

ENROLLED ORDINANCE 176-58

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF GENESEE ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼, NW ¼ AND SE ¼ OF SECTION 35, T6N, R18E, TOWN OF GENESEE, WAUKESHA COUNTY, WISCONSIN FROM THE A-2 RURAL HOME DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (RZ88)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Genesee Town Board on July 12, 2021; 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.

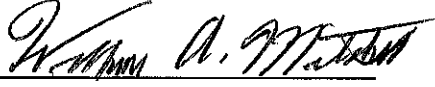
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Genesee Zoning Code, adopted by the Town of Genesee on July 1, 2015, is hereby amended to conditionally rezone certain lands located in part of the SW ¼, NW ¼ and SE ¼ of Section 35, T6N, R18E, Town of Genesee, Waukesha County, Wisconsin from the A-2 Rural Home 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 RZ88, is hereby approved, subject to the conditions set forth in the Town of Genesee Ordinance No. 21-3.

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

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 TOWN OF GENESEE ZONING CODE BY
CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼, NW ¼ AND SE ¼
OF SECTION 35, T6N, R18E, TOWN OF GENESEE, WAUKESHA COUNTY, WISCONSIN FROM
THE A-2 RURAL HOME DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (RZ88)

Presented by:
Land Use, Parks, and Environment Committee



William A. Mitchell, Chair

Absent

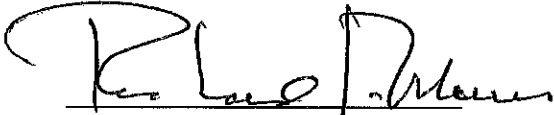
Keith Hammitt



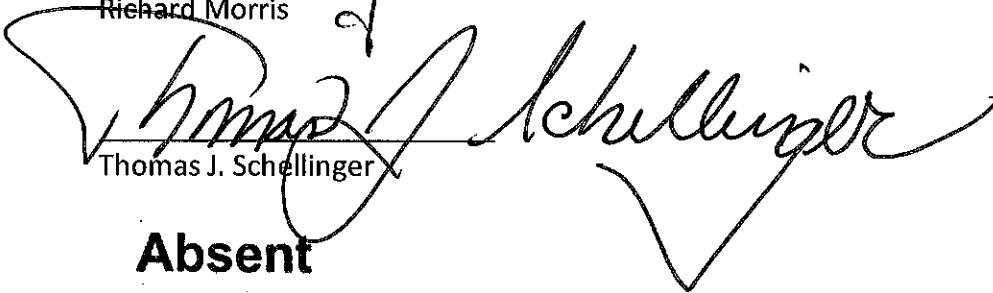
Thomas A. Michalski



Chris Mommaerts



Richard Morris



Thomas J. Schellinger

Absent

Steve Whittow

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

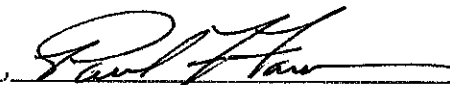
Date: 10/1/2021 
Margaret Wartman, County Clerk

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

Approved: X

Vetoed: _____

Date: 10/1/2021



Paul Farrow, County Executive

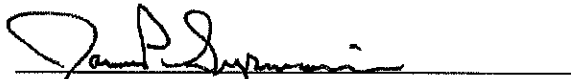
COMMISSION ACTION

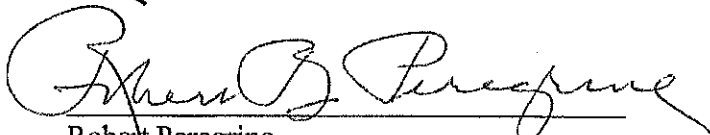
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Genesee Zoning Code hereby recommends **approval** of RZ88 (TKS Corporation) in accordance with the attached "Staff Report and Recommendation".

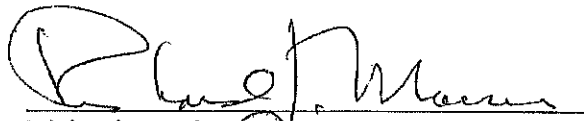
PARK AND PLANNING COMMISSION


August 19, 2021

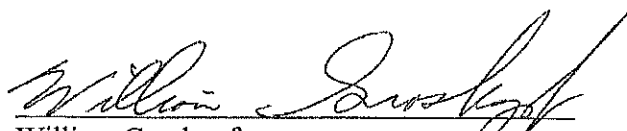

William Mitchell, Chairperson


James Siepman, Vice Chairperson


Robert Peregrine


Richard Morris


Thomas Michalski


William Groskopf

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

DATE: August 19, 2021

FILE NO.: RZ88

TAX KEY NO.: GNT 1579.999

PETITIONER/ OWNER: TKS Corporation
2310 Woodfield Drive
Waukesha, WI 53188

LOCATION:
The property is located in part of the SW ¼, NW ¼ and SE ¼ of Section 35, T6N, R18E, Town of Genesee and contains approximately 105 acres.

EXISTING ZONING:
The property is zoned A-2 Rural Home District, A-E Exclusive Agricultural Conservancy District, EC Environmental Corridor District, C-1 Conservancy District (Town).

PROPOSED ZONING:
The request is to rezone approximately 33.3 acres of the A-2 District to the R-1 Residential District retaining a small amount of A-2 zoned land as well as the A-E, EC, and C-1 Districts (Town).

EXISTING LAND USE: Agricultural and undeveloped

PROPOSED LAND USE: Sixteen lot residential subdivision

PUBLIC HEARING DATE: May 24, 2021

PUBLIC REACTION:
A citizen who resides on Saylesville Road commented that he would prefer to see 3 acre lots, asked if any of the lots infringe on the wetlands, and was concerned about safety along CTH X. The Town Planner responded these issues would be reviewed during the preliminary plat process. Another person stated they were not in favor of the previously approved Land Use Plan amendment for the property. Two citizens who reside on McFarlane Road expressed concerns regarding the culvert which runs through their property and asked if there would be extra drainage from this project causing water to back up on their property. The Town Planner responded this would also be part of the stormwater review in conjunction with the plat review and that the runoff would be required to be retained on site. Another person stated they would like to keep the character of the district which is 3 acres. Someone asked if the County also approves the rezone. The Town Planner responded that this is a town rezone request. Finally, someone asked if the conservancy lands would be private or public. The developer responded they would be private. It should be noted that the developer subsequently is working with the Waukesha County Land Conservancy on conservation easements across Lots 10 and 11.

TOWN PLAN COMMISSION:
On June 28, 2021, the Town Plan Commission unanimously recommended approval of the rezoning request to the Town Board.

TOWN BOARD ACTION:

On July 12, 2021, the Town Board approved the rezoning request with the seven (7) conditions outlined in the Town of Genesee Ordinance No. 21-3 (attached).

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN (CDP) AND THE TOWN OF GENESEE LAND USE PLAN (LUP):

The Town LUP and County CDP were recently amended, subject to County Executive approval and official publishing, to designate the land adjacent to CTH X on the subject parcel as Suburban I Density Residential (1.5-2.9 ac/du) with the remainder of the property designed as Other Open Lands to be Preserved and Secondary Environmental Corridor. The proposed rezone will comply with both plans as amended.

STAFF ANALYSIS:

The property is currently zoned A-2 Rural Home District, A-E Exclusive Agricultural Conservancy District, EC Environmental Corridor District, and C-1 Conservancy District under the Town of Genesee Zoning Code. The zoning amendment only proposes to rezone a portion of those lands zoned A-2 Rural Home District (3-acre minimum lot size) to the R-1 Residential District (1-acre minimum lot size). Only the lands immediately adjacent to CTH X which are zoned A-2 Rural Home District are proposed to be rezoned (approximately 33.3 acres), with the small area along the south-central lot line to remain zoned A-2 on the Town of Genesee's Zoning Map.

The neighboring lands, on the southeast side of CTH X and east side of STH 83, are primarily zoned A-2 Rural Home District, however, the subdivisions across from the subject property on the northwest side of CTH X are zoned R-1 Residential. The proposed zoning is consistent with those neighboring developments to the northwest and allows for additional lots while preserving the environmentally sensitive areas in open space.

The subject property contains several natural resource features. The Southeastern Wisconsin Regional Planning Commission delineated the natural features on the property and identified a fen, which is a rare type of wetland that is groundwater fed (refer to Exhibit A) in the central area of proposed Outlot 1. The fen has been designated as a proposed Natural Area site and named Saylesville Road Fen and will become part of the newly updated Regional Natural Areas and Critical Species Habitat Plan. The site also contains areas of wetland, steep slopes, a prairie remnant, and upland woods. Most of the natural resources are part of a large area of Secondary Environmental Corridor (SEC) on the property. There are approximately 56 acres of wetlands and 20.8 acres of upland SEC on the 105-acre property.

The neighborhood setting includes suburban type development to the northwest and west, and rural uses to the south and east. The request is being brought forward to accommodate a residential subdivision. The proposed concept plan designates a total of 16 lots, 15 of which would be served by a new internal road system that would access CTH X immediately aligned with Loraine Drive. The County Department of Public Works has reviewed the proposed CTH X (Saylesville Road) access location opposite Loraine Drive and found the location to be acceptable for site distance. Lot 16 would be accessed via Genesee Pass.

As noted above, Outlot 1 would contain the fen, as well as other areas of wetland, and much of the mature woodland on the property. Lots 10 and 11 would be much larger in size than the other lots in the proposed subdivision and contain extensive areas of wetland that extend to the east property boundary. The developer has been in discussions with the Waukesha County Land Conservancy regarding a conservation easement across most of the sensitive areas of these two large lots.

The petitioner has submitted multiple concept plans to the town and county over the past number of months. At the Development Review Team meeting for the project in August of 2020, town and county staff recommended a conservation design and the elimination of the large lots encroaching into the vast wetlands on the site. The petitioner expressed at the time that he felt that the two large lots are important to make the project financially viable. He wishes to be able to market those two lots as having potential for hunting. He did express willingness to conserve the fen on the Outlot. The most recent concept plan, submitted as part of the CDP amendment (refer to Exhibit B), indicates an adjustment to the boundaries of Outlot 1, Lot 9 and Lot 10 which now places the entirety of the fen area on Outlot 1 and keeps Lot 9 from encroaching upon the wetland, as recommended by County staff.

STAFF RECOMMENDATION:

Based on the above analysis, the Planning and Zoning Division Staff recommends **approval** of the rezone request, subject to the seven (7) conditions outlined in Town Ordinance No. 21-3. As conditioned, the property will be developed as a hybrid conservation/conventional subdivision design that will be reviewed by the required Town and County entities to ensure that it complies with the respective Town Land Division and Development Ordinance and Land Use Plan, the Waukesha County Comprehensive Development Plan and Stormwater Management and Sediment and Erosion Control Ordinance, and the requirements of the Waukesha County Environmental Health Division and the Department of Public Works. The most significant natural resources, including the Fen Natural Area, wetlands, and much of the mature woods will be conserved as open space in an outlot. Wetland areas on Lots 10 and 11 will be protected via a conservation easement. The rezone amendment will allow for additional subdivision lots while providing for significant preservation of the natural environment. Ownership of the fen Outlot by a local conservancy organization and conservation easements across other privately owned wetlands will ensure the preservation of the best natural features on the site. Therefore, the request complies with the purpose and intent of the Town of Genesee's Zoning Code and the Waukesha County CDP and the Town of Genesee's LUP.

Respectfully submitted,

Jacob Heermans

Jacob Heermans
Senior Land Use Specialist

Attachments: Town Ordinance No. 21-3
Exhibit A
Exhibit B
Map

N:\PRKANDLU\Planning And Zoning\Rezones\Staff Reports\RZ88 TKS Corp Gnt.Docx

ORDINANCE 21-3

RECEIVED
AUG 03 2021
DEPT OF PARKS & LAND USE

An Ordinance to Conditionally amend the Zoning Map of the Town of Genesee from A-2 Rural Home District to R-1 Residential District on lands located in the SW ¼, NW ¼ and the SE ¼ of Section 35, T6N, R18E, Town of Genesee, Waukesha County Wisconsin

WHEREAS, an Application dated March 3, 2021 having been filed by Timothy Schaefer, as agent for TKS Corporation (“Owner”), to rezone the lands commonly referred to as Tax Key Number GNT 1579.999 in the Town of Genesee, Waukesha County, Wisconsin, which are more particularly described in the attached Exhibit A (the “Subject Property”); and

WHEREAS, the Owner seeks to rezone the Subject Property to permit its development and use as a residential subdivision for up to 16 residences; and

WHEREAS, the initial Application and related information has been available for public inspection in the office of the Town Clerk since May 1, 2021; and

WHEREAS, the Application was considered by the Town of Genesee Plan Commission at a regular meeting held on June 28, 2021 upon due notice to the public. The Plan Commission finds that the proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and will not substantially diminish and impair property values within the community or neighborhood.

WHEREAS, the Plan Commission has recommended to the Town Board that the requested zoning be made subject to satisfaction of certain conditions that are incorporated herein; and

WHEREAS, notice having been properly given, a public hearing was held on May 24, 2021; and

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the Town of Genesee, will not be contrary to the public health, safety, or general welfare of the Town of Genesee, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendations found in the Town of Genesee Land Use Plan - 2035;

NOW, THEREFORE, The Town Board of Genesee, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1:

The Town of Genesee Zoning Map is hereby conditionally amended to change the zoning classification from A-2 Rural Home District to R-1 Residential District on the following described parcel of land:

A part of the SW $\frac{1}{4}$, NW $\frac{1}{4}$, and the SE $\frac{1}{4}$ of Section 35, T6N, R18E, Town of Genesee. More specifically, the property is also known as Tax Key No. GNT 1579.999.

Rezoning of the Property is subject to Owner's satisfaction of all of the following conditions:

1. There shall be a maximum of sixteen (16) Single-Family Residential Lots.
2. Compliance with the Waukesha County Development Plan.
3. Compliance with all the requirements of the Town of Genesee Land Division and Development Ordinance.
4. The subdivision plat shall be reviewed and approved by the Town of Genesee Plan Commission, Town Board and Waukesha County.
5. The development shall comply in all respects, with the Waukesha County Stormwater Management and Sediment and Erosion Control Ordinance.
6. The petitioner shall comply with all requirements of Waukesha County Department of Public Works regarding all necessary improvements to the intersection of the proposed access road and Saylesville Road (C.T.H. X).
7. A private conservation organization or local municipality shall own or have an easement over all of the environmentally sensitive areas, including all of the wetlands and the fen, but not including all of the Environmental Corridor area. A copy of the Easement shall be reviewed and approved by the Town Attorney and Town Planner and presented to the Town Board for final approval, prior to signing the final plat.

Section 2: Severability.

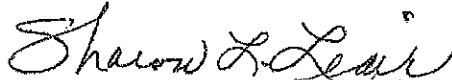
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, 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 3: Effective Date.

This ordinance shall take effect immediately upon passage by Waukesha County and posting or publication as provided by law.

This ordinance passed this 12th day of July, 2021.

BY THE TOWN BOARD OF THE
TOWN OF GENESEE:

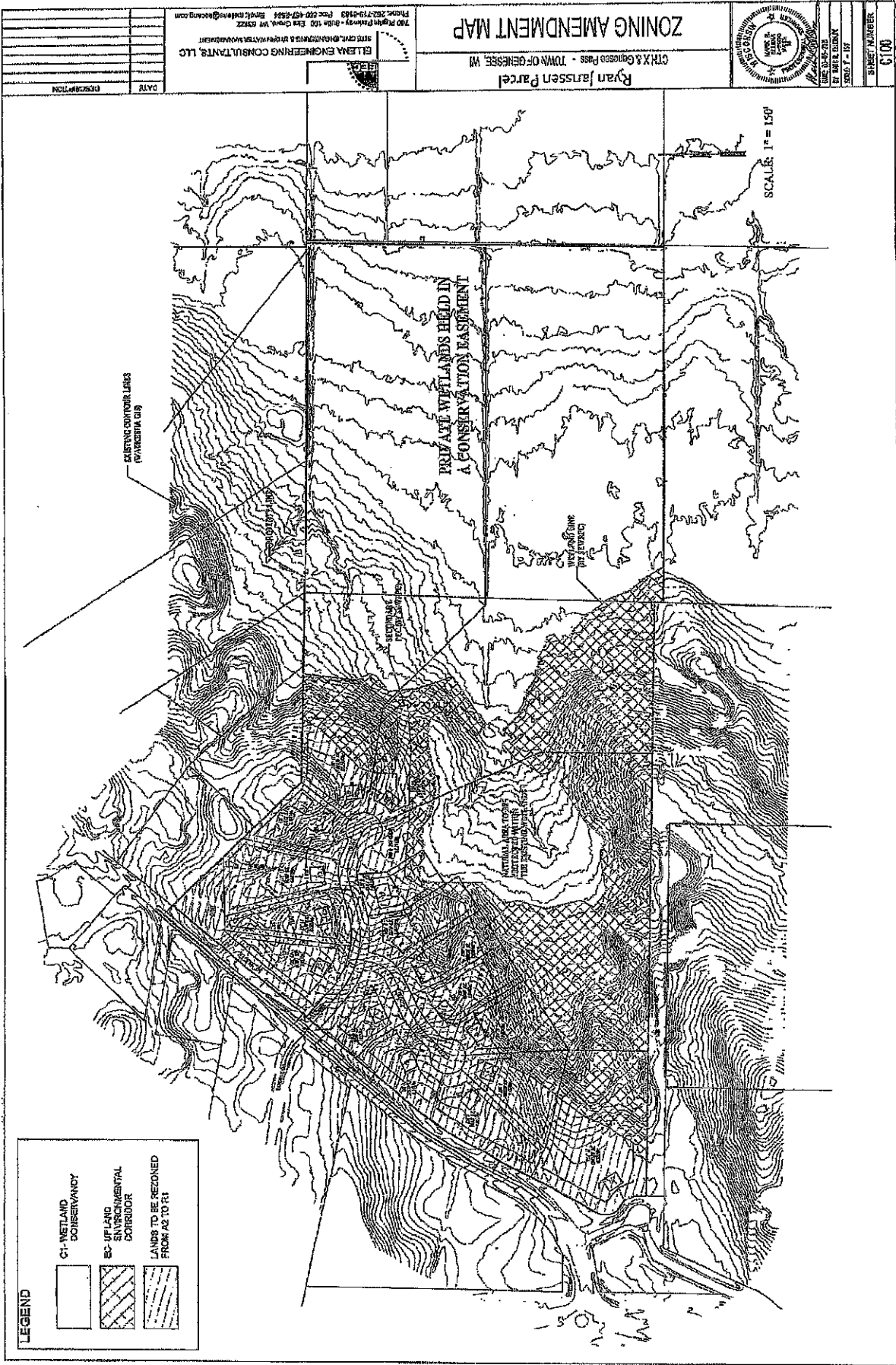


Sharon L. Leair, Town Chairman

ATTEST:



Meri Majeskie, Town Clerk



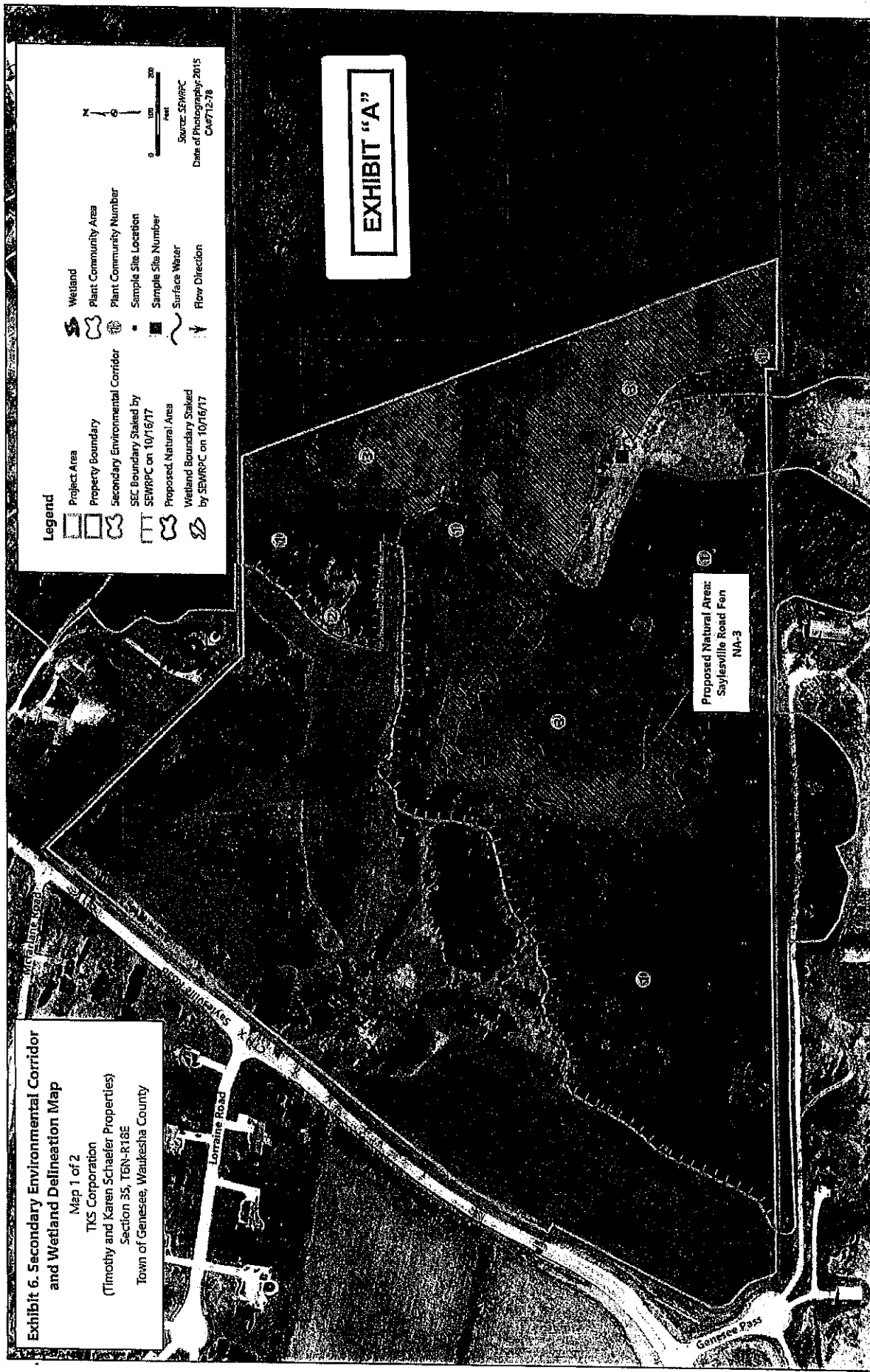


Exhibit 6. Secondary Environmental Corridor and Wetland Delineation Map
 Map 1 of 2
 TKS Corporation
 (Timothy and Karen Schaefer Properties)
 Section 35, TGN-R18E
 Town of Genesee, Waukesha County

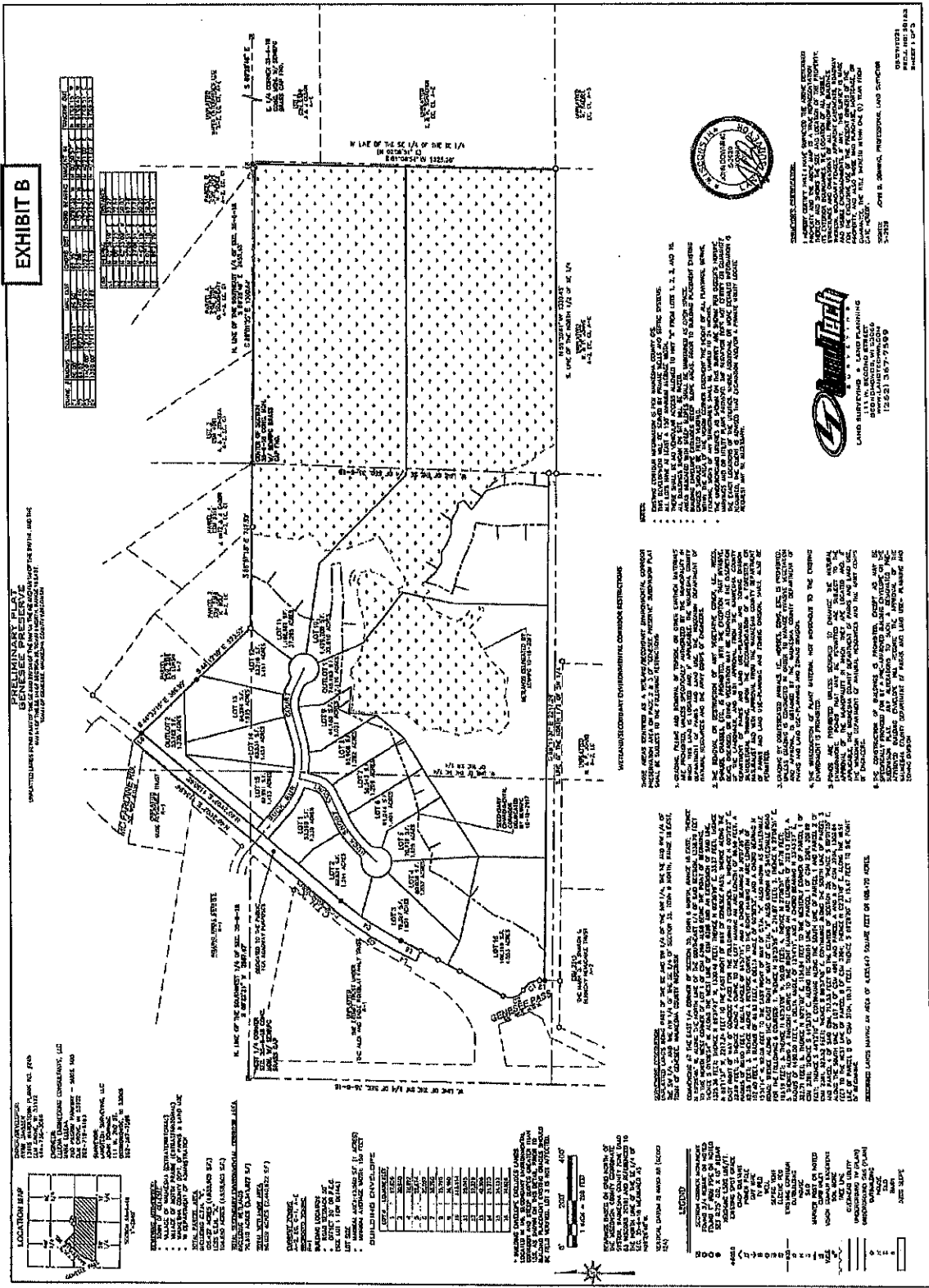
Legend

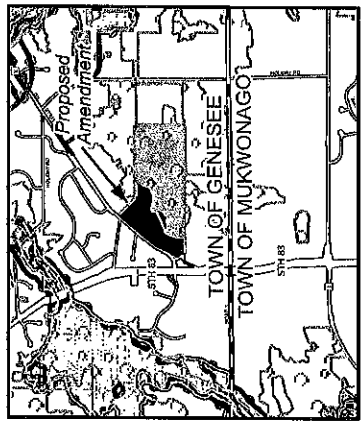
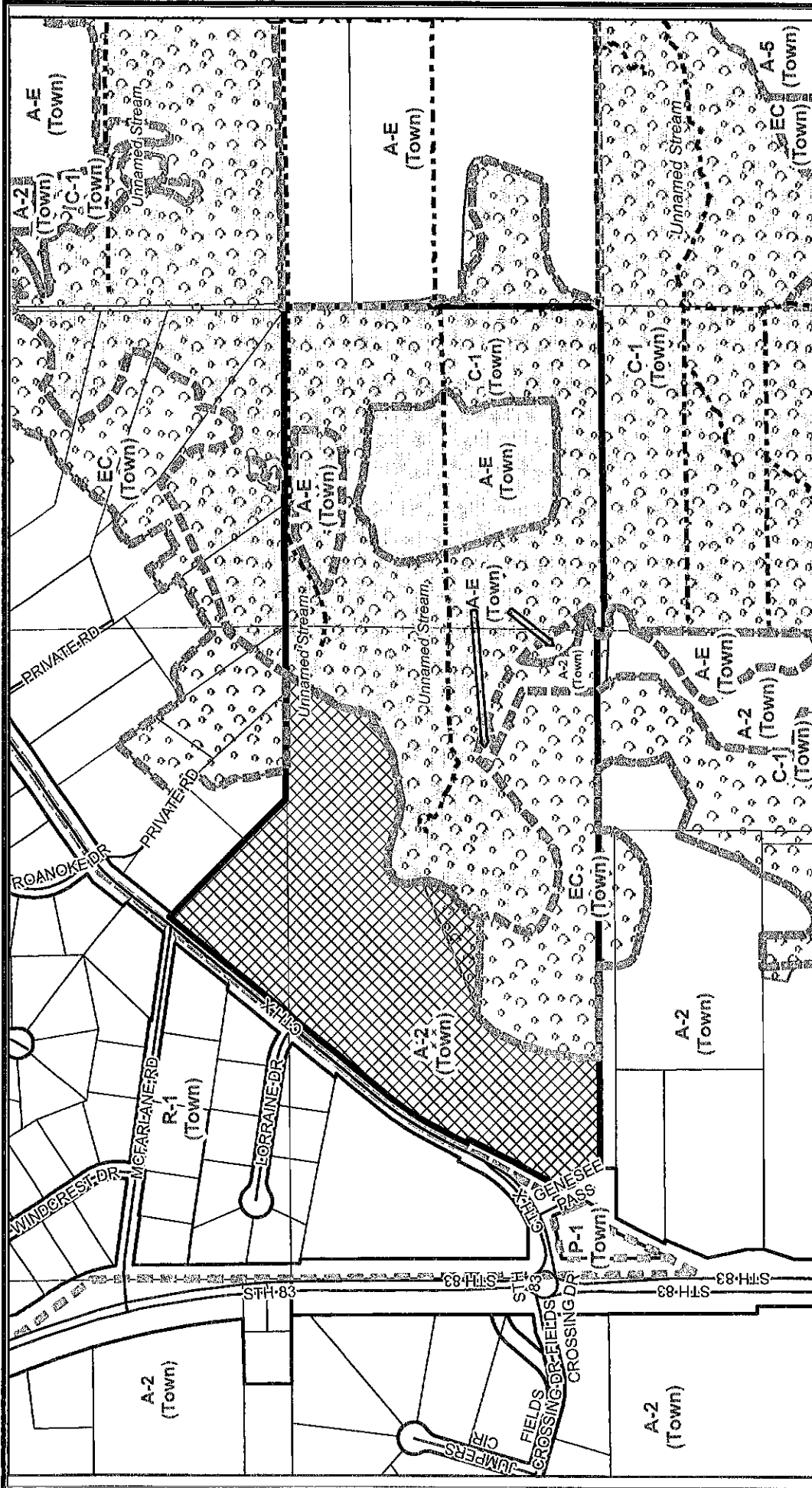
	Project Area		Wetland
	Property Boundary		Plant Community Area
	Secondary Environmental Corridor		Plant Community Number
	SEC Boundary Staked by SEWRPC on 10/16/77		Sample Site Location
	Proposed Natural Area		Sample Site Number
	Wetland Boundary Staked by SEWRPC on 10/16/77		Surface Water
			Flow Direction

Source: SEWRPC
 CA#P12-78
 Date of Photography: 2015

EXHIBIT "A"

Proposed Natural Area:
 Sawlesville Road Fen
 NA-3





CONDITIONAL TOWN ZONING CHANGE FROM A-2 RURAL HOME DISTRICT TO R-1 RESIDENTIAL DISTRICT
 Environmental Corridor Overlay
 C-1 Conservancy Overlay

FILE.....RZ88
 DATE OF PLAN COMMISSION.....8/19/21
 AREA OF CHANGE.....33.3 ACRES
 TAX KEY NUMBER.....GNT 1579999

0 0.5 1 Miles
 Prepared by the Waukesha County Department of Parks and Land Use


ZONING AMENDMENT
 PART OF THE NW 1/4, SW 1/4, AND SE 1/4 OF SECTION 35, TOWN OF GENESE

VOTING RESULTS

AVE 22 NAV 0 ABSTAIN 3 ABSENT 3

Ordinance 176-0-062

Ordinance 176-0-062: Amend The District Zoning Ma...

 **Passed By Majority Vote**

D1 - Foth	AVE
D2 - Zimmermann	AVE
D3 - Morris	AVE
D4 - Batzko	AVE
D5 - Dondlinger	AVE
D6 - Walz	AVE
D7 - LaFontain	AVE
D8 - Michalski	AVE
D9 - Heinrich	AVE
D10 - Swan	AVE
D11 - Howard	AVE
D12 - Wolf	AVE
D13 - Decker	AVE

D14 - Mommerts	AVE
D16 - Crowlev	AVE
D17 - Paulson	AVE
D18 - Nelson	AVE
D20 - Schellinger	ABSENT
D21 - Gaughan	AVE
D22 - Wysocki	AVE
D23 - Hammitt	AVE
D25 - Johnson	ABSENT

September 28 2021 - September 28 2021 07:42:34 PM

