

ENROLLED ORDINANCE 173-087

AMEND THE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE AND THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ AND THE NE ¼ OF SECTION 13, T8N, R17E, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN, FROM THE FARMLAND PRESERVATION (FLP) AND FARMLAND CONSERVANCY (FLC) DISTRICTS TO THE R-1 RESIDENTIAL AND HIGH GROUND WATER (HG) DISTRICTS WITH EC ENVIRONMENTAL CORRIDOR AND C-1 CONSERVANCY DISTRICT OVERLAYS (RZ13)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Oconomowoc Town Board on November 15, 2018; 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 59.69 and 59.692, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance adopted on June 23, 1970, for the Town of Oconomowoc, Waukesha County, Wisconsin, and the Waukesha County Zoning Code adopted by the Waukesha County Board of Supervisors, on February 26, 1959, are hereby amended to conditionally rezone certain lands located in part of the NW ¼ and the NE ¼ of Section 13, T8N, R17E, Town of Oconomowoc, Waukesha County, Wisconsin, from the Farmland Preservation (FLP) and Farmland Conservancy (FLC) Districts to the R-1 Residential and High Ground Water (HG) Districts with EC Environmental Corridor and C-1 Conservancy District Overlays, 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 RZ13, is hereby approved, subject to the following conditions:

1. The Zoning Amendment approval shall only amend the zoning for the four (4) proposed residential lots, shown as Lots 1-4 on the Site Plan attached as Exhibit “A,” from the FLP Farmland Preservation and FLC Farmland Conservancy Districts to the R-1 Residential and HG High Groundwater District.
2. A Certified Survey Map that includes the entirety of the farm’s acreage shall be prepared by a Professional Land Surveyor in the State of Wisconsin and shall be reviewed and approved by the Waukesha County Department of Parks and Land Use and the Town of Oconomowoc, prior to the issuance of any zoning or building permits for future development of the property. In addition, all rules, regulations and/or requirements of the Waukesha County Zoning Ordinances shall be complied with prior to the Town and County affixing their signatures to any Land Division.
3. The proposed lots to be rezoned shall either receive approval from the Town and County Plan Commissions for “lot not abutting a public road”, including review and approval of

the access easement, or a public road shall be constructed to serve the lots. All comments of the Stone Bank Fire Department shall be addressed.

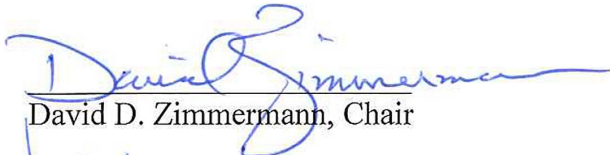
4. The existing Conditional Use Permit for the horse training operation shall either be amended to reflect the modified lot size or be terminated.
5. The residential elements of the caretaker's unit shall be removed and an inspection made by the Waukesha County Planning and Zoning Division Staff prior to the land division taking place and the rezone being effective.
6. A Deed Restriction must be prepared and reviewed and approved by the Waukesha County Department of Parks and Land Use - Planning and Zoning Division Staff and recorded by the petitioners in the Waukesha County Register of Deeds Office stating that, pursuant to the Town of Oconomowoc Comprehensive Development Plan-2035 and the Waukesha County Comprehensive Development Plan, no additional development rights are available and the proposed new lots are entitled to only one (1) dwelling unit per lot. The Outlots are limited to agricultural-related and open space uses permitted in the FLP Farmland Preservation Zoning District. Said restriction must also state that the restrictions apply in perpetuity unless the Town of Oconomowoc and Waukesha County Comprehensive Development Plans' Farmland Preservation designation for the property is amended in the future.
7. A vegetative buffer easement that protects the north 20 feet of trees on the north boundary of proposed Lot 4 shall be depicted on the Certified Survey Map.

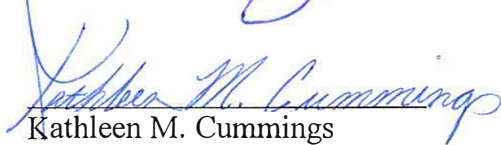
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Oconomowoc.

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

AMEND THE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE AND THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ AND THE NE ¼ OF SECTION 13, T8N, R17E, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN, FROM THE FARMLAND PRESERVATION (FLP) AND FARMLAND CONSERVANCY (FLC) DISTRICTS TO THE R-1 RESIDENTIAL AND HIGH GROUND WATER (HG) DISTRICTS WITH EC ENVIRONMENTAL CORRIDOR AND C-1 CONSERVANCY DISTRICT OVERLAYS (RZ13)

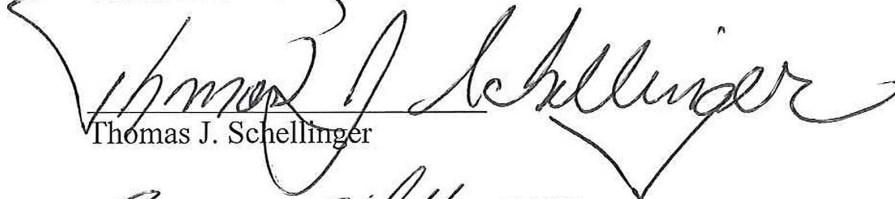
Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair


Kathleen M. Cummings

absent
Keith Hammitt


William A. Mitchell


Thomas J. Schellinger


Steve Whittow


Chuck Wood

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

Date: March 1, 2019, 
Margaret Wartman, County Clerk

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

Approved:

Vetoed:


Date: March 4, 2019, 
Paul Farrow, County Executive

COMMISSION ACTION

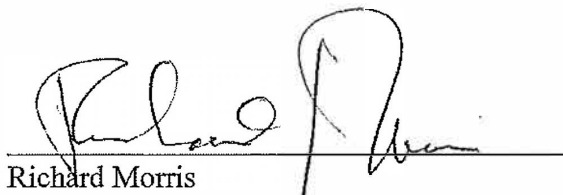
The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends **approval** of **(RZ13 David Robinson)** in accordance with the attached "Staff Report and Recommendation".

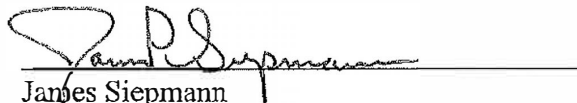
PARK AND PLANNING COMMISSION

January 17, 2019

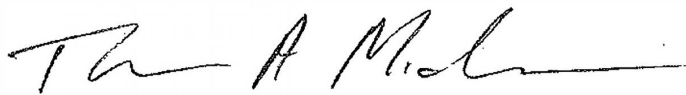

Robert Peregrine, Chairman


William Mitchell, Vice Chairman


Richard Morris


James Siepmann


William Maslowski


Thomas Michalski

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

DATE: January 17, 2019

FILE NO.: RZ13

PETITIONER: John Stigler
Jahnke & Jahnke Associates Inc.
711 W. Moreland Blvd.
Waukesha, WI 53188

OWNER: David Robinson
W340 N7661 Townline Road
Oconomowoc, WI 53066

TAX KEY NO's.: OCOT 0481.998.002, OCOT 0481.997.003

LOCATION:
Part of the NW ¼ and NE ¼ of Section 13, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at W340 N7661 Townline Road, Oconomowoc, WI 53066. The property contains approximately 154 acres.

EXISTING LAND USE: Agricultural, single family residential, guesthouse quarters, barn with caretaker's quarters, and a poly-structure previously used for horse training and polo uses.

PROPOSED LAND USE: Use a portion of the property for four (4) single-family residential lots. Lot 1 will contain the existing guesthouse and Lot 2 will contain the existing single-family residence and three (3) accessory structures. Most of the property will remain farmland and natural lands.

EXISTING ZONING:
FLP Farmland Preservation, FLC Farmland Conservancy, EC Environmental Corridor Overlay, and C-1 Conservancy Overlay Districts.

PROPOSED ZONING:
Amend approximately 16 acres to the R-1 Residential and HG High Groundwater Districts in order to accommodate four (4) single-family residential lots. The EC Environmental Corridor and C-1 Conservancy Overlay Districts will remain.

PUBLIC HEARING DATES:
August 20, 2018, September 17, 2018, & October 1, 2018

PUBLIC REACTION:
Adjacent property owners to the north (Paul and Rene Rodrigues, N79 W34471 Petersen Rd.) questioned why the residential lots weren't larger in size and asked about the use of the addition to the existing poly-

structure. The neighbors were also concerned that the vegetated buffer along the north lot line of proposed Lot 4 would be lost to construction. *It should be noted that the lots are the maximum size allowed in order to preserve agricultural land. The addition to the poly-structure is no longer proposed.*

Another neighbor to the north (Rudy Bredfeld, N79 W34187 Petersen Rd.) asked why he couldn't divide his land, but Mr. Robinson could. *The neighbor's property is approximately 12 acres in size and is limited to one (1) dwelling unit in accordance with the density standards of the FLP Farmland Preservation District.*

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On October 29, 2018, the Town of Oconomowoc Plan Commission recommended to the Town Board approval of the request to rezone approximately 16 acres, consisting of four (4) proposed residential lots to the R-1 Residential District, subject to the conditions stated in the Town Planner's report. On November 15, 2018, the Town Board approved the request subject to the Town Plan Commission's recommendation (Resolution 2018-14). The Town conditions are incorporated in the recommended conditions of this report.

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

The property is designated in the Farmland Preservation category on the County Plan and in the Prime Agricultural category on the Town Plan. There is also an Environmental Corridor Overlay designated on the west side of the property in the areas consisting of woodland and wetland. The proposal to rezone approximately 16 acres of the property in order to accommodate four (4) single-family residential lots and retain the remaining acreage in agricultural and open space uses is consistent with plan recommendations that call for a maximum density of one dwelling unit per 35 acres. The remnant acreage will be deed restricted from further non-agricultural development in accordance with Section 6.19 of the Waukesha County Zoning Code and Section 11(i) of the Waukesha County Shoreland and Floodland Protection Ordinance.

The Waukesha County Park and Open Space Plan, which is an element of the Comprehensive Development Plan, designates the Environmental Corridor Overlay area as proposed ownership by a Non-Profit Agency. The petitioner has expressed that he is not interested in transferring land by sale or dedication at this time. The petitioner is creating an Outlot that creates a legal description that would make future transfer in ownership easier.

STAFF ANALYSIS:

The 154-acre two-parcel farm contains a single-family residence, barn with caretakers unit, three buildings used for agricultural storage and a large poly-structure used as a commercial horse training operation. There is also a cottage located west of a pine plantation. The east side of the property adjacent to Townline Road and the railroad tracks contains tillable acreage. The west side of the property contains woodland and wetland.

The petitioner is proposing to rezone approximately 16 acres of the property from the FLP and FLC Districts to the R-1 and HG Districts to accommodate four (4) single-family residential lots. A site plan that shows the proposed residential lots (Lots 1-4) is attached as Exhibit "A." Proposed Lot 1 will contain the existing guesthouse, which will convert to a full-time residential use. The existing guesthouse contains approximately 720 sq. ft. on the first floor with a loft area above and 708 sq. ft. in the exposed lower level.

The guesthouse complies with the minimum floor area provisions for a residence (850 sq. ft. 1st floor, 1,100 sq. ft. total), when the square footage of the two (2) levels are combined. Since there is no floor above the exposed lower level, it is considered part of the 1st floor of the residence. The lot will be five (5) acres in size. Proposed Lot 2 will contain the existing residence and three (3) outbuildings. The petitioner is proposing to include agricultural acreage to accommodate horse pasturing. The petitioner has agreed to remove the caretakers unit, which is located in one of the outbuildings, prior to the recording of the Certified Survey Map that will create the single-family residential lot. The lot will be five (5) acres in size. Proposed Lots 3 and 4 are currently vacant and will be marketed for single-family residential use. Each of the vacant lots will be three (3) acres in size.

All development activity will occur on upland acreage. The existing EC Environmental Corridor and C-1 Conservancy Overlay Districts will remain in place and be left undisturbed. All of the proposed residential lots will be accessed by a private road. The Stone Bank Fire Department is requiring that the driveways be widened to 16 ft. and be capable of carrying a minimum of 61,000 lbs., snow shall be removed on a routine basis, trees shall be trimmed a minimum of 15 ft. from the ground, and turnarounds must be provided at the end of the driveway for Lot 1 and at the northernmost lot.

The remainder of the land (Outlots 1-4), which consists of approximately 138 acres, will continue to be farmed or preserved for open space purposes. An existing outbuilding will remain on Outlot 1 and be used for personal storage benefitting the lot owner of Lot 1. The poly-structure will remain on Outlot 3. The petitioner is proposing to amend the existing Conditional Use Permit that authorized the poly-structure and use as a commercial horse training facility to reduce the lot size subject to the commercial use and to preserve the ability of a future lot owner to use the poly-structure for commercial horse operation purposes, whether it be a boarding, training, and/or riding arena facility. The Conditional Use Amendment will be reviewed as a separate matter.

In order to rezone lands out of the FLP Farmland Preservation Zoning District, the density of the entire parent parcel or parcels that comprised of a single farm cannot exceed one (1) unit per 35 acres. Residential lots shall be zoned R-1 Residential and be a minimum of 1 acre in size. Lots that contain an existing residence cannot exceed five (5) acres in size and vacant lots cannot exceed three (3) acres in size. The remnant acreage shall be deed restricted prohibiting construction of residences or non-farm buildings. The request complies with these provisions.

The proposed land division also requires approvals from the Park and Planning Commission for the creation of four (4) lots not abutting a public road, which will be considered as a separate matter.

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends this request be **approved**, subject to the following conditions, which include the Town's recommended conditions.

1. The Zoning Amendment approval shall only amend the zoning for the four (4) proposed residential lots, shown as Lots 1-4 on the Site Plan attached as Exhibit "A," from the FLP Farmland Preservation and FLC Farmland Conservancy Districts to the R-1 Residential and HG High Groundwater District.
2. A Certified Survey Map that includes the entirety of the farm's acreage shall be prepared by a Professional Land Surveyor in the State of Wisconsin and shall be reviewed and approved by the

Waukesha County Department of Parks and Land Use and the Town of Oconomowoc, prior to the issuance of any zoning or building permits for future development of the property. In addition, all rules, regulations and/or requirements of the Waukesha County Zoning Ordinances shall be complied with prior to the Town and County affixing their signatures to any Land Division.

3. The proposed lots to be rezoned shall either receive approval from the Town and County Plan Commissions for “lot not abutting a public road”, including review and approval of the access easement, or a public road shall be constructed to serve the lots. All comments of the Stone Bank Fire Department shall be addressed.
4. The existing Conditional Use Permit for the horse training operation shall either be amended to reflect the modified lot size or be terminated.
5. The residential elements of the caretaker’s unit shall be removed and an inspection made by the Waukesha County Planning and Zoning Division Staff prior to the land division taking place and the rezone being effective.
6. A Deed Restriction must be prepared and reviewed and approved by the Waukesha County Department of Parks and Land Use - Planning and Zoning Division Staff and recorded by the petitioners in the Waukesha County Register of Deeds Office stating that, pursuant to the Town of Oconomowoc Comprehensive Development Plan-2035 and the Waukesha County Comprehensive Development Plan, no additional development rights are available and the proposed new lots are entitled to only one (1) dwelling unit per lot. The Outlots are limited to agricultural-related and open space uses permitted in the FLP Farmland Preservation Zoning District. Said restriction must also state that the restrictions apply in perpetuity unless the Town of Oconomowoc and Waukesha County Comprehensive Development Plans’ Farmland Preservation designation for the property is amended in the future.
7. A vegetative buffer easement that protects the north 20 feet of trees on the north boundary of proposed Lot 4 shall be depicted on the Certified Survey Map.

If approved as conditioned, the zoning change is consistent with Town and County Comprehensive Development Plan recommendations, as the 35-acre density requirement is being met. The rezoning of approximately 16 acres of land will allow the petitioner to consolidate the existing improvements on non-farm parcels and allow the development of two new residences with impacts to the agricultural land limited to road/driveway construction. The existing conditions on this site are highly unique relative to the existing improvements and natural resources. County and Town Staff feel that the proposal conforms to the farmland preservation lot siting standards.

As conditioned and in accordance with the requirements of the Waukesha County Codes, a Deed Restriction will be recorded prohibiting future development of the property. This will ensure that the 35-acre density is maintained over time and that the vast majority of the land remains in productive farmland or open space uses. This rezoning furthers the goals of the Farmland Preservation Plan to preserve the last remaining five square mile blocks of productive farmland within the County, adding to the economic base of Waukesha County and preserving the rural landscape. Minimizing land use conflicts among incompatible uses and limiting encroachment of non-agricultural development through the application of 35-acre density is critical in ensuring the viability of farming in designated farmland preservation areas.

Although the petitioner is not interested in transferring the environmental corridor lands to a non-profit agency for conservation purposes at this time, he is creating an Outlot in order to accommodate a potential future transfer.

Respectfully submitted,

Amy Barrows

Amy Barrows
Senior Land Use Specialist

Attachments: Exhibit "A"
Map
Town Resolution (2018-14)

N:\PRKANDLUN\Planning And Zoning\Rezoning\Staff Reports\RZ13 David Robinson Oct.Doc

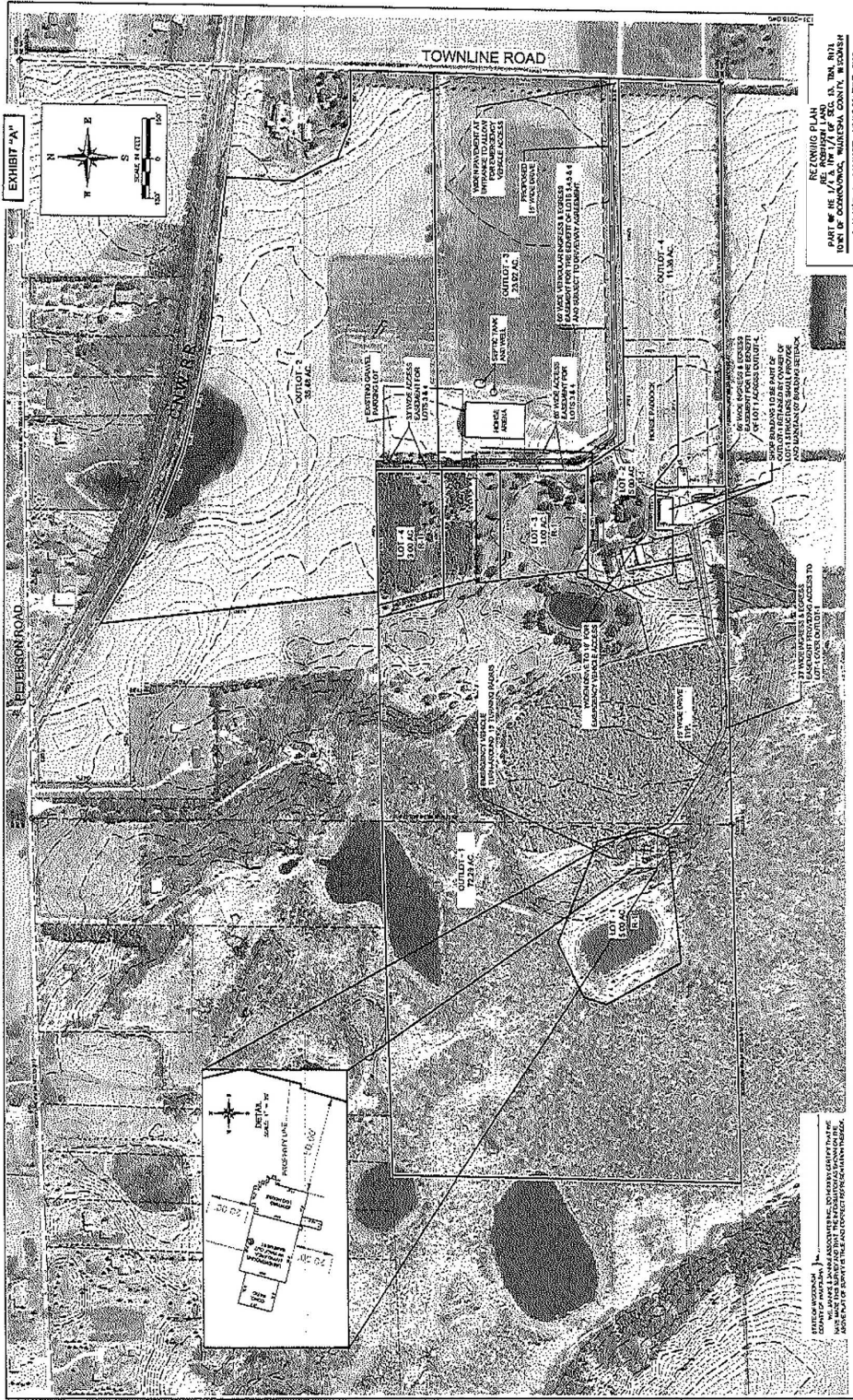
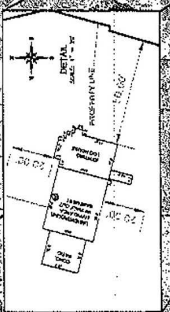
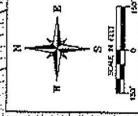


EXHIBIT "A"



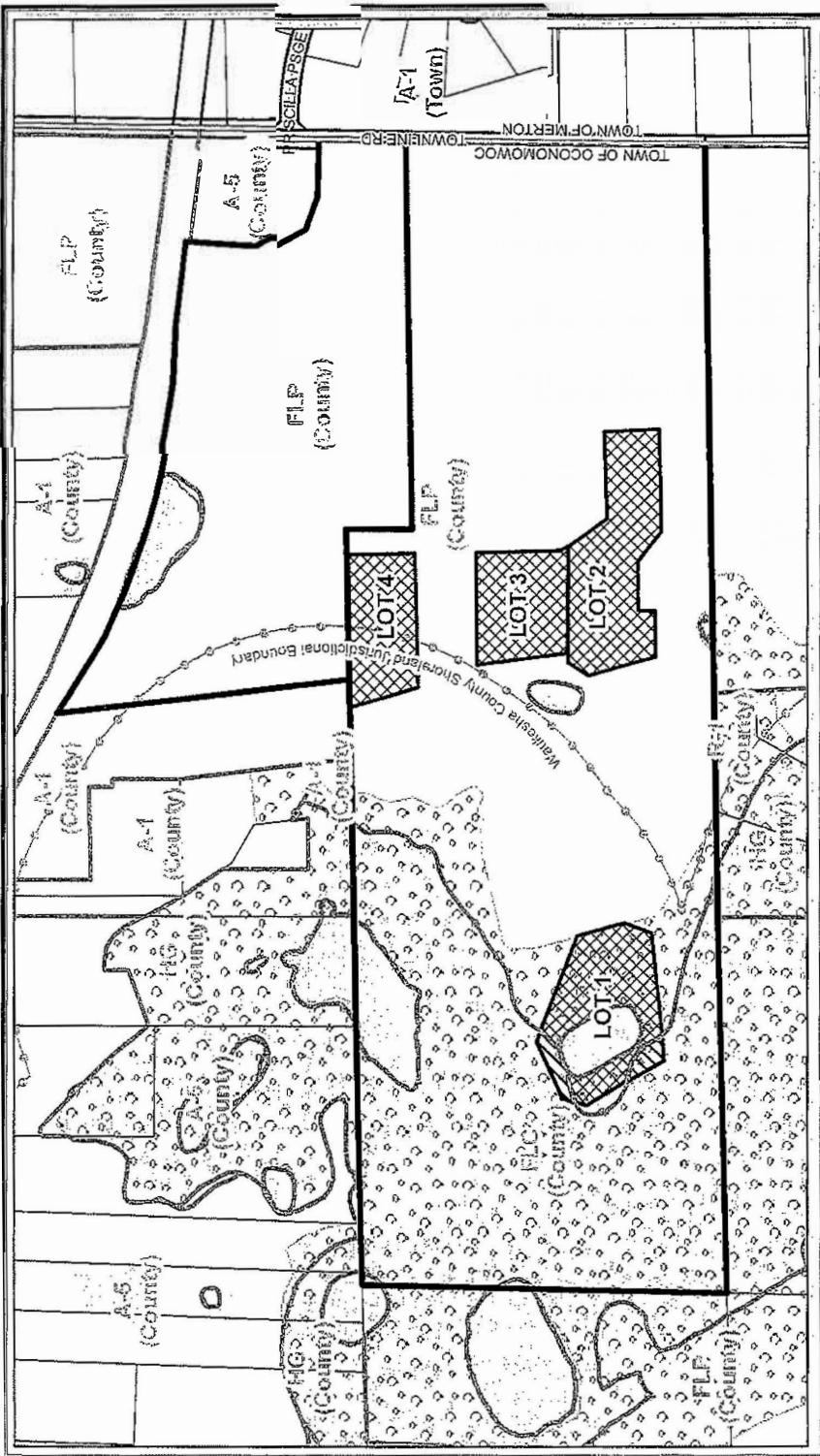
STATE OF WISCONSIN
 COUNTY OF WAUKESHA
 J. J. JAHNKE & ASSOCIATES, INC.
 1000 W. WISCONSIN AVENUE
 MILWAUKEE, WISCONSIN 53233

REZONING PLAN
 ALL PARTS OF LAND
 PART OF SEC. 1 AND
 PART OF CORNWALL, WAUKESHA COUNTY, WISCONSIN
 JAHNKE & JAHNKE ASSOCIATES, INC.

NOTE: PLANS FOR THE DEVELOPMENT AND
 CONSTRUCTION OF THE PROPOSED
 PROJECT, INCLUDING THE LOTS AND
 OUTLOTS, SHALL BE SUBJECT TO THE
 APPROVAL OF THE LOCAL GOVERNMENT.

DATE: 10/15/2017
 SCALE: AS SHOWN
 PROJECT NO.: 17-001

The Number: 17-001

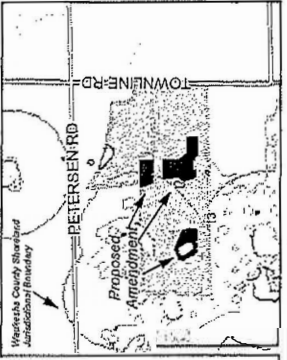
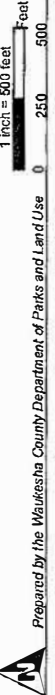


ZONING AMENDMENT

PART OF THE NW 1/4 & NE 1/4 OF SECTION 13, TOWN OF OCONOMOWOC

- CONDITIONAL COUNTY ZONING AMENDMENT FROM FLP FARMLAND PRESERVATION DISTRICT TO R-1 RESIDENTIAL DISTRICT (15.45 AC)
- CONDITIONAL COUNTY ZONING AMENDMENT FROM FLC FARMLAND CONSERVATION DISTRICT TO HG HIGH GROUNDWATER DISTRICT (.55 AC)
- EC ENVIRONMENTAL CORRIDOR OVERLAY TO REMAIN

FILE.....RZ13
 DATE OF PLAN COMMISSION.....01/17/19
 AREA OF CHANGE.....16 ACRES
 TAX KEY NUMBERS.....OCOT 0481.996.02 AND OCOT 0481.997.003



Prepared by the Waukesho County Department of Parks and Land Use
 File Number: 173-0-087

RECEIVED

RESOLUTION NO. 2018-114

28 2018

RESOLUTION RECOMMENDING REZONING
OF DAVID ROBINSON PROPERTY

DEPT OF PARKS & LAND USE

WHEREAS, David Robinson owns a parcel of land approximately 147 acres in size in the Northwest 1/4 and Northeast 1/4 of Section 13, Town 8 North, Range 17 East, in the Town of Oconomowoc; and

WHEREAS, there is multiple zoning on said parcel, namely:

- FLP Farmland Preservation District
- FLC Farmland Conservancy District
- EC Environmental Corridor Overlay District
- HGI Groundwater District
- C-1 Conservancy Overlay District

and

WHEREAS, David Robinson has petitioned to rezone said parcel to:

- R-1 Residential District
- C-1 Conservancy Overlay District
- HGI Groundwater District
- FLP Farmland Preservation District
- FLC Farmland Conservancy District
- EC Environmental Corridor Overlay District

and

WHEREAS, the Town of Oconomowoc Comprehensive Land Use-2035 Plan designates this parcel in the prime agricultural category; therefore the proposed rezoning complies with said plan; and

WHEREAS, the proposed rezoning has had three public hearings on August 20, September 17, and October 1, 2018, before the Plan Commission and a staff representative of the Waukesha County Department of Parks and Land Use, Planning and Zoning Division; and

WHEREAS, the attached Exhibit A sets forth the areas of proposed rezoning with the exact boundaries of the areas to be rezoned, to be finalized prior to formal rezoning action by the county Land Use, Parks and Environmental Committee (see Town Planner's report attached hereto).

NOW THEREFORE, BE IT HEREBY RESOLVED that the Town of Oconomowoc Plan Commission and Town Planner recommend that the rezoning set forth on Exhibit A be approved by Waukesha County, with the exact boundaries being finalized prior to formal rezoning action, and that the Town Board requests said rezoning by Waukesha County.

DATED: 11-15-18

TOWN OF OCONOMOWOC

By: Robert C. Hultquist
Robert C. Hultquist, Chairman

ATTEST:

Lori Opitz

Lori Opitz, Clerk



Voting Results for Ordinance 173-O-087

Passed By Majority Vote

AYE: 25 NAY: 0 ABSTAIN: 0 ABSENT: 0

D1 - Foti	Second	AYE	D14 - Wood	AYE
D2 - Zimmermann	Motion	AYE	D15 - Mitchell	AYE
D3 - Morris		AYE	D16 - Crowley	AYE
D4 - Batzko		AYE	D17 - Paulson	AYE
D5 - Dondlinger		AYE	D18 - Nelson	AYE
D6 - Walz		AYE	D19 - Cummings	AYE
D7 - Grant		AYE	D20 - Schellinger	AYE
D8 - Michalski		AYE	D21 - Gaughan	AYE
D9 - Heinrich		AYE	D22 - Wysocki	AYE
D10 - Swan		AYE	D23 - Hammitt	AYE
D11 - Howard		AYE	D24 - Whittow	AYE
D12 - Wolff		AYE	D25 - Johnson	AYE
D13 - Decker		AYE		