

ENROLLED ORDINANCE 172-082

YEAR 2018 APPROVAL OF AMENDMENT TO THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (2B –WAUKESHA COUNTY PARK AND PLANNING COMMISSION, SECTION 7, T8N, R18E, TOWN OF MERTON)

WHEREAS on February 24, 2009, the Waukesha County Board of Supervisors in Enrolled Ordinance No 163-81, approved a Comprehensive Development Plan for Waukesha County; and

WHEREAS said Comprehensive Development Plan for Waukesha County provides for annual update and amendment procedures; and

WHEREAS, on February 22, 2018, the Waukesha County Park and Planning Commission held a Public Hearing to receive testimony on proposed changes to the Comprehensive Development Plan for Waukesha County; and

WHEREAS, the staff has identified in a “Staff Report and Recommendation” dated March 1, 2018, a summary of the Public Hearing comments and a Staff Recommendation for the proposed change to the Comprehensive Development Plan for Waukesha County; and

WHEREAS, the “Staff Report and Recommendation” has been reviewed by the Waukesha County Park and Planning Commission on March 1, 2018, and a recommendation was reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors as required in the Comprehensive Development Plan for Waukesha County.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the following amendment is hereby approved to the Year 2035 Comprehensive Development Plan for Waukesha County.

2. In the Town of Merton, the following requests are being made:

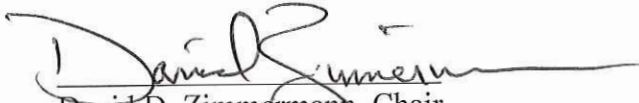
B. The Waukesha County Park and Planning Commission, 515 West Moreland Blvd., Waukesha, WI 53188, requests property owned by the Richard H. Simmons Revocable Living Trust Dated 12/23/14, W335 N8435 Stone Bank Road, Oconomowoc, WI 53066-9719, located in part of the NW ¼ of Section 7, T8N, R18E, Town of Merton (Tax Key No. MRTT 0314.998), be amended from the Rural Density and Other Agricultural Land and Isolated Natural Resource Area categories to the Farmland Preservation category (35 acres of area per dwelling unit or greater), with the Isolated Natural Resource Area to be placed in the Environmental Corridor Overlay category.

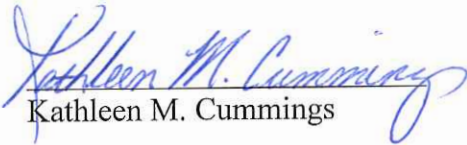
BE IT FURTHER ORDAINED that a more detailed description and map of the aforementioned amendment is on file in the office of the Waukesha County Department of Parks and Land Use.

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

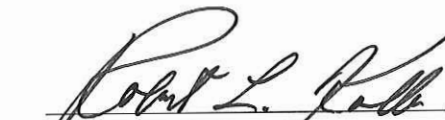
YEAR 2018 APPROVAL OF AMENDMENT TO THE COMPREHENSIVE DEVELOPMENT
PLAN FOR WAUKESHA COUNTY (2B - WAUKESHA COUNTY PARK AND
PLANNING COMMISSION, SECTION 7, T8N, R18E, TOWN OF MERTON)

Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair

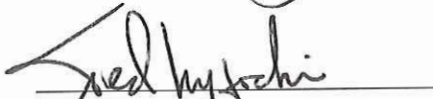

Kathleen M. Cummings

ABSENT
Keith Hammitt



Robert L. Kolb


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: 3/27/18, 
Kathleen Novack, County Clerk

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

Approved: X
Vetoed: _____
Date: 3/30/18, 
Paul Farrow, County Executive

D1 - Kolb	AYE	D14 - Wood	AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	AYE
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	(2) AYE
D11 - Howard	AYE	D24 - Whittow	AYE
D12 - Wolff	AYE	D25 - Johnson	Absent
D13 - Decker	AYE		

172-0-82

Passed (24 Y - 0 N - 1 Absent)

Majority Vote

>

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance entitled "Year 2018 Approval of Amendment to the Comprehensive Development Plan for Waukesha County, (2B – Waukesha County Park and Planning Commission, Section 7, T8N, R18E, Town of Merton) hereby recommends **approval**.


PARK AND PLANNING COMMISSION

March 1, 2018


Richard Morris, Chairperson


William Mitchell


Robert Peregrine


James Siepmann

Absent
William Maslowski


Bonnie Morris

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION FOR A
YEAR 2018 AMENDMENT TO THE COMPREHENSIVE
DEVELOPMENT PLAN FOR WAUKESHA COUNTY
(2B – WAUKESHA COUNTY PARK AND PLANNING COMMISSION),
TOWN OF MERTON

DATE: March 1, 2018

PUBLIC HEARING DATE:
Thursday, February 22, 2018, 1:00 p.m.

REQUEST:
2 (B) Year 2018 amendment to the Comprehensive Development Plan.

The Waukesha County Park and Planning Commission, 515 West Moreland Blvd., Waukesha, WI 53188, requests property owned by the Richard H. Simmons Revocable Living Trust Dated 12/23/14, W335 N8435 Stone Bank Road, Oconomowoc, WI 53066-9719, located in part of the NW ¼ of Section 7, T8N, R18E, Town of Merton (Tax Key No. MRTT 0314.998), be amended from the Rural Density and Other Agricultural Land and Isolated Natural Resource Area categories to the Farmland Preservation category (35 acres of area per dwelling unit or greater), with the Isolated Natural Resource Area to be placed in the Environmental Corridor Overlay category.

EXISTING LAND USE CATEGORY

Rural Density and Other Agricultural Land and Isolated Natural Resource Area categories.

PROPOSED LAND USE CATEGORY

Farmland Preservation category (35 acres of area per dwelling unit or greater) with the Isolated Natural Resource Area to be placed in the Environmental Corridor Overlay category (35 acres of area per dwelling unit or greater).

PUBLIC REACTION

Mr. Richard Simmons, owner of the property that is subject of the request, spoke in support of the amendment.

TOWN PLAN COMMISSION ACTION

At their meeting on January 3, 2018, the Town of Merton Plan Commission unanimously made a recommendation to the Town Board for approval of the request to amend the Town of Merton Land Use Plan for the subject property to the Farmland Preservation category with the Isolated Natural Resource Area placed in the Environmental Corridor Overlay category.

TOWN BOARD ACTION

The Town of Merton Board approved the Town plan amendment at their February 12, 2018, meeting.

STAFF ANALYSIS:

Richard Simmons, the owner of an 80-acre farm in the northwest part of the Town of Merton contacted both the Town and County to express his strong desire to re-establish eligibility for the State's farmland preservation program. Mr. Simmons has been a long-time participant in the program and received farmland preservation tax credits until his farmland preservation agreement expired within the past couple of years. He is currently not eligible for the farmland preservation program because his lands are not formally designated for Farmland Preservation by the County Development Plan. During the 2011 Countywide farmland preservation plan update process, Town of Merton representatives conveyed that they had surveyed large landowners in the Town and that there was an overwhelming interest in not

participating in farmland preservation at that time. Last year, Mr. Simmons expressed to the Town and County that he is very interested in participating and thought that others in the area might be, as well. He expressed that a number of farms in the area had changed hands since the time of the initial survey conducted by the Town.

Because Mr. Simmon's property is immediately adjacent to the Town of Oconomowoc and the State-designated Ashippun Oconomowoc Agricultural Enterprise Area, County Planning Staff offered to reach out to the State Department of Agriculture, Trade and Consumer Protection (DATCP) to learn about options. DATCP advised that they would potentially entertain a one-farm addition to the AEA. However, DATCP also expressed a strong preference to avoid a series of consecutive similar one-farm requests. Accordingly, Waukesha County and the Town of Merton agreed to survey the large landowners in the northwest part of the Town. A letter was sent to each owner, information was provided and Karen Doyle of the Land Resources Division made herself available at the Town Hall on a specified date and via phone and email. Mr. Simmons ended up being the lone interested party at this time. When presented with that information, DATCP advised that they would consider accommodating a one-farm expansion of the AEA into a new town and DATCP created an expedited process to achieve that end goal.

For Mr. Simmons to be accepted into the farmland preservation program, the local and County land use plans must reflect a farmland preservation designation for his lands. The Town has recently amended its plan for the Simmons farm to that category and the County must also amend its plan for an AEA expansion to move forward.

The adopted County Farmland Preservation Plan identified the northwest part of Merton as an "unrefined area to consider for future AEA designation." The plan recommended that the Town consider supporting future AEAs within the subject northwest part of the Town. To become eligible for AEA designation, the lands do not need to be rezoned; only the plan designations need to be amended. Lands with an AEA designation and a signed farmland preservation agreement are eligible for tax credits.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved**. The subject farm is immediately adjacent to the Ashippun Oconomowoc AEA and is a logical addition to the State's unique AEA program. The lands are contiguous to a large block of farmland preservation lands in the north part of the Town of Oconomowoc. The plan amendment allows for an AEA designation to be sought for the Simmons farm which will then provide annual tax benefits to Mr. Simmons, as he has requested. This one-property change does not affect any other properties within the Town of Merton.

Respectfully submitted,

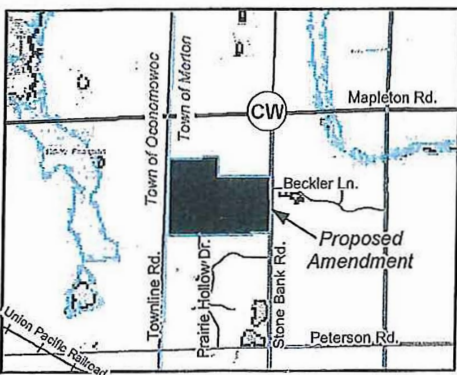
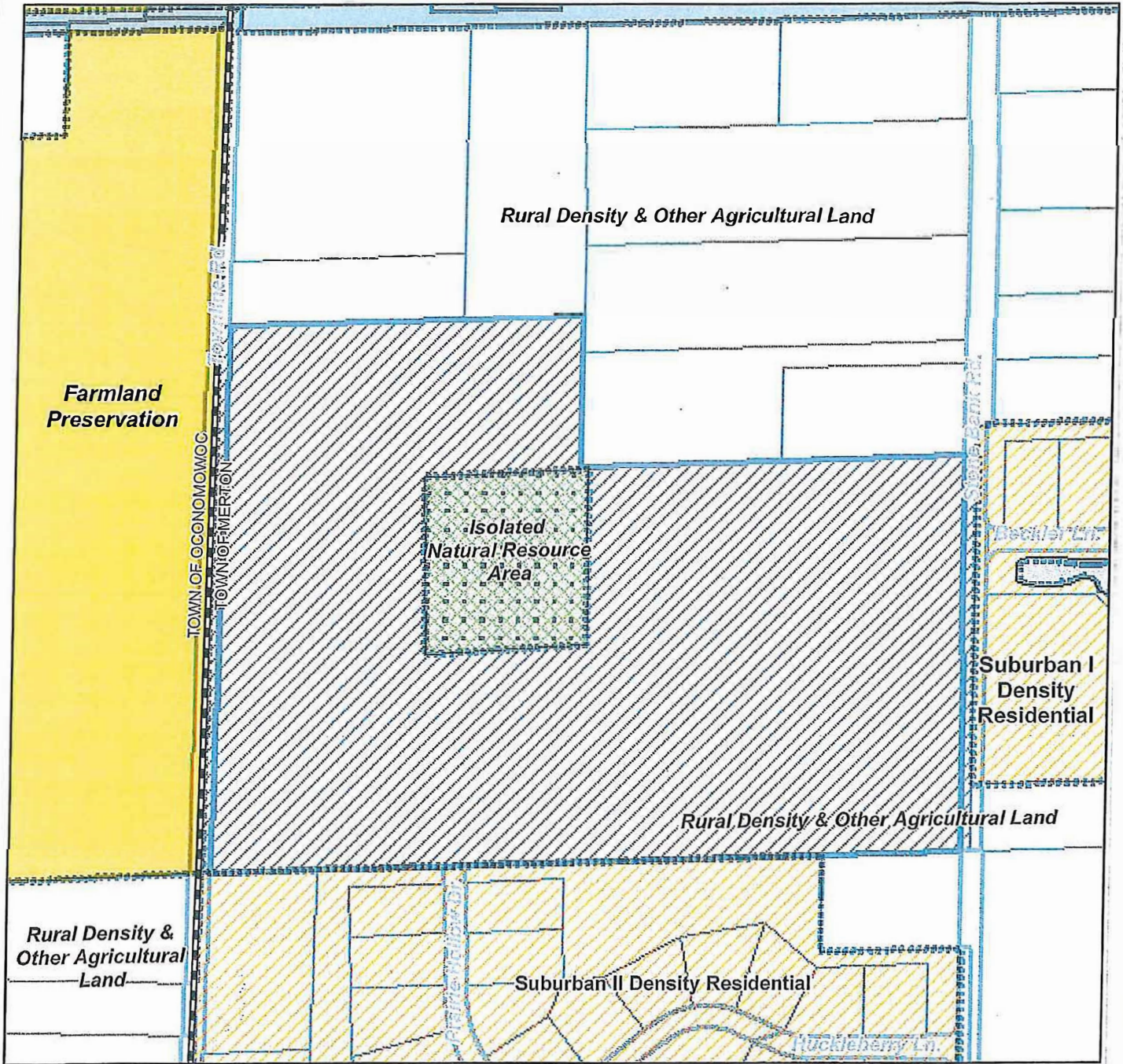
Jason Fruth



Jason Fruth
Planning & Zoning Manager

Attachments: Map
Map DB-4 Farmland Preservation Map: Town of Merton
Town Ordinance

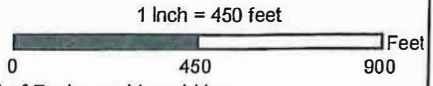
DEVELOPMENT PLAN AMENDMENT

PART OF THE NW 1/4 OF SECTION 7
TOWN OF MERTON



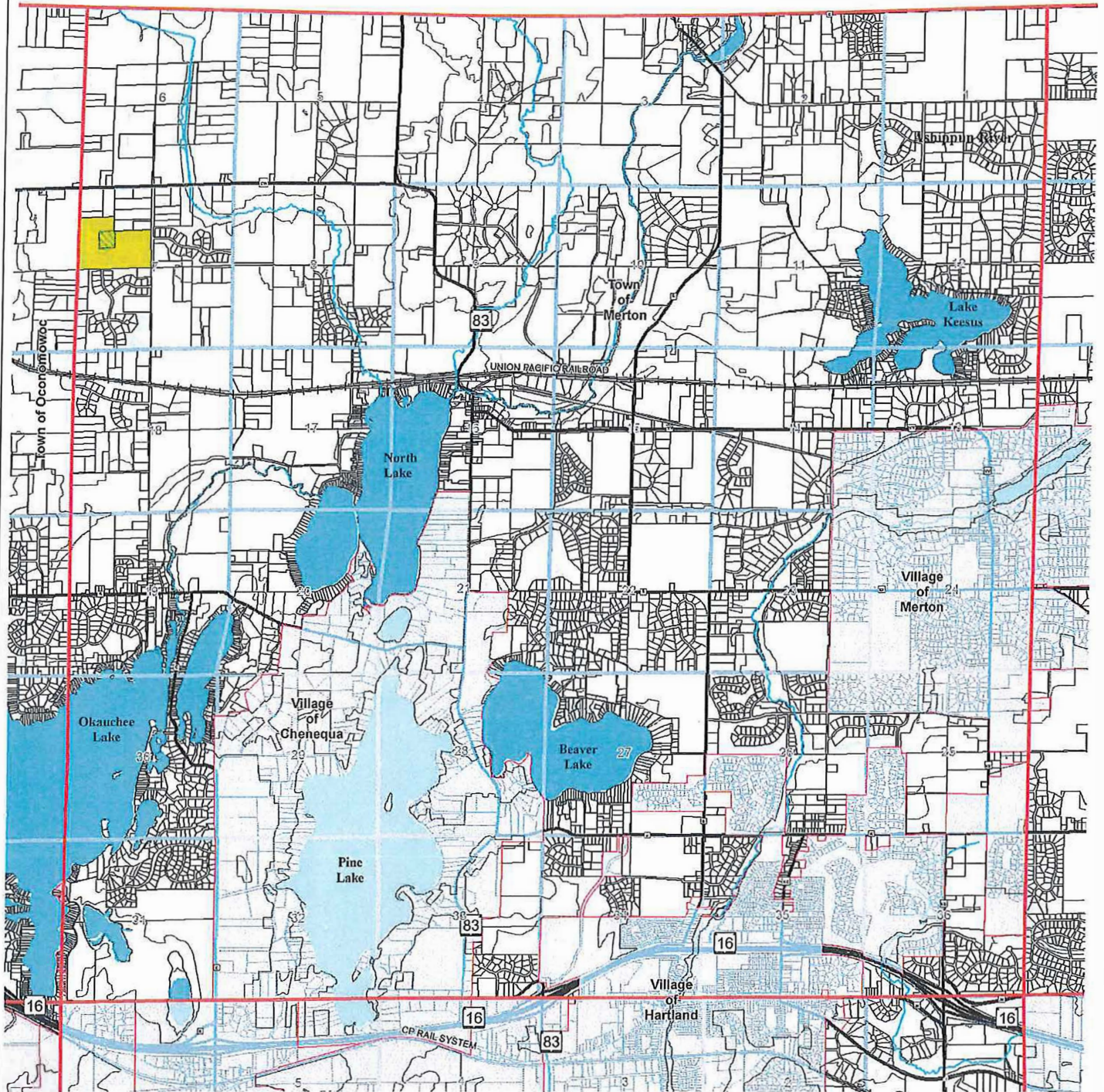
-  COUNTY DEVELOPMENT PLAN AMENDMENT FROM RURAL DENSITY & OTHER AGRICULTURAL LAND TO FARMLAND PRESERVATION
-  COUNTY DEVELOPMENT PLAN AMENDMENT FROM ISOLATED NATURAL RESOURCE AREA TO FARMLAND PRESERVATION WITH ENVIRONMENTAL CORRIDOR OVERLAY

PETITIONER.....WAUKESHA COUNTY (2B)
 DATE OF PLAN COMM. CONSIDERATION.....03/01/18
 AREA OF CHANGE.....80 ACRES
 TAX KEY NUMBER.....MRTT 0314.998



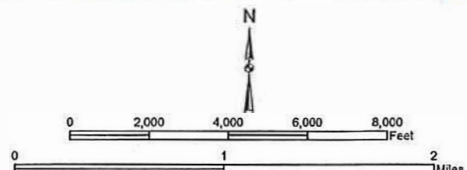
Prepared by the Waukesha County Department of Parks and Land Use

Map DB-4 Farmland Preservation Plan Map: Town of Merton



Legend

- Farmland Preservation Area
- Farmland Preservation Area With Environmental Corridor Overlay
- Non-farmland Preservation Area
- Municipal Boundary (Town/City/Village)
- Section Line
- Tax Parcel
- Surface water
- Interstate
- US Hwy
- State Hwy
- County Hwy
- Major Local Rd
- Local Rd
- Private Rd



Mapping Date: 2/22/2018
Created by: Waukesha County Planning & Zoning Division

ORDINANCE NO. 02122018 B

AN ORDINANCE TO AMEND THE TOWN OF
MERTON COMPREHENSIVE PLAN – 2035

WHEREAS, the Town of Merton Town Board has created a Plan Commission pursuant to §62.23(1), Wis. Stats.; and

WHEREAS, it is the function and duty of the Town Plan Commission pursuant to §62.23(2), Wis. Stats., to prepare and adopt a Master Plan as a whole or as parts thereof, and such plans are to aid the Plan Commission and Town Board in making day-to-day development decisions; and

WHEREAS, the Town of Merton Plan Commission recommended the adoption of a Master Plan, and the Town of Merton Town Board adopted a Comprehensive Land Use Plan-2035 by ordinance on May 12, 2009; and

WHEREAS, Chapter 8, the Land Use Element of the Comprehensive Land Use Plan-2035 and accompanying map, and the Town of Merton Land Use Plan Map identify the Simmons property as Rural Density and other agricultural land, including Isolated Natural Resource Area categories, to Farmland Preservation with an Environmental Corridor Overlay (see Exhibit A attached hereto and incorporated herein by reference); and

WHEREAS, since the enactment of §66.1001, Wis. Stats., the Town of Merton Planner and Plan Commission have been engaged in a Comprehensive Plan update to analyze and consider amendments to the aforementioned Master Plan; and

WHEREAS, §66.1001, Wis. Stats., provides that the Plan Commission may recommend amendments to comprehensive plan by adopting a resolution by a majority vote of the entire Plan Commission, which resolution shall refer to maps and other descriptive materials that relate to one or more elements of a comprehensive plan; and

WHEREAS, an application has been made by Richard Simmons, W335 N8435 Stone Bank Road, Oconomowoc, Wisconsin 53066, to amend the Town of Merton Comprehensive Land Use Plan-2035 and map to change the land use designations from Rural Density and other agricultural land, including Isolated Natural Resource Area categories, to Farmland Preservation with an Environmental Corridor Overlay; and

WHEREAS, the purpose of amending the Land Use Plan and map from Rural Density and other agricultural land, including Isolated Natural Resource Area categories, to Farmland Preservation designations for the aforementioned properties is to conform

to the current use of said properties and to be consistent with the land use designation of neighboring properties.

WHEREAS, pursuant to §66.1001, Wis. Stats., no amendment may take effect until the Town Board enacts an ordinance that adopts the amendment; and

WHEREAS, §66.1001, Wis. Stats., provides that the Town Board must hold at least one public hearing at which the proposed ordinance is discussed, which public hearing must be preceded by a Class 1 notice under Chapter 985 that is published at least 30 days before the hearing is held; and

WHEREAS, the Town Board gave appropriate notice of a public hearing to be held on February 12, 2018, beginning at 6:30 p.m. at the Town of Merton Town Hall, W314 N7624 Highway 83, North Lake, Wisconsin 53064, to consider the amendments described above; and

WHEREAS, the public hearing was held on February 12, 2018.

NOW THEREFORE, BE IT HEREBY ORDAINED that the Town Board of the Town of Merton adopts this ordinance which amends the Comprehensive Land Use Plan-2035 by amending the land use of land described from Rural Density and other agricultural land, including Isolated Natural Resource Area categories, to Farmland Preservation with an Environmental Corridor Overlay (see Exhibit A attached hereto and incorporated herein by reference) for the Richard Simmons property.

BE IT FURTHER ORDAINED that a copy of this Comprehensive Plan amending ordinance shall be sent to all of the following:

1. Every governmental body that is located in whole or in part within the boundaries of the Town of Merton.
2. The clerk of every local governmental unit that is adjacent to the Town of Oconomowoc.
3. The Wisconsin Land Council.
4. The Department of Administration.
5. The Southeastern Wisconsin Regional Planning Commission.
6. The public library that serves the area in which the Town of Merton is located.

BE IT FURTHER ORDAINED that this ordinance shall be effective upon passage, posting and publication as required by law.

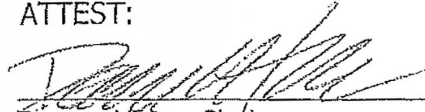
DATED: February 12, 2018

TOWN OF MERTON

By: 

Tim Klink, Chairman

ATTEST:



Donna Hahn, Clerk

Date Adopted: 2-12-18
Date Published: 2-13-18
Effective Date: 2-13-18