

ENROLLED ORDINANCE 174-041

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 SW ¼ AND NW ¼ OF THE NE ¼ OF SECTION 5, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (RZ39)

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 June 3, 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 (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 SW ¼ and NW ¼ of the NE ¼ of Section 5, 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 RZ39, subject to the following conditions:


1. The Zoning Amendment approval shall only amend the zoning of three (3) acres of land, shown as Lot 1 on the proposed Certified Survey Map attached as Exhibit "A," from the Farmland Preservation District to the R-1 Residential District.
2. A Certified Survey Map, prepared by a Professional Land Surveyor in the State of Wisconsin, shall be reviewed and approved by the Waukesha County Department of Parks and Land Use and the Town of Oconomowoc in accordance with Section 6.19(2)(C) of the Waukesha County Zoning Code. The Town and County Plan Commissions shall review and approve the remnant parcel waiver and request to exceed 2% accessory building footprint prior to the Certified Survey Map being signed by the Director of Parks and Land Use. If the Town and/or County Plan Commissions do not approve these requests, necessary revisions to the Certified Survey Map will be required.
3. A Deed Restriction must be prepared and reviewed and approved by the Waukesha County Department of Parks and Land Use - Planning and Zoning Division Staff and recorded by the petitioners in the Waukesha County Register of Deeds Office stating that, pursuant to the Waukesha County Comprehensive Development Plan, one additional development right remains for the remnant lands that comprise the farm tracking unit. Said restriction must also state that the density restriction shall apply in perpetuity unless the Waukesha County Comprehensive Development Plan's Farmland Preservation designation 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.

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 SW ¼ AND NW ¼ OF THE NE ¼ OF SECTION 5, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (RZ39)

Presented by:  
Land Use, Parks, and Environment Committee

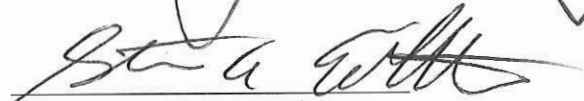
  
David D. Zimmermann, Chair

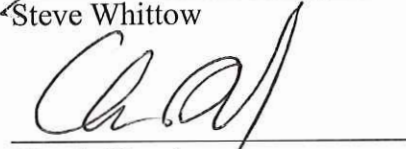
Absent  
Kathleen M. Cummings

Absent  
Keith Hammitt

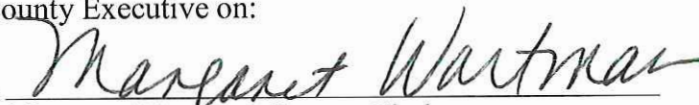
  
William A. Mitchell

  
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: 7/26/19,   
Margaret Wartman, County Clerk

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

Approved: X

Vetoed: \_\_\_\_\_

Date: 8/5/19,   
Paul Farrow, County Executive

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

**DATE:** June 20, 2019

**FILE NO.:** RZ39

**OWNER:** Estate of Joan L. Mallow  
c/o Beth Schmitz, Personal Rep.  
N1112 Vinnie Ha Ha Road  
Fort Atkinson, WI 53538

**AGENT:** Beth Schmitz  
N1112 Vinnie Ha Ha Road  
Fort Atkinson WI 53538

**TAX KEY NO.:** OCOT 0449.998

**LOCATION:**

The property is located in part of the SW ¼ and NW ¼ of the NE ¼ of Section 5, T8N, R17E, Town of Oconomowoc. More specifically, the area to be rezoned is located on the east side of STH 67 and south of Evergreen Road at W384 N9350 Hwy. 67, consisting of 3 acres and the existing residence and outbuildings.

**EXISTING LAND USE:** Agricultural, including a residence and outbuildings.

**PROPOSED LAND USE:** Residential.

**EXISTING ZONING:** FLP Farmland Preservation District.

**PROPOSED ZONING:** R-1 Residential District.

**ORDINANCE:** Waukesha County Zoning Code.

**PUBLIC HEARING DATE:** May 6, 2019

**PUBLIC REACTION:** None.

**TOWN PLAN COMMISSION AND TOWN BOARD ACTION:**

On May 20, 2019, the Town of Oconomowoc Plan Commission recommended approval of the request subject to conditions included in the staff recommendation section of this report. The Town Board approved the request subject to the same conditions on June 3, 2019.

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY AND THE TOWN OF OCONOMOWOC LAND USE PLAN:**

The property is designated in the Farmland Preservation category on the County Plan and in the Prime Agricultural category on the Town Plan. There are areas of the farm tract designated with a Primary Environmental Corridor Overlay that are not subject to this rezone request and not part of the requested land division. The overall farm tract is approximately 98 acres. The proposal to rezone approximately

three (3) acres as part of a farm consolidation is consistent with plan recommendations that call for a maximum density of one dwelling unit per 35 acres. One (1) density credit would be available for future development purposes.

There is a small area located within the southeast corner of the remnant parcel that is designated as non-profit ownership on the County's Park and Open Space Plan. We recommend that the petitioner reach out to Tall Pines Conservancy, a non-profit organization, to determine if they have an interest in owning or having an easement that covers said acreage.

**STAFF ANALYSIS:**

The subject property contains approximately 60 acres on the east side of STH 67 and approximately 38 acres on the west side of STH 67, for a total of 98 acres. With the exception of the areas designated as Primary Environmental Corridor, which is inclusive of wetlands, the property is being actively farmed. There is a residence, agricultural barn, and detached garage located in the southwest corner of the acreage on the east side of STH 67. The residence is served by a private sewage system and well.

The petitioner is proposing a land division in order to create a three (3) acre lot, including the existing residence and outbuildings. The remaining acreage will continue to be farmed. The entire property is currently zoned FLP Farmland Preservation District. There are areas that contain conservancy (wetland) and environmental corridor overlays that are not subject to this request. The petitioner is proposing to rezone the three (3) acre lot to R-1 Residential as required per the Waukesha County Zoning Code in order to create a lot within an area currently zoned FLP Farmland Preservation. The petitioner is proposing to create the lot in order to split off the existing farmstead and accessory buildings from the remaining acreage. Per the ordinance, a maximum five (5) acre lot can be created when the lot is inclusive of the existing farmstead. The parcel is required to have a minimum lot size of one (1) acre and 150 ft. in average width. The proposed lot is L-shaped and complies with the lot size standards.

In order to rezone acreage out of the FLP Farmland Preservation District, the Zoning Code and Comprehensive Land Use Plan require that the overall density of the farm tract must be maintained at one dwelling unit per 35 acres. Given that the property contains approximately 98 acres, the petitioners have two (2) density rights for the lands. The proposed lot containing the existing structures accounts for one density right. The petitioner has one additional density right remaining. A deed restriction will be required noting the density right and limitation on any further development.

The proposed lot is located in the most suitable location considering the location of the existing structures and reducing the impact on the agricultural land to the greatest extent possible. The petitioner would like to have the ability to keep livestock and or poultry in the future. Providing a three (3) lot size allows them to keep one (1) head of livestock or twenty poultry.

The petitioner will be seeking a remnant parcel waiver and approval to exceed 2% accessory building footprint, which will be considered as a separate matter. The petitioner has also submitted a Certified Survey Map for review and approval.

**STAFF RECOMMENDATION:**

The Planning and Zoning Division Staff recommends this request be **approved**, subject to the following conditions, which are inclusive of the Town's conditions.

1. The Zoning Amendment approval shall only amend the zoning of three (3) acres of land, shown as Lot 1 on the proposed Certified Survey Map attached as Exhibit "A," from the Farmland Preservation District to the R-1 Residential District.
2. A Certified Survey Map, prepared by a Professional Land Surveyor in the State of Wisconsin, shall be reviewed and approved by the Waukesha County Department of Parks and Land Use and the Town of Oconomowoc in accordance with Section 6.19(2)(C) of the Waukesha County Zoning Code. The Town and County Plan Commissions shall review and approve the remnant parcel waiver and request to exceed 2% accessory building footprint prior to the Certified Survey Map being signed by the Director of Parks and Land Use. If the Town and/or County Plan Commissions do not approve these requests, necessary revisions to the Certified Survey Map will be required.
3. A Deed Restriction must be prepared and reviewed and approved by the Waukesha County Department of Parks and Land Use - Planning and Zoning Division Staff and recorded by the petitioners in the Waukesha County Register of Deeds Office stating that, pursuant to the Waukesha County Comprehensive Development Plan, one additional development right remains for the remnant lands that comprise the farm tracking unit. Said restriction must also state that the density restriction shall apply in perpetuity unless the Waukesha County Comprehensive Development Plan's Farmland Preservation designation for the property is amended in the future.

If approved as conditioned, the zoning change is consistent with Town and County Comprehensive Development Plan recommendations as the 35-acre farmland preservation density requirement is being met. The rezoning of approximately three acres of land will allow the petitioner to split off the existing residence and accessory buildings, 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 is one (1) density credit remaining on the farm after the creation of the three-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,

*Amy Barrows*

Amy Barrows  
Senior Planner

Attachments: Exhibit A: Preliminary Certified Survey Map, Sheet 1  
Map

N:\PRKANDLU\Planning And Zoning\Rezoning\Staff Reports\RZ39 Schmitz Oct.Doc

**EXHIBIT "A"**

**ARC™**  
(262) 542-8200

RECEIVED  
APR 08 2019

DEPT OF PARKS & LAND USE FORM ARC-161

**CERTIFIED SURVEY MAP NO.** \_\_\_\_\_ **Sheet 1 of 5**

**Part of the SW 1/4 and NW 1/4 of the NE 1/4 of  
Section 5 Town 8 North, Range 17 East,**

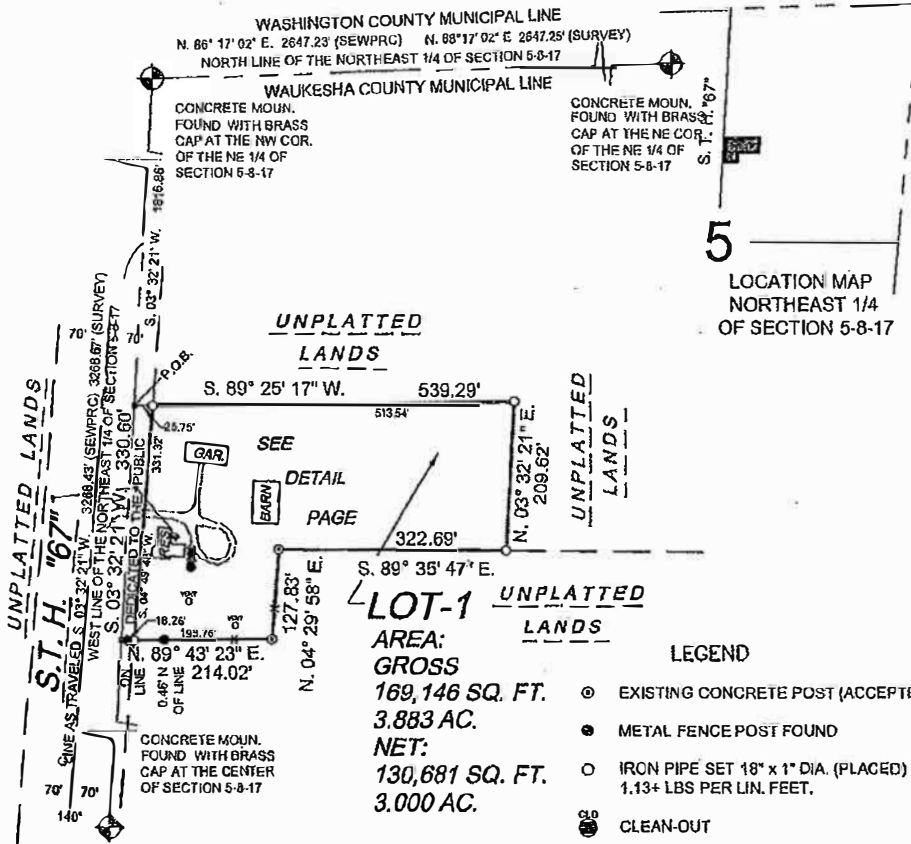
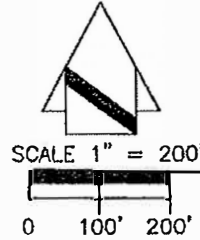
**TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN**

REFERENCE BEARING:  
WEST LINE OF THE NORTHEAST  
1/4 OF SECTION 5-8-17 PER  
WISCONSIN STATE PLANE COORDINATE  
SYSTEM SOUTH ZONE HAS A BEARING  
OF N. 03° 32' 21" E.

SURVEYOR:  
JOHN R. STIGLER W/S. REG. S-1820  
JAHNKE AND JAHNKE  
ASSOCIATES INC.  
711 WEST MORELAND BLVD.  
WAUKESHA, WI. 53188  
262-542-5797

OWNER:  
JOAN MALLOW  
N102 HWY 67  
OCONOMOWOC, WI 53066

ZONING: A-2  
MINIMUM LOT REQUIREMENTS  
AREA: 3 ACRES  
WIDTH: 200'  
MAX. FAR 15%  
OFFSETS FOR RESIDENCE, ANIMALS, AND  
COMMERCIAL KENNELS SHALL HAVE  
A 50' OFFSET  
ALL OTHER BUILDING AND STRUCTURES  
SHALL HAVE 30' MINIMUM OFFSETS



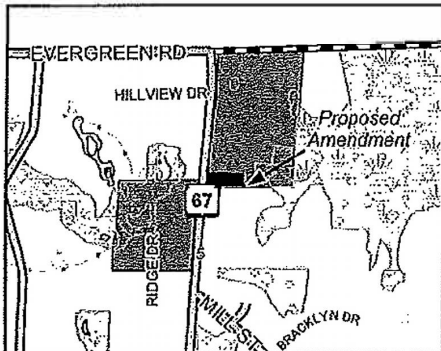
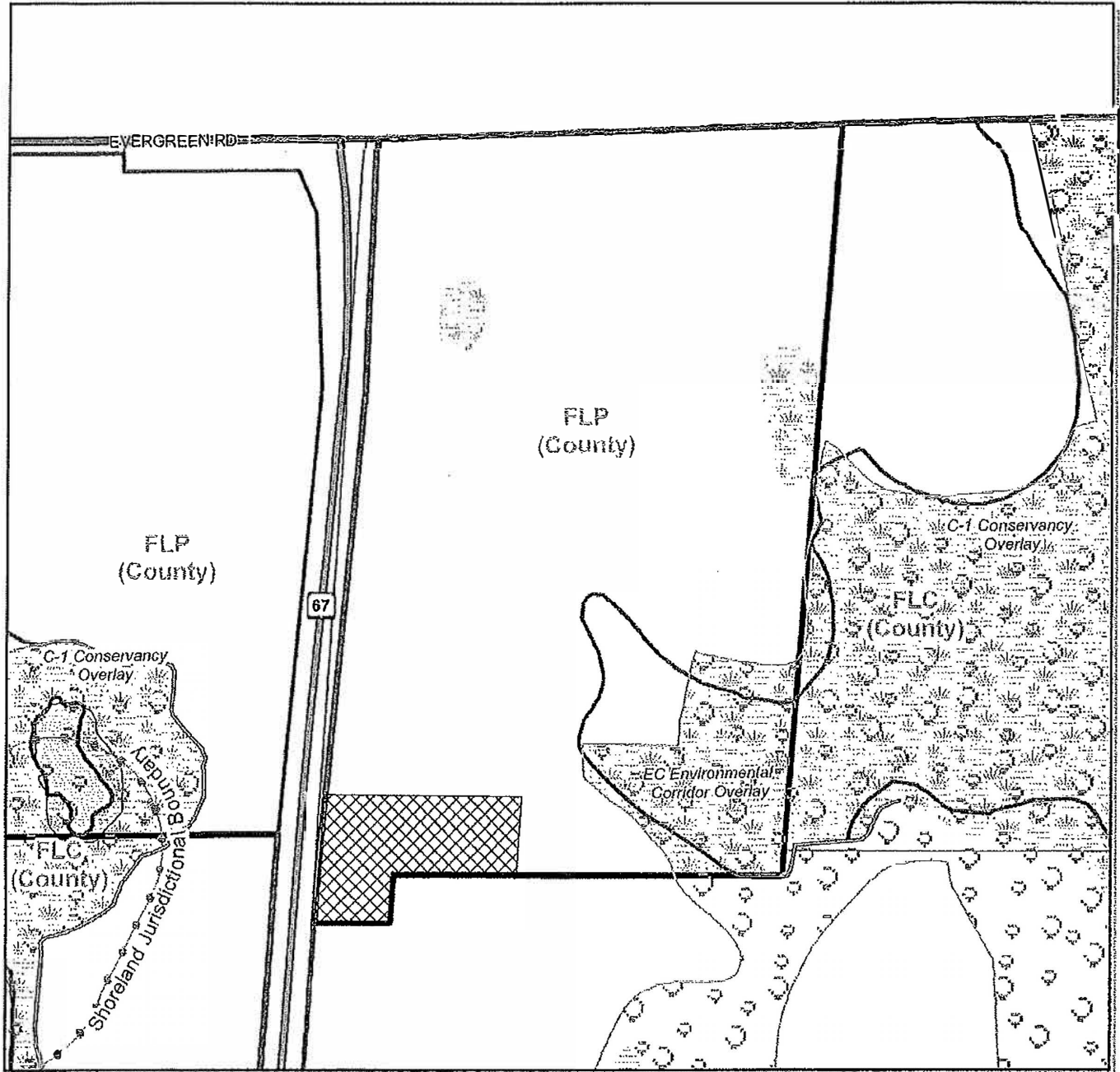
**LOT-1 UNPLATTED LANDS**  
**AREA:**  
**GROSS**  
**169,146 SQ. FT.**  
**3.883 AC.**  
**NET:**  
**130,681 SQ. FT.**  
**3.000 AC.**




- LEGEND**
- ⊙ EXISTING CONCRETE POST (ACCEPTED)
  - METAL FENCE POST FOUND
  - IRON PIPE SET 18" x 1" DIA. (PLACED)  
1.13+ LBS PER LIN. FEET.
  - ⊙ CLEAN-OUT
  - ⊙ SEPTIC VENT
  - ⊙ WELL
  - ⊙ SECTION CORNER FOUND WITH BRASS/CAP


WISCONSIN  
JOHN R. STIGLER  
S-1820  
WAUKESHA, WI  
LAND SURVEYOR  
JOHN R. STIGLER WIS. REG. No. S-1820  
DATED THIS 15 DAY OF FEBRUARY, 2019

# ZONING AMENDMENT

PART OF THE SW 1/4 AND NW 1/4, OF THE NE 1/4 SECTION 5,  
TOWN OF OCONOMOWOC



	CONDITIONAL COUNTY ZONING CHANGE FROM FLP FARMLAND PRESERVATION DISTRICT TO R-1 RESIDENTIAL DISTRICT (3.0 AC)
	C-1 CONSERVANCY OVERLAY
	EC ENVIRONMENTAL CORRIDOR OVERLAY
FILE.....	RZ39
DATE OF PLAN COMMISSION.....	06/20/19
AREA OF CHANGE.....	3 ACRES
TAX KEY NUMBER.....	OCOT 0449.998


1 Inch = 400 feet  
0      200      400 Feet

Prepared by the Waukesha County Department of Parks and Land Use





# Ordinance 174-O-042

**VOTE RESULTS: Passed By Majority Vote**

**AYE: 20**

**NAY: 0**

**ABSENT: 5**

D1 - Foti	Second	AYE
D2 - Zimmermann	Motion	AYE
D3 - Morris		AYE
D4 - Batzko		AYE
D5 - Dondlinger		AYE
D6 - Walz		AYE
D7 - Grant		AYE
D8 - Michalski		AYE
D9 - Heinrich		AYE
D10 - Swan		AYE
D11 - Howard		AYE
D12 - Wolff		AYE
D13 - Decker		AYE

D14 - Wood	AYE
D15 - Mitchell	AYE
D16 - Crowley	AYE
D17 - Paulson	AYE
D18 - Nelson	ABSENT
D19 - Cummings	ABSENT
D20 - Schellinger	AYE
D21 - Gaughan	AYE
D22 - Wysocki	ABSENT
D23 - Hammitt	ABSENT
D24 - Whittow	ABSENT
D25 - Johnson	AYE