

ENROLLED ORDINANCE 178-29

AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 2, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT
(RZ115)

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 May 15, 2023; 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, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Town of Oconomowoc District Zoning Map of the Waukesha County Zoning Code, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors, on February 26, 1959, is hereby amended to conditionally rezone certain lands located in part of the NE ¼ of Section 2, T8N, R17E, Town of Oconomowoc, from the FLP Farmland Preservation District to the R-1 Residential District, 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 RZ115, subject to the following conditions:

1. The Zoning Amendment shall only amend the zoning on the five (5) acre parcel substantially consistent with Exhibit A. No other lands are to be rezoned.
2. A Certified Survey Map, prepared by a Professional Land Surveyor in the State of Wisconsin, dividing the parcel as proposed, shall be reviewed and approved by the Town Plan Commission, Town Board and Waukesha County Department of Parks and Land Use prior to the issuance of any Zoning or Building Permits.
3. A Declaration of Restrictions shall be prepared and submitted to the Town Planner and Waukesha County Planning and Zoning Staff for review and approval. The restriction must be recorded in the Waukesha County Register of Deeds Office by the owner or petitioner and must state that, pursuant to the Town of Oconomowoc Comprehensive Land Use Plan -2035 and the Waukesha County Comprehensive Plan, five (5) additional development rights remain for the Robert C. Swedberg farm tract and the proposed new lot is entitled to only one (1) dwelling unit. Said restriction must state that the restriction shall apply in perpetuity unless the County Comprehensive Plan Farmland Preservation designation under both the Town of Oconomowoc Comprehensive Land Use Plan – 2035 and the Waukesha County Comprehensive Plan for the property is amended in the future.

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.

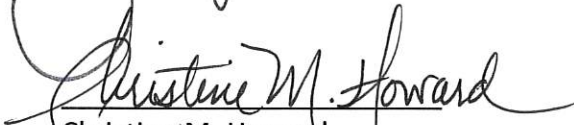
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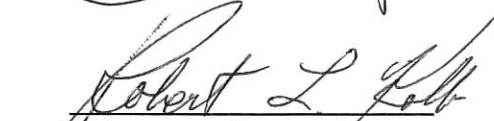
Presented by:


Land Use, Parks, and Environment Committee


Tyler J. Foti, Chair

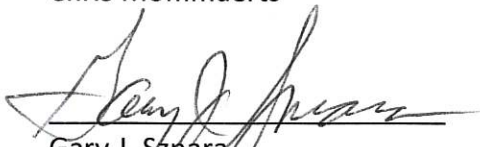

Jennifer Grant


Christine M. Howard


Robert L. Kolb


Brian Meier


Chris Mommaerts


Gary J. Szpara

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

Date: July 31 2023, 
Margaret Wartman, County Clerk

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

Approved: X
Vetoed: _____

Date: 7/31/2023, 
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 Zoning Code hereby recommends approval of **RZ115** (Swedberg) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

June 15, 2023

Abstained from vote

James Siepmann, Chairperson

Robert Peregrine
Robert Peregrine

Richard Morris
Richard Morris

William Groskopf
William Groskopf

Absent

Gary Szpara

Robert Hamilton
Robert Hamilton

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

DATE: June 15, 2023

FILE NO.: RZ115

OWNER: Robert C. Swedberg
W359 N9054 Brown Street
Oconomowoc, WI 53066

APPLICANT: Erik Swedberg
N78 W37503 Tamarack Drive
Oconomowoc, WI 53066

TAX KEY NO.: OCOT 0437.998.002

LOCATION:

The property is described as part of the NE ¼ of Section 2, T8N, R17E, Town of Oconomowoc. More specifically the property is located at W350 N9355 Norwegian Road containing approximately 154 acres.

EXISTING ZONING:

FLP Farmland Preservation District, FLC Farmland Conservation District, C-1 Conservancy Overlay District (Wetlands), C-1 Conservancy Overlay District (Floodplain), Environmental Corridor Overlay District

PROPOSED ZONING:

R-1 Residential District (single-family residential parcel)

EXISTING LAND USE(S):

Residential and agricultural.

PROPOSED LAND USE(S):

Create a 5-acre farm consolidation parcel that would include an existing single-family residence, a barn and a shed.

PUBLIC HEARING DATE:

May 1, 2023

PUBLIC COMMENT:

None.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On May 15, 2023, the Town of Oconomowoc Plan Commission and the Town of Oconomowoc Town Board recommended approval of the request subject to the conditions as noted below.

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

The property is designated in the Farmland Preservation category on the Comprehensive Development Plan for Waukesha County and in the Prime Agricultural category on the Town Land Use Plan. There are areas of the 154-acre farm parcel that are designated as Farmland Preservation with Environmental Corridor Overlay that are not part of the requested land division and rezoning. The proposal to rezone five (5) acres is consistent with plan recommendations that call for a maximum density of one dwelling unit per 35 acres.

STAFF ANALYSIS:

The 154-acre subject property is located at the northern border of Waukesha County, west of Norwegian Road. There is an existing single family residence, two barns, a shed and a silo clustered together in the south-central portion of the property. The Ashippun River runs through the north portion of the property with areas of environmental corridor, floodplain and wetland adjacent to the river. These environmentally sensitive lands are identified as future town ownership on the Waukesha County Park and Open Space Plan. The town is not interested in pursuing acquisition of these lands at this time. There is also an area of wetlands south of the proposed parcel. The surrounding area is rural farmland.

The petitioner is proposing to create a 5-acre farm consolidation parcel that contains the existing residence, one barn and the shed (Exhibit A). The future plan is to remove the existing residence and build a new residence on the 5-acre parcel. The remnant acreage would remain in agricultural use and would contain the other barn and the silo. Access is from Norwegian Road and is not proposed to change.

The proposed lot is zoned Farmland Preservation (FLP) pursuant to the Waukesha County Zoning Code. Plan designations are Farmland Preservation per the Waukesha County Comprehensive Development Plan and Agricultural Preservation on the Town of Oconomowoc Land Use Plan. The Farmland Preservation District states that new residences or new lots on less than 35 acres shall only be permitted with the creation and rezoning of a new parcel. The overall density of the farm tract must be maintained at one dwelling unit per 35 acres. The Robert C. Swedberg Farm Tract contains 269 acres on two parcels, which provides up to seven (7) density rights. Two (2) density rights are currently accounted for. Because the existing residence on the proposed lot will be removed and replaced with a new residence, the density units available remains unchanged.

The proposed parcel complies with the lot size requirements for a farm consolidation (1 to 5 acres) set forth by the FLP rezoning process, as well as the minimum average width requirements (150 ft.) of the R-1 District. The parcel location and subsequent residence will not limit the agricultural use of the 149-acre remnant farmlands, preserving and maintaining productive and viable agricultural land that adds to the economic base of Waukesha County. The Town and County believe the proposed 5-acre parcel meets the Farmland Preservation District siting standards as the proposed lot encompasses most of the existing structures, which are already clustered together and are located on uncultivated lands. The structures that remain on the agricultural land will continue to be used for agricultural purposes.

STAFF RECOMMENDATION:

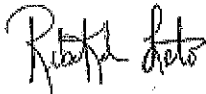
The Planning and Zoning Division Staff recommends **approval** of this request in accordance with the Town of Oconomowoc's recommendations as modified below (modifications or additions to the Town's conditions are in **bold** and deletions are identified in a strikethrough format):

1. The Zoning Amendment shall only amend the zoning on the five (5) acre parcel ~~as shown on~~ **substantially consistent with** Exhibit A. No other lands are to be rezoned.
2. A Certified Survey Map, prepared by a ~~Registered~~ **Professional** Land Surveyor in the State of Wisconsin, dividing the parcel as proposed, shall be reviewed and approved by the Town Plan Commission, Town Board and Waukesha County **Department of Parks and Land Use prior to the issuance of any Zoning or Building Permits.**
3. A Declaration of Restrictions shall be prepared and submitted to the Town Planner and Waukesha County Planning and Zoning Staff for review and approval. The restriction must be recorded in the Waukesha County Register of Deeds Office **by the owner or petitioner** and must state that, pursuant to the Town of Oconomowoc Comprehensive Land Use Plan -2035 and the Waukesha County Comprehensive Plan, ~~three (3)~~ **five (5)** additional development rights remain **for the Robert C. Swedberg farm tract** and the proposed new lot is entitled to only one (1) dwelling unit. Said

restriction must state that the restriction shall apply in perpetuity unless the County Comprehensive Plan Farmland Preservation designation under both the Town of Oconomowoc Comprehensive Land Use Plan – 2035 and the Waukesha County Comprehensive Plan for the property is amended in the future.

If approved as conditioned, the zoning change would be consistent with Town and County Comprehensive Development Plan recommendations as the 35-acre farmland preservation density requirement is being met. The rezoning of five acres of land will allow the petitioner to construct a residence on a new parcel, while not limiting the agricultural use of the remaining farmlands. As conditioned and in accordance with the requirements of the Waukesha County Zoning Code, a Deed Restriction will be recorded to disclose to future owners that there are five (5) density credits remaining on the farm tract after the creation of the five-acre parcel. This will ensure that the 35-acre density is maintained over time and that the vast majority of the land preserved on site remains in productive farmland or open space uses. This 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.

Respectfully submitted,



Rebekah Leto
Senior Planner

Attachments: Exhibit A – Concept Plan
 Rezone Map

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LEGAL DESCRIPTION

PROJECT 176-C-029
This plat is a subdivision of the NW 1/4, SW 1/4, SE 1/4 and NE 1/4 of Section 2, T.8N., R.17E., Town of Economowoc, Waushara County, Wisconsin, as shown on the plat of the NW 1/4, SW 1/4, SE 1/4 and NE 1/4 of Section 2, T.8N., R.17E., Town of Economowoc, Waushara County, Wisconsin, recorded as Plat 176-C-029, dated August 18, 2000, in the Office of the Register of Deeds for Waushara County, Wisconsin. The boundaries and acreage of the lots shown on this plat are based on the plat of the NW 1/4, SW 1/4, SE 1/4 and NE 1/4 of Section 2, T.8N., R.17E., Town of Economowoc, Waushara County, Wisconsin, recorded as Plat 176-C-029, dated August 18, 2000, in the Office of the Register of Deeds for Waushara County, Wisconsin. The boundaries and acreage of the lots shown on this plat are based on the plat of the NW 1/4, SW 1/4, SE 1/4 and NE 1/4 of Section 2, T.8N., R.17E., Town of Economowoc, Waushara County, Wisconsin, recorded as Plat 176-C-029, dated August 18, 2000, in the Office of the Register of Deeds for Waushara County, Wisconsin. The boundaries and acreage of the lots shown on this plat are based on the plat of the NW 1/4, SW 1/4, SE 1/4 and NE 1/4 of Section 2, T.8N., R.17E., Town of Economowoc, Waushara County, Wisconsin, recorded as Plat 176-C-029, dated August 18, 2000, in the Office of the Register of Deeds for Waushara County, Wisconsin.

EXHIBIT A

PLAT OF SURVEY

BEING A PART OF THE NW 1/4, SW 1/4, SE 1/4 AND NE 1/4 OF THE NE 1/4 OF SECTION 2, T.8N., R.17E., TOWN OF ECONOMOWOC, WAUSHARA COUNTY, WISCONSIN

Concept Plan

LAND MARK
ENGINEERING SCIENCES, INC.
119 COULDS AVE, SUITE 100
WAUKESHA, WI 53186
(414) 719-2789

SURVEYOR:
MARK AUGUSTINE, PLS

SURVEY FOR:
ROBERT & MARY JANE SWEDBERG

PROPERTY:
W350N8355 NORWEGIAN RD
OCCONOWOC, WI 53066

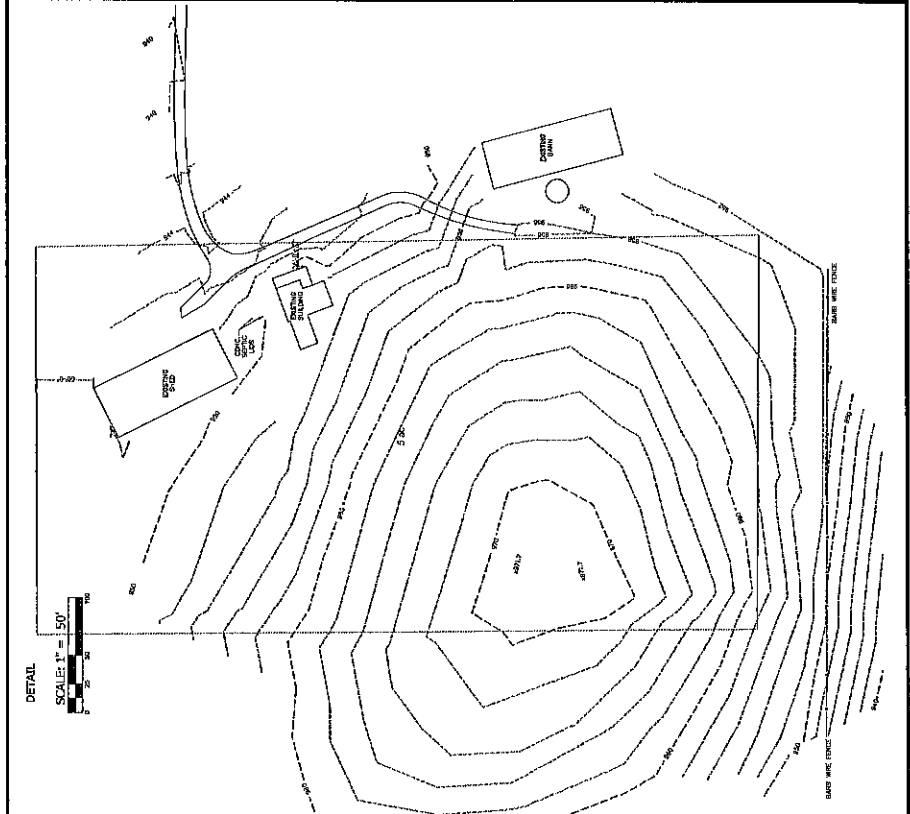
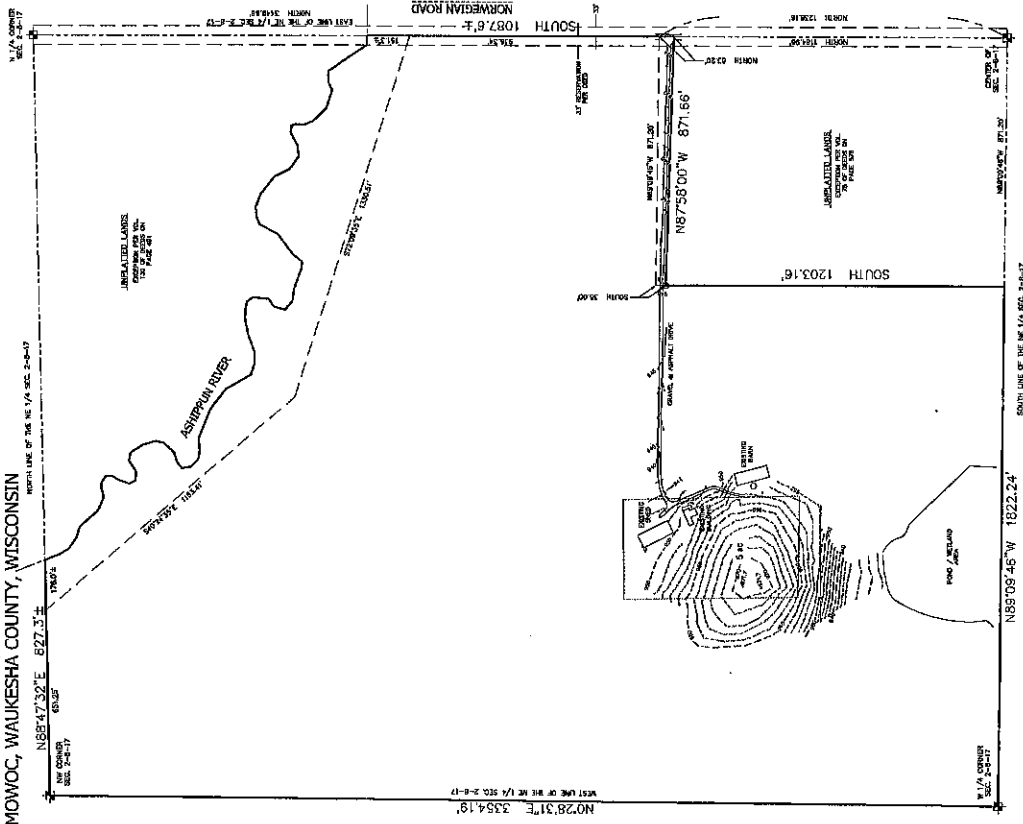


SCALE: 1" = 200'

MEASUREMENTS ARE REFERENCED TO NAD83, WISCONSIN STATE PLANE COORDINATE SYSTEM. THE SOUTH LINE OF THE NE 1/4 OF SECTION 2-17 IS 45 DEGREES 44' 30" WEST OF NORTH.

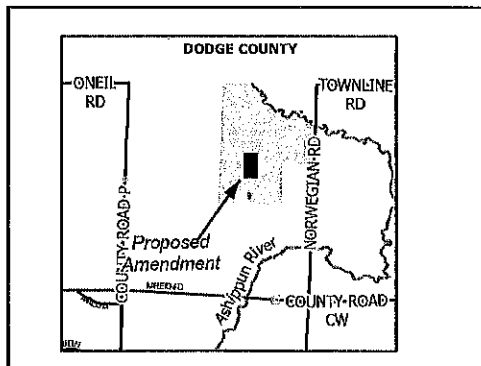
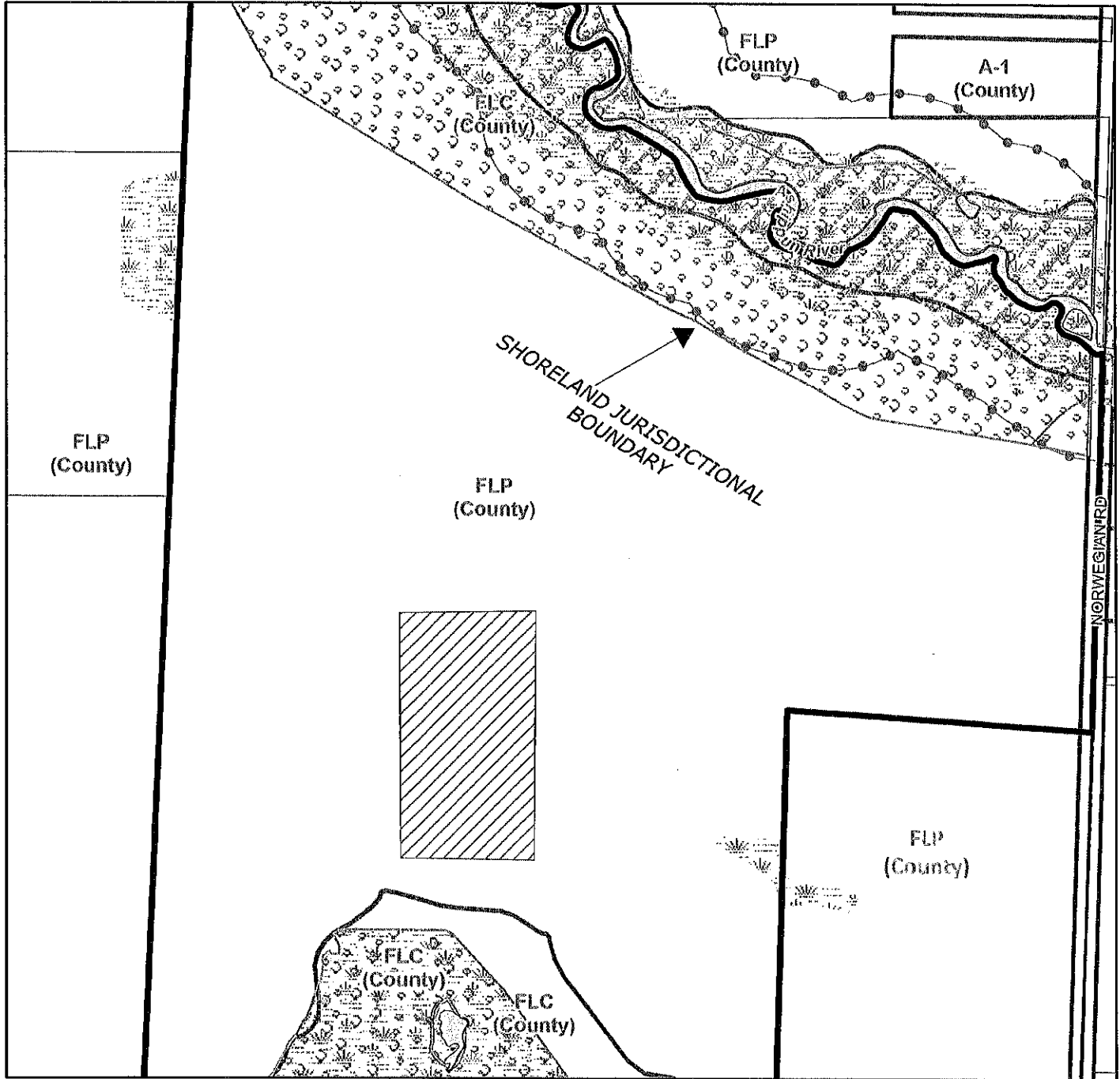
LEGEND
- 1" BENCH POINT
- DOTTED LINE 2" CONTOUR
- DOTTED LINE 10" CONTOUR

NOTES
1. THE FIELD WORK WAS COMPLETED ON AUGUST 18, 2000.
2. THE SURVEYOR MAKES NO REPRESENTATION AS TO THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT.
3. THE SURVEYOR MAKES NO REPRESENTATION AS TO THE ACCURACY OF THE DATA PROVIDED BY THE CLIENT.



ZONING AMENDMENT

PART OF THE NE 1/4, SECTION 2,
TOWN OF OCONOMOWOC



 CONDITIONAL COUNTY ZONING CHANGE FROM FLP FARMLAND PRESERVATION DISTRICT TO R-1 RESIDENTIAL DISTRICT

 EC Environmental Corridor Overlay

 C-1 Conservancy Overlay

FILE.....RZ115
 DATE OF PLAN COMMISSION.....6/15/23
 AREA OF CHANGE.....5 ACRES
 TAX KEY NUMBER.....OCOT 0437.998.002




VOTE RESULTS

23 YES 0 NO 0 ABSTAIN 2 ABSENT

Ordinance 178-O-029

Ordinance 178-O-029: Amend the Town of Oconomowoc District Zoning Map of the Waukesha County Zoning Map of the Town of Oconomowoc, from the FLP Farmland Preservation District to the R-1 Residential District (RZ115)

 **Passed By Majority Vote**

D1 - Foti	AYE	D10 - Thieme	AYE	D19 - Enriquez	ABSENT
D2 - Weil	AYE	D11 - Howard	AYE	D20 - Schellinger	AYE
D3 - Morris	AYE	D12 - Wolff	AYE	D21 - Gaughan	AYE
D4 - Batzko	AYE	D13 - Decker	AYE	D22 - Szpara	AYE
D5 - Grant	AYE	D14 - Mommaerts	AYE	D23 - Hammitt	AYE
D6 - Walz	AYE	D15 - Kolb	AYE	D24 - Bangs	AYE
D7 - LaFontain	AYE	D16 - Crowley	AYE	D25 - Johnson	AYE
D8 - Koremenos	AYE	D17 - Meier	AYE		
D9 - Heinrich	ABSENT	D18 - Nelson	AYE		