

RESTRICTIONS

DANE COUNTY REGISTER OF DEEDS

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Trans. Fee: Exempt #:

Rec. Fee: 17.00 Pages: 4

COPY

PETITION 9125

Use black ink & print legibly

WHEREAS, OLMSTED PROPERTIES, LLC

(JAMES D OLMSTED JR, SONATHAN S OLMSTED, MATTHEW S OLMSTED)
+ CYNTHIA RICE

is/are owner(s) of the following described real estate in the

Town of SPRINGDALE in Dane County,

further described as follows:

(Use reverse side if more space is needed for the complete property description.)

Property Description:

- A part of Lot #2, CSM #10521, in the NE 1/4 NW 1/4 of Section 21, Town of Springdale described as follows: Commencing at the Southwest corner of Lot #2, thence S73°59'03" East 100.48 feet; thence N89°14'02" East 200 feet to the point of beginning; thence N00°45'58" West 212 feet; thence N89°14'02" East 232 feet; thence S00°45'58" East 212 feet; thence S89°14'02" West 232 feet to the point of beginning.

Recording area

Name and return address:

OLMSTED PROPERTIES, LLC
9 LONGMEADOW CIRCLE
MADISON, WI 53717

0607-212-8200-0
PARCEL IDENTIFICATION NUMBER(S)

WHEREAS, said owner(s) desires to place certain restrictions on the above-said real estate, to bind the owner(s) and those who may acquire title hereafter.

WHEREAS, the restrictions provided herein shall be enforceable at law or equity against any party who has or acquires any interest in the land subject to these restrictions by the following who are named as grantees and beneficiaries with enforcement rights:

1. The County Government of Dane County, Wisconsin provided that the lands are under the jurisdiction of the County zoning ordinance at the time the enforcement action is commenced, and;
2. The Town Government of the Town of SPRINGDALE, Dane County, provided that the lands are within the jurisdiction of said Town at the time the enforcement action is commenced, and;
3. The owner(s) of record of any lands that are located within 300 feet of the subject property.

THEREFORE, the following restrictions are hereby imposed: *(Use reverse side or attachment if more space is needed.)*

Restrictions on that part of lot 2 CSM #10521 zoned LC-1 pursuant to Dane County Ordinance Amendment #9125:

- 1) The uses of the LC-1 zoned area are hereby limited exclusively to the following:
 - a. General, mechanical and landscape contracting businesses and buildings used in connection with such activity;
 - b. Storage, maintenance and repair of construction equipment (including vehicles) necessary for the operation of a general, mechanical or landscape contracting business. There shall be a limit of no more than 12 items of equipment (including vehicles) stored on the zoning lot;
 - c. Outside storage of materials or supplies used by a contractor in fulfilling his or her contracts and not offered for sale to a user or consumer.
- 2) The following uses are hereby prohibited:
 - a. School bus and motor coach transportation businesses including offices and parking, storage and maintenance of buses and other vehicles used in the business, such as vans and maintenance tow trucks.
 - b. Maintenance and repairs to vehicles and construction equipment not stored on the property;
 - c. Utility services;
 - d. A single family residence for an owner of the business or a caretaker.
- 3) The site is to be laid out as depicted on the site plan dated 10/11/2004 submitted by J. Olmsted for compliance with the Town of Springdale Land Use Plan for signs, lights, dumpsters, porta-facilities, parking, storage of equipment and materials, screening, gates and fencing.
- 4) The hours of operation are hereby limited to Monday – Saturday, 7:30 a.m. to 6:00 P.M.
- 5) Off-street parking is hereby limited exclusively to those areas delineated on the aforementioned site plan.
- 6) Parking or storage of vehicles is prohibited within the road right-of-way.

- 7) The number and type of vehicles that can be parked outside is hereby limited to three trucks and trailers plus no more than six employee vehicles.
- 8) Outdoor lighting (except as required for security lighting) is hereby prohibited at times other than during the approved hours of operation.
- 9) All lighting is hereby required to be shielded to prevent glare into the night sky;
- 10) Lighting causing direct beam illumination of neighboring residences is hereby prohibited.
- 11) Signage is hereby prohibited from being lit.
- 12) Signage is hereby required to comply with all applicable state, county and town requirements.
- 13) On-site burning is hereby prohibited.

The restrictions set forth herein may be amended or terminated in the following manner:

1. The owner(s) of the subject property may submit a written petition calling for the amendment or termination of the restrictions. Such petition must be submitted to the Dane County Clerk who shall refer the petition to the Dane County Zoning and Natural Resources Committee (or successor committee), which shall then schedule and hold a public hearing on the petition.

The petition shall also be referred to the Town Government of the Town in which the subject property is located. The Zoning and Natural Resources Committee shall issue a written report on the petition to the County Board of Supervisors. The County Board shall, by majority vote, approve or reject the petition. Amendment or termination of the restrictions shall also require the approval of the Town Board.

2. Upon approval of the petition calling for amendment or termination of the restrictions, the owner(s) of the subject property shall draft the amendatory covenant instrument. The owner(s) shall then execute and record the amendatory covenant with the Dane County Register of Deeds.
3. A rezoning of the subject property to a different zoning district shall also act to terminate the restrictions set forth herein.

January 13, 2005
Date

Jonathan S. Olmsted
Signature of Grantor (owner)

Jonathan S. Olmsted
*Name printed

January 13, 2005
Date

Cynthia O. Rice
Signature of Grantor (owner)

Cynthia O. Rice
*Name printed

JANUARY 13, 2005
Date

James D Olmsted Jr
Signature of Grantor (owner)

JAMES D OLMSTED JR
*Name printed

January / 13, 2005
Date

Matt S Olmsted
Signature of Grantor (owner)

Matt S. Olmsted
*Name printed

This document was drafted by:
(print or type name below)

JAMES D OLMSTED JR

*Names of persons signing in any capacity must be typed or printed below their signature.
P&D form 2/20/2001

STATE OF WISCONSIN, County of Dane

Subscribed and sworn to before me on Jan. 13, 2005 by the above named person(s).

Signature of notary or other person authorized to administer an oath (as per s. 706.06, 706.07)

Janet M. Cray

Print or type name:

Janet M. Cray

Title RE Clerk

Date commission expires: 10-21-07

DANE COUNTY ORDINANCE AMENDMENT NO. 9125

Amending Section 10.03 relating to Zoning Districts in the Town of Springdale.

The Dane County Board of Supervisors does ordain as follows: That the Zoning District Maps of the Town of Springdale be amended to include in the LC-1 Limited Commercial and A-2(4) Agricultural District/s the following described land:

PETITION NUMBER: 9125

TO LC-1:

A part of Lot #2, CSM #10521, in the NE 1/4 NW 1/4 of Section 21, Town of Springdale described as follows: Commencing at the Southwest corner of Lot #2, thence S73°59'03" East 100.48 feet; thence N89°14'02" East 200 feet to the point of beginning; thence N00°45'58" West 212 feet; thence N89°14'02" East 232 feet; thence S00°45'58" East 212 feet; thence S89°14'02" West 232 feet to the point of beginning.

TO A-2(2):

A part of Lot #2, CSM #10521, in the NE 1/4 NW 1/4 of Section 21, Town of Springdale described as follows: Beginning at the Southwest corner of Lot #2, thence along a curve to the left of radius 174 feet and long chord of S73°59'03" East 100.48 feet; thence N89°14'02" East 200 feet; thence N00°45'58" West 212 feet; thence N89°14'02" East 232 feet; thence S00°45'58" East 212 feet; thence N89°14'02" East 209.87 feet; thence along a curve to the left of radius 4962 feet and long chord of N88°54'43" East 55.76 feet; thence N20°11'17" West 107.82 feet; thence N05°40'10" West 184.47 feet; thence S89°49'26" West 736.89 feet; thence S00°23'49" West 264.43 feet to the point of beginning.

The Dane County Board of Supervisors does ordain that this amendment, based upon their findings, to be consistent with the provisions of Wisconsin State Statute 91.77 (1)(a),(b),(c).

DANE COUNTY ORDINANCE AMENDMENT NO. 9125

Amending Section 10.03 relating to Zoning Districts in the Town of Springdale.

The Dane County Board of Supervisors does ordain as follows: That the Zoning District Maps of the Town of Springdale be amended to include in the LC-1 Limited Commercial and A-2(2) Agricultural District's the following described land:

PETITION NUMBER: 9125

TO LC-1:

A part of Lot #2, CSM #10521, in the NE 1/4 NW 1/4 of Section 21, Town of Springdale described as follows: Commencing at the Southwest corner of Lot #2, thence S73°59'03" East 100.48 feet; thence N89°14'02" East 200 feet to the point of beginning; thence N00°45'58" West 212 feet; thence N89°14'02" East 232 feet; thence S00°45'58" East 212 feet; thence S89°14'02" West 232 feet to the point of beginning.

CONDITIONAL ZONING

Conditional zoning is hereby imposed pursuant to Section 10.255(3)(a)2(b) of the Dane County Code of Ordinances. The rezoned area shall be subject to the following condition(s).

DEED RESTRICTION REQUIRED

This amendment will be effective if within 90 days of its adoption by Dane County the owner or owners of the land record the following restriction(s) on said land:

- 1) Deed restrict the LC-1 property limiting the permitted uses exclusively to the following:
 - a. General, mechanical and landscape contracting businesses and buildings used in connection with such activity;
 - b. Storage, maintenance and repair of construction equipment (including vehicles) necessary for the operation of a general, mechanical or landscape contracting business. There shall be a limit of no more than 12 items of equipment (including vehicles) stored on each zoning lot;
 - c. Outside storage of materials or supplies used by a contractor in fulfilling his or her contracts and not offered for sale to a user or consumer.
- 2) Deed restrict the LC-1 property prohibiting the following uses:
 - a. School bus and motor coach transportation businesses including offices and parking, storage and maintenance of buses and other vehicles used in the business, such as vans and maintenance tow trucks.
 - b. Maintenance and repairs to vehicles and construction equipment not stored on the property;
 - c. Utility services;
 - d. A single family residence for an owner of the business or a caretaker.
- 3) Deed restrict the LC-1 property requiring the site to be laid out as depicted on the site plan dated 10/11/2004 submitted by J. Olmsted for compliance with the Town of Springdale Land Use Plan for signs, lights, dumpsters, porta-facilities, parking, storage of equipment and materials, screening, gates and fencing.
- 4) Deed restrict the LC-1 property limiting the hours of operation to Monday – Saturday, 7:30 a.m. to 6:00 P.M.
- 5) Deed restrict the LC-1 property limiting off-street parking exclusively to those areas delineated on the aforementioned site plan.
- 6) Deed restrict the LC-1 property prohibiting parking or storage of vehicles within the road right-of-way.

The Dane County Board of Supervisors does ordain that this amendment, based upon their findings, to be consistent with the provisions of Wisconsin State Statute 91.77 (1)(a),(b),(c).

- 7) Deed restrict the LC-1 property limiting the number and type of vehicles that can be parked outside to three trucks and trailers plus no more than six employee vehicles.
- 8) Deed restrict the LC-1 property prohibiting outdoor lighting (except as required for security lighting) at times other than during the approved hours of operation.
- 9) Deed restrict the LC-1 property requiring all lighting to be shielded to prevent glare into the night sky;
- 10) Deed restrict the LC-1 property prohibiting lighting from causing a direct beam illumination of neighboring residences.
- 11) Deed restrict the LC-1 property prohibiting signage from being lit.
- 12) Deed restrict the LC-1 property requiring signage to comply with all applicable state, county and town requirements.
- 13) Deed restrict the LC-1 property prohibiting on-site burning.

Said restriction(s) shall run in favor of Dane County and the pertinent Town Board(s) as well as the owners of land within 300 feet of the site. **Failure to record the restriction(s) will cause the rezone to be null and void. A copy of the recorded document shall be submitted to Dane County Zoning.**

TO A-2(2):

A part of Lot #2, CSM #10521, in the NE 1/4 NW 1/4 of Section 21, Town of Springdale described as follows: Beginning at the Southwest corner of Lot #2, thence along a curve to the left of radius 174 feet and long chord of S73°59'03" East 100.48 feet; thence N89°14'02" East 200 feet; thence N00°45'58" West 212 feet; thence N89°14'02" East 232 feet; thence S00°45'58" East 212 feet; thence N89°14'02" East 209.87 feet; thence along a curve to the left of radius 4962 feet and long chord of N88°54'43" East 55.76 feet; thence N20°11'17" West 107.82 feet; thence N05°40'10" West 184.47 feet; thence S89°49'26" West 736.89 feet; thence S00°23'49" West 264.43 feet to the point of beginning.

CONDITIONAL ZONING

Conditional zoning is hereby imposed pursuant to Section 10.255(3)(a)2(b) of the Dane County Code of Ordinances. The rezoned area shall be subject to the following condition(s).

DEED RESTRICTION REQUIRED

This amendment will be effective if within 90 days of its adoption by Dane County the owner or owners of the land record the following restriction(s) on said land:

- 1) Deed restrict the A-2(2) property limiting the permitted uses exclusively to the following:
 - a. Agricultural uses;
 - b. Single family detached residences;
 - c. Home occupations as defined in §10.01(25), Dane County Code of Ordinances;
 - d. Accessory buildings.
- 2) Deed restrict the A-2(2) property prohibiting utility services.

Said restriction(s) shall run in favor of Dane County and the pertinent Town Board(s) as well as the owners of land within 300 feet of the site. **Failure to record the restriction(s) will cause the rezone to be null and void. A copy of the recorded document shall be submitted to Dane County Zoning.**

Effective: 1 / 13 / 2005

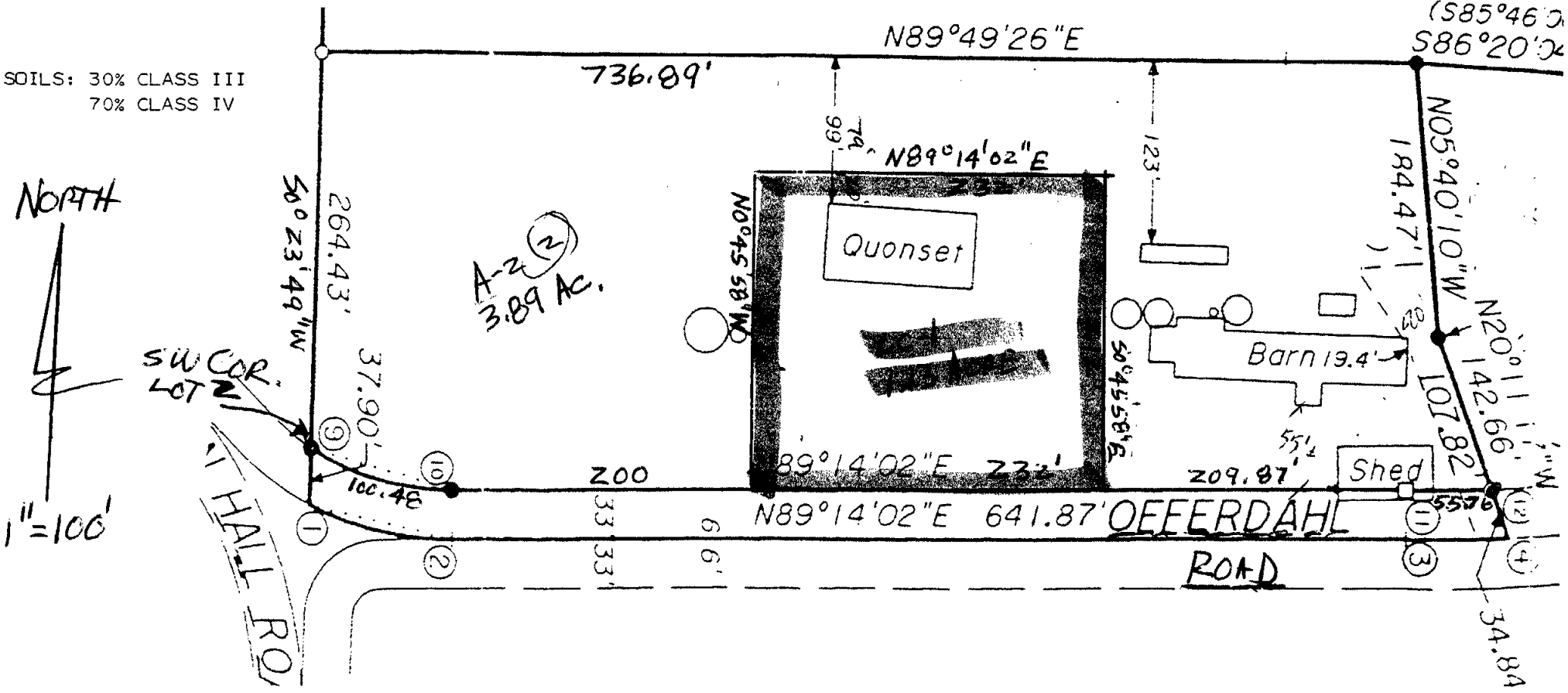
... IN THE NE1/4 OF THE NW1/4 OF SEC. 21, T6N, R7E, ...
 ... DANE COUNTY, WI, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST
 CORNER OF LOT 2; THENCE S73°59'03"E 100.48 FEET; THENCE N89°14'02"E 200 FEET TO THE
 P.O.B.; THENCE N0°45'58"W 212 FEET; THENCE N89°14'02"E 232 FEET; THENCE S0°45'58"E
 212 FEET; THENCE S89°14'02"W 232 FEET TO THE P.O.B.

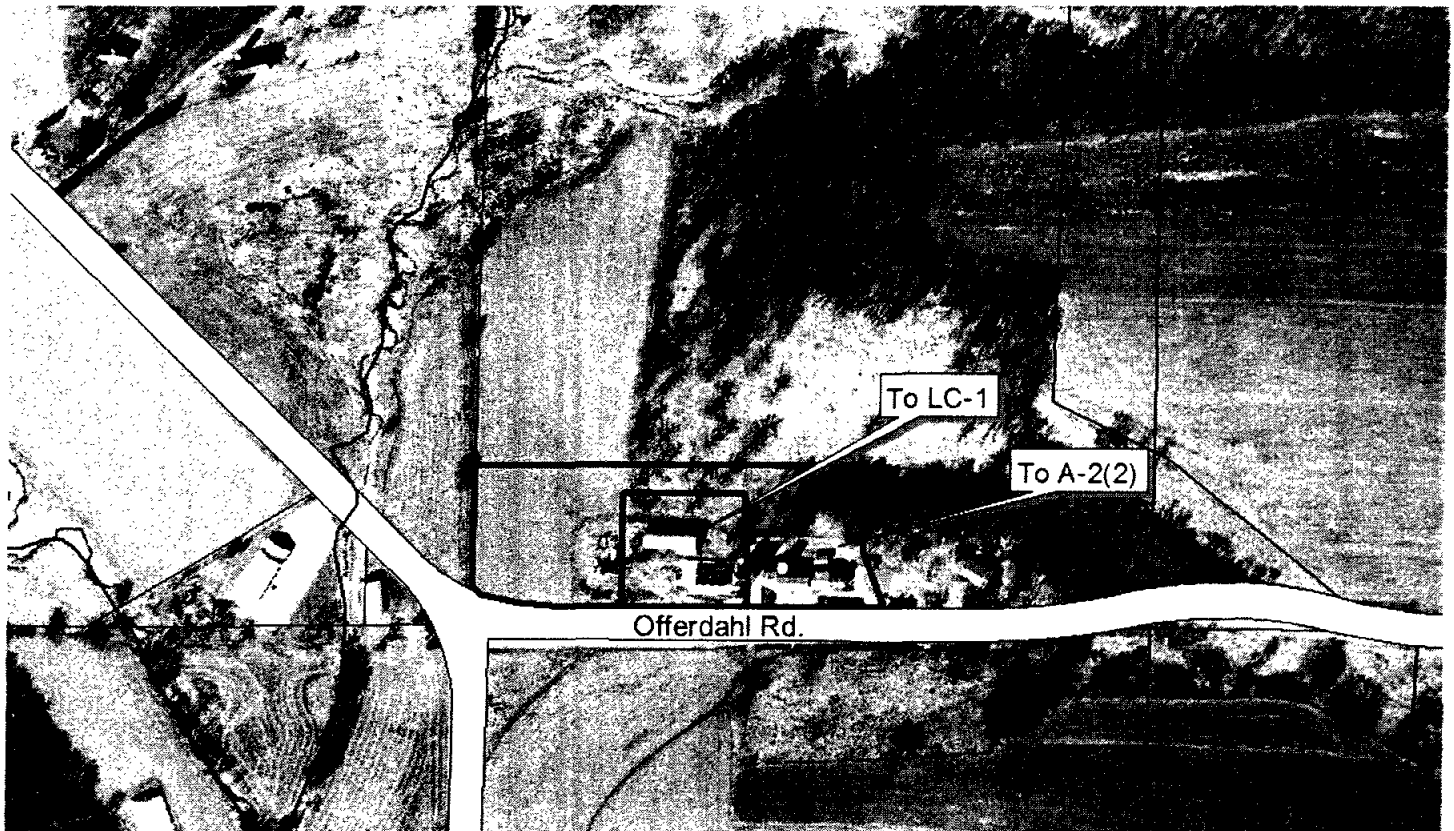
A-1 TO A-2(2): A PART OF LOT 2, CSM 10521, IN THE NE1/4 OF THE NW1/4 OF SEC. 21, T6N, R7E,
 TOWN OF SPRINGDALE, DANE COUNTY, WI, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST COR.
 OF LOT 2; THENCE ALONG A CURVE TO THE LEFT OF RADIUS 174 FEET AND LONG CHORD OF S73°59'03"E
 100.48 FEET; THENCE N89°14'02"E 200 FEET; THENCE N0°45'58"W 212 FEET; THENCE N89°14'02"E
 232 FEET; THENCE S0°45'58"E 212 FEET; THENCE N89°14'02"E 209.87 FEET; THENCE ALONG A
 CURVE TO THE LEFT OF RADIUS 4962 FEET AND LONG CHORD OF N88°54'43"E 55.76 FEET; THENCE
 N20°11'17"W 107.82 FEET; THENCE N5°40'10"W 184.47 FEET; THENCE S89°49'26"W 736.89 FEET;
 THENCE S0°23'49"W 264.43 FEET TO THE POINT OF BEGINNING.

FOR: JIM OLMSTED, OLMSTED LANDSCAPE
 2801 WENTWORTH DR
 MADISON, WI 53719
 273-8848

MAP BY: GRENLIE SURVEY
 400 S. NINE MOUND RD
 VERONA, WI 53593
 845-6882

SOILS: 30% CLASS III
 70% CLASS IV





DANE COUNTY ZONING STAFF COMMENTS / BACKGROUND

- **Owner(s) of record:** Philip & Delores Esser
- **Agent:** Jim Olmsted
- **Size, zoning, use of existing parcel:** Existing 5.02 acre A-1 zoned parcel. The site plan submitted with the application shows a barn, several small sheds and storage structures, and a quonset hut that appears to be approximately 50'x100' in size. The buildings were formerly associated with a dairy farm that is no longer in operation.
- **Rezone/CUP desired:** Olmsted wishes to rezone a 1.13-acre area (not a separate parcel) to LC-1 Limited Commercial to permit operation of a small landscape contracting business in the existing quonset hut. The company's 3 trucks and 4 trailers as well as up to 6 employee vehicles would be parked or stored in the building or within the LC-1 zoned area. The remaining 3.89 acres of A-1 zoned land would be rezoned to A-2(2) (see Zoning Issues below.)
- **Number of new home sites created:** One -- One residence is permitted on each zoning lot. Even though this zoning lot would include two zoning districts, each of which lists a single-family residence as a Permitted Use under the County Zoning Ordinance, a Zoning Permit could be issued for only one residence. The applicant indicates a house would be built in the A-2(2) zoned area.
- **History:** None
- **Soils/Uses:** Non A-1EX
- **Shoreland/Floodzone/Wetlands:** An intermittent stream tributary to Fries Feeder flows south within 300 feet of the west property line of the proposed A-2(2) parcel.
- **Zoning Issues:** The remaining 3.89 acres of A-1 zoned land could retain A-1 zoning legally, but the

minimum parcel size for agricultural use as well as for keeping livestock in the A-1 Agriculture district is 5.0 acres. By rezoning the area including the barn and sheds to A-2(2), Olmsted retains the following uses:

- 1) Agricultural uses, including plant greenhouses and nurseries as per the definition of Agriculture use Section 10.01(2a) DCCO.) Note that agricultural use is not a permitted or a conditional use in the LC-1 Limited Commercial district. Accepting deliveries of nursery stock and plants within the LC-1 zoned area would be considered part of the landscape contractor business if the trees, shrubs, potted plants, etc. (landscaping materials in this case) were destined to be used within a limited time frame on specific job sites. Planting trees, shrubs, perennials and or annuals would be permitted only in the A-2(2) district.
- 2) Agricultural use outbuildings would not be restricted in regard to size or height in the A-2(2) district. However, personal use accessory buildings would be limited in total aggregate floor area to 100% of the gross floor area of the house, and the maximum height of personal use outbuildings is 16 feet (average of peak and eaves.)
- 3) The A-2(2) district allows one animal unit per full acre, or 3 animal units for the proposed A-2(2) zoned area. The keeping of livestock in the existing outbuildings is not mentioned in the rezone application file. Please note that a CUP for "unlimited livestock" (more than one animal unit per acre) is available for A-2(2) parcels of more than 3 acres.

NOTE: One shed is located near the right-of-way of Offerdahl Road and does not meet the minimum setback.

(Questions? Contact Kristine Schutte – 266-9084)

DANE COUNTY AGENCY COMMENTS

The following agencies are reviewing the petition and may submit comments prior to or after the Zoning and Land Regulation Committee Public Hearing.

Land Conservation (Questions? Contact Kevin Connors – 224-3730):

Highway & Transportation (Questions? Contact Pam Dunphy – 266-4261):

Environmental Health (Questions? Contact Jim Clark – 242-6515):

DANE COUNTY PLANNING STAFF COMMENTS

- **Town Planning District:** Agriculture
- **Town Density Policy:** N/A
- **Remaining Splits / Building Sites:** N/A
- **Other Planning Issues:** The town plan states that it shall support rezoning requests to LC-1, provided any specific development proposal complies with town goals and objectives. It appears that the proposed use is consistent with town guidelines.

(Questions? Contact Majid Allan – 267-2536)

RECOMMENDED CONDITIONS

- **Conditions:** None
- **Restrictions:** None