

ENROLLED ORDINANCE 170-70

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF GENESEE ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 27, T6N, R18E, TOWN OF GENESEE, WAUKESHA COUNTY, WISCONSIN, FROM THE B-2 LOCAL BUSINESS DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (ZT-1820)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Genesee Town Board on September 14, 2015, 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 60.62, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Genesee Zoning Code, adopted by the Town of Genesee on March 23, 2015, is hereby amended to rezone from the B-2 Local Business District to the B-3 General Business District, certain lands located in part of the NW ¼ of Section 27, T6N, R18E, Town of Genesee, 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-1820, is hereby approved.

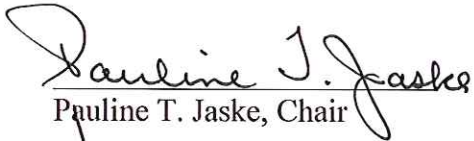
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Genesee.

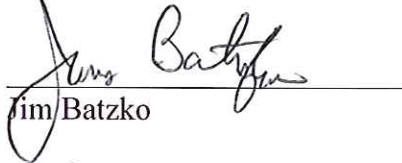
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.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 GENESEE ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 27, T6N, R18E, TOWN OF GENESEE, WAUKESHA COUNTY, WISCONSIN, FROM THE B-2 LOCAL BUSINESS DISTRICT TO THE B-3 GENERAL BUSINESS DISTRICT (ZT-1820)

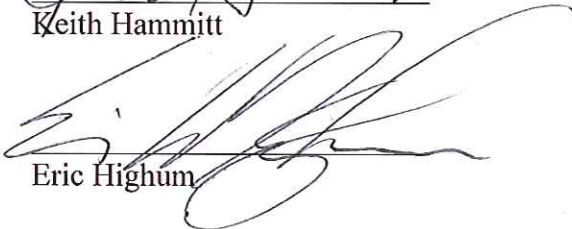
Presented by:
Land Use, Parks, and Environment Committee

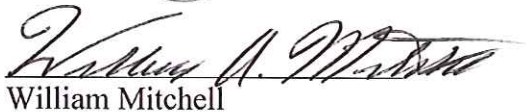

Pauline T. Jaske, Chair


Jim Batzko


Jennifer Grant



Keith Hammitt


Eric Highum


William Mitchell


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: 12/15/15, 
Kathleen Novack, County Clerk

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


Approved: X
Vetoed: _____
Date: 12-16-15, 
Paul Farrow, County Executive

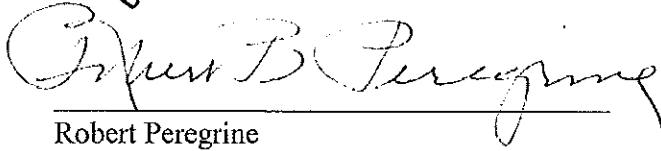
COMMISSION ACTION

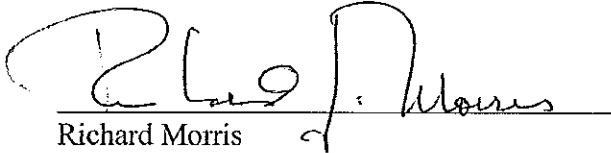
The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Town of Genesee Zoning Code, hereby recommends approval of ZT-1820 (Circle C-Z Plaza, LLC) in accordance with the attached "Staff Report and Recommendation".

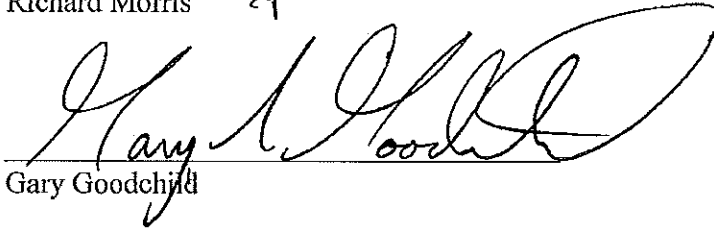
PARK AND PLANNING COMMISSION

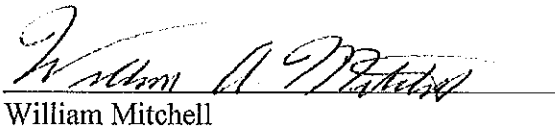
November 19, 2015

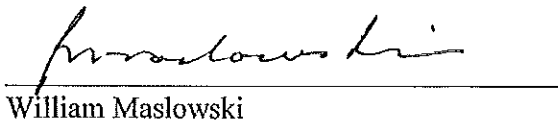

James Siepmann, Chairperson

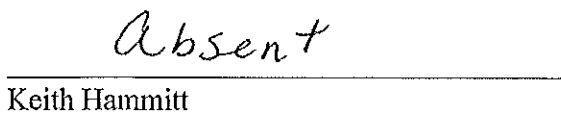

Robert Peregrine


Richard Morris


Gary Goodchild


William Mitchell


William Maslowski


Keith Hammitt

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

FILE NO.: ZT-1820

DATE: November 19, 2015

PETITIONER: Circle C-Z Plaza, LLC
W309 S4860 Commercial Dr.
North Prairie, WI 53153

OWNER: MI Real Estate, LLC
833 West College Avenue
Waukesha, WI 53186-5915

TAX KEY NO's: GNT 1546.970 and GNT 1546.971.005

LOCATION:

Lot 2 of Certified Survey Map (CSM) No. 11087 and Lot 3 of CSM No. 9642 being a part of the NW ¼ of Section 27, T6N, R18E, Town of Genesee. More specifically the property is located at northwest corner of the intersection of Commercial Drive and Executive Drive. The parcels contain approximately 2.2 acres.

EXISTING ZONING:

B-2 Local Business District (Town).

PROPOSED ZONING:

B-3 General Business District (Town).

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

The parcels are designated Commercial on the Town Plan and Commercial and Office Park on the County Development Plan. The proposal to rezone the property is consistent with both plans.

PUBLIC HEARING DATE:

August 24, 2015.

PUBLIC REACTION:

One member of the audience asked questions about conditions. Another inquired about combining the lots. The petitioner responded that a CSM would be prepared to combine the lots in the future.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On August 24, 2015, the Town of Genesee Plan Commission recommended that the Town Board approve the proposed rezone, as conditioned. On September 14, 2015, the Town Board approved the request, subject to conditions (see attached Ordinance).

EXISTING LAND USE:

Undeveloped business park lots.

PROPOSAL AND STAFF ANALYSIS:

The petitioner is proposing to rezone two adjacent parcels that are located in the commercial area located at the northwest quadrant of the S.T.H. 83 and S.T.H. 59 intersection within the Town of Genesee. The two lots of record, located along the north side of Commercial Drive, have not been previously developed. The lands were subject of a conditional rezoning in 2003 that allowed for a dance hall and restaurant facility on the site. That proposal never materialized and the zoning of the property reverted to the B-2 Local Business District.

Midwest Industries would like to acquire the parcels and, in the future, develop a building for its growing operations. The company is currently located in Delafield. The company specializes in tactical weapons accessories. According to the Town Planner, the company does detailing on weapons, distributes product to on-line retailers and has a customer showroom. Such uses are available in the Town's B-3 General Business District, which provides for slightly more intensive business uses than the existing B-2 Local Business District. Site plans and building plans have not yet been developed for the planned project, but the Town will have the opportunity to review those details as part of their required Site Plan process.

The Town has advanced an ordinance that approves the rezoning to B-3 subject to a number of conditions including a condition that specifically authorizes the business use being proposed (distribution and retail sales of tactical weapons accessories). The Commercial Dr./Executive Dr. business area has developed incrementally over a couple of decades and the land division and rezone history of said area is complex. County Planning Staff suggested to the Town Planner that the Town give consideration to streamlining the zoning scheme for this area in a more comprehensive way at some point in the future to make the zoning scheme easier for all involved to understand and to make more uses available by right without the need for rezoning. The Town Planner agreed that such an effort could improve efficiency and options for future development in the surrounding area. Other conditions of the Town's approval require Site Plan approval prior to the use commencing and storm water management review.

STAFF RECOMMENDATION:

Based upon the above information, the Planning and Zoning Division Staff recommends approval of the request, in accordance with the attached Town Ordinance 15-8.

The rezoning of the subject lands will allow for a local business to acquire two long-vacant business park lots in order to expand its operations. The rezoning is consistent with the recommendations of the Town and County land use plans.

Respectfully submitted,

Jason Fruth

Jason Fruth

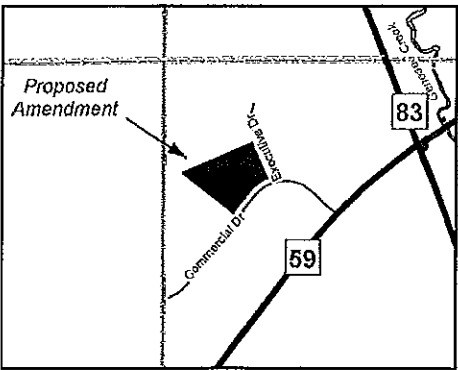
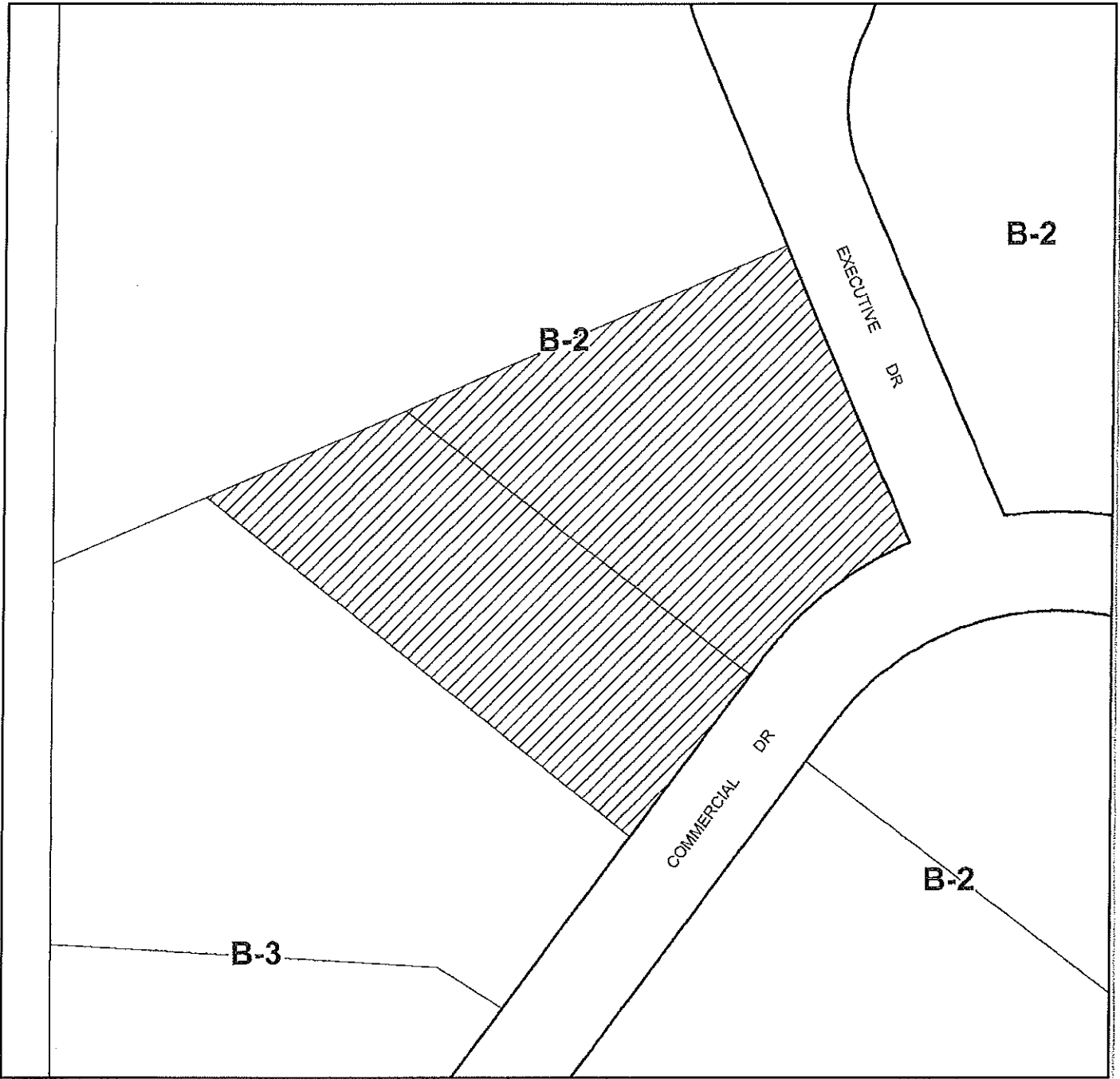
Planning and Zoning Manager


Attachments: Town Ordinance and Map

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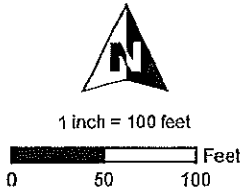
ZONING AMENDMENT

PART OF THE NW 1/4 OF SECTION 27
TOWN OF GENESEE



 CONDITIONAL TOWN ZONING CHANGE FROM B-2 LOCAL BUSINESS DISTRICT TO B-3 GENERAL BUSINESS DISTRICT

FILE NO.....ZT-1820
 PETITIONER.....C-Z Plaza LLC.
 DATE OF PLAN COMM. CONSIDERATION.....11/19/15
 AREA OF CHANGE.....2.2 ACRES
 TAX KEY NUMBERS.....GNT 1546.970 & GNT 1546.971.005 & GNT 1546.970



Prepared by the Waukesha County Department of Parks and Land Use

RECEIVED

OCT 23 2015

DEPT OF PARKS & LAND USE

STATE OF WISCONSIN

TOWN OF GENESEE

WAUKESHA COUNTY

ORDINANCE 15-8

**An Ordinance to amend the Zoning Map
of the Town of Genesee from B-2 Local Business District to B-3 General Business District on lands
located in the Northwest ¼ of the Northwest ¼ of Section 27, Town 6 North, Range 18 East, Town
of Genesee, Waukesha County Wisconsin**

WHEREAS, the Town of Genesee has recently received approval from the Waukesha County Board for its Town of Genesee Zoning Code, including Town zoning powers; and

WHEREAS, prior to the Town of Genesee having such authority, in 2003, Waukesha County approved a zoning amendment for the property that is the subject of this ordinance which would have rezoned the land from B-2 Local Business District to B-3 General Business District, subject to a number of conditions, which were not satisfied, and therefore the property remained within the B-2 zoning district; and

WHEREAS, the Town has now received an application from C-Z Plaza, LLC (the "Petitioner) to rezone the property that is generally known as Tax Key No. GNT1546971005 and GNT1546970, as more particularly described in attached Exhibit A (the "Subject Property"), from the B-2 Local Business District to the B-3 General Business District; and

WHEREAS, the Petitioner has supplied all required data pursuant to the Town of Genesee Zoning Ordinance, including Section 101(A)(2), and the Town Clerk without delay has transmitted such petition to the Town Plan Commission and the Waukesha County Park and Planning Commission pursuant to Section 101(A)(3) of the Town of Genesee Zoning Ordinance; and

WHEREAS, pursuant to Section 101(A)(4), upon due notice as required by Section 102(A) of the Town of Genesee Zoning Ordinance, the Plan Commission held a public hearing in the matter on August 24, 2015; and

WHEREAS, the Town Plan Commission has made a recommendation to the Town Board within 60 days of the public hearing; and

WHEREAS, the Town Board of the Town of Genesee, Waukesha County, Wisconsin, having determined that all procedural requirements 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 surrounding properties as to noise, dust, smoke and odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the Town of Genesee, will not be contrary to the public health, safety or general welfare of the Town of Genesee, will not be hazardous, harmful, noxious, offensive, and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood, and will be consistent with the Town of Genesee Comprehensive Land Use Plan-2035, and the Waukesha County Development Plan, as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same.

NOW, THEREFORE, the Town Board of Genesee, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1:

The Subject Property is hereby conditionally rezoned to B-3 General Business District, and the Zoning Map of the Town of Genesee is hereby conditionally amended to change the zoning of the Subject Property from B-2 Local Business District to B-3 General Business District, if the conditions stated in Section 2 of this ordinance are complied with.

Section 2:

The above rezoning and Zoning Map amendment is conditioned upon the following conditions, which must be complied with or this ordinance is null and void:

1. The Subject Property must be developed in substantial conformity with the plans presented with the rezoning petition, and in substantial conformity with the presentation at the public hearing of August 24, 2015, including comments made by the Town Plan Commission during the public hearings and in their meetings and the meetings of the Town Board following the public hearing.
2. The Petitioner shall record a Deed Restriction in a form approved by the Town Attorney on the Subject Property stating that no single-family, two-family, multi-family, residential or condominium uses may be developed on the subject property, and absolutely no manufacturing shall take place on the Subject Property, prior to this rezoning taking effect.
3. Conditions No. 3, 4, and 5 of the Waukesha County Board of Supervisors Ordinance No. 146-102, remain in effect and must be complied with as it pertains to the Certified Survey Map for the subject property.
4. The B-3 uses allowed on the property shall consist of a distribution and retail sales operation of tactical weapon accessories and no other B-3 uses shall be allowed.
5. Subject to the Petitioner submitting to and receiving approval from the Town of Genesee Plan Commission and the Waukesha County Planning and Zoning Division Staff, a Building and Site Plan/Plan of Operation for all of the proposed uses of the property, prior to commencement of construction and issuance of the Zoning Permit and Sanitary Permit, and prior to this ordinance taking effect a Building and Site Plan/Plan of Operation must be approved by the Town of Genesee Plan Commission and the Planning and Zoning Division Staff.
6. Subject to the Petitioner submitting to and receiving approval from the Town of Genesee Plan Commission and the Waukesha County Planning and Zoning Division Staff, a Signage Plan that includes the size and location of all signs that are proposed, prior to commencement of construction, and issuance of the Zoning Permit and Sanitary Permit, and prior to this ordinance taking effect. Signs associated with the permitted use must be submitted to and approved by the Town of Genesee Plan Commission and the Planning and Zoning Division Staff.

7. Subject to the Subject Property being divided and/or combined by Certified Survey Map in the manner described at the public hearing of August 24, 2015, and further subject to satisfying any and all conditions that are imposed by the Town in approving the Certified Survey Map (if it is approved), and satisfying all conditions that may be imposed by all other objecting and approving authorities in conjunction with the Certified Survey Map, and further subject to recording the Certified Survey Map as approved by the Town (if it is approved) in the office of the Waukesha County Register of Deeds, prior to this rezoning ordinance taking effect.
8. Prior to the rezoning becoming effective, the Petitioner shall submit to the Town Clerk documentation from the Waukesha County Department of Parks and Land Use, Land Resources Division verifying the existing stormwater facility and drainage easements have been constructed in accordance with the previously approved plans and are adequate to accommodate runoff from the total amount of impervious surface on the subject site.
9. Professional Fees. Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this rezoning petition, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional rezoning ordinance due to a violation of these conditions.
10. Payment of Charges. Any unpaid bills owed to the Town by the owner of subject property or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional rezoning ordinance, that is subject to all remedies available to the Town, including possible cause for termination of the conditional rezoning ordinance.
11. Subject to Acceptance. Subject to the Petitioner acknowledging in writing that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to re-commence the application process.
12. Two (2) Years to Satisfy Conditions. Subject to the Petitioner satisfying all of the aforementioned conditions within two (2) years of the Town Board adopting this conditional rezoning ordinance, unless extended by the Town Board.

Section 3:

The Town Engineer is hereby authorized and directed to note this rezoning on the Official Zoning Map of the Town of Genesee upon successful development of the Subject Property in satisfaction of all conditions in Section 2 of this Ordinance.

Section 4:

The Subject Property Owner is hereby put on notice that the Town of Genesee may rezone the lands or portions thereof subject to this conditional rezoning ordinance to B-2 Local Business District if the conditions of this Ordinance are not fully complied with.

Section 5: Severability.

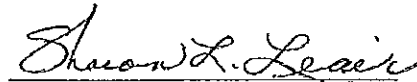
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance 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 6: Effective Date.

This ordinance shall be in full force and effect from and after its passage and publication and subject to the conditions stated in Section 2, and this ordinance is null and void and the original district zoning all be in effect with no further notice if said conditions are not complied with on the terms and conditions stated herein.

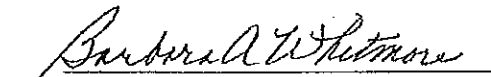
This ordinance passed this 14th day of September, 2015.

BY THE TOWN BOARD OF THE
TOWN OF GENESEE:



Sharon L. Leair, Town Chairman

ATTEST:


Barbara A. Whitmore, Town Clerk

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-12/15/15

NUMBER-1700071

- | | |
|--------------------------|-------------------------|
| 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 B. MITCHELL.....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