

Direct Annexation Petition

The residents and owners of tax key numbers OCOT 0535.997 & OCOT 0535.999.011 being located at W359 N5930 Brown St and W359 N5920 Brown St both in the Town of Oconomowoc hereby request annexation by the City of Oconomowoc dated this 12.31.2024

Jessica Windhaeuser
Jessica Windhaeuser, resident of W359 N5390 Brown St Oconomowoc

12.31.2024
Date

Jamie Windhaeuser
Jamie Windhaeuser, resident of W359 N5390 Brown St Oconomowoc

12-31-24
Date

Leah Windhaeuser
Leah Windhaeuser, resident of W359 N5390 Brown St Oconomowoc

12.31.24
Date

Michael Herro
Michael Herro, member BSMP, LLC

12.31.24
Date

Mark X Herro
Mark X Herro, member BSMP, LLC

12.31.2024
Date

Exhibit A

Parcel "A":

All that part of the Northwest 1/4 of the Southwest 1/4 of Section 26, Township 8 North, Range 17 East, in the Town of Oconomowoc, Waukesha County, Wisconsin, bounded and described as follows: Commencing at the quarter post in the West line of Section 26; thence South along the West line of said Section 364.12 feet to the place of beginning; thence continuing South along the West line of the section 186 feet; thence East 200 feet; thence North 186 feet; thence west 200 feet to the place of beginning.

Tax Key: OCOT 0535.997

Address: W359 N5930 Brown Street

Parcel "B":

Lot Two (2) of Certified Survey Map No. 9072, recorded in the Office of the Register of Deeds for Waukesha County in Volume 81 of Certified Survey Maps, page 314 as Document No. 2602093, being a redivision of part of Lot 4 of Certified Survey Map No. 5455, Document No. 1471231, located in the NW ¼ of the SW ¼ of Section 26, Township 8 North, Range 17 East, Town of Oconomowoc, Waukesha County, Wisconsin.

Tax Key: OCOT 0535.999.011

Address: W359 N5848 Brown Street

CERTIFIED SURVEY MAP NO. 9072

BEING A REDIVISION OF A PART OF LOT 4 OF CERTIFIED SURVEY MAP NO. 5455, DOCUMENT NO. 1471231, LOCATED IN THE NW. 1/4 OF THE SW. 1/4 OF SECTION 26, T.8N., R.17E., TOWN OF OCONOMOWOC, WAUKESHA CO., WI

SURVEY BY

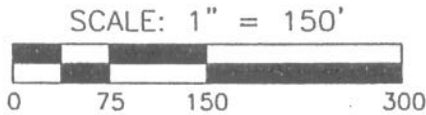
JOHN P. KONOPACKI, RLS 2461
WELCH, HANSON AND ASSOC., INC.
355 AUSTIN CIRCLE, SUITE 100
DELAFIELD, WI 53018
(414) 646-6855

SURVEY FOR

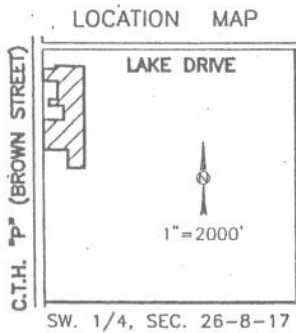
GWYNNE & TERRY RICHTER
35979 NORTH LAKE DRIVE
OCONOMOWOC, WI 53066

LEGEND

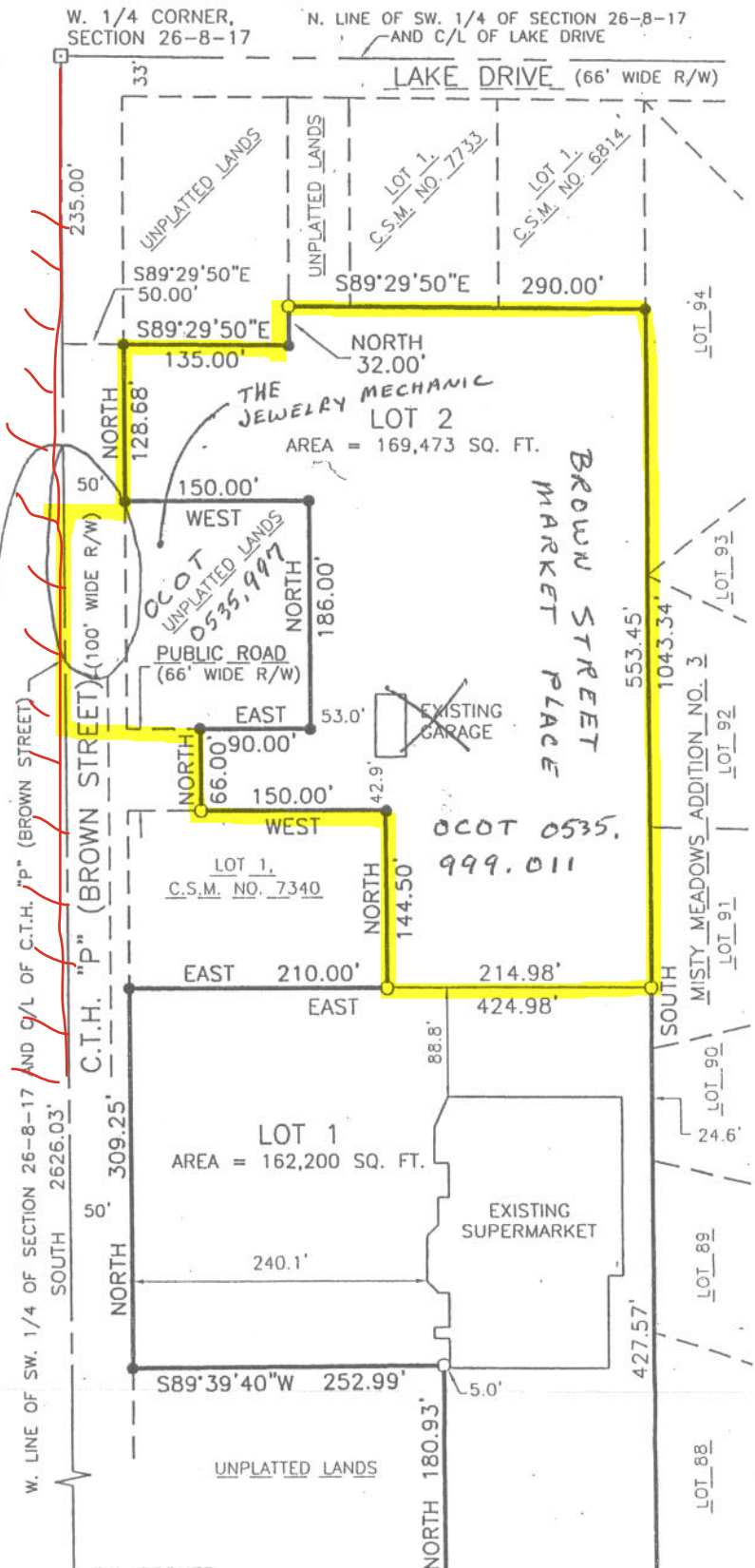
- - CONC. MON. W/ BRASS CAP
- - 1" DIA. IRON PIPE FOUND
- - 1" DIA. IRON PIPE SET, 24" LONG, WT. = 1.13 LBS./LIN. FT.



BEARINGS ARE REFERENCED TO THE WEST LINE OF THE SW. 1/4 OF SECTION 26-8-17 AS ASSUMED DUE SOUTH



NOTE: THE ESTABLISHED ROAD RIGHT-OF-WAY IS 110 FT., NOT 100 FT. AS INDICATED ON THIS C.S.M.



Annexation Review Questionnaire

Wisconsin Department of Administration

WI Dept. of Administration
Municipal Boundary Review
PO Box 1645
Madison WI 53701
608-264-6102 Fax: 608-264-6104
wimunicipalboundaryreview@wi.gov
<http://doa.wi.gov/municipalboundaryreview>

Petitioner: **BSMP et al**

Petition Number: **14730**

1. Territory to be annexed: From **TOWN OF OCONOMOWOC** To **CITY OF OCONOMOWOC**

2. Area (Acres): **0.854 (Including Row) & 3.89 Acres**

3. Pick one: Property Tax Payments **OR** Boundary Agreement

a. Annual town property tax on territory to be annexed:

\$ **5,049.23**
915.29 Combined = **5,964.57**

a. Title of boundary agreement _____

b. Year adopted _____

b. Total that will be paid to Town

(annual tax multiplied by 5 years): **29,822.85**

c. Participating jurisdictions _____

d. Statutory authority (pick one)

c. Paid by: Petitioner City Village

s.66.0307 s.66.0225 s.66.0301

Other: _____

4. Resident Population: _____ Electors: **3** Total: **3**

5. Approximate **present land use** of territory:

Residential: **10** % Recreational: _____ % Commercial: **90** % Industrial: _____ %

Undeveloped: _____ %

6. If territory is undeveloped, what is the **anticipated use**?

Residential: _____ % Recreational: _____ % Commercial: _____ % Industrial: _____ %

Other: _____ %

Comments: _____

7. Has a preliminary or final plat been submitted to the Plan Commission: Yes No

Plat Name: _____

8. What is the **nature of land use adjacent** to this territory in the city or village?

In the town?: **Commercial**

9. What are the **basic service needs** that precipitated the request for annexation?

Sanitary sewer Water supply Storm sewers

Police/Fire protection EMS Zoning

Other **UNKNOWN**

10. Is the city/village or town capable of providing needed utility services?

City/Village Yes No Town Yes No

If yes, approximate timetable for providing service: City/Village Town

Sanitary Sewers immediately
or, write in number of years. _____ _____

Water Supply immediately
or, write in number of years. _____ _____

Will provision of sanitary sewers and/or water supply to the territory proposed for annexation require capital expenditures (i.e. treatment plant expansion, new lift stations, interceptor sewers, wells, water storage facilities)?

Yes No

If yes, identify the nature of the anticipated improvements and their probable costs: _____

11. Planning & Zoning:

a. Do you have a comprehensive plan for the City/Village/Town? Yes No

Is this annexation consistent with your comprehensive plan? Yes No

b. How is the annexation territory now zoned? B-2 LOCAL BUSINESS DISTRICT

c. How will the land be zoned and used if annexed? UNKNOWN

12. Elections: New ward or Existing ward? Will the annexation create a new ward or join an existing ward? For more information, please contact the Wisconsin Election Commission at (608) 266-8005, elections@wi.gov or see their annexation checklist here: <http://elections.wi.gov/forms/el-100>

13. Other relevant information and comments bearing upon the public interest in the annexation:

SEE ATTACHED (EXHIBIT A)

Prepared by: Town City Village

Name: JEFFREY HERLMANN

Email: Jhermann@TOWNOFGONUMOWOC-WI.GOV

Phone: 920-474-4449

Date: 1/11/2025

(March 2018)

Please **RETURN PROMPTLY** to:

wimunicipalboundaryreview@wi.gov

Municipal Boundary Review

PO Box 1645, Madison WI 53701

Fax: (608) 264-6104

EXHIBIT A

The properties in question do not comply with Wisconsin State Stats. for annexation as noted below:

OCOT 0535.997 (also known as W359 N5930 Brown Street)

The property is not shown properly on a scaled map. The Map is not to scale and the area of annexation is on a CSM for an adjacent property, which was enlarged to show it on a map. The proposed shape of the proposed annexation is not homogeneous with the City of Oconomowoc. The City of Oconomowoc is located across a County Trunk Highway and all parcels currently on this side (east side) of the County Trunk Highway are located in the Town of Oconomowoc and provided Town Services. This petition was not dropped off at the Village Hall until after the Town had merged with the Village. In addition, the annexation request was signed on December 31, 2024, after the Town/Village Merger was initiated. Therefore, the annexation is not valid. Rules of Prior Precedence must be used in this situation as the Town /Village merger, which proceeded first, has precedence. Therefore, this annexation is against the public interest.

OCOT 0535.999.011 (also Known as W359 N5848 Brown Street)

The property is not shown properly on a scaled map. The legal description given with the annexation request is not contiguous to the City as it does not include the right of way of Brown Street. The Map is not drawn to scale and the area of annexation is on a CSM which was enlarged. The proposed shape of the proposed annexation is not homogeneous with the City of Oconomowoc. The City of Oconomowoc is located across County Trunk Highway and all parcels currently on this side (east side) of the County Trunk Highway are located in the Town of Oconomowoc and provided Town Services. This petition was not dropped off at the Village Hall until after the Town had merged with the Village. In addition, the annexation request was signed on December 31, 2024, after the Town/Village Merger was initiated. Therefore, the annexation is not valid. Rules of Prior Precedence must be used in this situation as the Town /Village merger, which proceeded first, has precedence. Therefore, this annexation does not comply with Wis. State Stats and is against the public interest.



TONY EVERS
GOVERNOR
KATHY BLUMENFELD
SECRETARY

Municipal Boundary Review
PO Box 1645, Madison WI 53701
Voice (608) 264-6102 Fax (608) 264-6104
Email: wimunicipalboundaryreview@wi.gov
Web: <http://doa.wi.gov/municipalboundaryreview>

January 07, 2025

PETITION FILE NO. 14730

GINA KOZLIK, CLERK
CITY OF OCONOMOWOC
PO BOX 27
OCONOMOWOC, WI 53066-0027

LORI OPITZ, CLERK
TOWN OF OCONOMOWOC
W359 N6812 BROWN ST
OCONOMOWOC, WI 53066-1108

Subject: BSMP ET AL ANNEXATION

Section 66.0217 (6), Wis. Stats., provides that the annexation of lands to cities and villages within a county having a population of 50,000 or more shall be reviewed by the Department of Administration in order to determine if the proposed annexation is in the public interest or against the public interest. The proposed annexation from the TOWN OF OCONOMOWOC to the CITY OF OCONOMOWOC (see attached description) must be reviewed pursuant to the statute.

To assist us in making this determination, we urge that you promptly supply the data requested on the enclosed questionnaire (where possible) and return the questionnaire to the department.

The purpose of this questionnaire is to assist the department in determining "Whether the governmental services, including zoning, to be supplied to the territory could clearly be better supplied by the town...." The statute further stipulates that the department shall study the "shape of the proposed annexation and the homogeneity of the territory with the annexing municipality." In addition, we would appreciate receiving from you any comments or information bearing on governmental services or shape and homogeneity that would indicate whether the annexation is in or against the public interest.

Please return the questionnaire as soon as possible so that the information can be reviewed prior to the department's statutory deadline of January 20, 2025. Direct any questions and comments to Erich Schmidtke at (608) 264-6102. Thank you for your cooperation.

For additional information on annexation or other land use issues, visit our web site at <http://doa.wi.gov/municipalboundaryreview/>.


Sincerely,

Erich Schmidtke

Enclosures

Direct Annexation Petition

The residents and owners of tax key numbers OCOT 0535.997 & OCOT 0535.999.011 being located at W359 N5930 Brown St and W359 N5920 Brown St both in the Town of Oconomowoc hereby request annexation by the City of Oconomowoc dated this 12.31.2024


✓ Jessica Windhaeuser, resident of W359 N5390 Brown St Oconomowoc

12.31.2024
Date



Jamie Windhaeuser, resident of W359 N5390 Brown St Oconomowoc

12.31.24
Date



Leah Windhaeuser, resident of W359 N5390 Brown St Oconomowoc

12.31.24
Date



Michael Herro, member BSMP, LLC

12.31.24
Date



Mark X Herro, member BSMP, LLC

12.31.2024
Date

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2602093

CERTIFIED SURVEY MAP NO. 9072

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SURVEY BY

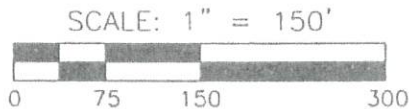
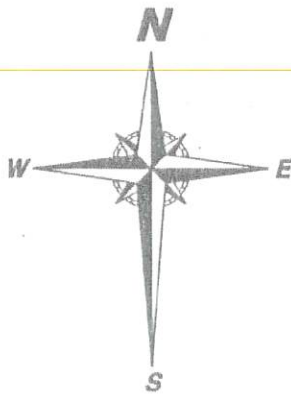
JOHN P. KONOPACKI, RLS 2461
WELCH, HANSON AND ASSOC., INC.
355 AUSTIN CIRCLE, SUITE 100
DELAFIELD, WI 53018
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SURVEY FOR

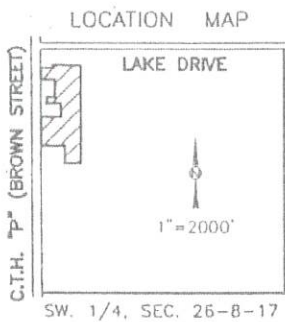
GWYNNE & TERRY RICHTER
35979 NORTH LAKE DRIVE
OCONOMOWOC, WI 53066

LEGEND

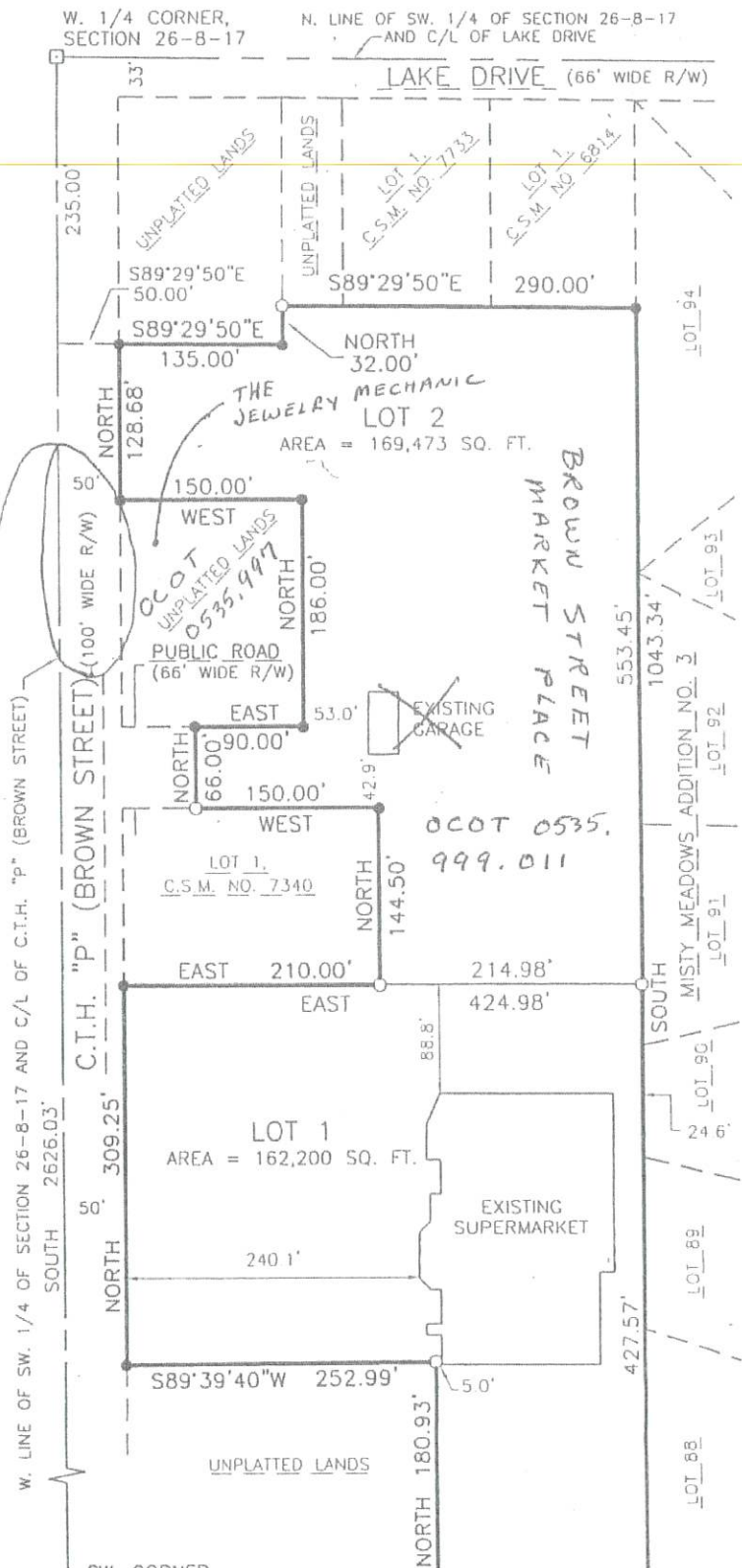
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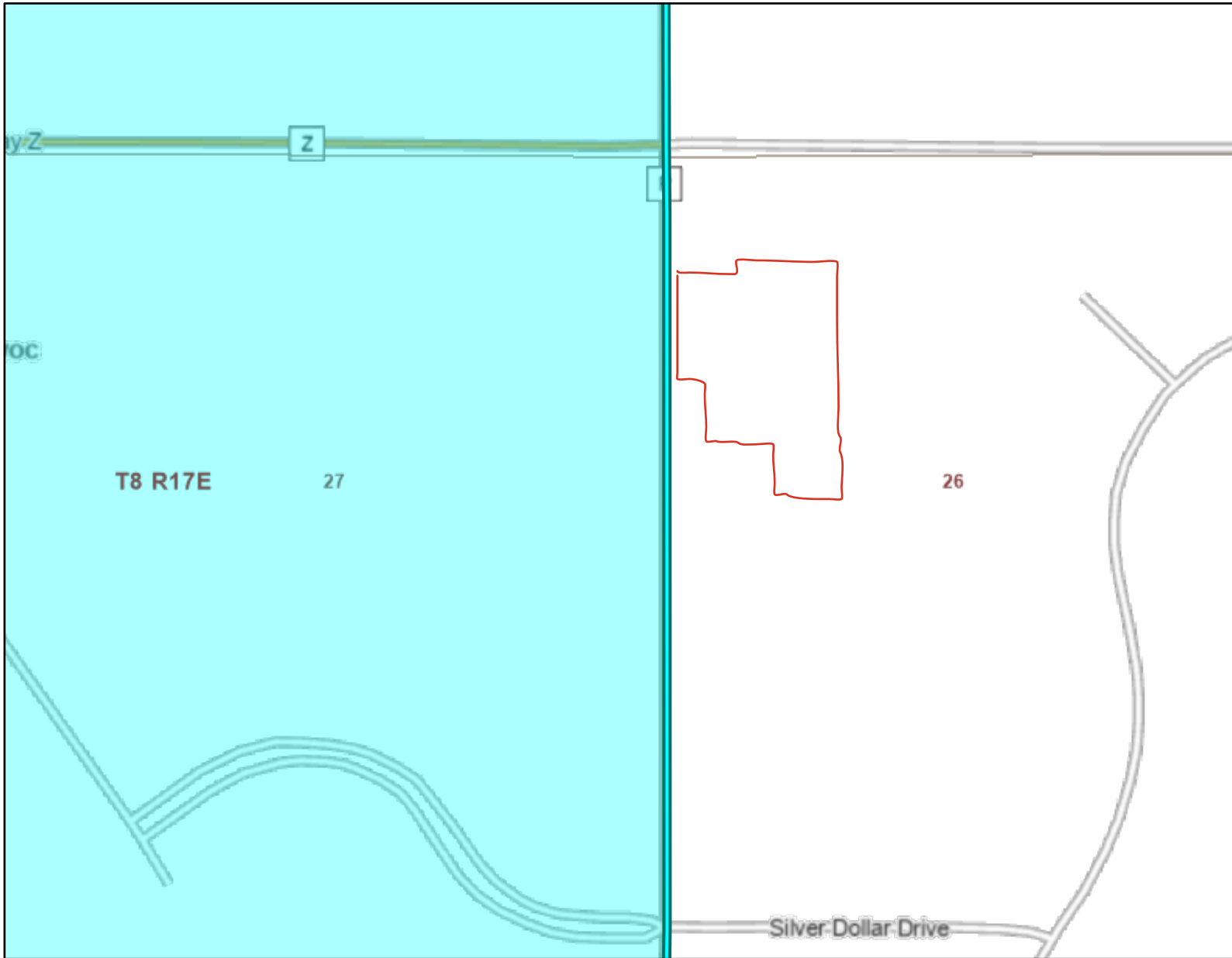


BEARINGS ARE REFERENCED TO THE WEST LINE OF THE SW. 1/4 OF SECTION 26-8-17 AS ASSUMED DUE SOUTH












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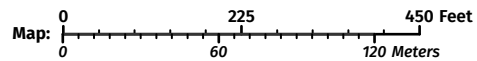




Legend: (some map layers may not be displayed)

-  Township
-  Section
-  Quarter-Quarter
- Cities, Towns & Villages
-  City
-  Civil Town
-  City or Village
-  County Boundaries
- County and Local Roads
-  County HWY
-  Local Road

Notes:



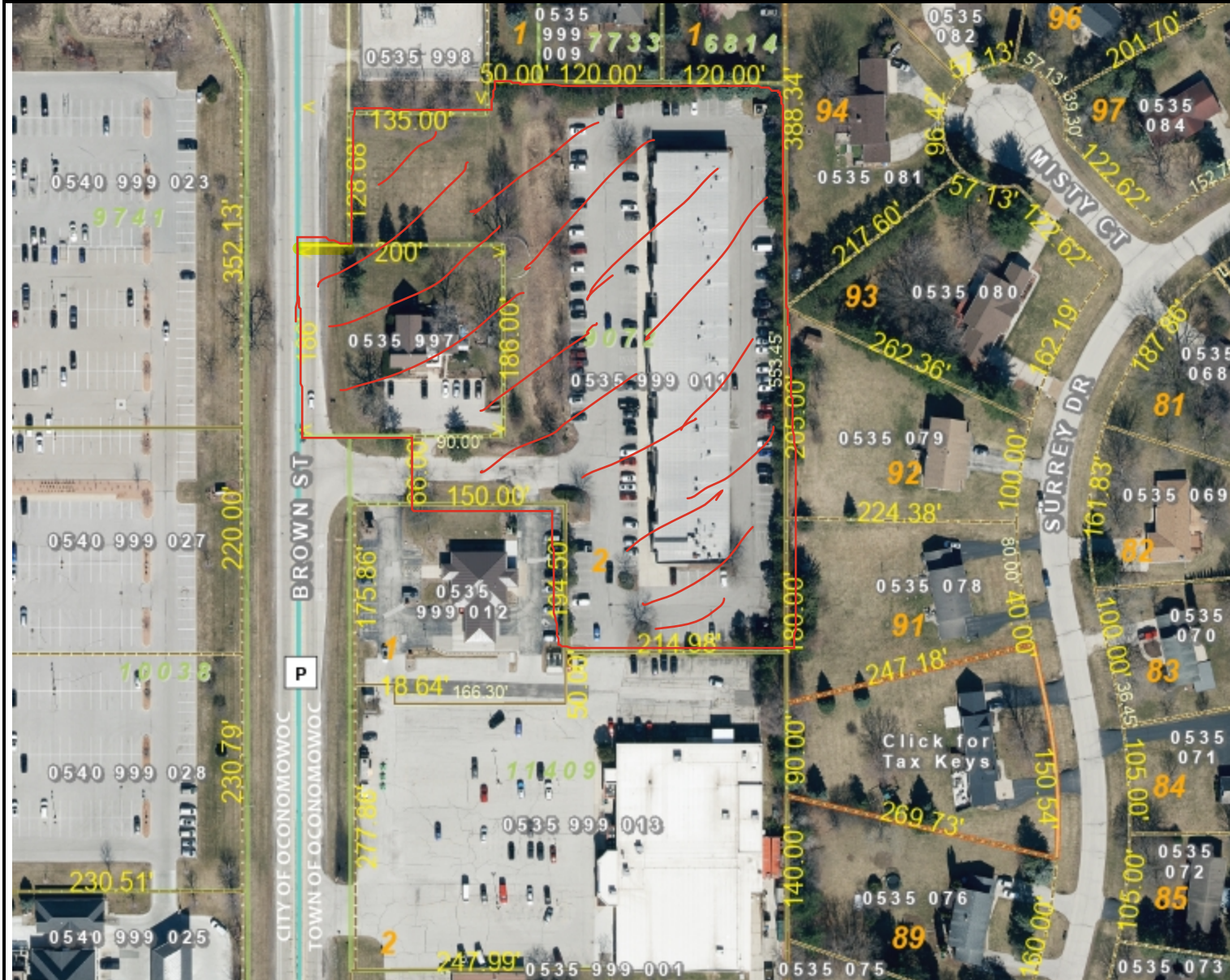
Service Layer Credits:
EN Basic Basemap WTM Ext: , Cadastral:

Map projection: NAD 1983 HARN Wisconsin TM





















This map is a product generated by a DNR web mapping application.

This map is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. The user is solely responsible for verifying the accuracy of information before using for any purpose. By using this product for any purpose user agrees to be bound by all disclaimers found here: <https://dnr.wisconsin.gov/legal>

Date Printed: 1/21/2025 2:55 PM



Legend

-  Municipal Boundary_2K
-  Parcel_Dimension_2K
-  Note_Text_2K
-  Lots_2K
-  Lot
-  Unit
-  General Common Element
-  Outlot
- SimultaneousConveyance**
-  Assessor Plat
-  CSM
-  Condominium
-  Subdivision
- Cartoline_2K**
-  EA-Easement_Line
-  PL-DA
-  PL-Extended_Tie_line
-  PL-Meander_Line
-  PL-Note
-  PL-Tie
-  PL-Tie_Line
-  <all other values>
- Railroad_2K**

0 151.74 Feet

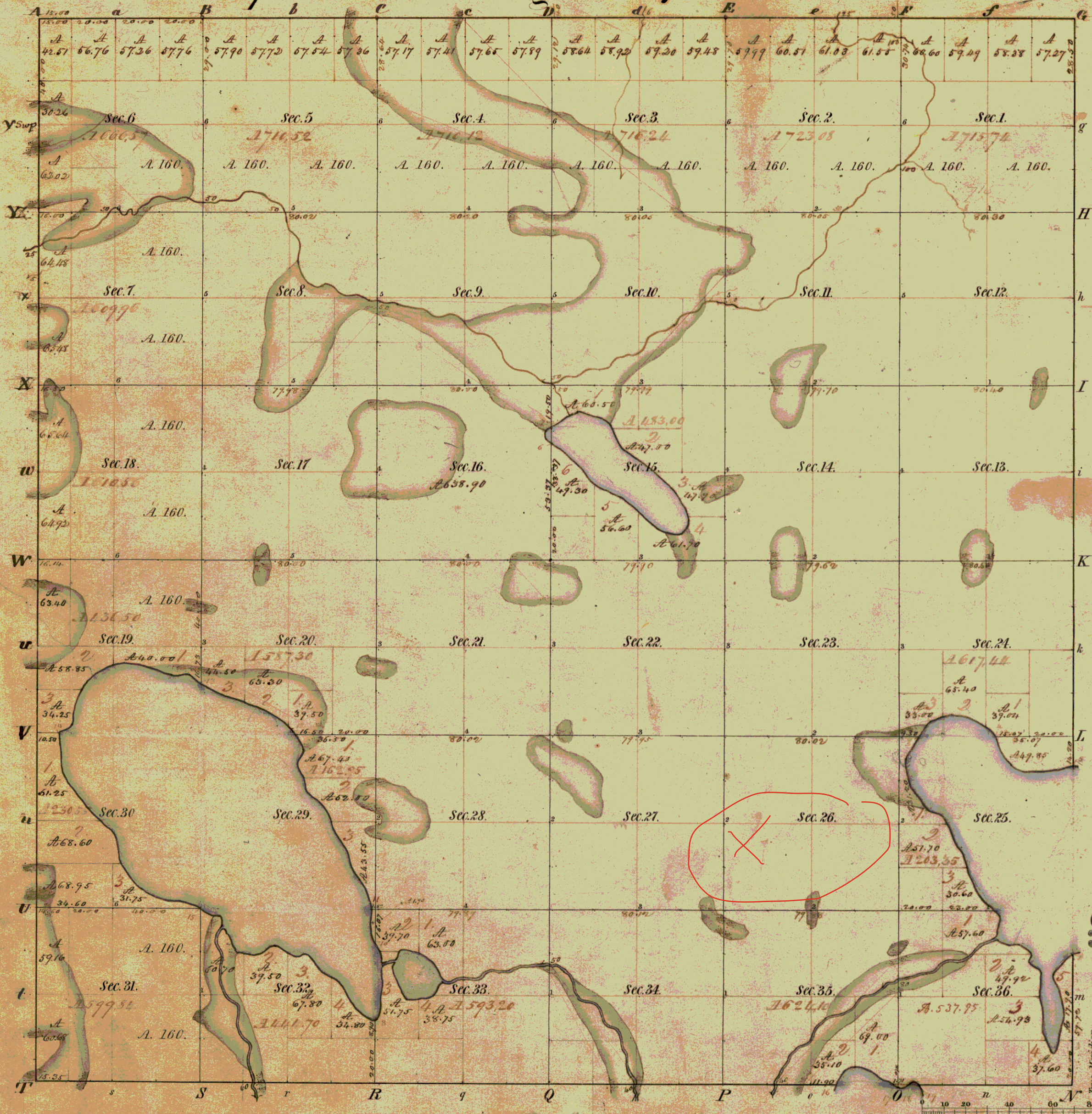
The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.

Notes:

Printed: 1/21/2025



Township No 8, Range No 17 East 4th Mer. Wis. Ter.



Meanders of Lakes

| Posts | Courses | Ch. Lk. | Posts | Courses | Ch. Lk. | Posts | Courses | Ch. Lk. |
|--------------------|---------|---------|--------------------|---------|---------|-------|---------|---------|
| Lake in Section 35 | N 78 E | 1.50 | N 56 E | 23.00 | | | | |
| | S 80 E | 5.50 | N 44 E | 17.00 | | | | |
| 17 | N 59 W | 4.00 | N 72 E | 2.00 | | | | |
| | N 48 W | 4.00 | N 41 E | 1.50 | | | | |
| | N 46 W | 4.00 | N 25 E | 9.00 | | | | |
| | N 78 W | 8.00 | N 12 E | 4.50 | | | | |
| | N 67 W | 6.00 | N 57 E | 4.12 | | | | |
| 16 | N 27 W | 7.00 | N 89 E | 9.00 | | | | |
| | | | N 71 E | 10.00 | | | | |
| Lake in Section 7 | N 61 E | 5.00 | N 50 W | 14.00 | | | | |
| | N 24 E | 2.36 | N 52 E | 5.00 | | | | |
| 5 | N 77 E | 11.50 | N 88 E | 4.00 | | | | |
| | N 88 E | 10.50 | N 83 E | 2.50 | | | | |
| | N 61 W | 5.00 | N 31 E | 5.50 | | | | |
| | N 43 W | 9.00 | N 63 E | 10.50 | | | | |
| 4 | N 18 W | 8.60 | N 30 E | 3.50 | | | | |
| | N 59 W | 11.50 | N 39 E | 10.50 | | | | |
| | N 70 W | 12.00 | N 53 E | 9.10 | | | | |
| | N 80 W | 9.00 | N 8 E | 16.50 | | | | |
| 3 | N 33 W | 9.80 | N 2 E | 10.50 | | | | |
| | N 34 W | 15.50 | N 47 E | 2.00 | | | | |
| | N 14 E | 10.00 | N 23 W | 3.50 | | | | |
| | N 70 E | 8.00 | N 26 W | 3.00 | | | | |
| | N 60 E | 14.00 | N 11 W | 8.80 | | | | |
| | N 17 E | 8.50 | N 10 W | 7.60 | | | | |
| | N 27 E | 11.00 | N 23 W | 14.12 | | | | |
| | N 15 E | 9.50 | N 32 W | 7.50 | | | | |
| | N 29 E | 9.50 | N 22 W | 9.50 | | | | |
| 2 | N 15 E | 11.80 | N 22 W | 7.00 | | | | |
| | N 44 E | 4.00 | N 15 W | 8.50 | | | | |
| | N 26 E | 1.50 | N 30 W | 8.50 | | | | |
| | N 27 W | 2.00 | N 55 W | 5.00 | | | | |
| | N 13 W | 1.50 | N 20 W | 5.50 | | | | |
| | N 17 E | 1.00 | N 32 W | 7.00 | | | | |
| | N 27 W | 1.50 | N 36 E | 8.50 | | | | |
| | N 18 E | 2.00 | N 33 W | 7.60 | | | | |
| | N 36 E | 2.00 | N 53 W | 9.60 | | | | |
| | N 41 E | 2.00 | N 63 W | 9.50 | | | | |
| | N 15 E | 5.00 | N 72 W | 9.50 | | | | |
| | N 86 E | 4.00 | N 66 W | 9.50 | | | | |
| | N 50 E | 4.00 | N 56 W | 16.60 | | | | |
| | N 37 W | 2.50 | N 33 W | 5.60 | | | | |
| | N 24 E | 7.50 | N 84 W | 8.00 | | | | |
| | N 77 W | 7.50 | N 68 W | 11.50 | | | | |
| | N 77 E | 12.00 | N 75 W | 12.90 | | | | |
| | South | 11.50 | N 65 W | 17.00 | | | | |
| | N 32 E | 13.00 | N 25 W | 22.00 | | | | |
| | N 117 E | 17.50 | N 1 W | 5.00 | | | | |
| | N 11 W | 11.50 | N 12 W | 5.20 | | | | |
| | N 26 W | 11.50 | | | | | | |
| 16 | N 40 E | 12.30 | Lake in Section 30 | | | | | |
| | | | N 25 E | 9.50 | | | | |
| | | | N 57 E | 11.00 | | | | |
| | | | N 45 E | 10.50 | | | | |
| | | | N 21 E | 7.50 | | | | |
| | | | N 37 W | 8.00 | | | | |
| | | | N 10 E | 4.00 | | | | |
| | | | N 56 W | 12.30 | | | | |
| | | | N 47 E | 3.00 | | | | |
| | | | N 9 E | 4.00 | | | | |
| | | | N 30 E | 7.50 | | | | |
| | | | N 35 E | 22.00 | | | | |
| | | | N 47 E | 10.00 | | | | |
| | | | N 4 E | 10.00 | | | | |
| | | | N 38 E | 9.50 | | | | |
| | | | N 50 E | 12.00 | | | | |
| | | | N 52 E | 15.00 | | | | |
| | | | N 66 E | 8.80 | | | | |
| | | | N 56 E | 2.50 | | | | |
| | | | N 48 E | 14.00 | | | | |

Total number of Acres 21,222.57

| Surveys Designated | By Whom Surveyed | Date of Contract | Amount of Surveys | When Surveyed | When p ^d for and ch ^d in the Sur. Gen. ac ^t |
|--------------------|------------------|------------------|-------------------|-------------------------|--|
| Township lines | Mullett & Runk | 17. Aug. 1835 | M. Ch. Lks. | 1 st of 1836 | 2 ^d of 1836 |
| Subdivisions | James H. Mullett | 13. Apr. 1836 | 70. 66. 57 | 4 th of 1836 | 1 st of 1837 |

The above Map of Township No 8 of Range No 17 E of the 4th Principal Meridian Wisconsin Terr. is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.

Surveyor General's Office,
Cincinnati, Oct. 1st 1836

Robt. S. Lytle Sur. Gen.



TONY EVERS

GOVERNOR

KATHY BLUMENFELD

SECRETARY

Municipal Boundary Review

PO Box 1645, Madison WI 53701

Voice (608) 264-6102 Fax (608) 264-6104

Email: wimunicipalboundaryreview@wi.gov

Web: <http://doa.wi.gov/municipalboundaryreview>

January 21, 2025

PETITION FILE NO. 14730

GINA KOZLIK, CLERK
CITY OF OCONOMOWOC
PO BOX 27
OCONOMOWOC, WI 53066-0027

LORI OPITZ, CLERK
TOWN OF OCONOMOWOC
W359 N6812 BROWN ST
OCONOMOWOC, WI 53066-1108

Subject: BSMP ET AL ANNEXATION

The proposed annexation submitted to our office on December 31, 2024, has been reviewed and found to be in the public interest. In determining whether an annexation is in the public interest, s. 66.0217 (6), Wis. Stats. requires the Department to examine "[t]he shape of the proposed annexation and the homogeneity of the territory with the annexing village or city..." so as, to ensure the resulting boundaries are rational and compact. The statute also requires the Department to consider whether the annexing city or village can provide needed municipal services to the territory. The subject petition is for territory that is reasonably shaped and contiguous to the City of Oconomowoc, which is able to provide needed municipal services.

Notes:

- 1) Per s. 66.0217 (1) (c) & (g), the entirety of the territory to be annexed must be described by metes and bounds commencing from a monumented corner of the 1/4 section in which the territory lies. The scale map of the territory must clearly show and identify the entirety of the boundary of the territory, along with the existing City of Oconomowoc municipal boundary in relation to the territory.
- 2) The Department is aware of a pending intergovernmental cooperation agreement between the Town of Oconomowoc, Town of Oconomowoc Utility District No. 1, and the Village of Lac La Belle that includes boundary change provisions permitted under Wis. Stat. § 66.301(6). At the time this petition was filed with the Department, the pending intergovernmental agreement had not yet impacted the Town's status as unincorporated territory. While the common law doctrine in this area of the law referred to as the Rule of Prior Precedent may at some point sort out these potential boundary conflicts, the Department is required by Wis. Stat. § 66.0217(6) to review and apply the statutory standards to petitions proposed within populous counties, such as Waukesha, and determine if the petition is found to be "in the public interest" or "against the public interest" based on the specific definition contained in Wis. Stat. § 66.0217(6)(c).
- 3) The Town asks the Department to apply the Rule of Reason test to this annexation to determine whether the City of Oconomowoc abused its discretion in soliciting this annexation. However, the Rule of Reason is a creation and test applied by Wisconsin Courts over many years of caselaw. It is not a test found within the Department's statutory review criteria in § 66.0217(6), Wis. Stats. Therefore, the Department declines to apply the Rule of Reason test.

The Department reminds clerks of annexing municipalities of the requirements of s. 66.0217 (9)(a), Wis. Stats., which states:

"The clerk of a city or village which has annexed shall file immediately with the secretary of administration a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall record the ordinance with the register of deeds and file a

signed copy of the ordinance with the clerk of any affected school district..."

State and federal aids based on population and equalized value may be significantly affected through failure to file with the Department of Administration. Please file a copy of your annexing ordinance, including a statement certifying the population of the annexed territory. **Please include your MBR number 14730 with your ordinance.** Ordinance filing checklist available at <http://mds.wi.gov/>, click on "Help on How to Submit Municipal Records". Email scanned copy of required materials (color scan maps with color) to mds@wi.gov or mail to: Wisconsin Department of Administration, Municipal Boundary Review, PO Box 1645, Madison WI 53701-1645.

The petition file is available for viewing at: <http://mds.wi.gov/View/Petition?ID=2804>
Please call me at (608) 264-6102, should you have any questions concerning this annexation review.

Sincerely,

A handwritten signature in black ink, appearing to read "Erich Schmidtke", written in a cursive style.

Erich Schmidtke, Municipal Boundary Review

cc: petitioner