

ENROLLED ORDINANCE 168-113

AMEND THE TEXT OF THE TOWN OF EAGLE ZONING CODE TO REPEAL
AND RECREATE SECTION 5.11 (2) TO ALLOW FUEL STATIONS AND
TAXIDERMY STUDIOS AS PERMITTED USES IN THE B-3 GENERAL
BUSINESS ZONING DISTRICT (ZT-1774)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Eagle Town Board on February 3, 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 text of the Town of Eagle Zoning Code, adopted by the Town of Eagle on November 10, 2009, is hereby amended to repeal and recreate Section 5.11(2) to allow fuel stations and taxidermy studios as permitted uses in the B-3 General Business Zoning District, more specifically described in the "Staff Report and Recommendation" 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-1774, 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 Eagle.

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

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

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AND RECREATE SECTION 5.11 (2) TO ALLOW FUEL STATIONS AND
TAXIDERMY STUDIOS AS PERMITTED USES IN THE B-3 GENERAL
BUSINESS ZONING DISTRICT (ZT-1774)

Presented by:
Land Use, Parks, and Environment Committee

{ Absent }
James A. Heinrich, Chair

Jim Batzko
Jim Batzko

Walter Kolb
Walter Kolb

Pamela Meyer
Pamela Meyer

{ Absent }
Eritz Ruf

Thomas J. Schellinger
Thomas J. Schellinger

David D. Zimmermann
David D. Zimmermann

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

Date: 4/8/14, Kathleen O. Novack
Kathleen Novack, County Clerk

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

Approved: x

Vetoed: _____

Date: _____

Daniel P. Vrakas

Daniel P. Vrakas, County Executive

Digitally signed by Daniel P. Vrakas
DN: cn=Daniel P. Vrakas, o=Waukesha County,
ou=Waukesha County Executive,
email=countyexec@waukeshacounty.gov, c=US
Date: 2014.04.14 12:15:46 -0500

4-14-14

AMEND THE TEXT OF THE TOWN OF EAGLE ZONING CODE TO REPEAL
AND RECREATE SECTION 5.11 (2) TO ALLOW FUEL STATIONS AND
TAXIDERMY STUDIOS AS PERMITTED USES IN THE B-3 GENERAL
BUSINESS ZONING DISTRICT (ZT-1774)

Presented by:
Land Use, Parks, and Environment Committee

{Absent}

James A. Heinrich, Chair

Jim Batzko

Jim Batzko

Walter Kolb

Walter Kolb

Pamela Meyer

Pamela Meyer

{Absent}

Fritz Ruf

Thomas J. Schellinger

Thomas J. Schellinger

David D. Zimmermann

David D. Zimmermann

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

Date: 4/8/14, *Kathleen O. Novack*
Kathleen Novack, County Clerk

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

Approved: _____

Vetoed: _____

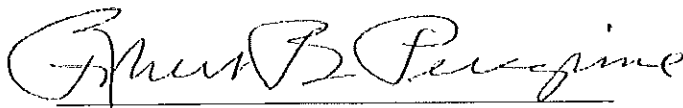
Date: _____,
Daniel P. Vrakas, County Executive

COMMISSION ACTION


The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Eagle Zoning Ordinance hereby recommends approval of ZT-1774 (Text Amendment) in accordance with the attached "Staff Report and Recommendation".


PARK AND PLANNING COMMISSION

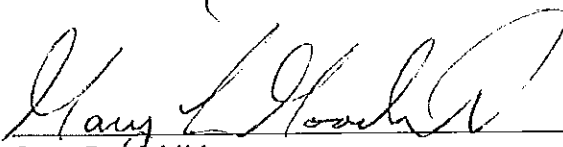
March 6, 2014



Robert Peregrine, Chairperson


(Absent)
James Siepmann, Vice Chairperson


Patricia Haukohl


Walter Kolb


Gary Goldchild


William Mitchell


Fritz Ruf

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

FILE NO.: ZT-1774
DATE: March 6, 2014
PETITIONER: Renee Gavers (Vine and Branches, LLC)
S101 W34414 CTH "LO"
Eagle, WI 53119

NATURE OF REQUEST:

Text amendment (Town Ordinance Number 2014-01) to repeal and recreate Section 5.11 (2) of the Town of Eagle Zoning Code to allow fuel stations and taxidermy studios as permitted uses in the B-3 General Business Zoning District.

PUBLIC HEARING DATE:

February 3, 2014.

PUBLIC REACTION:

None.

TOWN PLANNING AND ZONING COMMISSION:

On February 3, 2014, the Town Plan Commission recommended in favor of the proposed amendment.

TOWN BOARD ACTION:

On February 3, 2014, the Eagle Town Board voted to approve the proposed ordinance amending the Town of Eagle Zoning Code, as recommended by the Town Planning and Zoning Commission.

BACKGROUND AND SUMMARY OF CHANGES:

Renee Gavers is a Representative of Vine and Branches, LLC, who are the owners of property located on the northwest corner of CTH "LO" and CTH "E" (Tax Key No. EGLT 1828.990 and EGLT 1828.991), which contains the Cornerstone Filling Station (a gas station/convenience store with liquor sales), a taxidermy studio, a beauty salon, and an apartment. Ms. Gavers petitioned the Town of Eagle to amend the Town of Eagle Zoning Code to permit fuel stations and taxidermy studios as permitted uses in the B-3 General Business District. The Town of Eagle Zoning Code currently allows fuel stations as permitted uses by right in the B-2 Local Business District, but it does not allow fuel stations, either as permitted uses by right or as conditional uses, in the B-3 General Business District.

Ms. Gaver's purpose in petitioning the Town to amend their Zoning Code is to enable the property owned by Vine and Branches, LLC to be rezoned from B-2 Local Business to B-3 General Business so that it can also be used for commercial truck parking, which is not permitted in the B-2 Local Business District. An amendment to rezone the upland portion of the property owned by Vine and

Branches, LLC from the B-2 Local Business District to the B-3 General Business District, under both the Town of Eagle Zoning Code and the Waukesha County Shoreland and Floodland Protection Ordinance, is pending. A text amendment to the Waukesha County Shoreland and Floodland Protection Ordinance is not required in conjunction with the proposed zoning map amendments because the Waukesha County Shoreland and Floodland Protection Ordinance permits fuel stations as conditional uses in the B-3 General Business District and the property owned by Vine and Branches, LLC currently has a Conditional Use Permit for the fuel station. It should be noted that approval of the proposed text amendment does not obligate the Town or the County to approve the pending zoning map amendment.

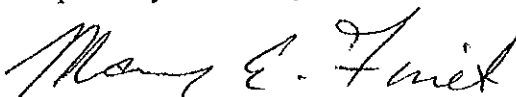
It should also be noted that the proposed amendment would affect the permitted uses on any other property in the Town of Eagle that is zoned B-3 General Business. At the present time, there is only one other property in the Town of Eagle that is zoned B-3 General Business. That property is a parcel, approximately 2.6 acres in size, located at S91 W35677 CTH "NN", which currently contains an excavating business.

The Town of Eagle Zoning Code currently lists taxidermy studios as a permitted use only in the M-1 Limited Manufacturing District. However, it does contain a provision in the B-2 Local Business District, the B-3 General Business District, and the M-2 Limited Manufacturing District that any use that is similar to the permitted uses that are listed can be permitted with approval from the Planning Commission. Under the Waukesha County Shoreland and Floodland Protection Ordinance, a taxidermy studio would be considered a permitted use by right in either the B-2 Local Business District or the B-3 General Business District.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the proposed ordinance to amend the Town of Eagle Zoning Code be approved, as presented. Since fuel stations are allowed as permitted uses by right in the B-2 Local Business District, which is a more restrictive district than the B-3 General Business District, it is logical to amend the Zoning Code to also permit fuel stations as permitted uses by right in the B-3 General Business District. Further, a taxidermy studio is a use that is similar in intensity to the other uses that are currently specified as permitted uses by right in the B-3 General Business District. Therefore, the approval of the proposed text amendment to the Town of Eagle Zoning Code, which adds fuel stations and taxidermy studios to the list of permitted uses in the B-3 General Business District, is appropriate.

Respectfully submitted,



Mary E. Finet
Senior Land Use Specialist

Attachment: Town Ordinance 2014-01

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ORDINANCE 2014-01

AN ORDINANCE TO AMEND THE TOWN OF EAGLE'S ZONING REGULATIONS BY ALLOWING FUEL STATIONS AND TAXIDERMY STUDIOS IN THE B-3 ZONING DISTRICT

WHEREAS, the Town Board for the Town of Eagle adopted a zoning code for the Town of Eagle in 1990 and has amended it from time to time since then; and

WHEREAS, Renee Gavers has submitted a petition pursuant to Section 6.02 of the zoning code to amend the text of the zoning code to allow fuel stations and taxidermy studios in the B-3 zoning district; and

WHEREAS, the Town Clerk for the Town of Eagle has pursuant to Section 6.02(2)E) of the zoning code (1) referred the matter to the Plan Commission, (2) notified the Waukesha County Park and Planning Commission of the proposed amendment, and (3) published a class 2 public notice ; and

WHEREAS, the Plan Commission has conducted the necessary investigation, and scheduled a public hearing for the Plan Commission and the Town Board; and

WHEREAS, upon due notice the Town Board and the Plan Commission conducted a joint public hearing on February 3, 2014; and

WHEREAS, within a reasonable time after the hearing, the Plan Commission has reported its recommendation to the Town Board; and

WHEREAS, the Town Board concurs with the Plan Commission's recommendation; and

WHEREAS, the Town Board for the Town of Eagle, after carefully reviewing the recommendation of the Plan Commission and having given the matter due consideration, having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Town of Eagle, will enhance property values in the Town and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Town or for any other reason cause a substantial adverse effect on the property values and general desirability of the Town.

NOW, THEREFORE, the Town Board for the Town of Eagle, Waukesha County, does hereby ordain as follows:

SECTION 1. Subsection 5.11(2) of the Town's zoning code is hereby repealed and recreated as follows:

- (2) Permitted Uses:
 - (A) Banking and financial services

- (B) Banquet halls
- (C) Barber and beauty shops
- (D) Bulk milk collection
- (E) Catering and food services
- (F) Clinics, medical and Dental
- (G) Dance halls
- (H) Daycare Centers
- (I) Fuel stations
- (J) Funeral services
- (K) Greenhouses, horticultural services and nurseries
- (L) Lumber and building supply yards
- (M) Mini warehousing
- (N) Motels and hotels
- (O) Municipal buildings
- (P) Offices
- (Q) Private clubs
- (R) Recreational facilities (indoor and outdoor)
- (S) Restaurants
- (T) Retail sales
- (U) Solar Energy Conservation Systems, only when attached to the principal or accessory building.
- (V) Taxidermy studio
- (W) Theaters
- (X) Truck parking
- (Y) Utility substations
- (Z) Wholesalers.
- (AA) Any similar or unclassified uses shall require a Planning Commission determination and approval.

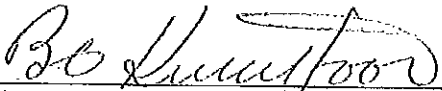
SECTION 2. SUBMITTAL TO WAUKESHA COUNTY. The Town of Eagle Town Clerk is directed to send three signed copies of this ordinance to the Waukesha County Clerk for approval of the Waukesha County Board of Supervisors.

SECTION 3. SEVERABILITY. Several sections this ordinance are declared to be severable and if any section or portion thereof shall be declared by a decision of the court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance which shall remain. The remainder of the ordinance shall remain in full force and effect and 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 passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.


Adopted this 3rd day of February 2014

TOWN OF EAGLE



Bob Kwiatkowski, Town Chairman

ATTEST:



Lynn Pepper, Town Clerk

Published and posted this 19th day of February 2014

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE 8/10/14

(ORD) NUMBER-1680113

- 1
- 3 R. MORRIS.....
- 5 J. BRANDTJEN.....AYE
- 7 J. GRANT.....AYE
- 9 J. HEINRICH.....AYE
- 11 F. RUF.....AYE
- 13 P. DECKER.....AYE
- 15 W. KOLB.....AYE
- 17 D. PAULSON.....AYE
- 19 C. CUMMINGS.....AYE
- 21 W. ZABOROWSKI.....AYE
- 23 K. HAMMITT.....AYE
- 25 G. YERKE.....AYE

- 2 D. Zimmermann.....AYE
- 4 J. BATZKO.....AYE
- 6
- 8 P. HAUKOHL.....AYE
- 10 D. SWAN.....AYE
- 12 P. WOLFF.....AYE
- 14 P. MEYER.....AYE
- 16 M. CROWLEY.....AYE
- 18 L. NELSON.....AYE
- 20 T. SCHELLINGER....AYE
- 22 P. JASKE.....AYE
- 24 D. DRAEGER.....AYE

TOTAL AYES-22

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS

~~X~~

TOTAL VOTES-22