevation than the residential properties to the east. Topographic mapping indicates that the contractor's building is approximately 15' lower than the adjacent yards to the east. Consideration of neighboring residential properties will need to be given in analyzing any future business expansion plans that might materialize as part of future Site Plan requests.

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends **approval** of the rezoning request. A commercial zoning designation will recognize the existing commercial use of the west property and will allow for a possible future expansion of the business on the east property. The zoning change will also appropriately remove the C-1 designation from the lands as there are no mapped wetlands or floodplain areas on the property, pursuant to the most current natural resource inventories.

Respectfully submitted,

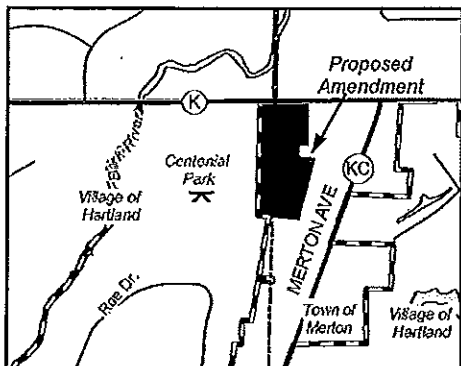
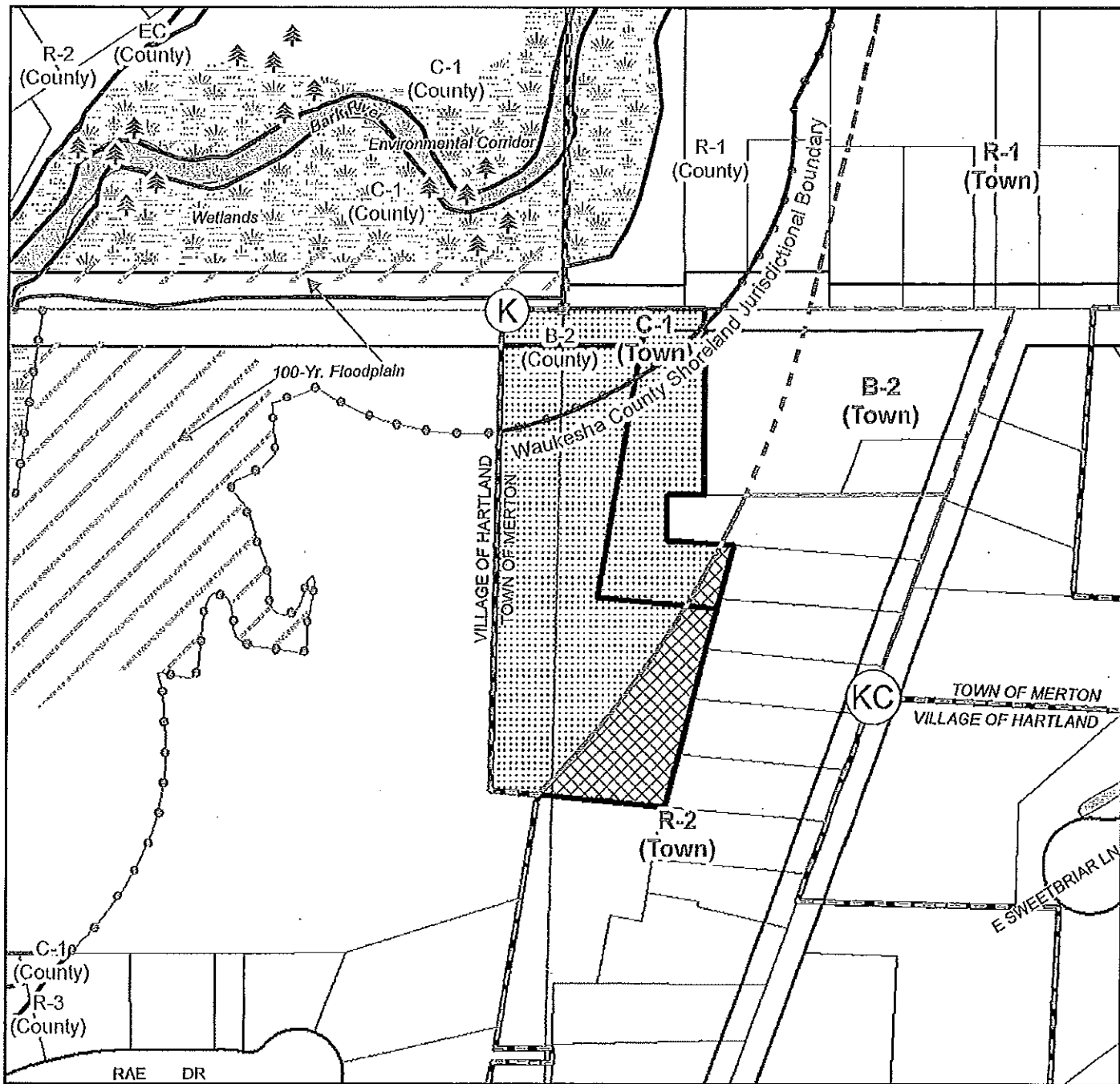
Jason Fruth



Jason Fruth
Planning and Zoning Manager

Attachments: Map, Town Ordinance

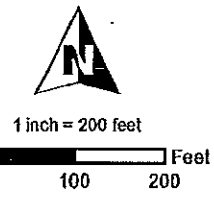
ZONING AMENDMENT

PART OF THE NW 1/4 & NE 1/4 OF SECTION 35
TOWN OF MERTON



-  TOWN ZONING CHANGE FROM R-2 RESIDENTIAL DISTRICT TO B-2 LOCAL BUSINESS DISTRICT (0.68 ac)
-  TOWN ZONING CHANGE FROM C-1 CONSERVANCY DISTRICT TO B-2 LOCAL BUSINESS DISTRICT (3.54 ac)

PETITIONER.....Mid City Properties/James Harmann
 FILE.....ZT-1780
 DATE OF PLAN COMM. CONSIDERATION.....04/17/14
 AREA OF CHANGE.....4.22 ACRES
 TAX KEY NUMBERS.....MRTT 0425.983 & MRTT 0425.989



Prepared by the Waukesha County Department of Parks and Land Use

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE BOUNDARIES OF THE B-2 LOCAL
BUSINESS DISTRICT AS SHOWN ON THE DISTRICT MAP, TOWN OF
MERTON WAUKESHA COUNTY, WISCONSIN
(JAMES H. HARMANN AND MID-CITY PROPERTIES, LLC, PROPERTY)

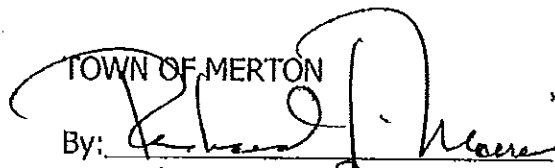
The Town Board of Supervisors of the Town of Merton, Waukesha County,
Wisconsin, do ordain as follows:

SECTION 1. The District Zoning Map of the Town of Merton, Wisconsin, dated
April 9, 1974, as revised, and notations and references thereon, is hereby amended to
transfer the following described lands from R-2 Residential District, B-2 Local Business
District, and C-1 Conservancy District to B-2 Local Business District:

SEE ATTACHED PROPERTY DESCRIPTION

SECTION 2. EFFECTIVE DATE. This ordinance shall take effect upon passage,
posting and publication as required by law, and the final effective date being the date
of Waukesha County Board approval.

DATED: March 10, 2014

TOWN OF MERTON
By: 
Richard Morris, Chairman

ATTEST:


Susan J. Oman, Clerk

Date Adopted: 3-10-14
Date Published: 3-20-14
Effective Date: 3-20-14

EXHIBIT A - MID-CITY PROPERTY

PLAT OF SURVEY



PARCEL A

All that part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 35, Town 8 North, Range 18 East, in the Town of Norton, Waukesha County, Wisconsin, being more particularly described as follows: Commencing at the Northwest corner of said Northeast Quarter (NE 1/4); thence North 87°06'17" East along the north line of said Northeast Quarter (NE 1/4) 118.70 feet to the place of beginning of Parcel A; thence continuing North 87°06'17" East along the north line of said Northeast Quarter (NE 1/4) 27.80 feet; thence South 02°53'43" East 258.60 feet; thence continuing South 02°53'43" East 60.00 feet; thence South 88°03'43" East 91.25 feet; thence South 11°52'17" West 83.60 feet; thence North 87°28'43" West 188.75 feet; thence North 07°01'17" East 384.74 feet to the place of beginning. Containing 31,406 square feet or 0.72026 acres of land.

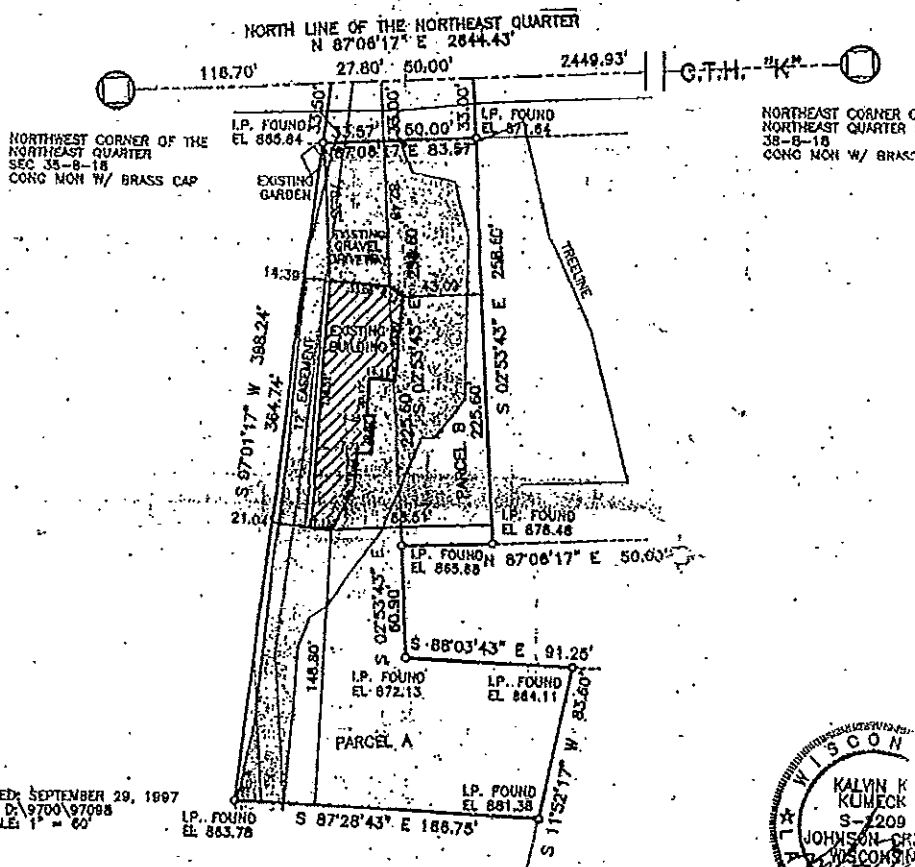
Reserving, however, to the grantor, so long as Grantors own adjacent property, the right to use a right-of-way over the following described premises:

Commencing at the Northwest corner of said Northeast Quarter (NE 1/4); thence North 87°06'17" East along the north line of said Northeast Quarter (NE 1/4) 118.70 feet to the place of beginning of Easement and Parcel A; thence continuing North 87°06'17" East along the north line of said Northeast Quarter (NE 1/4) 12.18 feet; thence North 07°01'17" West 319.75 feet; thence South 03°43'43" East 79.57 feet; thence North 87°28'43" West 12.07 feet; thence North 03°43'43" West 79.68 feet; thence North 07°01'17" East 318.78 feet to the place of beginning.

PARCEL B

All that part of the Northwest Quarter (NW 1/4) of the Northeast Quarter (NE 1/4) of Section 35, Town 8 North, Range 18 East, in the Town of Norton, Waukesha County, Wisconsin, being more particularly described as follows: Commencing at the Northwest corner of said Northeast Quarter (NE 1/4); thence North 87°06'17" East along the north line of said Northeast Quarter (NE 1/4) 144.50 feet to the place of beginning of Parcel B; thence continuing North 87°06'17" East along the north line of said Northeast Quarter (NE 1/4) 50.00 feet; thence South 02°53'43" East 225.60 feet; thence South 07°06'17" West 50.00 feet; thence North 02°53'43" West Containing 12,930 square feet or 0.29883 acres of land.

REFERENCE BEARING: THE NORTH LINE OF NORTHEAST QUARTER (NE 1/4) OF SECTION 35, TOWN 8 NORTH, RANGE 18, EAST WAS USED AS THE REFERENCE BEARING AND HAS AN ASSUMED BEARING OF NORTH 07°06'17" EAST (WISCONSIN STATE PLANE COORDINATE SYSTEM GRID - SOUTH ZONE).

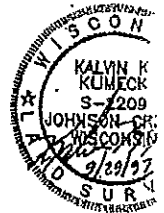


PLAN DATED: SEPTEMBER 29, 1997
 FILE NO.: D-9700/97088
 PLAN SCALE: 1" = 60'

STATE OF WISCONSIN }
 COUNTY OF JEFFERSON } SS.

WE, PIONEER ENGINEERING & SURVEYING, DO HEREBY CERTIFY THAT WE HAVE MADE THIS SURVEY AND THAT THE INFORMATION AS SHOWN ON THE ABOVE PLAT OF SURVEY IS TRUE AND CORRECT REPRESENTATION THEREOF.

PIONEER ENGINEERING AND SURVEYING
 CONSULTANTS IN SUBDIVISIONS AND COMMERCIAL DEVELOPMENTS
 3902 G.T.H. "B"
 WISCONSIN



WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-05/27/14 (ORD) NUMBER-1690003

- 1 R. KOLB.....AYE
- 2 D. Zimmermann.....AYE
- 3 R. MORRIS.....AYE
- 4 J. BATZKO.....AYE
- 5 J. BRANDTJEN.....AYE
- 6 J. WALZ.....AYE
- 7 J. GRANT.....AYE
- 8 E. HIGHUM.....AYE
- 9 J. HEINRICH.....AYE
- 10 D. SWAN.....AYE
- 11 C. HOWARD.....AYE
- 12 P. WOLFF.....AYE
- 13 P. DECKER.....AYE
- 14 C. PETTIS.....AYE
- 15 W. KOLB.....AYE
- 16 M. CROWLEY.....AYE
- 17 D. PAULSON.....AYE
- 18 L. NELSON.....AYE
- 19 K. CUMMINGS.....AYE
- 20 T. SCHELLINGER....AYE
- 21 W. ZABOROWSKI.....AYE
- 22 P. JASKE.....AYE
- 23 K. HAMMITT.....AYE
- 24 S. WHITTOW.....AYE
- 25 G. YERKE.....AYE

TOTAL AYES-25

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-25