

Staff Report

Zoning and
Land Regulation
Committee

Questions? Contact:
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Public Hearing: **May 26, 2020**

Zoning Amendment Requested:

FP-35 (General Farmland Preservation) District TO RR-2 (Rural Residential, 2 to 4 acres) District

Size: **2.06 Acres**

Survey Required: **Yes**

Reason for the request:

Creating one residential lot

Petition 11554

Town/Section:

ALBION, Section 18

Applicant

MARY JO JOHNSON

Address:

**SOUTH OF 1552
COUNTY HIGHWAY A**



DESCRIPTION: Applicant is owner of a farm totaling approximately 160 acres and proposes to create a new ~2 acre RR-1 (Rural Residential) parcel for future development. The applicant has another currently pending rezoning petition (#11509) which proposes to separate the existing residence from the farmland.

OBSERVATIONS: The current use of the property is agriculture (cropland). Proposed lot is located approximately 1,000' north of County Highway A along a dead-end town road that provides access to the applicant's existing residence. Surrounding land uses include agriculture / open space and scattered rural residences. There is a small ~5 acre lake with associated wetlands located on the Johnson property approximately 300' to the south of the proposed lot. No other sensitive environmental features observed. Proposed 2 acre RR-2 lot consists of approximately 70% class II soils.

TOWN PLAN: The property is located in the town's agricultural preservation area.

RESOURCE PROTECTION: No resource protection corridors located on the proposed RR-1 area.

DANE COUNTY HIGHWAY DEPARTMENT: Dane County Highway A is not a controlled access highway. Any change of use or new access points require a permit from Dane County Highway. Joint use of existing access points will be required if possible.

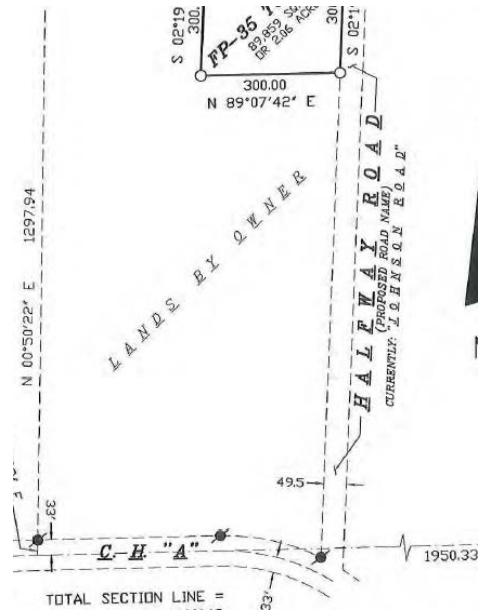
STAFF (05/26/20 – see update, below): As indicated on the attached density study report, the property remains eligible for 4 density units (a/k/a “splits”). Applicants have another pending rezoning petition (#11509) that seeks to separate their existing residence from the farm by creating a new ~2.5 acre RR-2 zoned parcel, along with dedication of a cul de sac bulb at the end of the ~2,500’ dead end road. Staff had noted a concern that petition 11509 may conflict with the land division regulations which limit the length of cul de sacs to no more than 1,000’.

The proposed lot is using the dead end “Half Way Road” to obtain public road access. This roadway is only documented as being 49.5 feet in width. See preliminary certified survey map excerpt, at right. Half Way Road does not meet the minimum standard 66-foot width for a road right-of-way for streets as required in the Dane County Code of Ordinances, Chapter 75, Land Division regulations. In order for the proposal to be in compliance with the Land Division Regulations, Half Way Road would need to be widened to 66-feet.

The town has been considering vacating dead end town roads which effectively serve as driveways for individual landowners due to the cost of maintaining the roads. It is unclear at this time if the town will vacate “Half Way Road”, or be willing to accept the required additional 16.5’ of right-of-way.

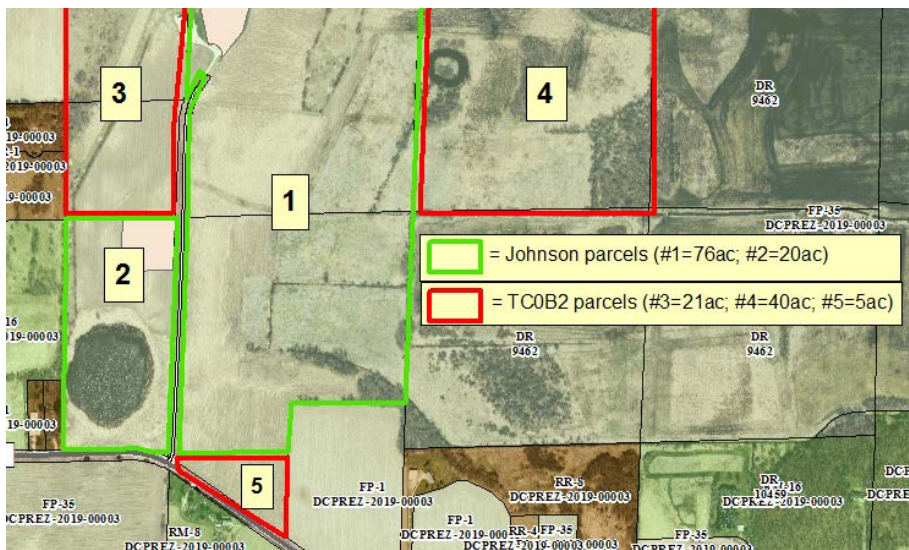
An adjoining property owner has registered in opposition to the proposal.

The town has not yet taken action on this petition, or the other pending petition by the applicant, #11509.



STAFF UPDATE (10/05/20): As indicated in the report for related rezone petition 11509, staff have discovered that the owner has unlawfully subdivided portions of the property by transferring land to another owner, resulting in the creation of 3 new parcels of land under 35 acres without first obtaining the necessary zoning and land division approvals (see attached violation letter).

“New” parcels on Johnson farm – Parcels 2, 3, and 5 violate zoning & land division regulations



It is unclear if the sale included any density units (“splits”) for possible creation of future building sites, or whether or not the sales may complicate the town’s efforts to discontinue the road.

To correct the outstanding land division and zoning violations, the parcels under 35 acres will need to be rezoned out of the FP-35 district and defined by a new Certified Survey Map(s). This will need to be accomplished by the owners submitting new rezoning petition(s). To date, no application(s) has been submitted to correct the violations.

Importantly, petition 11554 proposes to create a new lot from one of the unlawfully created ~20 acre parcels of land (parcel 2 in the graphic, above).

Staff recommends denial of the rezoning petition based on the following findings:

1. The parcel from which the new lot is proposed was unlawfully created as a 20 acre parcel without necessary zoning and Certified Survey Map approvals. If the current petition were approved, it would result in creating yet another unlawful land division by allowing the current 20 acre parcel to be divided.
2. The proposal is inconsistent with the town comprehensive plan policy requiring roads to meet county standards and requirements.
3. The existing road does not meet the 66' width requirement in 75.19(1)(o) of the county land division ordinance.
4. The proposed lot design and Certified Survey Map would result in a cul-de-sac which exceeds the 1,000' length limit in 75.19(1)(p) of the county land division ordinance.

TOWN: The town board denied the petition.