

ENROLLED ORDINANCE 172-086

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION
ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF MERTON BY
CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE
NW ¼ OF THE NE ¼ OF SECTION 14, T8N, R18E, TOWN OF MERTON,
WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL
AND EC ENVIRONMENTAL CORRIDOR OVERLAY DISTRICTS
TO THE A-1 AGRICULTURAL DISTRICT (SZ-1862)

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 February 12, 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 59.692, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Town of Merton, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors on June 23, 1970, is hereby amended to conditionally rezone from the A-1 Agricultural and EC Environmental Corridor Overlay Districts to the A-1 Agricultural District, certain lands located in part of the NW ¼ of the NE ¼ of Section 14, T8N, R18E, Town of Merton, 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 SZ-1862, is hereby approved, subject to the following conditions:


1. The pending Land Use Plan Amendment (2018, Request 2A) shall be adopted by the Waukesha County Board prior to this rezone being effective.
2. The area of the property that is not subject to this zoning amendment shall be preserved in perpetuity by means of a conservation easement. The easement language shall be reviewed and approved by the Waukesha County Planning and Zoning Division, and recorded in the Waukesha County Register of Deeds office prior to any development activities taking place.
3. The existing pier location shall be used as a single point of access to the lake by motorized equipment. A second pier may be constructed within the same vicinity to accommodate two boat slips for each residential unit. A pier plan shall be submitted to the Waukesha County Planning and Zoning Division, prior to any additional pier improvements being made. This restriction shall be included in the language of the conservation easement.

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

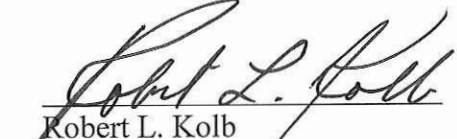
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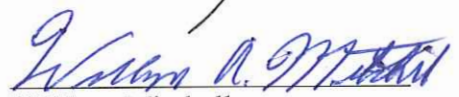
Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair

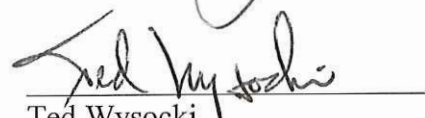

Kathleen M. Cummings

(Absent)
Keith Hammitt

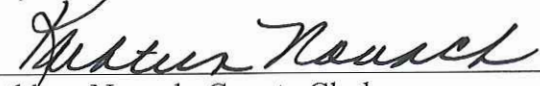

Robert L. Kolb


William Mitchell


Thomas J. Schellinger


Ted Wysocki

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

Date: 3/27/18, 
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: _____

Date: 3/30/18, 
Paul Farrow, County Executive

D1 - Kolb	AYE	D14 - Wood	AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	AYE
D3 - Morris	(2) 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 - Zaborowski	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whittow	AYE
D12 - Wolff	AYE	D25 - Johnson	Absent
D13 - Decker	AYE		

172-0-86

Passed (24 Y - 0 N - 1 Absent)

Majority Vote




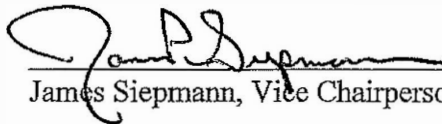
COMMISSION ACTION

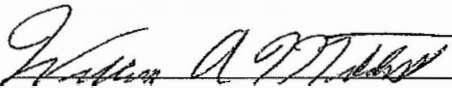
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance hereby recommends **approval** of **SZ-1862 (Thomas and Patricia Downing)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

March 1, 2018

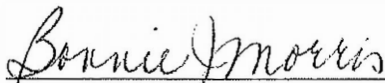

Richard Morris, Chairperson


James Siepmann, Vice Chairperson


William Mitchell, Secretary


Robert Peregrine

Absent
William Maslowski


Bonnie Morris

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

DATE: March 1, 2018

FILE NO.: SZ-1862

PETITIONER: Thomas and Patricia Downing
W293 N7882 Camp Whitcomb Road
Hartland, WI 53029

TAX KEY NUMBER: MRTT 0341.977

LOCATION:

Part of the NW ¼ of the NE ¼ of Section 14, T8N, R18E, Town of Merton. More specifically, the property is located at the Camp Whitcomb Road address cited above, containing approximately 10.5 acres.

EXISTING ZONING:

A-1 Agricultural District with EC Environmental Corridor Overlay District.

PROPOSED ZONING:

Remove EC Environmental Corridor Overlay District from an approximately 1.9 acre portion of the property.

EXISTING USES:

Single-family residential.

PROPOSED USES:

Construct a second single-family residence on the property as part of a Planned Unit Development (PUD).

PUBLIC HEARING DATE:

January 17, 2018.

PUBLIC COMMENT:

None.

TOWN PLAN COMMISSION:

At their January 17, 2018 meeting, the Town of Merton Plan Commission recommended approval of the proposed zoning amendment to the Town Board.

TOWN BOARD ACTION:

At their February 12, 2018 meeting, the Town of Merton Board approved the proposed amendment without conditions.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF MERTON CDP:

The property is subject of a 2018 County Land Use Plan amendment that is currently pending. The Town has recently approved a similar Town Plan amendment request to bring the subject portion of the property into the Suburban II Density Residential category. The property is currently designated as Primary Environmental Corridor (PEC), which requires a minimum of one unit per five acres, excluding

wetland acreage. The property contains approximately eight (8) acres, excluding the wetland acreage. If the pending amendment is approved to bring the disturbed area of the property, which includes the area of a proposed second home site, to the Suburban II Density Residential category (3 to 4.9 acres per dwelling unit), the rezone request would be compatible with plan recommendations.

STAFF ANALYSIS:

The subject property is approximately 10.5 acres in size, excluding the established road right-of-way of Camp Whitcomb Road. The property has frontage on Lake Keesus and there are wetlands located along the shore of the lake and an isolated wetland located on the south side of the property. A majority of the property is heavily wooded with steep slopes. There is a flat area located on a ridge that is largely disturbed. The flat area contains a single-family residence, detached garage and shed. The State of Wisconsin owns the adjacent property to the north for preservation/open space purposes. There are single family residential lots located on the west and east sides of the property. The Union Pacific Railroad borders the property to the south.

The petitioners are proposing to construct a second residence on the property for their daughter and family (see Exhibit "A"). At the recommendation of the Waukesha County Park and Planning Commission as part of a conceptual review, the petitioners have opted to request a Conditional Use Permit for a PUD. The PUD would allow the petitioner to construct a condominium style development with two residences on a single lot rather than dividing the property, which would have included a lot not abutting a public road. The petitioners have agreed to place the undisturbed area that remains in the Primary Environmental Corridor in a conservation easement and preserve the area in perpetuity. The petitioners have also agreed to use the existing pier location as a single access to the lake for both proposed condominium units.

The base zoning of the property is A-1 Agricultural, which requires a minimum lot size of three acres and 200 ft. in average width. There is also an Environmental Corridor Overlay District that encompasses the entire property. Although the overlay district allows development to occur at a density of one unit per five acres of upland PEC, the Land Use Plan requires that the wetlands be excluded from density calculations. The petitioners are proposing a Land Use Plan amendment in order to accommodate the proposed development. In order to develop a second home site on the lot and keep the property as a single lot of record as part of a PUD, the petitioners are required to amend the zoning district because a single lot of record in the EC Overlay District is limited to a total disturbance of 32,670 sq. ft. The petitioners are proposing a total disturbance area (existing and proposed) of 63,336, not including the existing driveway. This amount of disturbance would have been permissible with the creation of two lots, as well. The disturbance area will accommodate the existing and proposed home sites, private sewage systems, wells and yards. The map exhibit depicts a total of 1.9 acres being amended, which includes the long existing driveway corridor.

The petitioners have demonstrated that the area where the second home site is proposed has been disturbed for over 50 years. Four cottages were constructed in the 1960's with a driveway constructed along almost the entire extent of the ridge. Three of the cottages were removed. The petitioner constructed a single-family residence in the early 1980's. They use one of the cottages as a shed. There are a few mature native trees, but a majority of the area is mowed yard. The petitioners anticipate removing two to four healthy trees to accommodate the second home site.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved**, subject to the following conditions:

1. The pending Land Use Plan Amendment (2018, Request 2A) shall be adopted by the Waukesha County Board prior to this rezone being effective.
2. The area of the property that is not subject to this zoning amendment shall be preserved in perpetuity by means of a conservation easement. The easement language shall be reviewed and approved by the Waukesha County Planning and Zoning Division, and recorded in the Waukesha County Register of Deeds office prior to any development activities taking place.
3. The existing pier location shall be used as a single point of access to the lake by motorized equipment. A second pier may be constructed within the same vicinity to accommodate two boat slips for each residential unit. A pier plan shall be submitted to the Waukesha County Planning and Zoning Division, prior to any additional pier improvements being made. This restriction shall be included in the language of the conservation easement.

The amendment will allow the construction of a second residence on the property within an area that has been disturbed for over 50 years. The proposed request complies with the purpose and intent of the Waukesha County Shoreland and Floodland Protection Ordinance and Comprehensive Development Plan. The proposed improvements are limited to an existing disturbed area and the proposed density is consistent with the surrounding land uses. The remainder of the property will be held in a conservation easement and be protected in perpetuity. Lake access will also be limited to a single location, which will protect the wetland vegetation that occupies a majority of the shore frontage from further disturbance.

Respectfully submitted,

Amy Barrows

Amy Barrows
Senior Planner

Attachments: Exhibit "A", Cattail Farm Condominium Plat
Map

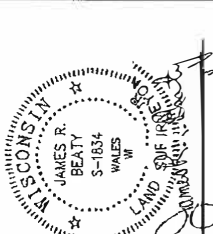
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EXHIBIT "A"

CONDOMINIUM PLAT
CATTAIL PLANTATION CONDOMINIUMS
 BEING UNPLATTED LANDS WITHIN AND BEING A PART OF THE
 NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 14, TOWN 8 NORTH
 RANGE 18 EAST, TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN.

LEGAL DESCRIPTION: (Area Subject to Condominium)
 Lot One (1) of CERTIFIED SURVEY 148 P.M.O., recorded in the register of deeds office of Waukesha County as Document No. 2018 as Document No.

SURVEYORS CERTIFICATE
 I, JAMES R. BEATY, BEING LICENSED SURVEYOR AUTHORIZED TO PRACTICE AND SURVEY IN THE STATE OF WISCONSIN, DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS PLAT IS A CORRECT AND ACCURATE REPRESENTATION OF THE SURVEYED LANDS AND IS IN ACCORDANCE WITH THE APPROPRIATE DIMENSIONS, FLOOR AREA AND LOCATIONS OF EACH UNIT WITH ALL COMMON ELEMENTS.

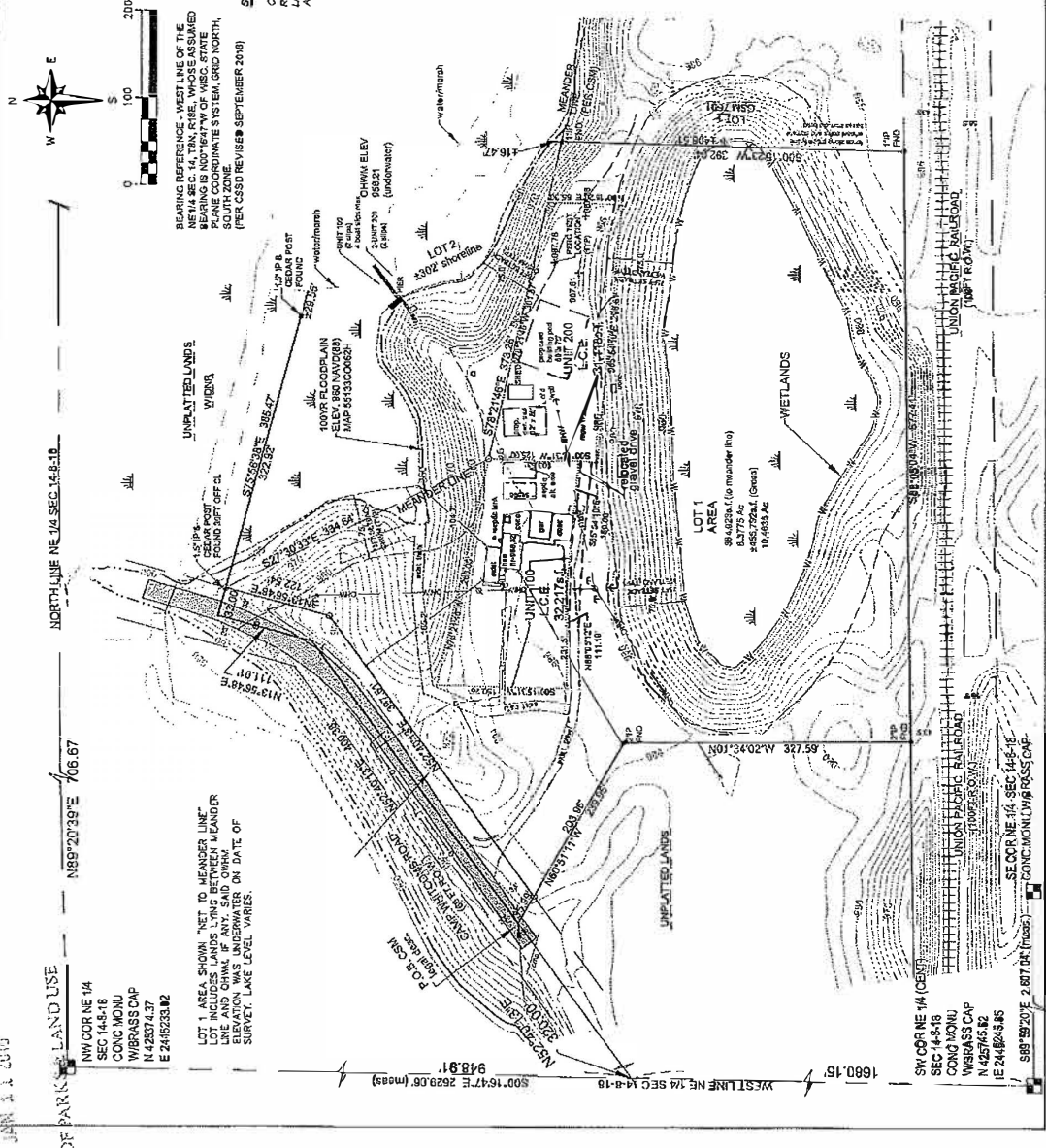


DATE: THIS 8TH DAY OF JANUARY 2018, WAUKESHA, WI.
 PREPARED BY (SURVEYOR): JAMES R. BEATY
 HORIZONTAL LAND DEVELOPMENT SERVICES, LLC
 1415 S 2897 PENNY LANE
 WAUKESHA, WI 53186
 jbeatty@hlddevelopment.com
 OWNER/DEVELOPER:
 WOODBINE CREEK WITCOMB ROAD
 HARTLAND WI 53029
 TAX ID#: MART 0341877

ALL AREAS OUTSIDE OF
 UNDEVELOPED AREAS SHOWN
 ARE COMMON ELEMENTS
DISTURBED AREA PERMITTED
 Lot 1 (total)
 64,117 sq. ft. = 14.8%
 as shown on 03.3386.1

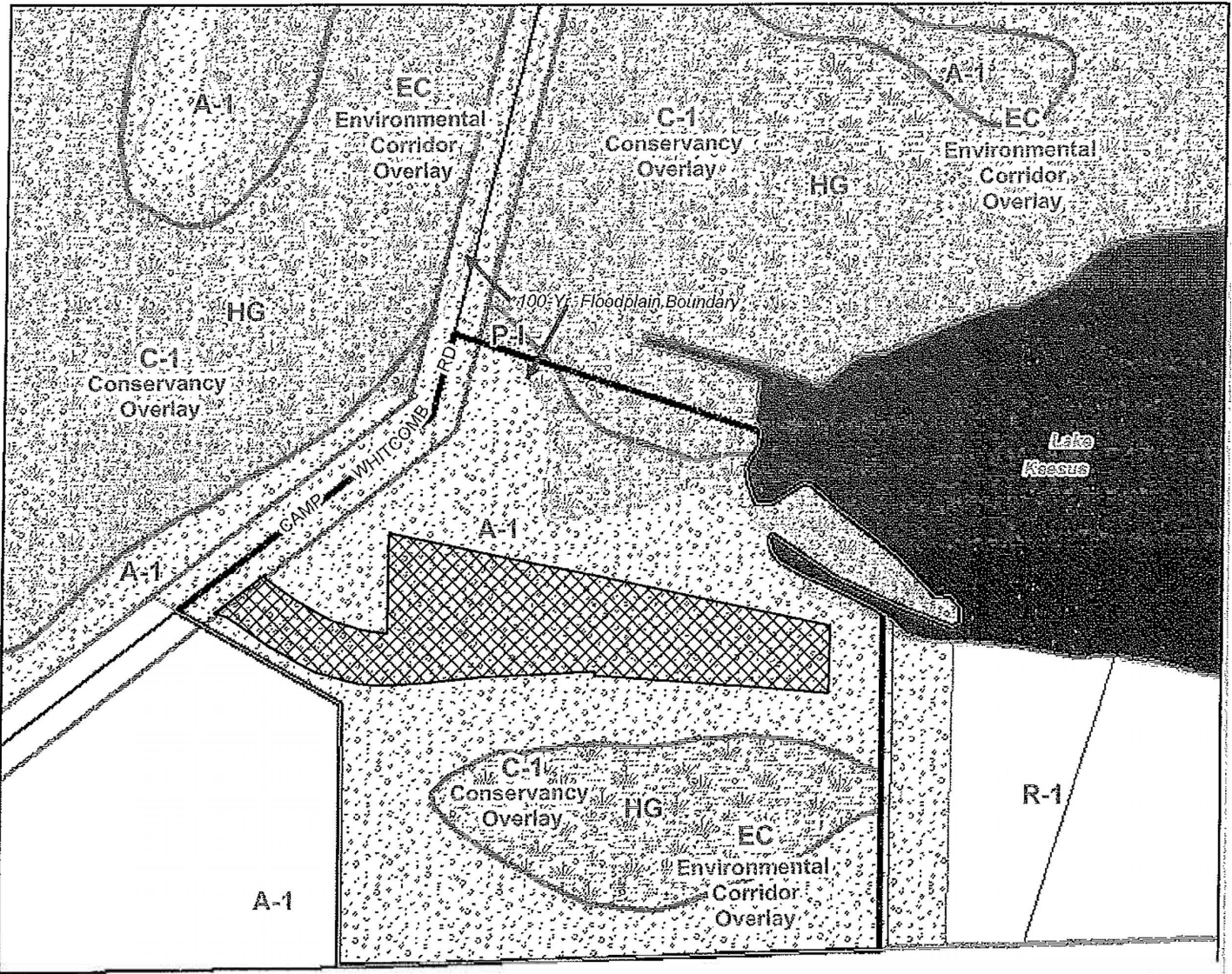
LEGEND

- - INDICATES IRON PIPE, I.D. x W.T. I.D. (E.G. 1/2" I.D. x 1/4" W.T. SET (1.25564)
- - 1" ID IRON PIPE FOUND (UNLESS NOTED)
- - CONC. SIGNAL W/BRASS CAP FOUND AS NOTED
- - RECORDED AS
- - POWER POLE
- - LIGHT POLE
- - WELL
- - SANITARY CLEANOUT OR SEPTIC (EXT)
- - ELECTRIC FORESTAL



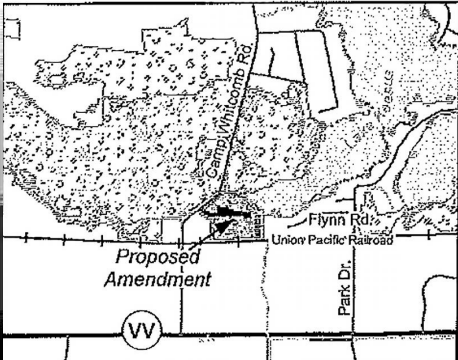
ZONING AMENDMENT

PART OF THE NE 1/4 OF SECTION 14
TOWN OF MERTON



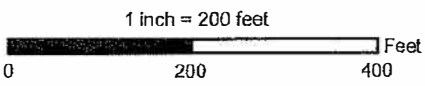
Legend

- Zoning District Boundary
- Environmental Corridor
- 100-Yr. Floodplain
- Wetland



SHORELAND ZONING AMENDMENT FROM A-1 AGRICULTURAL DISTRICT WITH EC ENVIRONMENTAL CORRIDOR OVERLAY TO A-1 AGRICULTURAL DISTRICT

PETITIONER.....DOWNING
 DATE OF PLAN COMMISSION CONSIDERATION.....03/01/18
 AREA OF CHANGE.....1.9 ACRES
 TAX KEY NUMBER.....MRTT 0341.977



Prepared by the Waukesha County Department of Parks and Land Use

File Number: 172-O-086