Land Use and Resource
Management Department

Walworth County
Land Conservation Committee
Monday, November 15, 2010 at 1:30 p.m.

Walworth County Government Center
County Board Room 114
Elkhorn, WI 53121
Dan Kilkenny – Chair, Jerry Grant - Vice Chair
Randy Hawkins - Supervisor
Donald Henningfeld – USDA/FSA Representative, *Dorothy C. Burwell* – Citizen Member

(Posted in Compliance with Sec. 19.84 Wis. Stats.)

AGENDA

1. Call to order
2. Roll call
3. Approval of the agenda
4. Approval of minutes from October 18, 2010 LCC Meeting
5. Public Comment
6. Discussion/Possible Action –Substandard A-1 Policy Review For Farmland Preservation Plan – Neal Frauenfelder, Matt Weidensee (enclosure, page 1-4)
7. Discussion/Possible Action – Criteria for Rezoning Land From A-1 – Neal Frauenfelder (enclosure, page 5-6)
8. Discussion/Possible Action – Non Metallic Mining Extraction – Conditional Use/A-1 Zoning Designation. LURM Staff (enclosure, pages 7-8)
9. Discussion/Possible Action – 2010 WLWCA Auction Donations. Louise Olson
10. Next Meeting Date
11. Adjournment

It is possible that a quorum of the County Board or a committee of the County Board could be in attendance.

Submitted by: Michael P. Cotter, Director, Land Use and Resource Management Department
Louise Olson, Deputy Director, Land Conservation Committee Designee

Posted: November 10, 2010

DRAFT

Walworth County Land Conservation Committee

MINUTES

Monday, October 18, 2010 at 1:30 p.m.

Walworth County Board Room 114
Elkhorn, WI 53121

The meeting was called to order by LCC Chair Kilkenny at 1:32 p.m.

Roll call - Committee members present included: Supervisors Kilkenny, Grant, and Citizen Member Burwell. A quorum was declared. Hawkins and Henningfeld were excused.

County staff present – David Bretl, County Administrator; Michael Cotter, Director of Land Use & Resource Management (LURM); Louise Olson, Deputy Director, LURM; Fay Amerson, Urban Manager, LURM; Olson, Recording Secretary.

Also in attendance –. Nancy Russell, Walworth County Board Chair, David Terrall, USDA/APHIS, Shirley Grant and Maggie Zoellner, KMLT.

Approval of the Agenda – **Supervisors Grant and Burwell moved and seconded approval of the agenda. Motion carried 3-0.**

Approval of the Minutes – **Citizen Member Burwell and Supervisor Grant moved and seconded approval of the September 20, 2010 LCC meeting minutes as presented. Motion carried 3-0.**

Public Comment – None

Crop Prices determined for Wildlife Abatement Claims - David Terrall, USDA/APHIS distributed 2010 Crop Prices for Walworth County. Walworth County price proposal were based on state averages and for claims on wildlife damage. Supervisor Grant wondered about apple orchards, those are usually handled through fencing paid for are separate issues as explained not addressed through the claim process. Burwell amended the damaged price proposal for the following: corn price from $3.48/Bushel to $4.00; soybean price from $9.11/Bushel to $11.00; thus leaving the remaining prices as set forth as submitted by USDA/APHIS. **Citizen Member Burwell and Grant moved and seconded as amended. Motion carried 3-0.**
A copy is on file.

Price County Resolution No. 37-10- Supporting the Legislative Council Study on Managed Forest Land Program; referred from the Walworth County Board of Supervisors – Forest land not being taxed to cover costs of county and educational services and that should be studied further for fairness related to taxation. **Supervisors Burwell and Grant moved and seconded to support this resolution to study these concerns. A resolution will be forwarded onto the County Board of Supervisors. Motion carried 3-0.**

2010 WLWCA Annual Conference Business Meeting Registration and Proxy Form - Louise Olson indicated that the conference begins on December 9 and end on the 10th of 2010, with registration deadline being November 5, 2010. Dorothy Burwell, as representative, would be required to obtain approval from the Land Conservation Committee, Chair to submit a voting proxy. **Supervisors Grant and Kilkenny delegated authority for a voting proxy to be submitted to the WLWCA Board. Motion carried. A copy will be submitted to WLWCA prior to December 9-10 Conference. Motion carried 3-0.** Silent Auction items for this conference can be obtained and given to Dorothy Burwell as LCC representative.

WLWCA Recommended Bylaw Amendments - Supervisor Burwell review some of the WLWCA amendments as highlighted in the packet, making note of the fact the County that hosts the Conservation Farmer of the Year and Conservation Observance Day will have their dues waived for that year. **Supervisors Burwell and Grant moved to support these Bylaw Amendments. Motion carried 3-0.**

Farmland Preservation Plan Update - Fay Amerson updated the committee on the plan status and provided additional statistics that need to be considered as part of the plan context. The information was provided through "*The Land Use Tracker", Volume 10, Issue 2, Fall 2010*. Ms. Amerson will follow up how these statistics were obtained. The NEW Farmland Preservation Plan will included agriculture supportive industries and specialty crops. Several training sessions are scheduled throughout the state, staff will be attending the Jefferson session to insure the county's farmland preservation plan is on the right track. Supervisors were given a listing of date, time and place of the various training locations. A copy is on file.

Next Meeting Date – Monday, November 15, 2010, 1:30 p.m.

Adjournment – **On motion and second by Supervisor Grant and Burwell, Chair Kilkenny adjourned the meeting at 2:01 p.m. Motion carried 3-0.**

Submitted by Louise Olson, Recording Secretary. Minutes are not considered final until approved by the committee at the next regularly scheduled meeting.

Sec. 74-39. Site regulations.

All lots shall abut upon a public street or other officially approved right-of-way for a frontage of at least 50 feet; all principal structures shall be located on a lot; and, except in the A-1, A-2, A-3, P-1, P-2, R-4, R-5, R-6, R-8 and B-5 Districts or as otherwise provided for in this ordinance as a planned residential development or a planned unit development, only one principal structure shall be located, erected, or moved onto a lot. No zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedications has not been secured.

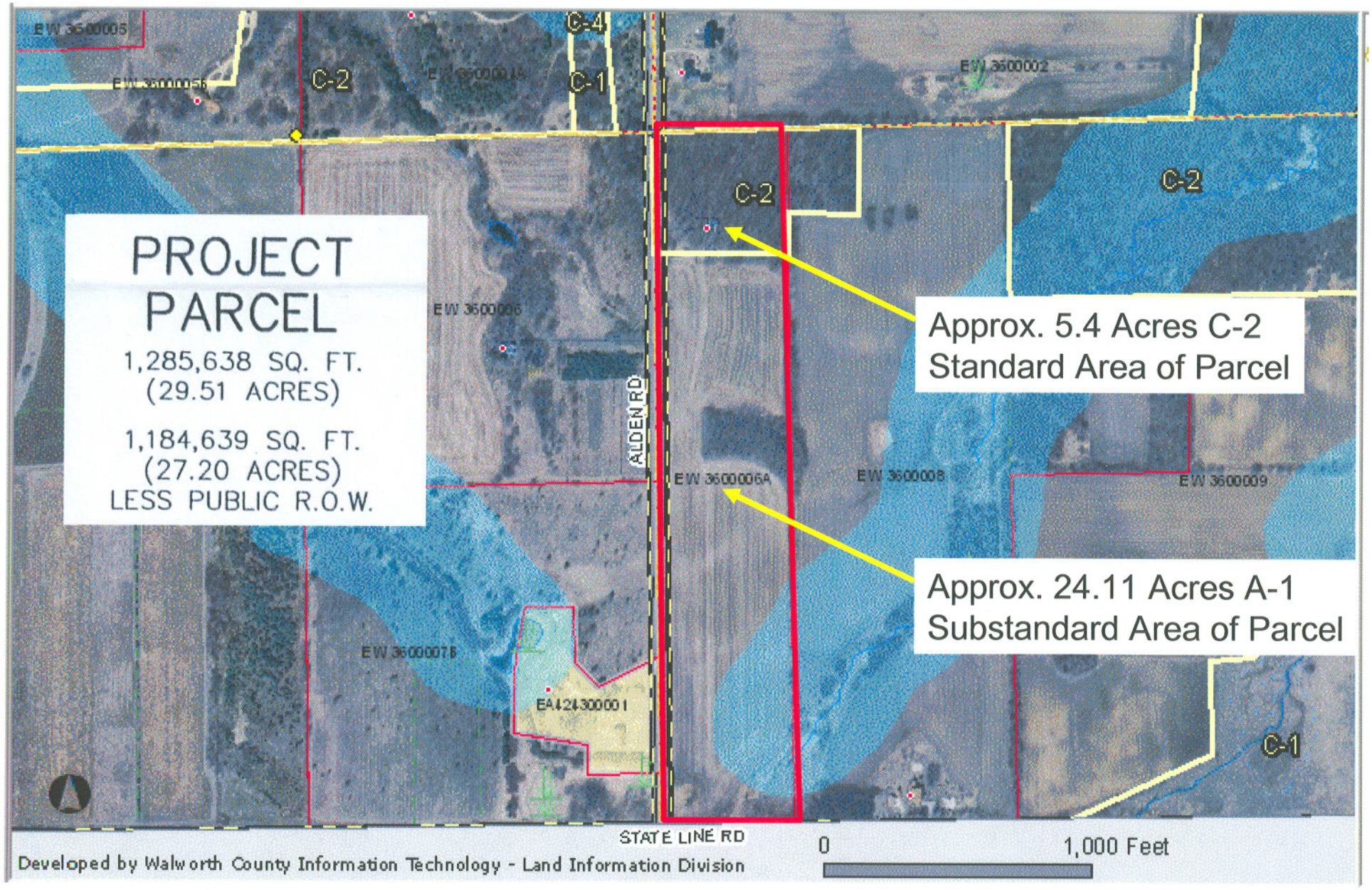
Width and area of all lots not served by a public sanitary sewage system or other approved system shall be sufficient to permit the use of a private on-site wastewater treatment system (POWTS) designed in accordance with the county sanitary ordinance. The width of all lots which have soils suitable for the use of a private onsite wastewater treatment system shall not be less than 150 feet and the area of all such lots shall not be less than 40,000 square feet per dwelling unit to be constructed on the lot.

The width and area of all lots shall meet each of the minimum district requirements. A road/street separates a parcel of land provided there is at least 150 feet in lot width, 40,000 square feet in lot area and 50 feet of frontage on an officially approved way.

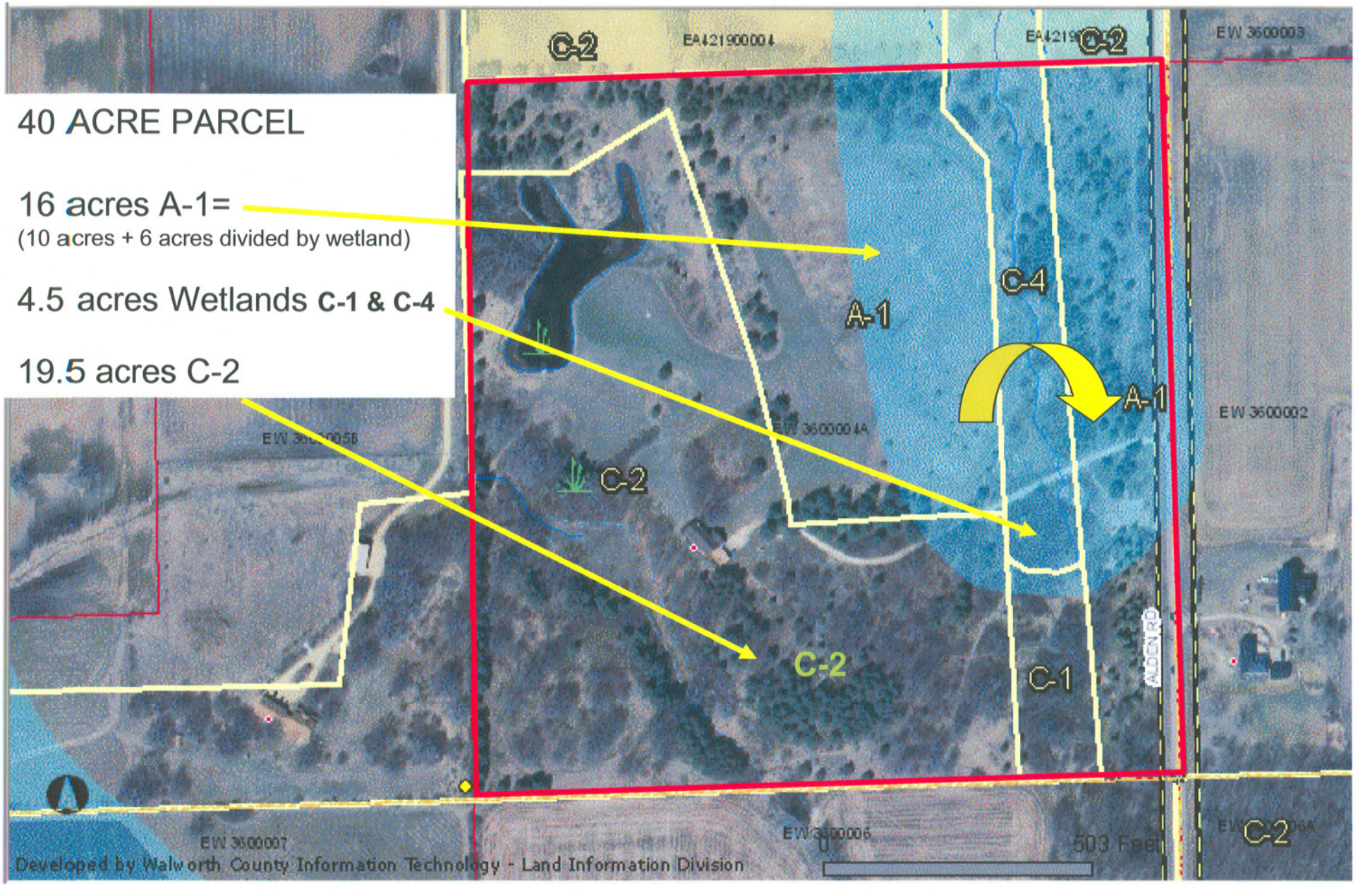
Maintenance easements for the purpose of providing limited right of vehicle ingress/egress to unmanned uses such as utilities, dams, cell towers, renewable energy, sanitary sewers, etc. necessary to provide a needed public service are permitted to be reduced to a 15-foot wide easement. The 15-foot wide maintenance easement shall be a limited access easement to facilitate repairs and maintenance only. The limited access easement shall be of adequate soil conditions or surfacing to withstand loads produced by standard equipment and provide limited ingress and egress connecting to a street or other officially approved way.

All land divisions which encompass divisions resulting in parcels of land less than 35 acres which are not otherwise controlled by the Walworth County subdivision control ordinance, shall be subject to a review process under this ordinance. The review process shall also include the sale or exchange of parcels or portions thereof of land between owners of adjoining property to assure additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this ordinance or other applicable laws or ordinances. The review process shall use the appropriate application form and an instrument prepared by a registered land surveyor licensed in the state.

(Amd. of 4-19-05; Amd. of 5-10-05; Ord. No. 391-10/06, pt. I, 10-10-06; Ord. No. 428-04/07, pt. II, 4-17-07; Ord. No. 472-12/07, pt. I, 12-11-07; Ord. No. 591-12/09, pt. IV, 12-15-09)


PROJECT PARCEL
1,285,638 SQ. FT.
(29.51 ACRES)
1,184,639 SQ. FT.
(27.20 ACRES)
LESS PUBLIC R.O.W.
Approx. 5.4 Acres C-2
Standard Area of Parcel
Approx. 24.11 Acres A-1
Substandard Area of Parcel
C-2
C-4
C-1
ALDEN RD
STATE LINE RD
EW 3600005
EW 3600002
EW 3600006
EW 3600006A
EW 3600008
EW 3600009
EW 3600007B
EA424300001
0
1,000 Feet
Developed by Walworth County Information Technology - Land Information Division

2


40 ACRE PARCEL
16 acres A-1=
(10 acres + 6 acres divided by wetland)
4.5 acres Wetlands C-1 & C-4
19.5 acres C-2
C-2
EA421900004
EA4219
C-2
EW 3600003
C-4
A-1
A-1
EW 3600002
EW 3600004A
C-2
C-2
C-1
ALDEN RD
EW 3600007
EW 3600006
0
503 Feet
C-2
Developed by Walworth County Information Technology - Land Information Division

(3)

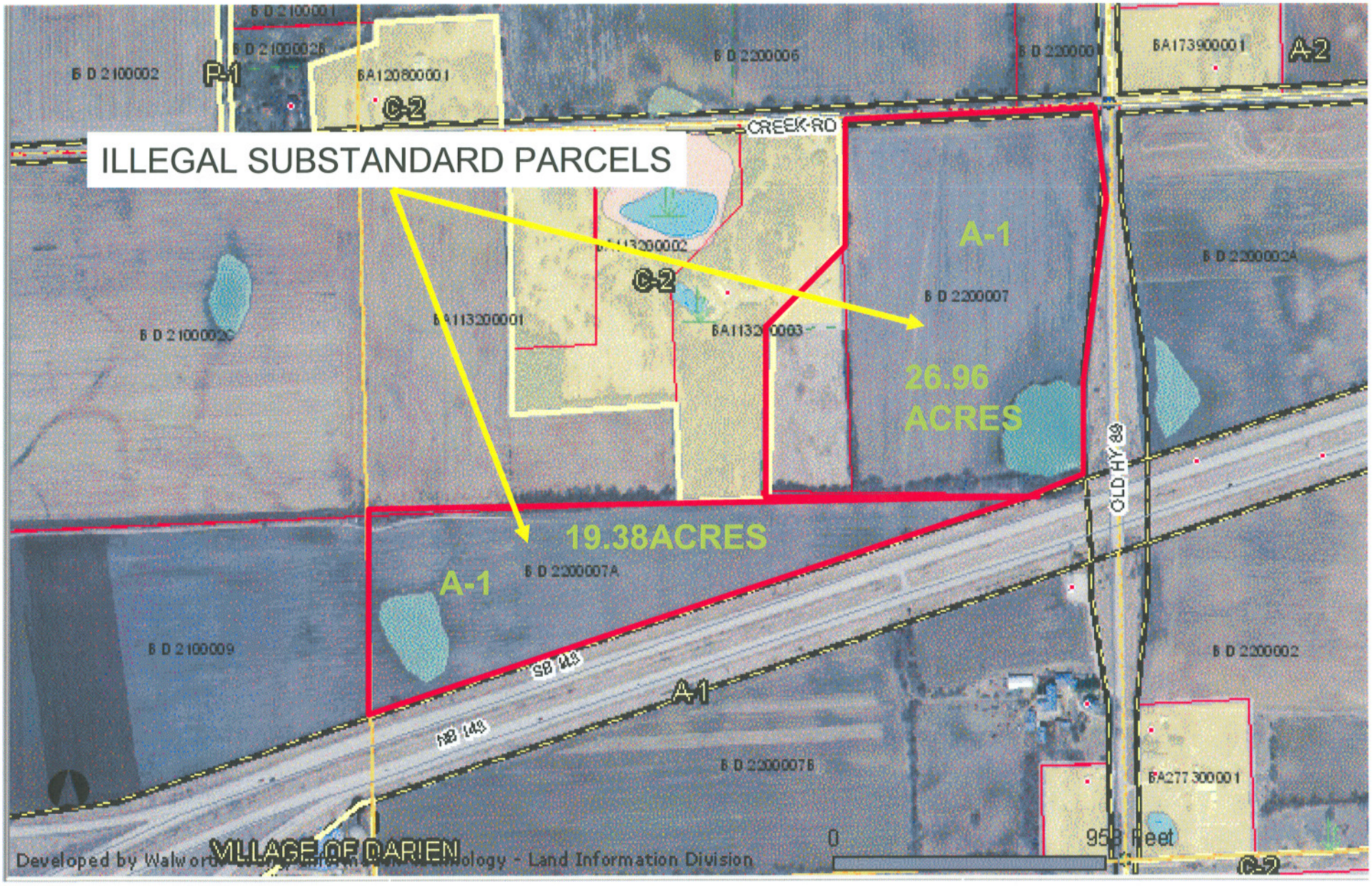

ILLEGAL SUBSTANDARD PARCELS
A-1
26.96
ACRES
19.38ACRES
A-1
A-1
A-2
C-2
C-2
C-2
P-1
CREEK RD
OLD HY 89
SB 143
NB 143
VILLAGE OF DARIEN
0
958 Feet
Developed by Walworth County Information Technology - Land Information Division

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Table XX.X

CRITERIA FOR REZONING LAND FROM THE A-1 PRIME AGRICULTURAL LAND ZONING DISTRICT

1. The proposed rezone should be consistent with the Walworth County and Town comprehensive plans and the Walworth County agricultural preservation plan. Rezones shall be considered to be consistent with these plans if the following standards are met:

   1a. Less than 50 percent of the parcel should be covered by soils in agricultural capability Classes I, II, and III. Areas that are mapped as Class I, II, or III soils but which are demonstrated to be unsuitable for agriculture due to erosion or other factors, should not be "counted" as Class I, II, or III farmland. Such determinations should be made by a qualified soil mapping technician.

   1b. The proposed land use should be compatible with remaining prime agricultural land in the vicinity.

   Note: Standard "1a" is quantifiable and measureable. Standard "1b" is more a matter of judgment. In making a determination regarding compatibility, the County and concerned Town should consider the location of the parcel (for example, is it located on the periphery of a block of prime farmland or in the middle of a block?) and the type of use envisioned (for example, is it a low intensity use, such as residential lot, or a more intensive use, such as a multiple lot residential subdivision?)

2. In accordance with the Wisconsin Farmland Preservation Law (~~sec 91.77(1)~~), **(sec 91.48)**, the proposed rezone **out of a farmland preservation district** ~~the proposed rezone~~ may be approved by the County and Town only after findings are made based upon consideration of the following:

   ~~2a. Adequate public facilities to accommodate development either exist or will be provided within a reasonable timeframe.~~

   ~~2b. Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of affected local units of government to provide them.~~

   ~~2c. The land is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural areas.~~

   ~~*Note: Standards "2a" and "2b" involve an evaluation of the availability of public facilities—recognizing that public facility needs vary with the type of development. Standard "2c" can be expected to be met provided that the proposed development is consistent with the County's environmental ordinances.*~~

   2a. **The land is better suited for a use not allowed in the farmland preservation zoning district.**

   2b. **The rezoning is consistent with the County certified comprehensive plan.**

   2c. **The rezoning is substantially consistent with the county certified farmland preservation plan.**

   2d. **The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.**

Source: Walworth County, Town in Walworth County, and SEWRPC

Sec. 74-261. Text and map amendments to the A-1 district.

The county may approve petitions for rezoning areas zoned for exclusive agricultural use only after findings are made based upon consideration of the following:

(1) Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.

(2) Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of affected local units of government to provide them.

(3) The land proposed for rezoning is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas.

Land which is rezoned under this section shall be subject to the lien provided under Wis. Stats. §§ 91.19(8) to (10) for the amount of tax credits paid on the land rezoned. If the rezoning occurs solely as a result of action initiated by a governmental unit, any lien required under Wis. Stats. §§ 91.19(8) to (10) shall be paid by the governmental unit initiating the action. The department of agriculture, trade and consumer protection shall be notified of all rezonings under this section.

Farmland Preservation Plan
Policy Options and Considerations

Nonmetallic Mining in Farmland Preservation Areas

The updated farmland preservation program, (chapter 91, of the Wisconsin Statutes,) authorizes the County to allow nonmetallic mineral extraction in a farmland preservation zoning district if conducted with a conditional use permit, if it is determined that all of the following apply:

a) The operation complies state statutes and administrative rules, the County Nonmetallic Mining Reclamation Ordinance and any applicable requirements of the department of transportation concerning the restoration of the mining site.

b) The operation and the location of the nonmetallic mining site in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

c) The operation and the location of the mining site in the farmland preservation district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.

d) The operation is reasonably designed to minimize the conversion of land around the mining site from agricultural use or open space use.

e) The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned or legally restricted to agricultural use.

f) The farmland preservation zoning ordinance requires the owner to restore the land to agricultural use, consist with any required locally approved reclamation plan, when extraction is completed.

Current Policy adopted in the Comprehensive Plan (Page X-7)

The land use element of this comprehensive plan designates certain lands for mineral extraction, largely following existing M-3 Mineral Extraction zoning. Additional land for mineral extraction (sand, gravel, clay, stone) may be needed during the planning period, although the specific locations have not been determined. The County and the concerned town will consider proposals for new or expanded mineral extraction areas on a case-by-case basis, taking into account the impacts on adjacent land uses, impacts on the natural resource base, impacts on highways, and other factors. All such proposals will be subject to the County zoning ordinance and non-metallic mining reclamation ordinance. These areas will have to be rezoned into the M-3 Mineral Extraction zoning district and receive a conditional use permit. Such uses will be accommodated without amending the comprehensive plan. The property will be rezoned back to the original zoning following reclamation.

Policy Consideration: Should the Farmland Preservation Plan recommend a new policy related to nonmetallic mining in Agricultural Preservation Areas, by allowing nonmetallic mining with a County-approved Conditional Use Permit?

Advantages of allowing nonmetallic mineral extraction activities within a farmland preservation zoning district with a County-approved Conditional Use Permit.

1. No need to rezone property back to original zone district after mining site has been successfully reclaimed to an agricultural use.

2. Property owner would not have to pay an agricultural conversion fee if nonmetallic mining activities are conducted on parcel within a farmland preservation zoning district.

3. Generally nonmetallic mining is a temporary use.

Disadvantages of allowing nonmetallic mineral extraction activities within a farmland preservation zoning district with a County-approved Conditional Use Permit.

1. Towns would give up veto power enabled by a rezone requirement.

2. Inconsistent with the findings approved with County Comprehensive Plan.

3. Comprehensive Plan amendment necessary.

Other consideration: Explore the authority for the County to consider conditional use permit applications for nonmetallic mining sites only after receiving approval from the Town where the nonmetallic mining activities are proposed.