ENROLLED ORDINANCE 171-35

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF WAUKESHA AND THE TOWN OF WAUKESHA ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF THE SW ¼ OF SECTION 29 AND PART OF THE NW ¼ OF THE NW ¼ OF SECTION 32, T6N, R19E, TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (TOWN AND COUNTY) (SZT-1817A)

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 July 14, 2016, 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 Sections 59.692 and 60.62, 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 Waukesha, Waukesha County, Wisconsin, adopted on June 24, 1979, and the Town of Waukesha Zoning Code adopted on June 24, 1979, are hereby amended to conditionally rezone certain lands located in part of the SW ¼ of the SW ¼ of Section 29 and part of the NW ¼ of the NW ¼ of Section 32, T6N, R19E, Town of Waukesha, Waukesha, Wisconsin, from the A-1 Agricultural District to the R-1 Residential District (Town and County), 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 SZT-1817A subject to the following conditions:

- 1. The Town's Enrolled Ordinance No. 2016-11 shall be complied with.
- 2. A Certified Survey Map, in substantial compliance with Exhibit "A", shall be reviewed and approved by all review entities and recorded with the office of Register of Deeds, prior to the rezoning becoming effective.
- 3. Outlot 1 shall be dedicated to Waukesha County, as proposed on the Certified Survey Map, with the exception of the land area that contains a shed occupied by the adjacent property owner to the north.

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.

BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

File Number: 171-O-035

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF WAUKESHA AND THE TOWN OF WAUKESHA ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF THE SW ¼ OF SECTION 29 AND PART OF THE NW ¼ OF THE NW ¼ OF SECTION 32, T6N, R19E, TOWN OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (TOWN AND COUNTY) (SZT-1817A)

	Presented by: Land Use, Parks, and Environment Committee
	David D. Zimmermann, Chair
) Ji	athlen M. Cummings
Sk	Leud Keith Hammitt
7	Cobert L. Kolb
V Ī	William Mitchell
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<u>-</u>	Ted Wysocki
1	The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:
Ι	Date: 9/27/14 , XISHIN MARIEL Kathleen Novack, County Clerk
V	The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby: Approved:X Vetoed: Date:/0/4/1/o,
1	Paul Farrow, County Executive

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the <u>Ordinance</u> to amend the Waukesha County Shoreland and Floodland Protection Ordinance and the Town of Waukesha Zoning Code, hereby recommends <u>approval</u> of SZT-1817A (FRED-Lathers, LLC.) in accordance with the attached "Staff Report and Recommendation."

PARK AND PLANNING COMMISSION

August 18, 2016

James Siepmann, Vice Chairperson

William Mitchell, Secretary

Richard Morris, Chairperson

Robert Peregrine

Gary Goodchild

William Maslowski

absent

Keith Hammitt

Referred on: 09/08/16

File Number: 171-O-035

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

DATE:

August 18, 2016

FILE NO.:

SZT-1817A

TAX KEY NOs.:

Part of WAKT1411996001 and part of WAKT1421998004

OWNER/PETITIONER:

FRED-Lathers LLC

789 N. Water St., Ste. 200 Milwaukee, WI 53202

LOCATION:

Part of the SW ¼ of the SW ¼ of Section 29 and part of the NW ¼ of the NW ¼ of Section 32, T6N, R19E, Town of Waukesha. More specifically, the portion of the properties subject to this rezone are located on the west side of C.T.H. "I" (River Road) south of Fox Vale Court, containing approximately 7.7 acres, 3.55 acres of which are located within the County's shoreland jurisdiction.

PRESENT ZONING CLASSIFICATION:

A-1 Agricultural, E-C Environmental Corridor, C-1 Conservancy, and A-E Exclusive Agricultural Conservancy Districts (County).

A-1 Agricultural and C-1 Conservancy Districts (Town).

PRESENT LAND USE:

Agricultural.

PROPOSED ZONING:

R-1 Residential, E-C Environmental Corridor, C-1 Conservancy, and A-E Exclusive Agricultural Conservancy Districts (County).

R-1 Residential and C-1 Conservancy Districts (Town).

The proposed County owned lands on the north side of the property will remain in the A-1 Agricultural District.

PROPOSED LAND USE:

The creation of two (2) residential lots and an outlot dedicated to Waukesha County on the west side of C.T.H. "I".

PUBLIC HEARING DATE:

July 14, 2016.

PUBLIC REACTION:

A neighbor provided written concerns regarding a proposed subdivision. A subdivision is no longer proposed and therefore, the comments do not apply to this request.

Referred on: 09/08/16 File Number: 171-O-035

Referred to: LU

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On July 14, 2016, the Town Board conditionally approved the rezoning request in accordance with the recommendation of the Town Plan Commission.

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

The County and Town Land Use Plans were amended in 2011 for a majority of the property from the Rural Residential (5 to 34.9 acres per unit) to the Suburban I Density Residential category to accommodate residential condominium units on the west side of C.T.H. "I" and a single-family residential subdivision on the east side of C.T.H. "I". The petitioners have withdrawn their request for the proposed development. Therefore, the Land Use Plan reverts back to the Rural Residential category. The lands adjacent to the Fox River are designated as Primary Environmental Corridor (PEC). The Park and Open Space Plan designates the PEC as Fox River Greenway for County ownership, including the development of a future recreational trail to benefit the public. The proposal to create two (2) single-family lots and dedicate 16.2 acres to Waukesha County complies with the Town and County Land Use Plans.

OTHER CONSIDERATIONS:

The petitioner is proposing to rezone the upland acreage on the west side of C.T.H. "I" from A-1 Agricultural to R-1 Residential (Town and County) to accommodate two (2) residential lots. The petitioner is proposing to dedicate 16.2 acres of land along the Fox River to Waukesha County as part of the Fox River Greenway, which includes wetland, floodplain, PEC and a wetland buffer. The petitioner provided the County with upland acreage for the development of a future recreational trail. A copy of the proposed land division is attached as Exhibit "A." The petitioner did not include the 40 ft. strip of land on the north end of the property to be owned by Waukesha County as part of the rezone application. It should also be noted that a shed occupied by the adjacent property to the north encroaches on a portion of the subject property that is proposed to be dedicated to the County.

The County's A-1 Agricultural District requires a minimum three (3)-acre lot size and 200 ft. in average width and the Town's A-1 Agricultural District requires a minimum twenty (20)-acre lot size and 660 ft. in average width. The Town and County R-1 Residential Districts require a minimum one-acre lot size and 150 ft. in average width. The County's jurisdiction is limited to the area within 300 ft. of the Fox River.

In order to provide any development activity and dedicate significant lands to Waukesha County, the Town's zoning must be amended. The proposed development of two (2) lots complies with the County's existing and proposed zoning districts. Since the acreage consists of split zoning jurisdiction between the Town and County and in order to provide consistency between Town and County zoning provisions, the petitioner is proposing to rezone the upland acreage of both the Town and County jurisdictional area to the R-1 Residential District.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the request be <u>approved</u>, subject to the following conditions:

1. The Town's Enrolled Ordinance No. 2016-11 shall be complied with.

- 2. A Certified Survey Map, in substantial compliance with Exhibit "A", shall be reviewed and approved by all review entities and recorded with the office of Register of Deeds, prior to the rezoning becoming effective.
- 3. Outlot 1 shall be dedicated to Waukesha County, as proposed on the Certified Survey Map, with the exception of the land area that contains a shed occupied by the adjacent property owner to the north.

As conditioned, the recommendation for approval is consistent with the Town and County Comprehensive Development Plans and the County's Park and Open Space Plan. The approval will provide for limited rural residential development as well as significant acreage preserved for Waukesha County Fox River Greenway purposes. The proposed use will remain compatible with the adjacent land uses and will preserve the natural resources.

Respectfully submitted,

Amy Barrows

Amy Barrows Senior Planner

Attachments: Town Ordinance

Proposed CSM (Exhibit "A")

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ORDINANCE NO. 2016-11

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 AGRICULTURAL DISTRICT TO THE R-1 SINGLE-FAMILY RESIDENCE DISTRICT

WHEREAS, a petition has been filed by FRED-Lathers, petitioning pursuant to Section 13-2-22(b) for rezoning property depicted in attached Exhibits A and B, 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 July 14, 2016, pursuant to Section 13-2-22(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 13-2-22(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 13-2-22(d)(3) of the Town of Waukesha Zoning Code; and

WHEREAS, the Town Board for the Town of Waukesha, 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 by map on Exhibit A and by legal description on Exhibit B, both exhibits attached hereto and incorporated herein by reference, are hereby conditionally

amended to change the zoning of such property from A-1 Agricultural District to the R-1 Single-Family Residence 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:

- Presentation Compliance. 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 July 14, 2016, including the
 comments made by the Town Board during the public hearings and in their meetings
 following the public hearings.
- 2. <u>Land Division Conditions</u>. Subject to the Subject Property being divided by Certified Survey Map in the manner described at the public hearing held July 14, 2016, 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 approving and objecting authorities in approving the same (if it is approved), 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.
- Shoreland Rezoning, Subject to a rezoning ordinance being adopted by the Waukesha County Board, to amend the Waukesha County Shoreland and Floodland Protection Ordinance in the manner described at the public hearing held on July 14, 2016.
- 4. 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.
- 5. 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.
- 6. <u>Subject to Acceptance</u>, 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.

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SECTION 3. The Town Engineer is hereby authorized and directed to note this rezoning on the Official Zoning Map of the Town of Waukesha upon successful development of the subject property and 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 Waukesha may rezone the lands or portions thereof subject to this conditional rezoning ordinance to A-1 Agricultural 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 decision of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section of 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 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 14 day of 11

TOWN OF WATRESHA, WI

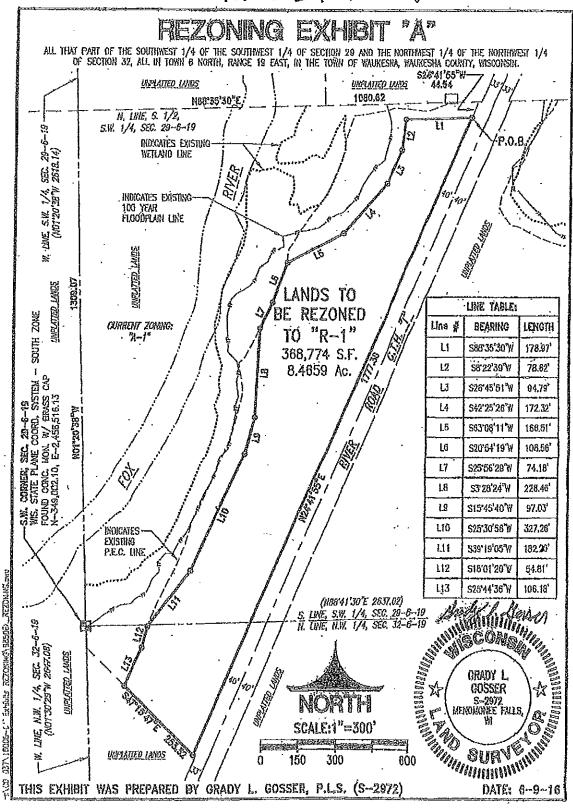
By:

John Marek, Town Chairman

ATTEST:

Kathy Nickolaus, Town Clerk-Treasurer

Town's Exhibit "A"



Towns Exhibit "B" REZONING EXHIBIT "B"

LANDS TO BE REZONED TO "R-1"

LEGAL DESCRIPTION:

All that part of lands located in a part of the Southwest 1/4 of the Southwest 1/4 of Section 29 and the Northwest 1/4 of the Northwest 1/4 of Section 32, all in Town 6 North, Range 19 East, in the Town of Waukesha, Waukesha County, Wisconsin, now being more particularly bounded and described as follows:

Commencing at the Southwest Corner of said Section 29; Thence North 01°20'38" West and along the West line of the said Southwest 1/4 Section, 1309.07 feet to a point; Thence North 88°35'30" East and along the North line of the South 1/2 of the said Southwest 1/4 Section, 1080.82 feet to a point on the Northwesterly Right-of-Way line of "River Road" (C.T.H. "I"); Thence South 24°41'55" West and along the said Northwesterly Right-of-Way line, 44.54 feet to the place of beginning of lands hereinafter described;

Thence South 88°35'30" West, 178.97 feet to a point; Thence South 08°22'39" West, 78.62 feet to a point; Thence South 26°45'51" West, 94.79 feet to a point; Thence South 42°25'26" West, 172.32 feet to a point; Thence South 63°08'11" West, 166.51 feet to a point; Thence South 20°54'19" West, 108.66 feet to a point; Thence South 25°56'29" West, 74.18 feet to a point; Thence South 03°28'24" West, 228.46 feet to a point; Thence South 15°45'40" West, 97.03 feet to a point; Thence South 25°30'56" West, 327.26 feet to a point; Thence South 39°19'05" West, 182.20 feet to a point; Thence South 18°01'20" West, 54.81 feet to a point; Thence South 25°44'36" West, 106.18 feet to a point on the Northeasterly line of Unplatted Lands; Thence South 47°15'47" East and along the said Northeasterly line, 253.32 feet to a point on the said Northwesterly Right-of-Way line of said "River Road" (C.T.H. "I"); Thence North 24°41'55" East and along the said Northwesterly Right-of-Way line, 1777.38 feet to the point of beginning of this description.

Sald Parcel contains 368,774 Square Feet (or 8.4659 Acres) of land, more or less.

Date: 6/9/16

White Handle Committee of the Committee

GRADYL

GOSSER

S-2972

MENOMONEE PAULS

Grady L. Gosser, P.L.S.

Professional Land Surveyor, S-2972

TRIO ENGINEERING, LLC

12660 W. North Avenue, Building "D"

Brookfield, WI 53005

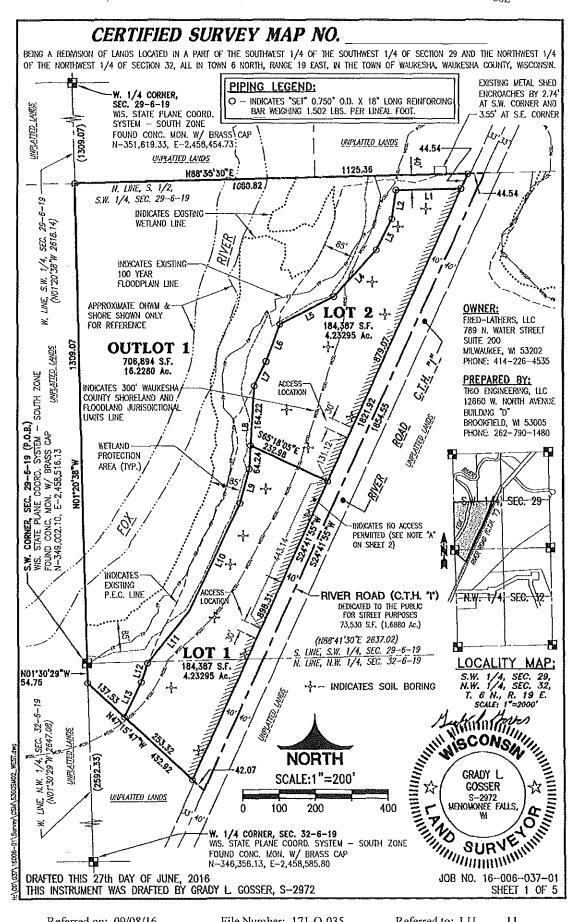
Phone: (262)790-1480 Fax: (262)790-1481

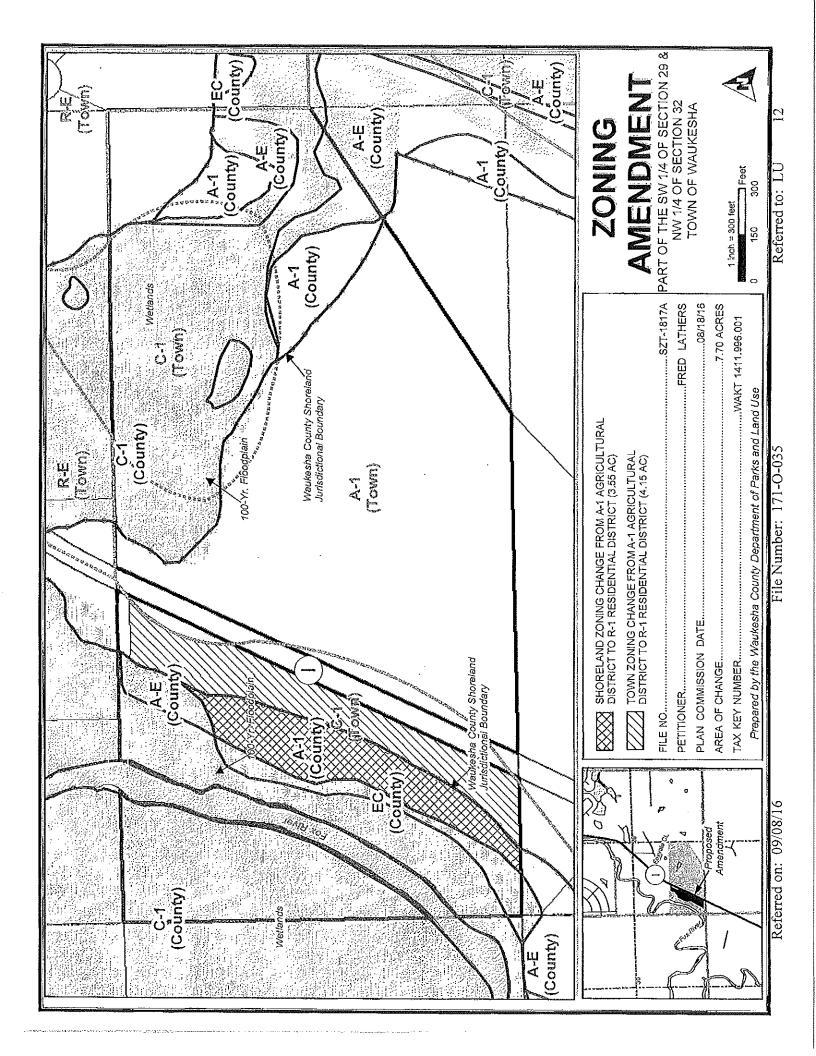
Page 1 of 1

LHLOSSYSIW POOCS DOCUMENTIOS AT 1606 OTHER REMAINS AT 16 HT - Reserving West doc

RECEIVED JUN 3 0 2016

DEPT OF PARKS & LAND USE





t)	Passed (24 Y - 0 N - 1 Absent)	Passed	171-0-035
- Johnson	D25 -	AYE	D12 - Wolff
- Whittow	D24 - 1	AYE	D11 - Howard
Hammitt	D23-H	AYE	D10 - Swan
- Wysocki	D22-V	AYE	D9 - Heinrich
Zaborowski	D21 - Za	AYE	D8 - Michalski
Schellinger	D20 - Sc	AYE	D7 - Grant
Cummings	D19-0	AYE	D6 - Walz
D18 - Nelson	D18-	AYE	D5 - Dondlinger
Paulson	D17 -	AYE	D4 - Batzko
- Crowley	D16-0	AYE	D3 - Morris
- Mitchell	D15 - N	Notified	D2 - Zimmermann
4 - Wood	D14 -	AYE	D1 - Kolb
			RollCall-Pro Premium Tuesday, September 27, 2016 at 07:02 PM