

DATE: 01/16/2024

R E S O L U T I O N

No. 003

To The Board of Supervisors of Winnebago County, Wisconsin:

AMENDATORY ORDINANCE 01/03/24

WHEREAS, it is desirable to amend the Zoning Map of the TOWN OF NEPEUSKUN in accordance with the petition of Michael Docta,

WHEREAS, said request is in compliance with the adopted Winnebago County Land Use Plan.

NOW, THEREFORE, the County Board of Supervisors of Winnebago County do ordain that the Zoning Ordinance and the Zoning Map of the TOWN OF NEPEUSKUN, be and the same, are amended to provide that the attached described property be changed from the classification of **A-2 (FLPO)** of said ordinance, which it now and heretofore had, to the zoned district of **A-2 FLU; AG & UNDEVELOPED**.

AND BE IT FURTHER RESOLVED, by the Winnebago County Board of Supervisors, that the enclosed Ordinance is hereby ☐ **ADOPTED** OR ☐ **DENIED**.

County Board Supervisor
(Town of Nepeuskun)

PARCEL NO: **014-0710-02; FROM A-2 (FLPO) TO A-2 FLU; AG & UNDEVELOPED**

COUNTY DISCLAIMER:

County Board approval does not include any responsibility for County liability for the legality or effectiveness of the Town Zoning Amendment or the Town Zoning Ordinance.

APPROVED BY WINNEBAGO COUNTY EXECUTIVE THIS _____ DAY OF _____, 2024.

Jon Doemel

County Board Supervisory district **33 - Egan**

MEMO FOR P & Z MEETING AGENDA OF JANUARY 5, 2024

TO: Planning & Zoning Committee

FM: Zoning Administrator

RE: Review of Town Zoning Change(s)

1. Michael Docta - Town Zoning Change (Tax ID No 014-0710-02) – Town of Nepeuskun.

The town zoning change for Michael Docta is consistent with Winnebago County's Future Land Use Plan. The Town of Nepeuskun approved the zoning change from A-2 (FLPO) (General Agricultural District with the Farmland Preservation Overlay) to A-2 (General Agriculture District) and Winnebago County's future land use plan shows future land use as Agricultural and Undeveloped.

RECOMMENDATION: Approve a motion to forward zone change to County Board for action.

*MC, HMz 4-0-1 Egan excused
Approved*



engineering | architecture | environmental | surveying
landscape architecture | planning | economic development

1695 Bellevue Street
Green Bay, WI 54311-4251
920-491-9081
800-472-7372
FAX 920-491-9020
www.cedarcorp.com

A-2 (FLPO) to A-2
FLU: Ag & Undeveloped

STAFF REPORT

DATE: September 7, 2023
TO: Town of Nepeuskun Plan Commission
FROM: Jeff Kussow
Zoning Administrator, Town of Nepeuskun
Community Planner/Code Administrator, Cedar Corporation
SUBJECT: Rezoning Application # 1-23 – Michael Docta

Applicant/General Information

- **Name & property address:** Michael A Docta; 7502 Sportsman Rd *20.88 ac*
- **Parcel identification number:** 014-0710-02
- **Petition request:**
Michael A Docta requests approval of a zoning map amendment (rezoning) to remove the FPO Farm Preservation Overlay District from tax parcel number 014071002 addressed 7502 Sportsman Road, resulting in the property being located in only the A-2 Agricultural District.
- **Current Zoning:** Agricultural District (A-2) & Farm Preservation Overlay District (FPO)
- **Proposed Zoning:** Agricultural District (A-2); Remove Farm Preservation Overlay (FPO) District from entire parcel.

Applicable Ordinances:

The use of the subject property in the Town of Nepeuskun is governed by the following ordinance(s)/plan(s):

- Town of Nepeuskun Zoning Code (Chapter 5, Town Municipal Code)
- Town of Nepeuskun Farmland Preservation Ordinance (Chapter 14, Town Municipal Code)
- Town of Nepeuskun Comprehensive Plan
- Winnebago County Comprehensive Plan
- Winnebago County Farmland Preservation Plan

Description of Subject Property & Surrounding Area

Subject Property:

- **Lot area, width, & depth:** 20.88 acres +/-; 791 ft. +/- wide & 1,136 ft. +/- deep.
- **Frontage – water/road:** No water frontage; 793 ft. +/- road frontage along Sportsman Rd
- **Existing uses/structures:** Abandoned single family residence & small accessory structures.
- **Water & Sanitation:** The property is served by private sanitary and water facilities.
- **Significant topography or vegetation:** Large wetland area on property; Property slopes from the southeast corner of the property, adjacent to Sportsman Rd to the northwest corner of the property with a 54 ft. +/- drop in elevation; There is a large, mapped wetland in the rear of the property.

Surrounding Area:

- **North:** Large vacant lots zoned A-2/FPO.
- **South:** Sportsman Rd is adjacent to the south; South of the road are large agricultural lots zoned A-2, A-2/FPO, and A-1/FPO.
- **East:** Large agricultural lot zoned A-2/FPO.
- **West:** Large vacant lots zoned A-2 and A-2/FPO.

Background Information/History:

Michael A Docta requests approval of a zoning map amendment (rezoning) to remove the FPO Farm Preservation Overlay District from tax parcel number 014071002 addressed 7502 Sportsman Road, resulting in the property being located in only the A-2 Agricultural District.

The purpose of the rezoning request is to allow a “residential garage” prior to the establishment of a principal use in which the proposed accessory structure would serve, pursuant to Section 5.10.21 5, Exemption for Residential Garage in A-2 District. The subject property currently does not have a principal residential structure since the residence has been abandoned. The subject property is currently zoned A-2 with the FPO overlay zoning district. Residential garages prior to establishment of a principal use are not allowed in the FPO overlay zoning district. Therefore, the FPO overlay zoning district would need to be removed from the subject property in order for the residential garage to be allowed.

Section 5.10.21 5, Exemption for Residential Garage in A-2 District, states:

“In an A-2 zoning district, a residential garage may be constructed prior to the establishment of a principal use provided the parcel is 5.0 acres or more. As a condition of approval, the property owner shall record an agreement and deed restriction, as approved by the zoning administrator, with the register of deeds for Winnebago County that describes the nature of the authorized use. This exemption shall allow only one residential garage on the subject property.”

Town Code Review/Considerations:**Article 15, Amendments, of Town Zoning Code (Chapter 5):**

1. The Town Board may, by ordinance, amend the zoning map upon recommendation of the Planning Commission.
2. The Planning Commission shall hold a public hearing.
3. Such amendments shall not become effective until such time as the County Board concurs with the amendment as required by state law.
4. Such amendments shall be adopted according to the procedures consistent with state law, upon review and recommendation by the Plan Commission.
5. Any amendment shall be consistent with and furthers the intent and requirements of the Town’s Comprehensive Plan.
6. Any rezone petition that is not consistent with the Town of Nepeuskun Comprehensive Plan shall require an amendment to said plan before town action is taken on the rezone petition.

Section E, Rezoning Land Out of a Farmland Preservation Zoning District, of the Farmland Preservation Ordinance (Chapter 14):

- (1) The Town Board on recommendation of the Plan Commission may not rezone land out of a farmland preservation zoning district unless the Town Board on recommendation of the Plan Commission finds all of the following in writing, after public hearing, as part of the official record of rezoning:

- (a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district. Rezone decisions and actions shall follow DATCP guidelines if available.
- (b) The rezoning is consistent with any comprehensive plan, adopted by the Town Board on recommendation of the Plan Commission which is in effect at the time of the rezoning.
- (c) The rezoning is substantially consistent with the Winnebago County farmland preservation plan. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- (d) The rezoning will not substantially impair or limit current or future agricultural use surrounding parcels of land that are zoned for or legally restricted to agricultural use.

Comprehensive Plan Considerations:

The Town Comprehensive Plan Future Land Use Plan designates the subject parcel as being “Agricultural & Open Space”.

Agricultural & Open Space description & policies:

- This category are those areas where agricultural uses such as dairy and crop farming are the anticipated predominant land use in the area.
- The agriculture and open space category could include a limited amount of residential development, but the predominant land use would be agricultural in nature. Within this category, housing for a farm operator or the son or daughter of the farm operator is acceptable. However, non-farm related residential development would have to be located in the A-2 zoning district which is not impacted by the farmland preservation zoning overlay provisions.
- A minimal amount of other land uses, e.g., energy systems, wireless communication facilities, dog kennels, veterinary clinics, mineral extraction, wildlife ponds, agriculture related business and even agri-tourism, may also occur in areas planned for agriculture and open space. Major subdivisions (those proposing to create five or more lots) and other similar large-scale developments are prohibited in these areas.
- Policies:
 1. The principal land uses within the Agriculture and Open Space land use category shall be agriculture, forestry, and natural open spaces (e.g., wetlands). Other uses may be allowed but should be subject to town review, rezones, and/or conditional use approval to assure current and future maintenance of the agricultural resource, compatibility with agricultural operations, and consistency with other town goals and objectives. Such uses include but are not limited to the following:
 - a. Residential housing
 - b. On-farm enterprises, agricultural support businesses, agritourism and/or home-based businesses
 - c. Manufacturing of agricultural products
 - d. Sand and gravel extraction
 - e. Churches, cemeteries, aircraft landing strips, schools, local government buildings and facilities, and solid waste disposal/recycling sites
 - f. Energy production
 - g. Communication transmission
 2. The A-1, A-2 and Farmland Preservation Overlay Districts shall be the primary zoning districts regulating land use in the agriculture and open space land use category.

Staff Discussion, Recommendation, and Plan Commission Direction:

Rezoning shall be consistent with the Town Comprehensive Plan. It is staff's opinion that the proposed rezoning is consistent with the Town Comprehensive Plan since the property would remain in the A-2 zoning district.

In order to rezone land out of the FPO District, the Town shall find the following criteria to be true:

1. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district. Rezone decisions and actions shall follow DATCP guidelines if available.
2. The rezoning is consistent with any comprehensive plan, adopted by the Town Board on recommendation of the Plan Commission which is in effect at the time of the rezoning.
3. The rezoning is substantially consistent with the Winnebago County farmland preservation plan. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
4. The rezoning will not substantially impair or limit current or future agricultural use surrounding parcels of land that are zoned for or legally restricted to agricultural use.

It is staff's opinion that the proposed rezoning meets the above noted criteria for rezoning land out of the FPO District due to the following reasons:












1. The rezoned land is better suited for a use not allowed in the FPO District since the majority subject property is not currently being used for agricultural purposes or capable of being used for agricultural purposes due to the presence of wetlands.
2. The rezoning is consistent with the Town Comprehensive Plan since the property would remain in the A-2 zoning district.
3. The rezoning is substantially consistent with the County Farmland Preservation Plan since this rezoning will not result in less than 80% of the areas designated for farmland preservation being zoned for farmland preservation by the Town. The rezoning will not substantially impair or limit agricultural use of other protected farmland since a majority of the property will still be in the A-2 District.
4. The rezoning will not substantially impair or limit current or future agricultural use surrounding parcels of land that are zoned for or legally restricted to agricultural use since the rezoning will not affect the use of surrounding parcels.

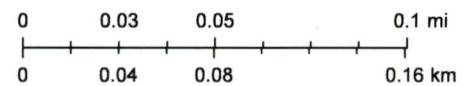
Staff Recommendation: Based on the information submitted with the application and the findings presented in this report, it is staff's recommendation that the rezoning be approved as proposed.

Plan Commission Direction:

The Plan Commission has the ability to forward the Town Board a recommendation to approve or deny the rezoning.

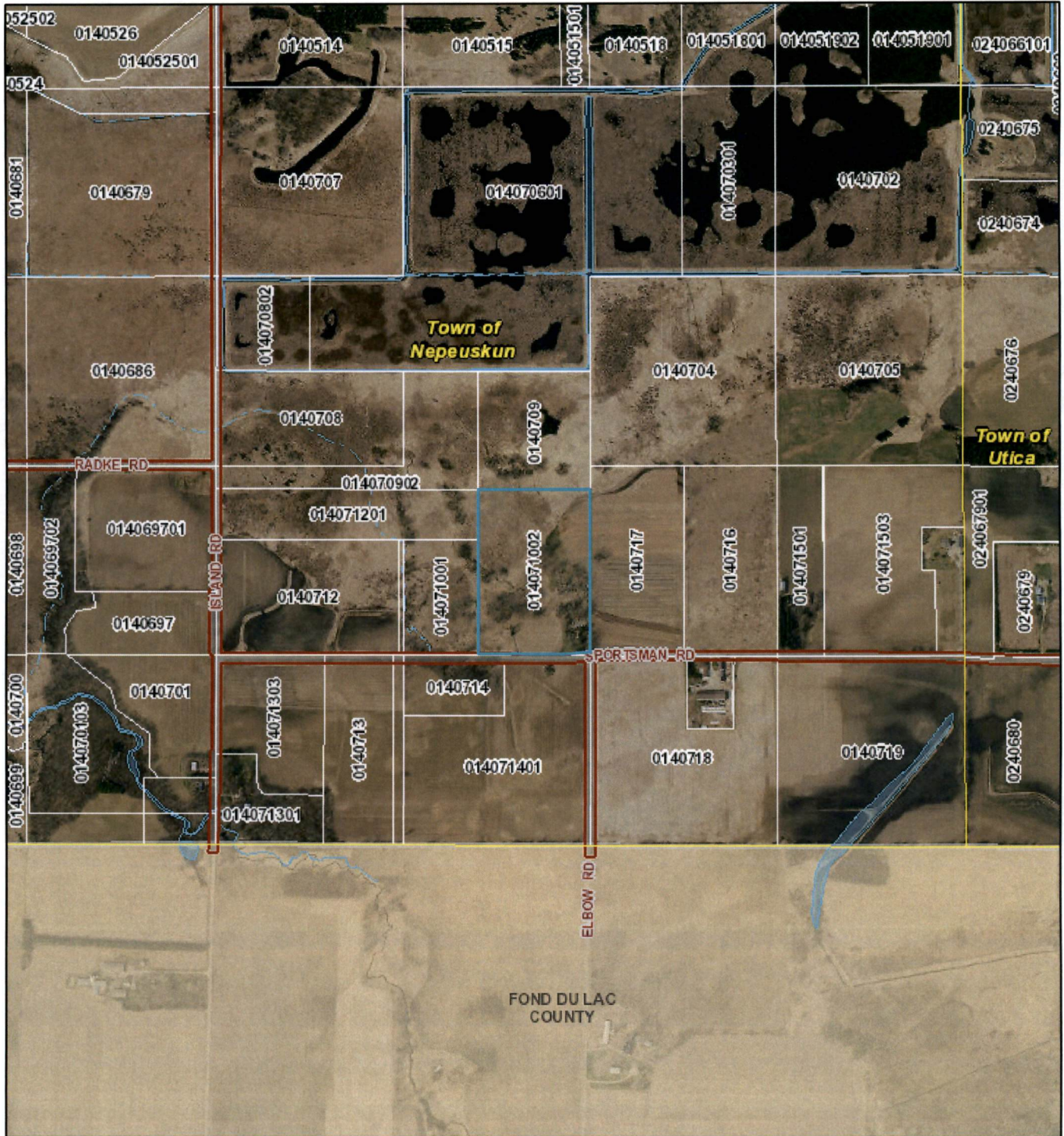
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-  Adjacent Counties
 Lakes, Ponds and Rivers
Navigable Waterways
 Navigable - Permanent (unchecked)
 Navigable - Intermittent (unchecked)
 Navigable - Stream (unchecked)
 Navigable - Permanent (checked)
 Navigable - Intermittent (checked)
 Navigable - Stream (checked)
 Tax Parcel Boundary
 Road ROW
 Municipal Boundary



Winnebago County GIS, Imagery Date: April 2020

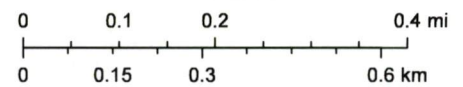
Docta - Aerial Map 2



9/7/2023, 1:57:22 PM

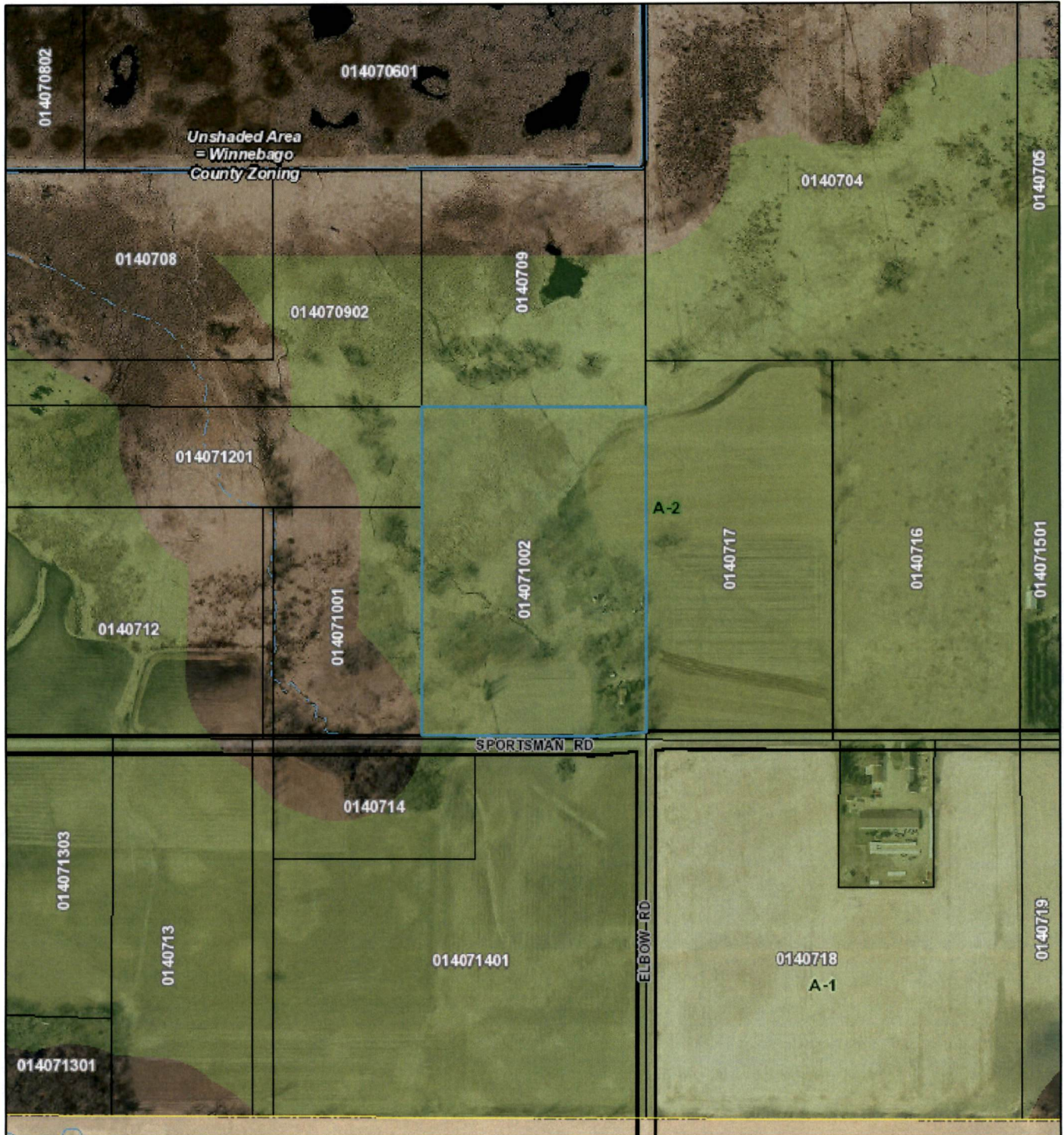
1:11,899

- | | |
|--------------------------------------|------------------------------------|
| Adjacent Counties | Navigable - Permanent (checked) |
| Lakes, Ponds and Rivers | Navigable - Intermittent (checked) |
| Navigable Waterways | Navigable - Stream (checked) |
| Navigable - Permanent (unchecked) | Tax Parcel Boundary |
| Navigable - Intermittent (unchecked) | Road ROW |
| Navigable - Stream (unchecked) | Municipal Boundary |



Winnebago County GIS, Imagery Date: April 2020

Docta - Town Zoning Map



9/7/2023, 2:00:23 PM

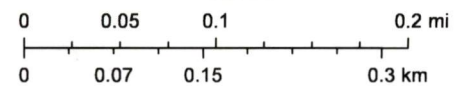
1:5,950

District Code / Description

Navigable Waterways

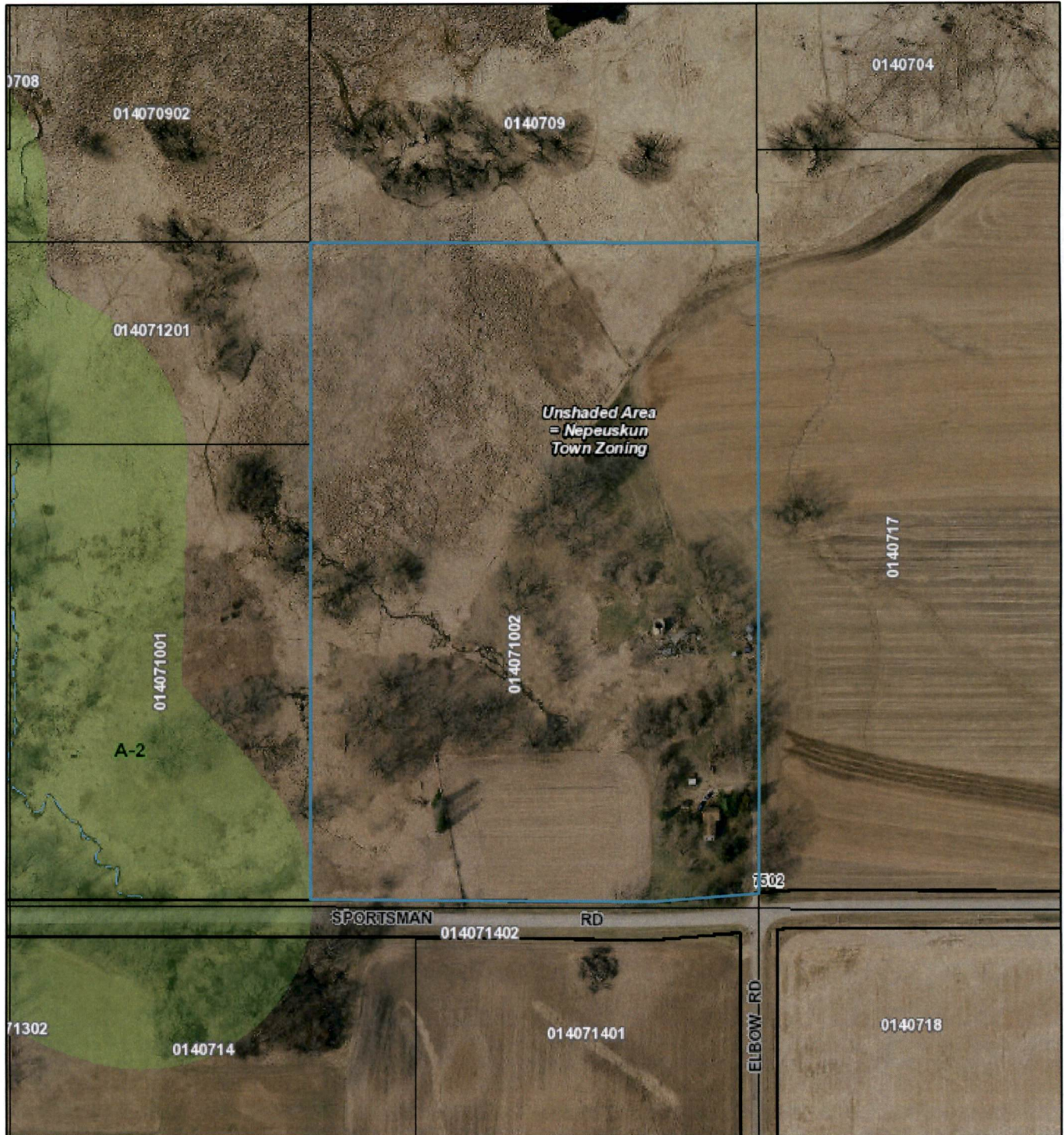
- A-1 - Farmland Preservation
- A-2 - Agricultural
- R-1 - Residential
- C-1 - Existing Commercial
- C-2 - Community Commercial
- PLI - Public Lands Institutional

- Permanent
- Intermittent
- Stream
- Tax Parcels
- Municipal Boundary



Winnebago County GIS, Imagery Date: April 2020

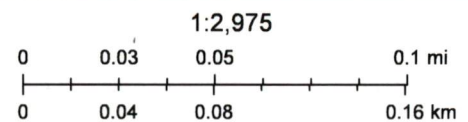
Docta - County Zoning Map



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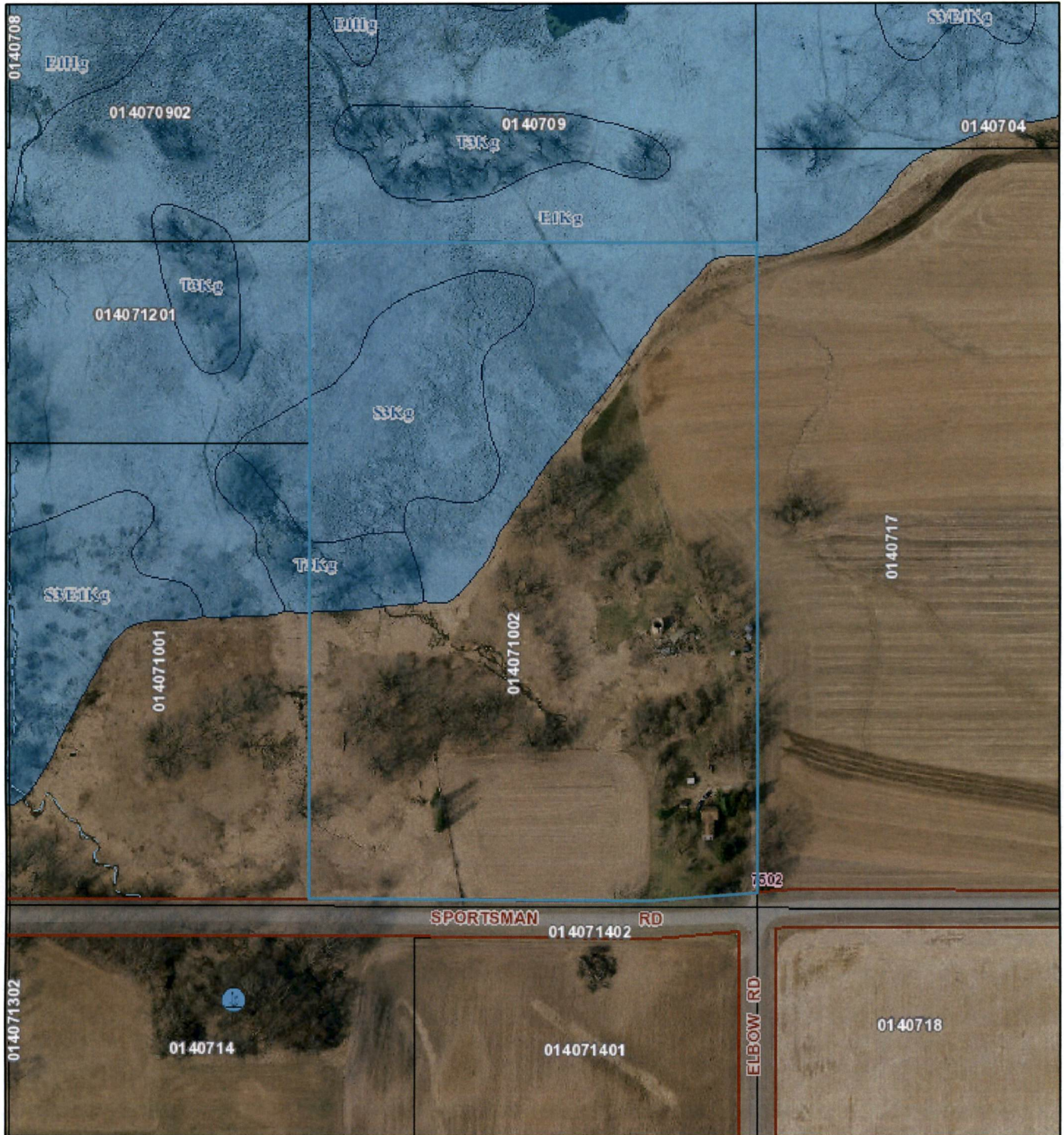
District Code/Description

R-1 - Rural Residential	B-1 - Local Service
R-2 - Suburban Residential	B-2 - Community Business
R-3 - Two-Family Residential	B-3 - General Business
R-4 - Multi-Family Residential	I-1 - Light Industrial
R-8 - Manufactured/Mobile Home Community	I-2 - Heavy Industrial
PDD - Planned Development District	A-1 - Agribusiness
	A-2 - General Agriculture



Winnebago County GIS, Imagery Date: April 2020

Docta - Wetland Map



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Wetland Areas

- Wetland
- Open Water Wetland

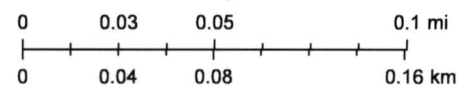
Wetland Features

- Undelineated Wetland < 2 Ac.
- Dammed pond
- Excavated pond

- Project Review Area
- Surface Water Drainageway District
- Tax Parcels

Navigable Waterways

- Navigable - Permanent (unchecked)
- Navigable - Intermittent (unchecked)



Winnebago County GIS, Imagery Date: April 2020

TOWN OF NEPEUSKUN
WINNEBAGO COUNTY

RZ 01-23

RE-ZONE APPLICATION

The following application must be completed prior to consideration for Re-Zoning of a parcel in the town. Please include the ~~\$300.00~~ ³⁵⁰ fee required per the Town of Nepeuskun Fees Ordinance payable to: Town of Nepeuskun and return to the Zoning Administrator for processing.

Date: 7/25/2023

Applicant Name: Michael Docta

Applicant's Address: W5138 Kennedy DR FDL WI 54935

Phone Number: 1920 579 6897

Tax Parcel (s) number (s) for requested site: 014-0710-02

Address of requested site: 7502 Sportsman Rd.

Current zoning of requested site: A-2 + FPO

NEW ZONING REQUESTED FOR SITE: A-2 (remove FPO)

Re-Zone Procedure

A Public Hearing will be set upon the receipt of this application and fee whereas the applicant shall furnish information to the Town Plan Commission necessary for processing of the application.

I ACCEPT THESE TERMS AND HEREBY SUBMIT THE ATTACHED APPLICATION FOR APPROVAL. SIGNED: Michael Docta **DATE** 7/25/23

Date Application Received by Town: 8/2/2023

Public Hearing Date: 9/11/2023

Recommendation of Approval of Re-Zone to Town Board

Town Plan Commission Secretary _____ Date _____

Town Plan Commission Chair _____ Date _____

Stipulations: _____

Final Approval of Re-Zone by Town Board

Town Clerk Rebecca L. Ennow Date 9/18/23

Town Board Chairman Lyle Per Date 9/20/23

TOWN OF NEPEUSKUN

ORDINANCE NO. 091823-01

AN ORDINANCE TO AMEND THE TOWN OF NEPEUSKUN FARMLAND PRESERVATION ZONING MAP

- WHEREAS,** an application for an amendment to the Town of Nepeuskun Farmland Preservation Zoning Map has been filed with the Town as described herein; and
- WHEREAS,** following the requisite Notice and Public Hearing, the proposed amendment has been reviewed and recommended to the Town Board by the Town's Planning Commission; and
- WHEREAS,** the application for amendment to the Town of Nepeuskun Farmland Preservation Zoning Map does comply with the Town Zoning Code and is consistent with the Town's Comprehensive Plan; and
- WHEREAS,** all other procedural requirements have been met for purposes of consideration of the amendment as provided in Article 15 of the Town Zoning Code and Section E of the Town's Farmland Preservation Ordinance; and

NOW, THEREFORE BE IT ORDAINED THAT, the Town Board of the Town of Nepeuskun, County of Winnebago, State of Wisconsin, pursuant to Article 15 of the Town Zoning Code and Section E of the Town's Farmland Preservation Ordinance, hereby adopts the following amendment to the Town of Nepeuskun Farmland Preservation Zoning Map:

Section 1: The Town of Nepeuskun Farmland Preservation Zoning Map is amended as follows:

Property Owner:
Michael A Docta

Description of property:

For property described as tax parcel number 014-0710-02 addressed 7502 Sportsman Rd., Ripon, WI 54971; specifically described as Lot 2 of Certified Survey Map 6271, being part of the Northeast ¼ of the Southwest ¼ of Section 36, Township 17 North, Range 14 East, Town of Nepeuskun, Winnebago County, Wisconsin.


The above-described property is hereby rezoned as follows:

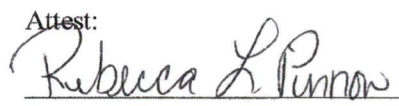
The FPO Farmland Preservation Overlay District is removed from the entire above-described property, resulting in the property being located in only the A-2 Agricultural District.

Section 2: This Ordinance shall be submitted to the Winnebago County Board for approval. This amendment to the Town of Nepeuskun Farmland Preservation Zoning Map shall be effective upon approval by the Winnebago County Board.

Adopted this 18th day of September 2023

Vote: Yes: 3 No: 0 Abstain: 0 Absent: 0


Lyden Rasmussen, Town Chairperson

Attest:

Rebecca Pinnow, Town Clerk