

ENROLLED ORDINANCE 174-080

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF WAUKESHA ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 32, T6N, R19E, TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURE DISTRICT (TOWN) TO THE RE RESIDENCE ESTATE DISTRICT (TOWN) (RZ55)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Waukesha Town Board on October 10, 2019; 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 Waukesha Zoning Code, adopted by the Town of Waukesha on February 2, 2019, is hereby amended to conditionally rezone the subject lands from the A-1 Agriculture District (Town) to the RE Residence Estate District (Town) in accordance with Town Ordinance No. 2019-12, certain lands located in part of the NW ¼ of Section 32, T6N, R19E, Town of Waukesha, 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 RZ55, is hereby approved subject to the conditions of the Town of Waukesha Ordinance 2019-12.

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

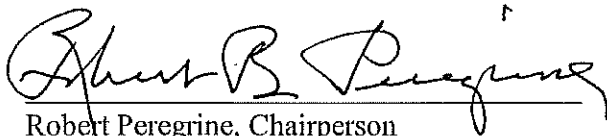
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

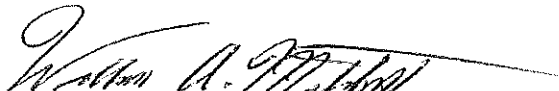
COMMISSION ACTION

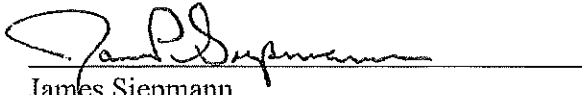
The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Town of Waukesha Zoning Code, hereby recommends approval of **(RZ55 Joey Wisniewski/Fiduciary Real Estate Development, Inc.)** in accordance with the attached "Staff Report and Recommendation".

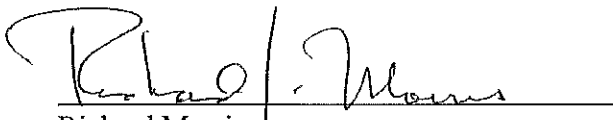
PARK AND PLANNING COMMISSION


January 16, 2020



Robert Peregrine, Chairperson


William Mitchell, Vice Chairperson


James Siepmann


Richard Morris


William Maslowski


Thomas Michalski

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

DATE: January 16, 2020

FILE NO.: RZ55

TAX KEY NO.: WAKT 1411.996.013

PETITIONER: Joey Wisniewski
Fiduciary Real Estate Development, Inc.
789 N. Water Street, Suite 200
Milwaukee, WI 53202

LOCATION:
Part of Lot 1, Certified Survey Map (CSM) No. 11589. Part of the NW ¼ of Section 32, T6N, R19E, Town of Waukesha. More specifically, the property is located at W269 S5550 River Road containing approximately 10 acres.

PRESENT ZONING CLASSIFICATION:
A-1 Agriculture District (Town).

PRESENT LAND USE:
Agricultural, farmstead.

PROPOSED ZONING:
RE Residence Estate District (Town).

PROPOSED LAND USE:
Residential lot.

PUBLIC HEARING DATE:
October 10, 2019.

PUBLIC REACTION:
None.

TOWN PLAN COMMISSION:
On October 10, 2019, the Town Plan Commission, unanimously recommended approval of the rezoning request with conditions.

TOWN BOARD ACTION
On October 10, 2019, the Town Board unanimously approved the rezoning request as recommended by the Town Plan Commission.

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

The Town and County Land Use Plans designate the area of the property as Suburban Density I Residential (1.5 to 2.9 acres per dwelling unit) and the property was subject to plan amendment conditions that required the dedication of lands along the Fox River to the county, as proposed by the

developer. The amendment also required conservation type design should subdivision of these lands be proposed. The proposal to rezone ten acres does not increase density and is in conformance with plan recommendations.

OTHER CONSIDERATIONS:

The proposal would rezone a 10-acre portion of an existing 20-acre parcel to the east of River Road to allow for a reconfiguration of the lot. These lands are part of the former Lathers farm. Lands to the west of River Road were previously divided by CSM with a dedication of river frontage to the county. Other lands that were part of the farm were sold to the State Department of Natural Resources (DNR) a number of years ago to expand their Vernon Marsh holdings.

The subject lands were part of a three-lot division that created lots of 20 acres or more (see Exhibit A). The owner of the property now wishes to re-configure those lands and create a smaller 10-acre parcel while enlarging or re-configuring the other two parcels (see town ordinance map). The proposed RE category allows lots as small as three acres, whereas the existing A-1 designation requires a minimum parcel size of 20 acres. The proposed driveway access location remains the same as what was previously approved by the Department of Public Works.

STAFF RECOMMENDATION

It is the opinion of the Planning and Zoning Division staff that the request be approved. The proposal is consistent with plan recommendations and allows for one parcel of less than 20 acres to be created, consistent with town and county plan recommendations.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachments: Town Ordinance No. 2019-12
Exhibit A, existing parcel configuration
Map

N:\PRKANDLU\Planning And Zoning\Rezoning\Staff Reports\RZ55 Wisniewski_Fiduciary Real Estate Dev Wkt.Docx

ORDINANCE NO. 2019-12
TOWN OF WAUKESHA

RECEIVED
1/6/2020
DEPT OF
PARKS & LAND
USE

AN ORDINANCE TO CONDITIONALLY REZONE AND AMEND THE TOWN
OF WAUKESHA ZONING DISTRICT MAP
OF THE TOWN OF WAUKESHA ZONING ORDINANCE
BY PLACING CERTAIN LANDS IN THE TOWN OF WAUKESHA FROM THE
A-1 AGRICULTURE TO THE
RE RESIDENCE ESTATE DISTRICT

WHEREAS, a petition has been filed by Joey Wisniewski (dba FRED-Lathers LLC), petitioning pursuant to Section 42-48(b) for rezoning property for Lot 1 of the re-division of CSM 11589, W269S5550 River Rd, Tax Key WAKT1411996013, depicted in attached Exhibits A, attached hereto and incorporated herein by reference (the "Subject Property"); and

WHEREAS, upon receipt of the petition the Town Clerk scheduled a public hearing to be held jointly by the Town Plan Commission and the Town Board October 10, 2019, pursuant to Section 42-48(d); and

WHEREAS, the Town Clerk for the Town of Waukesha has properly transmitted notice to the Town Plan Commission, Town Board, and to the Waukesha County Park and Planning Commission, pursuant to Section 42-48(d)(2) of the Town of Waukesha Zoning Code; and

WHEREAS, the Plan Commission considered the testimony taken at the public hearing, along with other pertinent technical information and made a recommendation to the town pursuant to Section 42-48(d)(3) of the Town of Waukesha Zoning Code; and

WHEREAS, the Town Board for the Town of Waukesha at the October 10, 2019 meeting after carefully reviewing the recommendation of the Plan Commission for the Town of Waukesha 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, morals, comfort, prosperity and general welfare of the Town of Waukesha 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 rezoning will serve the public health, safety morals, comfort, prosperity and general welfare of the Town of Waukesha, and that such amendments are intended to provide for adequate light, air, convenience of access, and safety from fire and other dangers; to promote the safety and efficiency of the public streets and highways; to aid in conserving and stabilizing the economic values of the community; to promote the orderly development of land; to preserve and promote the general attractiveness and character of the community environment; to guide the proper distribution and location of population and of the various land uses; and otherwise provide for the healthy and prosperous growth of the community, and that such rezoning 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 Waukesha, Waukesha County does hereby ordain as follows:

SECTION 1: The Subject Property identified as W269S5550 River Rd, Tax ID WAKT1420997001 depicted by map on Exhibit A and by legal description (east of the Fox River) Located in part of the NE ¼ and NW ¼ of Section 31, T6N R19E, both exhibits attached hereto and incorporated herein by reference, are hereby conditionally amended to change the zoning of such property from A-1 Agriculture to the RE Residence Estate District, if the conditions stated in Section 2 of this ordinance are met.

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 Rezone approval shall not be in full force and effect until approved by the Waukesha County Board of Supervisors, and the Petitioner obtains approval of the Certified Survey Map by the Town of Waukesha Board, Waukesha County Department of Parks and Land Use, and City of Waukesha, and records the same with the Waukesha County Register of Deeds.
2. The Petitioner and/or Property Owner shall, on demand, reimburse the Town of Waukesha for all costs and expenses of any type incurred by the Town in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Town for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Town of Waukesha by the Subject Property Owner and/or Agent, 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 or forfeitures owed to the Town of Waukesha must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town of Waukesha, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town of Waukesha, including possible cause for termination of the conditional approval.

SECTION 3. The subject property owner is hereby put on notice that the Town of Waukesha may rezone the lands or portions thereof subject to this conditional rezoning ordinance to A-1 Agriculture District if the conditions of this ordinance are not fully complied with.

SECTION 4. SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision 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 7. 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 original district zoning shall be in effect with no further notice if said conditions are not complied with on the terms and conditions stated herein.

Passed and approved this 6th day of January, 2020.

TOWN OF WAUKESHA, WI

Brian Fischer 01/06/20

By: Brian Fischer, Town Chairman

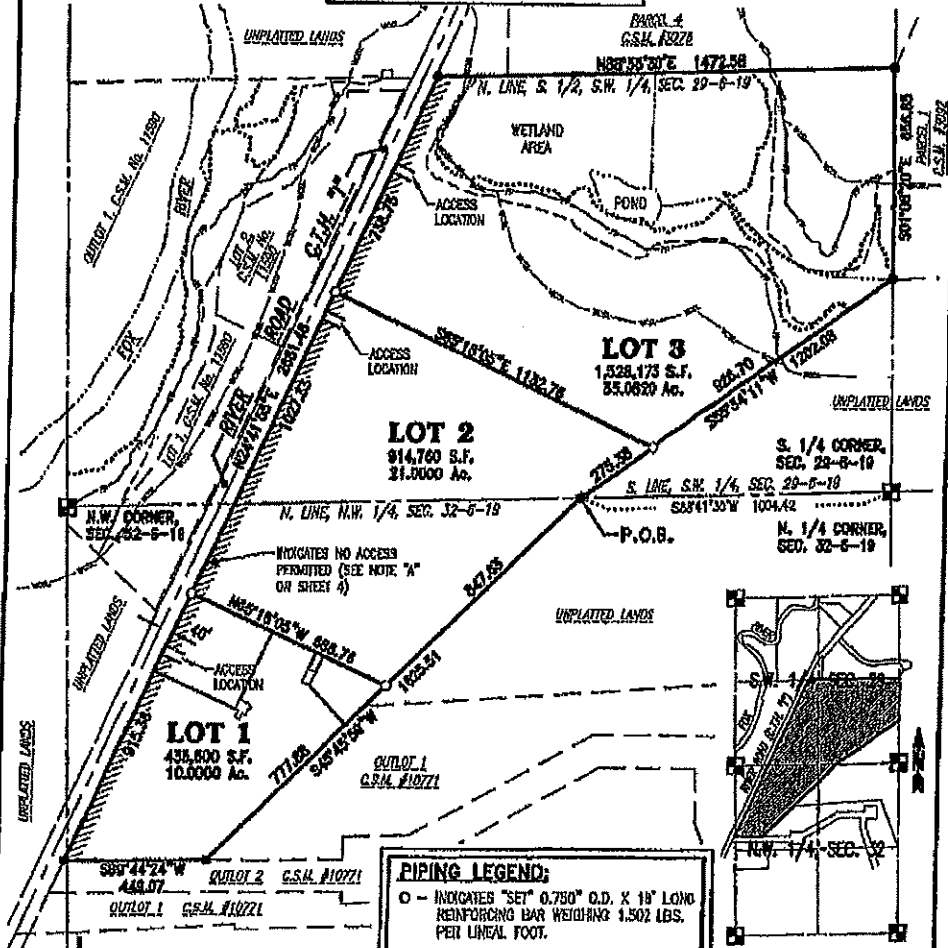
ATTEST:

Kathy Nicklaus
Kathy Nicklaus, Town Clerk-Treasurer

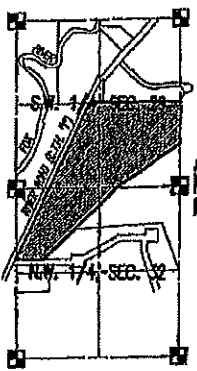
CERTIFIED SURVEY MAP NO.

BEING A REDVISION OF CERTIFIED SURVEY MAP No. 11889, OF CERTIFIED SURVEY MAPS 118, PAGES 1 THROUGH 7 INCLUSIVE, IN THE WAUKESHA COUNTY REGISTER OF DEEDS OFFICE, LOCATED IN A PART OF THE SOUTHWEST 1/4 AND SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29, THE NORTHWEST 1/4 AND NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32 AND THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31, ALL IN TOWN 8 NORTH, RANGE 19 EAST, IN THE TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN.

OVERALL DETAIL SHEET



PIPING LEGEND:
 ○ - INDICATES "SET" 0.750" O.D. X 18" LONG REINFORCING BAR WEIGHING 4.502 LBS. PER LINEAL FOOT.
 ● - INDICATES "FOUND" 3/4" REBAR.



NORTH
 SCALE: 1"=400'
 0 200 400

OWNER: (LOTS 2&3)
 FRED-LATHENS, LLC
 789 N. WATER STREET
 SUITE 200
 MILWAUKEE, WI 53202
 PHONE: 414-226-4635

OWNER: (LOT 1)
 ANDREW GREDAS
 W280 6380 RIVER ROAD
 WAUKESHA, WI 53109

PREPARED BY:
 TRD ENGINEERS, LLC
 12660 W. NORTH AVENUE
 BUILDING "D"
 BROOKFIELD, WI 53005
 PHONE: 262-780-1480

LOCALITY MAP:
 S.W. 1/4, SEC. 29,
 N.W. 1/4, SEC. 32,
 T. 8 N., R. 19 E.
 SCALE: 1"=2000'



GENERAL NOTES:
 • ALL BEARINGS ARE REFERENCED TO GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE (NAD-27), IN WHICH THE NORTH LINE OF THE N.W. 1/4 OF SECTION 32, TOWN 8 NORTH, RANGE 19 EAST, BEARS NORTH 88°41'30" EAST.
 • EACH LOT TO BE LIMITED TO ONE ACCESS LOCATION. ACCESS LOCATION TO BE OBTAINED THROUGH THE DRIVEWAY PERMITTING PROCESS AT WAUKESHA COUNTY.
 • ALL TELEPHONE LINES, ELECTRIC LINES, CABLE TELEVISION LINES, TELECOMMUNICATIONS LINES, AND OTHER SIMILAR UTILITY SERVICES SHALL BE PLACED UNDERGROUND UNLESS THE APPLICANT OR UTILITY CAN DEMONSTRATE THAT UNDERGROUNDING IS NOT FEASIBLE.

DRAFTED THIS 11th DAY OF SEPTEMBER, 2019
 THIS INSTRUMENT WAS DRAFTED BY DEBORAH L. JOERS, S-2132

JOB NO. 16-006-037-01
 SHEET 1 OF 8

EXHIBIT "A"

4288649

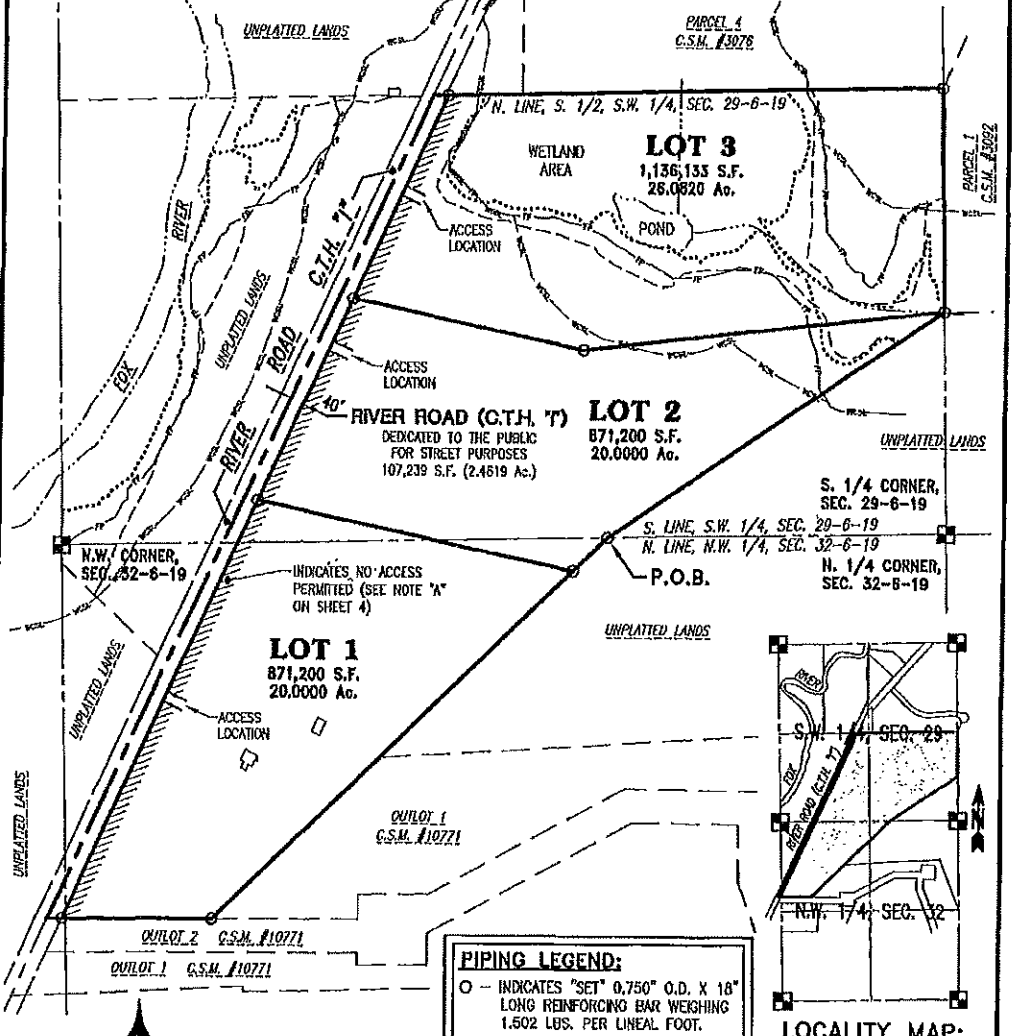
Book 116 Page 1-7



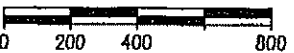
CERTIFIED SURVEY MAP NO. 11589

BEING A REDIVISION OF LANDS LOCATED IN A PART OF THE SOUTHWEST 1/4 AND SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29, THE NORTHWEST 1/4 AND NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 32 AND THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 31, ALL IN TOWN 6 NORTH, RANGE 19 EAST, IN THE TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN.

OVERALL DETAIL SHEET



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SCALE: 1" = 400'



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 789 N. WATER STREET
 SUITE 200
 MILWAUKEE, WI 53202
 PHONE: 414-226-4535

PREPARED BY:
 TRID ENGINEERING, LLC
 12050 W. NORTH AVENUE
 BUILDING "D"
 BROOKFIELD, WI 53005
 PHONE: 262-790-1480

LOCALITY MAP:

S.W. 1/4, SEC. 29,
 N.W. 1/4, SEC. 32,
 T. 6 N., R. 19 E.
 SCALE: 1" = 2000'



GENERAL NOTES:

- ALL BEARINGS ARE REFERENCED TO GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE (NAD-27), IN WHICH THE NORTH LINE OF THE N.W. 1/4 OF SECTION 32, TOWN 6 NORTH, RANGE 19 EAST, BEARS NORTH 88°41'30" EAST.
- STRUCTURES ON LOT 1 TO BE RAZED. EXISTING WELL AND SEPTIC SYSTEM TO REMAIN.
- EACH LOT TO BE LIMITED TO ONE ACCESS LOCATION. ACCESS LOCATION TO BE OBTAINED THROUGH THE DRIVEWAY PERMITTING PROCESS AT WAUKESHA COUNTY.
- ALL TELEPHONE LINES, ELECTRIC LINES, CABLE TELEVISION LINES, TELECOMMUNICATIONS LINES, AND OTHER SIMILAR UTILITY SERVICES SHALL BE PLACED UNDERGROUND UNLESS THE APPLICANT OR UTILITY CAN DEMONSTRATE THAT UNDERGROUNDING IS NOT FEASIBLE.

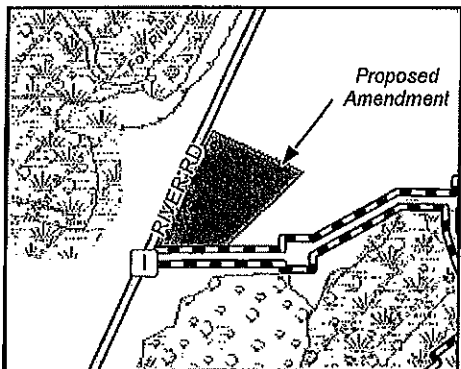
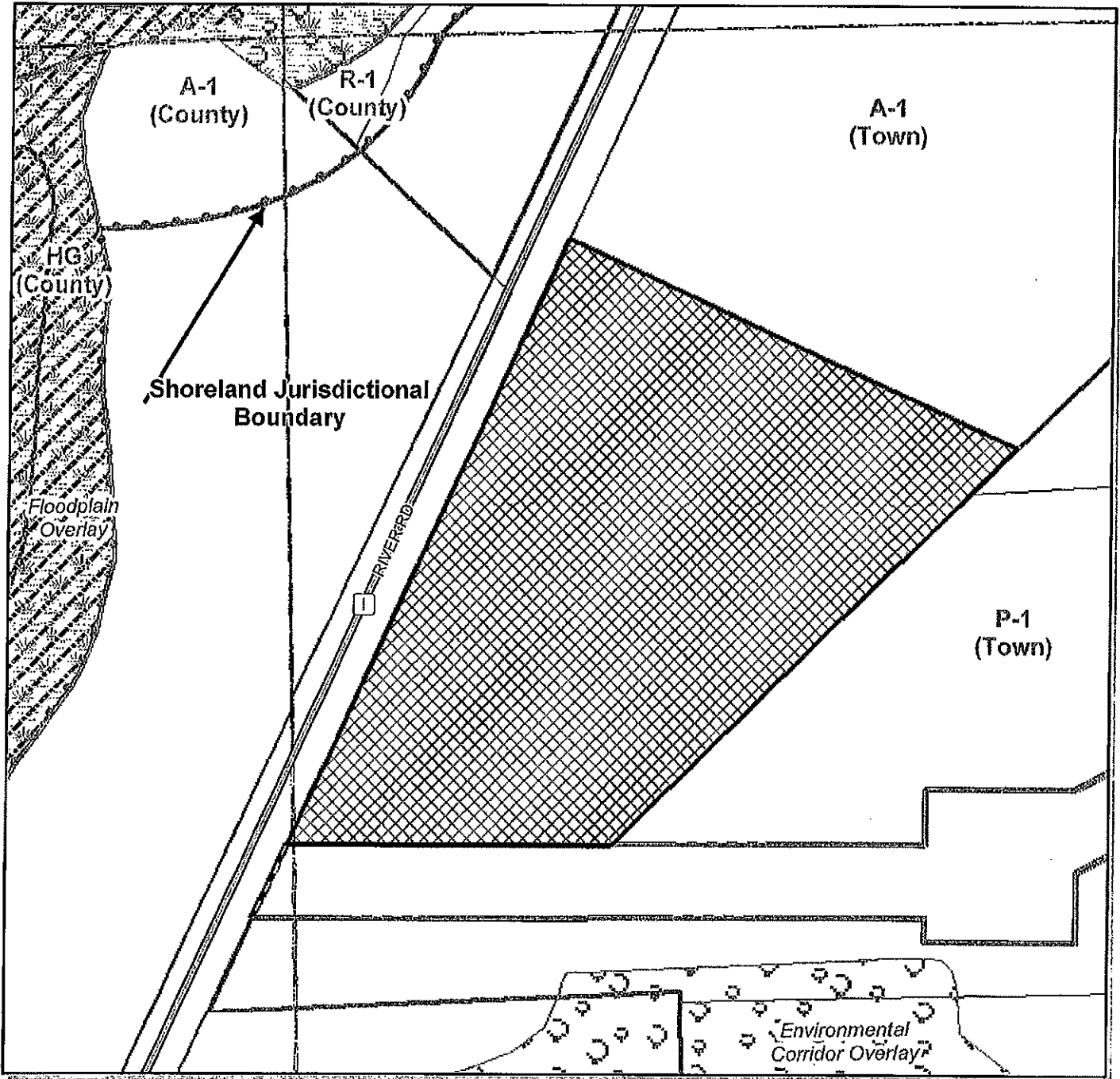
DRAFTED THIS 27th DAY OF JUNE, 2016 (REVISED: 3/13/17)
 THIS INSTRUMENT WAS DRAFTED BY GRADY L. GOSSER, S-2972

6/27/16
 3/13/17

JOB NO. 16-006-037-01
 SHEET 1 OF 7

ZONING AMENDMENT

PT OF THE NW 1/4 OF THE NW 1/4 SECTION 32,
TOWN OF WAUKESHA

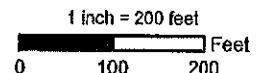


 TOWN ZONING AMENDMENT CHANGE FROM A-1 AGRICULTURAL DISTRICT TO RE RESIDENTIAL ESTATE DISTRICT (9.9 AC)

FILE..... RZ55
 DATE OF PLAN COMMISSION..... 1/16/20
 AREA OF CHANGE..... 9.9 ACRES
 TAX KEY NUMBER..... WAKT 141.1998.013



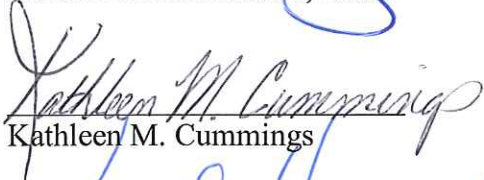
Prepared by the Waukesha County Department of Parks and Land Use

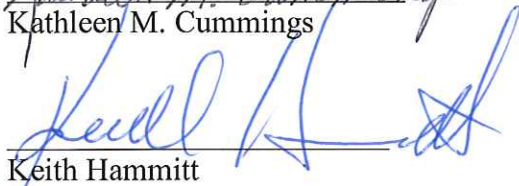


AMEND THE DISTRICT ZONING MAP OF THE TOWN OF WAUKESHA ZONING CODE
BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW
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WISCONSIN, FROM THE A-1 AGRICULTURE DISTRICT (TOWN)
TO THE RE RESIDENCE ESTATE DISTRICT (TOWN) (RZ55)

Presented by:
Land Use, Parks, and Environment Committee

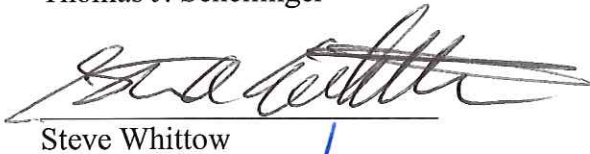

David D. Zimmermann, Chair

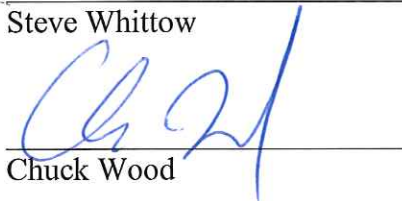

Kathleen M. Cummings


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: 2/28/2020, 
Margaret Waitman, County Clerk

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

Approved: X

Vetoed:

Date: 2/28/2020, 
Paul Farrow, County Executive

