

Enrolled Ordinance 172-001

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 SE ¼ OF SECTION 11, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (CZ-1845)

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 March 20, 2017, 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 SE ¼ of Section 11, 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 CZ-1845, subject to the following conditions:

1. The Zoning Amendment approval shall only amend the zoning of a maximum 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. No other lands are to be rezoned to ensure compliance with the 35-acre density requirement.
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, prior to the issuance of any Zoning or Building permits. The Zoning Permit must be issued in compliance with the Siting Standards of Section 6.19(3) of the Zoning Code.
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, pursuant to the Waukesha County Comprehensive Development Plan, the lands within the proposed CSM shall not be further divided, and no additional development rights remain for the remnant 62-acre parcel, and proposed Lot 1 on Exhibit "A" is entitled to one (1) dwelling unit. Said restriction must also state that it 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.

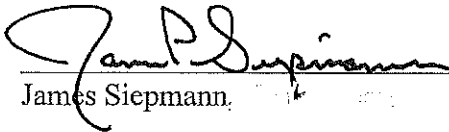
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

COMMISSION ACTION

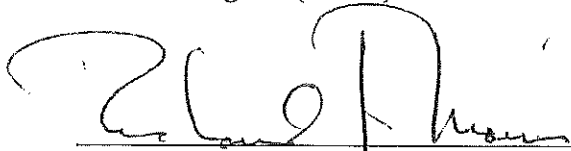
The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Zoning Code, hereby recommends **approval** of (CZ-1845 Adam and Karrie Knack) in accordance with the attached "Staff Report and Recommendation".

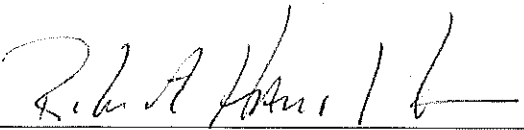
PARK AND PLANNING COMMISSION

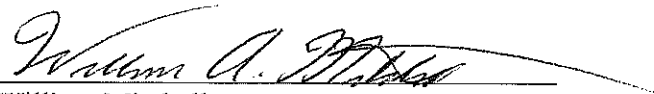
April 20, 2017

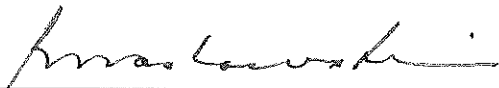

James Siepmann

Absent
Robert Peregrine (absent)


Richard Morris **CHAIR PERSON**


Robert Hamilton


William Mitchell


William Maslowski

Absent
Keith Hammitt (Absent)

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

DATE: April 20, 2017

FILE NO.: CZ-1845

PETITIONER: Karrie and Adam Knaack
1351 Colonial Drive
Watertown, WI 53098

OWNER: Leroy T. and Hazel M. Runt Revocable Trust
6921 W. Orchard Avenue, Unit 206
West Allis, WI 53214 *

TAX KEY NO.: OCOT 0476.996

LOCATION:

Subject property: Parcel 2 of Certified Survey Map No. 8889, Volume 79, Page 197, being a part of the NE ¼ and NW ¼ of the SE ¼ of Section 11, T8N, R17E, Town of Oconomowoc containing approximately fifteen (15) acres. More specifically, the property is located north of the Union Pacific Railroad, south of C.T.H. "CW" and west of Norwegian Road.

The Runt's also own approximately fifty (50) adjoining acres to the northwest (Tax Key No. OCOT 0473.989) of the subject property, and combined there is approximately sixty-five (65) acres. This additional parcel is located in the W ½ of the NE ¼ of Section 11, T8N, R17E, Town of Oconomowoc.

EXISTING LAND USE: Agricultural with three accessory buildings on the fifteen acres.

PROPOSED LAND USE: Create a three (3) acre single-family residential lot.

EXISTING ZONING: FLP Farmland Preservation District

PROPOSED ZONING: R-1 Residential District

PUBLIC HEARING DATE: February 20, 2017

PUBLIC REACTION: None.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On March 6, 2017, the Town of Oconomowoc Plan Commission recommended conditional approval of the request to rezone three acres of land to the R-1 Residential District to the Town Board. The Town Board approved the request subject to the Town Plan Commission's recommendation on March 20, 2017.

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

The property is designated in the Farmland Preservation category on the County Plan and in the Prime Agricultural category on the Town Plan. The proposal to rezone the three acres is consistent with plan recommendations that call for a maximum density of one dwelling unit per 35 acres, as the remainder of the land will be deed restricted from further non-agricultural development in accordance with Section 6.19 of the Waukesha County Zoning Code.

STAFF ANALYSIS:

As noted above, the current farm holdings consist of two adjacent tax key parcels, which equate to an approximately 65-acre farmstead. The 50-acre parcel has a narrow access to C.T.H. "CW" to the north, and abuts the Ashippun River to the west, and the Union Pacific Railroad to the southwest. There is limited wetland, primary environmental corridor, and floodplain along the river. The County Park and Open Space Plan indicates acquisition of lands along the river for greenway purposes. Currently, the parcel is actively farmed and abuts the subject fifteen-acre parcel to the south. The fifteen acres of agricultural land is partially disturbed by a barn, silo and accessory building in the area of the proposed three-acre zoning change. The Wisconsin Historical Society has the accessory farm buildings listed on the Wisconsin Architecture and History Inventory. The remainder of the fifteen acres is also currently actively cultivated, including about one half of the proposed three acres to be rezoned. The lands are planned and zoned for Farmland Preservation.

The petitioners are proposing to divide a maximum three-acre parcel from the subject 15-acre tax key parcel in order to construct a new nonfarm residence (refer to Zoning Map Exhibit). The Farmland Preservation District requires such land divisions via Certified Survey Map (CSM) to meet several criteria:

- The parcel must be rezoned from the Farmland Preservation District to the R-1 Residential District where non-farm residences are a permitted use.
- The parcel may only be permitted if a 35-acre density is maintained.
- The Siting Standards in Section 6.19(3) of the Waukesha County Zoning Code must be met.
- The lot size shall not exceed three acres.
- The "farm tracking unit" must be mapped and tracked on the Waukesha County GIS.

The proposed CSM parcel will be no greater than three acres in size, as required by the Zoning Code, and will incorporate the three existing accessory farm buildings, a cluster of mature trees and a mowed yard, as well as the small area of agricultural land. A 35-acre density will also be maintained.

HISTORY

The "farm tracking unit" assigned to the lands owned by Runt as part of the adoption of the 2015 Farmland Preservation District amendments to the Waukesha County Zoning Code designated one (1) density right for the entire 65-acre farmstead. In 1979, a one-acre lot adjacent to C.T.H. "CW" to the north was divided from the farm holdings via Certified Survey Map No. 3672 to construct a single-family residence for the owner. In 1999, Certified Survey Map No. 8889 was recorded to create a two-acre parcel adjacent to Norwegian Road and adjacent to the north of the subject fifteen-acre parcel using the farm consolidation provisions of the Ordinance. Aerial photographs indicate the residence on this parcel was the original farmhouse and there is no indication that any additional principal residence ever existed on the property.

This CSM also divided the subject 15-acre [tax] parcel from the parent parcel leaving an approximately 50-acre remnant parcel. However, this land division did not comply with the 35-acre density requirements of the then-zoned Agricultural Preservation District. In an effort to recombine the parcels, an Affidavit of Correction was recorded; however, the Waukesha County Tax Listing office noted an Affidavit of Correction was not an acceptable instrument to modify and recombine the property boundaries in accordance with State Statute. Therefore, two adjacent tax key parcels still currently exist: the 50-acre parcel and the subject 15-acre parcel.

PROPOSAL

As noted above, the petitioners are proposing a CSM (Exhibit "A") that will create a three-acre parcel adjacent to Norwegian Road (proposed Lot 1). The CSM will also re-combine the remnant 50-acre parcel and the remaining 12 acres from the subject parcel into one 62-acre agricultural parcel (proposed Lot 2). Proposed Lot 1 is the three (3) acres proposed to be rezoned to the R-1 Residential District and proposed Lot 2 will continue to be planned and zoned Farmland Preservation.

The Siting Standards listed in the Waukesha County Zoning Code for new nonfarm residences or lots are:

- Shall be located on uncultivated lands to the greatest extent practicable.
- Shall be located on non-prime soils to the greatest extent practicable.
- Shall be clustered together with other residences or lots to the greatest extent practicable.
- Shall be located near existing roads to the greatest extent practicable.

Additionally, the purpose and intent of the Farmland Preservation District includes protecting and preserving the rural landscape. A buildable area may exist outside of the cultivated lands, in the disturbed area between the historic barn and the road; however, building a new nonfarm residence behind the barn and slightly back from the road may be more appropriate in maintaining the rural character of the community. The cultivated lands that are a part of the proposed three-acre lot (proposed Lot 1) are less than two-acres in size, and will not limit the agricultural use of the 62-acre remnant parcel (proposed Lot 2) which will continue to be farmed, preserving and maintaining productive and viable agricultural land that adds to the economic base of Waukesha County. The proposed three-acre parcel is also sited south of an existing similar size parcel and across the street from other rural home sites. Therefore, the Town and County believe the proposed three-acre parcel is sited in the most practicable location.

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 recommended conditions.

1. The Zoning Amendment approval shall only amend the zoning of a maximum 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. No other lands are to be rezoned to ensure compliance with the 35-acre density requirement.
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, prior to the issuance of any Zoning or Building permits. The Zoning Permit must be issued in compliance with the Siting Standards of Section 6.19(3) of the Zoning Code.

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, pursuant to the Waukesha County Comprehensive Development Plan, the lands within the proposed CSM shall not be further divided, and no additional development rights remain for the remnant 62-acre parcel, and proposed Lot 1 on Exhibit "A" is entitled to one (1) dwelling unit. Said restriction must also state that it 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 density requirement is being met. The rezoning of a maximum of three acres of land will allow the petitioner to create a new lot and construct a new residence in an already partially disturbed area of the property while not limiting the agricultural use of the adjacent 62-acre remnant parcel. 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 no density credits remaining on these lands 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 is preserved on site remain in productive farmland or open space uses, which furthers the goals of the Farmland Preservation Plan to preserve the last remaining five square mile blocks of productive farmland within the County, and which add to the economic base of Waukesha County while also preserving the rural landscape. Minimizing land use conflicts among incompatible uses and limiting encroachment of non-agricultural development through the application of 35-acre density is critical in ensuring the viability of farming in designated farmland preservation areas.

Respectfully submitted,

Rebekah Baum

Rebekah Baum
Senior Land Use Specialist

Attachments: Town Ordinance
Zoning Map Exhibit
Proposed CSM (Exhibit "A")

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RECEIVED

APR 27 2017

DEPT OF PARKS & LAND USE

RESOLUTION NO. 2017-4

RESOLUTION APPROVING REZONING

WHEREAS, the Leroy and Hazel Runt Revocable Trust owns Parcel 2 of Certified Survey Map No. 8889 containing approximately 15 acres of land (west side of Norwegian Road immediately north of the Union Pacific Railroad) in the Town of Oconomowoc, Waukesha County, Wisconsin; and

WHEREAS, the current zoning of said land is Farmland Preservation District under the Waukesha County zoning ordinance; and

WHEREAS, the property owner requests that three acres of said land be rezoned to R-1 Residential District and the balance to FLP Farmland Preservation District, with the intent to construct a single-family residence on the R-1 zoned land; and

WHEREAS, the Town of Oconomowoc Land Use Plan 2035 designates the subject parcel in the Prime Agricultural category which has been modified by Waukesha County to the Farmland Preservation category, and accordingly the requested rezoning is consistent with said plan; and

WHEREAS, petitioner proposes to construct a single-family residence on the three-acre parcel; and

WHEREAS, the Town Planner and the Town Plan Commission recommend to the Town Board that the requested rezoning be approved, with the rezoning being as follows: the three-acre parcel shown on Exhibit A attached hereto be rezoned from Farmland Preservation District to R-1 Residential District, subject to the following conditions:

1. The Zoning Amendment shall only amend the zoning on the three acres as shown on the proposed certified survey map from the Farmland Preservation District to the R-1 Residential District. No other lands are to be rezoned (see attached Exhibit A).
2. A certified survey map, prepared by a Registered Land Surveyor in the State of Wisconsin, dividing the parcel as proposed shall be reviewed and approved by the Town Plan Commission and Town Board prior to the issuance of any building permits.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Town Board of the Town of Oconomowoc approves the request of the Leroy and Hazel Runt Revocable Trust to rezone the three acres of land shown on Exhibit A to R-1 Residential District, subject to the following conditions:

1. The Zoning Amendment shall only amend the zoning on the three acres as shown on the proposed certified survey map from the Farmland Preservation District to the R-1 Residential District. No other lands are to be rezoned (see attached Exhibit A).

2. A certified survey map, prepared by a Registered Land Surveyor in the State of Wisconsin, dividing the parcel as proposed shall be reviewed and approved by the Town Plan Commission and Town Board prior to the issuance of any building permits.

DATED: 3/20/17

TOWN OF OCONOMOWOC

By: *Robert C. Hultquist*
Robert C. Hultquist, Chairman

ATTEST:

Lori Opitz
Lori Opitz, Clerk

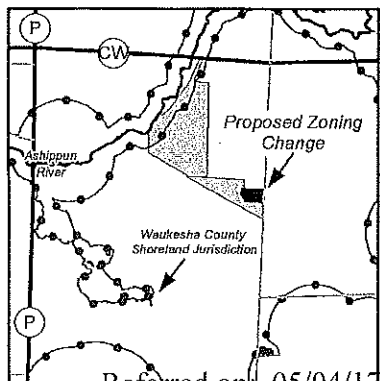
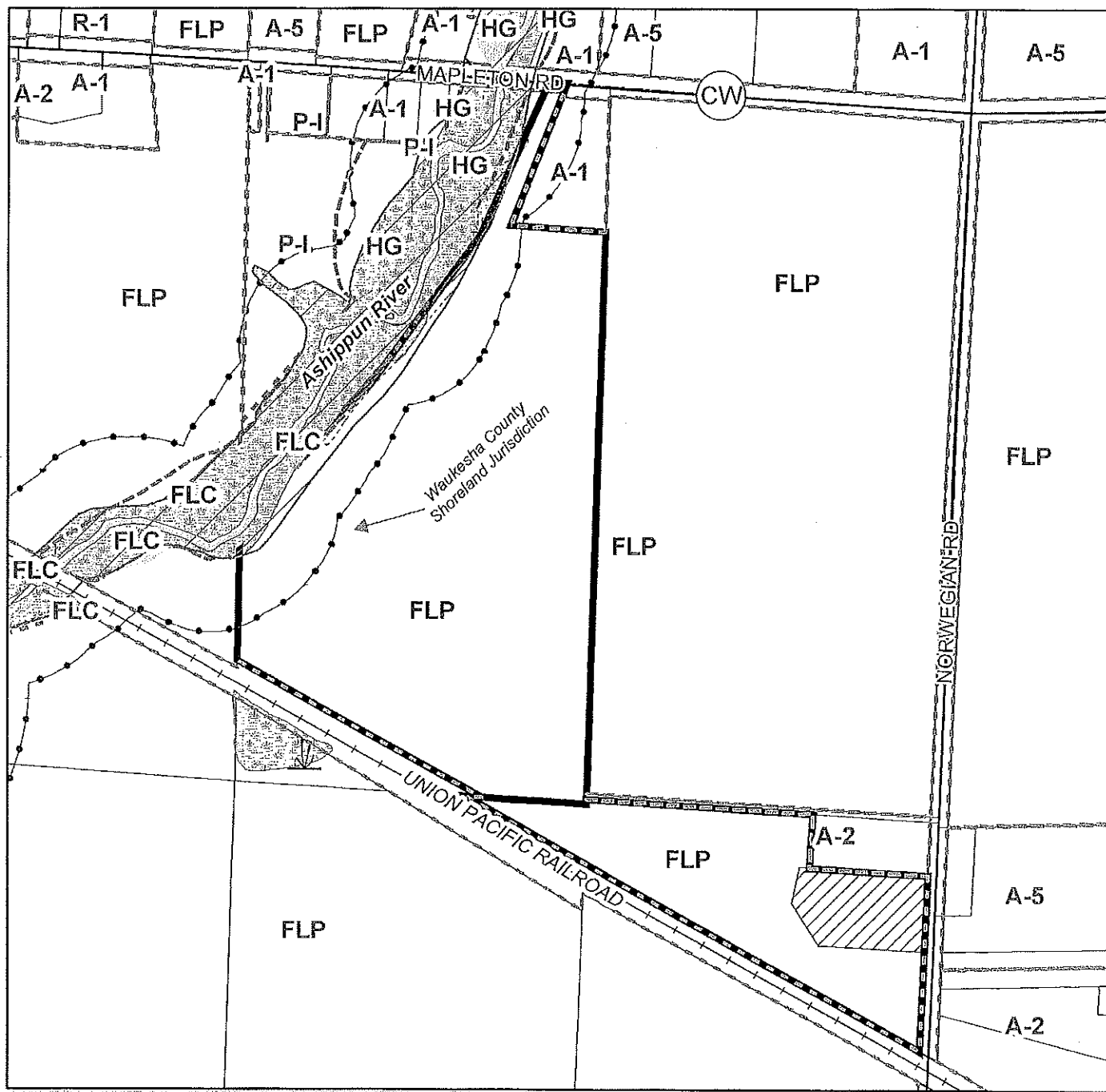
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DEPT OF PARKS & LAND USE

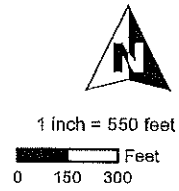
ZONING MAP AMENDMENT

PART OF SE 1/4 SECTION 11
TOWN OF OCONOMOWOC



 REZONE A 3 ACRE PARCEL FROM FLP FARM LAND PRESERVATION TO R-1 RESIDENTIAL

FILE.....CZ-1845
 PLAN COMMISSION DATE.....04/20/17
 AREA OF CHANGE.....3.00 ACRES
 TAX KEY NUMBER.....OCOT 0476.996



Referred on: 05/04/17

Prepared by the Waukesha County Department of Parks and Land Use
 File Number: 177-O-001 Referred to: LU 10

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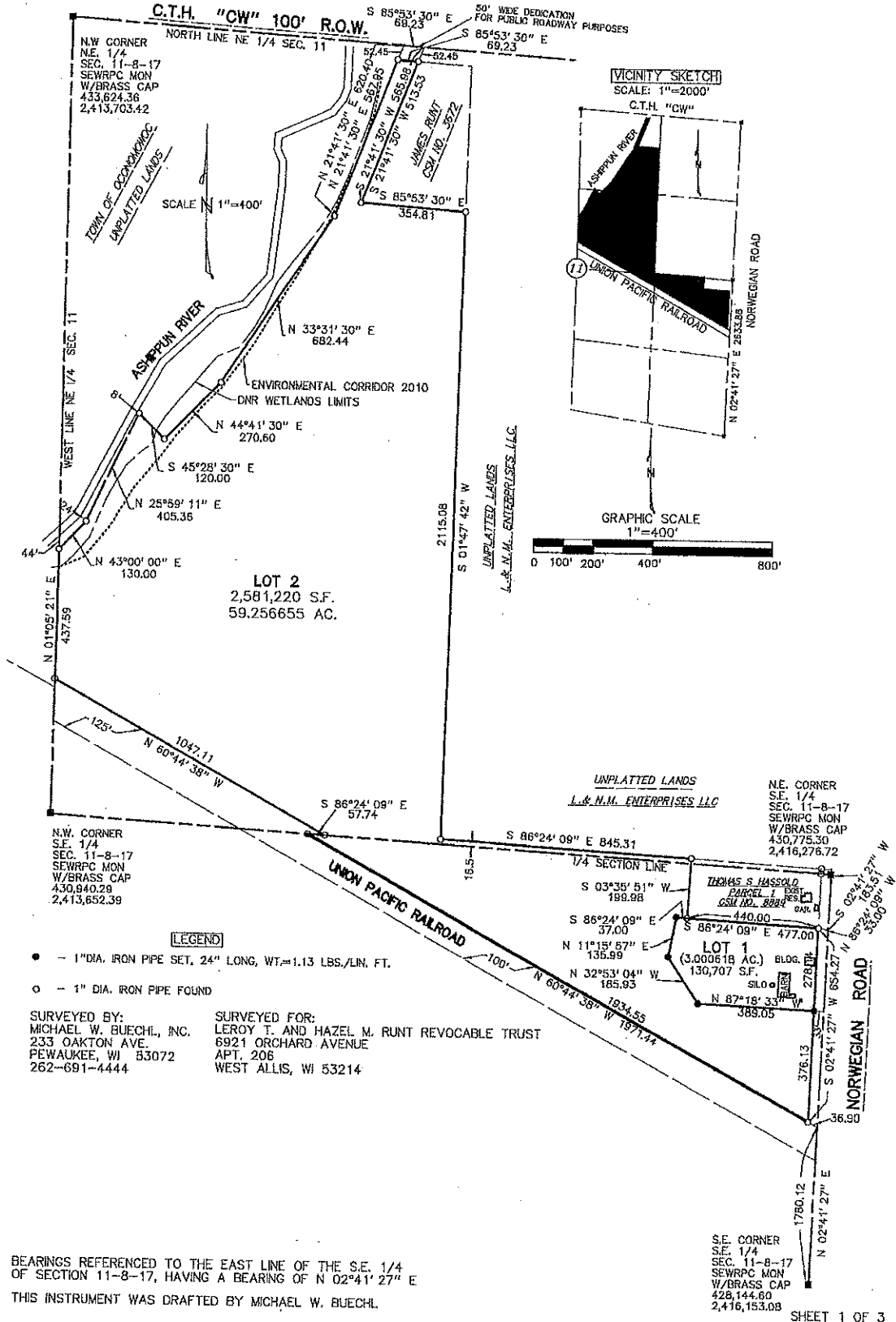
EXHIBIT "A"

APPLICANT: Karrie Knaack
920-253-9989 / karrieknaack@gmail.com
OWNER: Leroy T & Hazel M Runt Revocable Trust c/o Judy Runt
414-852-8712 / judy.runt@att.net

DEPT OF PARKS & LAND USE

CERTIFIED SURVEY MAP NO. _____

PART OF THE NORTHWEST 1/4, SOUTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHWEST 1/4 ALL IN SECTION 11 TOWNSHIP 8 NORTH, RANGE 17 EAST, IN THE TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN

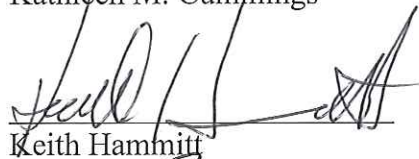


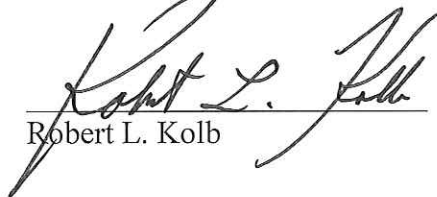
AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 11, T8N, R17E, TOWN OF OCONOMOWOC, FROM THE FLP FARMLAND PRESERVATION DISTRICT TO THE R-1 RESIDENTIAL DISTRICT (CZ-1845)

Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair

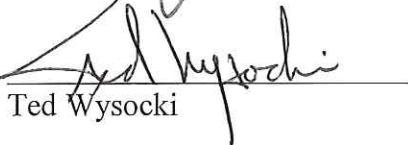
ABSENT
Kathleen M. Cummings


Keith Hammitt


Robert L. Kolb

ABSENT
William Mitchell


Thomas J. Schellinger


Ted Wysocki

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

Date: _____, 
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: _____

Date: 5/30/17, 
Paul Farrow, County Executive

| | | | |
|------------------------|----------------|--------------------------|---------------|
| D1 - Kolb | AYE | D14 - Wood | AYE |
| D2 - Zimmermann | (M) AYE | D15 - Mitchell | Absent |
| D3 - Morris | AYE | D16 - Crowley | AYE |
| D4 - Batzko | AYE | D17 - Paulson | AYE |
| D5 - Dondlinger | AYE | D18 - Nelson | AYE |
| D6 - Walz | AYE | D19 - Cummings | AYE |
| D7 - Grant | AYE | D20 - Schellinger | AYE |
| D8 - Michalski | AYE | D21 - Zaborowski | AYE |
| D9 - Heinrich | AYE | D22 - Wysocki | AYE |
| D10 - Swan | AYE | D23 - Hammitt | AYE |
| D11 - Howard | (2) AYE | D24 - Whittow | AYE |
| D12 - Wolff | AYE | D25 - Johnson | AYE |
| D13 - Decker | AYE | | |

172-0-001

Passed (24 Y - 0 N - 1 Absent)

Majority Vote