

ENROLLED ORDINANCE 158-122

AMEND THE ZONING DISTRICT MAP OF THE TOWN OF DELAFIELD ZONING ORDINANCE AND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF DELAFIELD, BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 11, T7N, R18E, TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, FROM THE A-2 RURAL HOME DISTRICT TO PORTIONS OF THE R-1 RESIDENTIAL DISTRICT WITH CONDITIONS AND EC ENVIRONMENTAL CORRIDOR DISTRICT (SZT-1506)

WHEREAS the subject matter of this Ordinance having been duly referred to and considered by the Waukesha County Park and Planning Commission, after Public Hearing, and the giving of requisite notice of said hearing and the recommendation thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Sections 60.61 and 59.692 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Town of Delafield Zoning District Map of the Town of Delafield, adopted on July 20, 1998, and the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Town of Delafield, Waukesha County, Wisconsin, adopted on June 23, 1970, is hereby amended to rezone from the A-2 Rural Home District to portions of the R-1 Residential District with conditions and EC Environmental Corridor District, certain lands located in part of the SE ¼ of Section 11, T7N, R18E, Town of Delafield, Waukesha County, Wisconsin, and more specifically described in the "Staff Report and Recommendation" and map on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference (SZT-1506) subject to the following conditions being incorporated into the R-1 Residential District rezoned area on the Manke and Lindemann parcels:

1. The land should be developed as a Residential Planned Unit Development. *Subject to attached Town of Delafield Conditional Use Permit*
2. Development of the lands shall generally conform to the plans presented at the November 18, 2003, Plan Commission meeting dated November 17, 2003, with minor modifications to the plans to bring lot sizes and frontages in conformance with the PUD Code Requirements and with the recognition of a 12<sup>th</sup> lot created by the extension of Summerhill Drive on the Lindemann property.
3. If the development does not commence within one year, the approval of this Zoning Ordinance, which includes County approval, shall revert back to its present zoning.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Delafield.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

Amendment to 158-O-126

Supervisor Haukohl moved to amend the First Ordained Paragraph, subparagraph 1. as follows:

After the word Development insert "Subject to attached Town of Delafield Conditional Use Permit."

Supervisor Mitchell seconded the motion.

Vote on amendment: 28 ayes – 0 nay

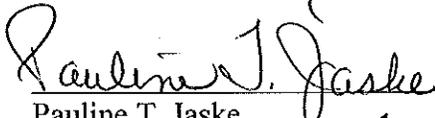
Vote on ordinance as amended: 28 ayes – 0 nay

Amended

AMEND THE ZONING DISTRICT MAP OF THE TOWN OF DELAFIELD ZONING ORDINANCE AND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF DELAFIELD, BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 11, T7N, R18E, TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, FROM THE A-2 RURAL HOME DISTRICT TO PORTIONS OF THE R-1 RESIDENTIAL DISTRICT WITH CONDITIONS AND EC ENVIRONMENTAL CORRIDOR DISTRICT (SZT-1506)

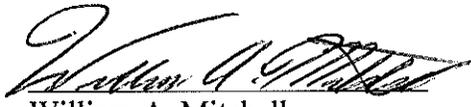
Presented by:  
Land Use, Parks, and Environment Committee

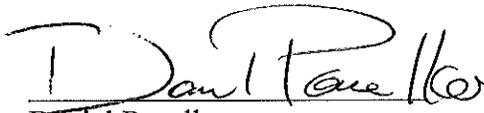
  
Walter L. Kolb, Chair

  
Pauline T. Jaske

  
James Jeskewitz

  
Scott J. Klein

  
William A. Mitchell

  
Daniel Pavelko

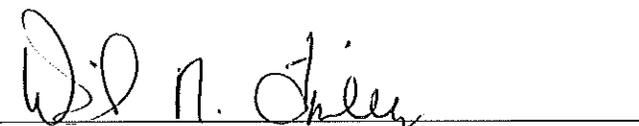
Absent  
Vera Stroud

The foregoing legislation adopted <sup>as amended</sup> by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 2-13-2004, Kathy Nickolaus  
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved:   
Vetoed:   
Date: 2-13-04

  
Daniel M. Finley, County Executive

PROPOSED ORDINANCE 158-127

AMEND THE ZONING DISTRICT MAP OF THE TOWN OF DELAFIELD ZONING ORDINANCE AND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF DELAFIELD, BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 11, T7N, R18E, TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, FROM THE A-2 RURAL HOME DISTRICT TO PORTIONS OF THE R-1 RESIDENTIAL DISTRICT WITH CONDITIONS AND EC ENVIRONMENTAL CORRIDOR DISTRICT (SZT-1506)

WHEREAS the subject matter of this Ordinance having been duly referred to and considered by the Waukesha County Park and Planning Commission, after Public Hearing, and the giving of requisite notice of said hearing and the recommendation thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Sections 60.61 and 59.692 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Town of Delafield Zoning District Map of the Town of Delafield, adopted on July 20, 1998, and the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Town of Delafield, Waukesha County, Wisconsin, adopted on June 23, 1970, is hereby amended to rezone from the A-2 Rural Home District to portions of the R-1 Residential District with conditions and EC Environmental Corridor District, certain lands located in part of the SE ¼ of Section 11, T7N, R18E, Town of Delafield, Waukesha County, Wisconsin, and more specifically described in the "Staff Report and Recommendation" and map on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference (SZT-1506) subject to the following conditions being incorporated into the R-1 Residential District rezoned area on the Manke and Lindemann parcels:

1. The land should be developed as a Residential Planned Unit Development.
2. Development of the lands shall generally conform to the plans presented at the November 18, 2003, Plan Commission meeting dated November 17, 2003, with minor modifications to the plans to bring lot sizes and frontages in conformance with the PUD Code Requirements and with the recognition of a 12<sup>th</sup> lot created by the extension of Summerhill Drive on the Lindemann property.
3. If the development does not commence within one year, the approval of this Zoning Ordinance, which includes County approval, shall revert back to its present zoning.

*Subject to attached Town of Delafield Conditional Use Permit.*

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Delafield.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

Referred on: 01/13/04	File Number: 158-O-126	Referred to: LU
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COMMISSION ACTION

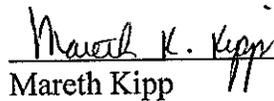
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance hereby recommends approval of SZT-1506 (Manke/Waukesha County) in accordance with the attached "Staff Report and Recommendation."

PARK AND PLANNING COMMISSION

December 4, 2003

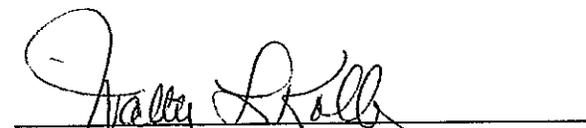
  
Betty Wilfert, Chairperson

  
Vy Janusonis

  
Mareth Kipp

Absent  
Ellen Gennrich

  
Joseph LaPorte

  
Walter Kolb

  
Walter Baade

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**ZONING MAP AMENDMENT**

**FILE NO.:** SZT-1506

**DATE:** December 4, 2003

**PETITIONER:** Waukesha County Department of Parks and Land Use

Bill Adams  
S25 W35260 Stillmeadow Court  
Oconomowoc, WI 53066

**PROPERTY OWNERS:**

Curtis Manke 809 N. Moreland Blvd. Waukesha, WI 53186	DELT 0764.991
Christian Lindemann W290 N3265 Hillcrest Dr. Pewaukee, WI 53072	DELT 0764.990
Thomas Kranick 1517 W. Pierce St. Milwaukee, WI 53204-1286	DELT 0764.997
Summerhill Homeowners Assoc.	DELT 9999.041

**LOCATION:**

The property is located in part of the SE ¼ of Section 11, Town of Delafield. More specifically, the property is located south of C.T.H. "KE" and west of Hillcrest Drive, containing a total area of approximately 41 acres.

**PRESENT ZONING:**

A-2 Residential District under the Town of Delafield Ordinance. The area of new shoreland jurisdiction presently has no shoreland zoning and this process will apply a new zoning category to that area.

**PRESENT LAND USE:**

Generally farm fields and woodlands with an old farmstead and outbuildings associated with the Manke property.

**PROPOSED ZONING:**

R-1 Residential District with conditions and EC Environmental Corridor District to be applied in the Shorelands on the Kranick property.

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**PROPOSED LAND USE:**

Residential Planned Unit Development (PUD) subdivision, with a total of 12 parcels contemplated at this time with lots being approximately 1¼ acres or larger in size, to be served with municipal sewer.

**PUBLIC HEARING DATE:**

November 4, 2003.

**PUBLIC REACTION:**

There was concern from some of the neighbors to the north in the existing Summerhill subdivision, which contains common open space and has a higher density than the proposed development. They were concerned with having to deal with additional traffic in their subdivision, as the road serving the proposed development will access through their subdivision and the fact that they thought there was too much density.

**TOWN PLAN COMMISSION:**

The Town of Delafield Plan Commission, at their meeting of November 18, 2003, recommended in favor of the rezoning subject to three conditions:

1. The land should be developed as a Residential Planned Unit Development.
2. Development of the lands shall generally conform to the plans presented at the November 18, 2003, Plan Commission meeting dated November 17, 2003, with minor modifications to the plans to bring lot sizes and frontages in conformance with the PUD Code Requirements and with the recognition of a 12<sup>th</sup> lot created by the extension of Summerhill Drive on the Lindemann property.
3. If the development does not commence within one year, the approval of this Zoning Ordinance which includes County approval, shall revert back to its present zoning.

**TOWN BOARD ACTION:**

The Town of Delafield Board, at their meeting of November 25, 2003, approved the Ordinance with the conditions recommended by the Plan Commission.

**COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF DELAFIELD LAND USE PLAN:**

The County Development Plan indicates this area is identified with 26 acres of Primary Environmental Corridor and approximately 25 acres of upland for the entire area being rezoned, including the shorelands. With respect to part of the Manke parcel and part of the Lindemann parcel being rezoned to accommodate the development, 20.5 acres is Primary Environmental Corridor, with the remainder of approximately 19½ acres being in upland, and identified on the Land Use Plan as Suburban I Density Residential, which is 1.5 to 2.9 acres per dwelling unit. The proposed development, with 12 parcels, complies with the intent of the plan in that the plan would allow a total of 15 units on the Manke-Lindemann parcel.

**OTHER CONSIDERATIONS:**

The property in question presently includes four different parcels for the establishment of the shoreland area within 300 ft. of the newly determined navigable stream. The Department of Natural Resources (DNR) in September 2003, determined that the steep swales on the Manke and Kranick properties were navigable by definition; therefore, Shoreland Zoning Districts need to be applied to the area within 300 ft.

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of said stream. The slopes are so steep that there is essentially no floodplain that could be established because of the severity of the slopes and grade of the so-called stream. Because of the very steep and wooded nature of the area in question, most of the site would be placed in a Primary Environmental Corridor designation on the Land Use Plan. It is being recommended that rezoning to the EC District on the Kranick property be provided and conditional R-1 Residential District on the Manke/Lindemann property. The R-1 conditions are those imposed by the Town. The project also contains about 12½ acres of common open space, which will be owned by the lot owners in the subdivision and is almost entirely made up of Environmental Corridor. All of the lots will be served by an extension of existing roads from the Summerhill subdivision and will, with the exception of two parcels, be served by a 66 ft. private access easement. Each of the lots will be approximately 1¼ acres or larger, with the two lots on the private easement being three acres in size with limited building areas located within the corridor and two more lots in the corridor being 1.5 acres. All lots in the Primary Environmental Corridor have designated building envelopes and the remainder of those lots will have preservation easements. The area will be served with municipal sewer. The old farmstead that exists on the Manke farm will be removed. There are no Development Plans for the Kranick property at this point. The Town has provided conditions to this rezone and the Town and County will also be incorporating a PUD Conditional Use Permit on this property in order to deal with the common open space and other issues relating to the specific development plans for the site.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request to apply shoreland zoning to this area of the Town and to approve the rezoning of part of the Lindemann and all of the Manke property, as conditioned by the Town, be approved. We feel the proposed development and manner in which the Environmental Corridor will be preserved and protected, meets the spirit and intent of the County Development Plan and has very minimal, if any, adverse affects on adjacent lands and is consistent with the recommendations of the County Development Plan.

Respectfully submitted,

*Richard L. Mace*

Richard L. Mace  
Planning and Zoning Manager

RLM:smv

Attachments: Map

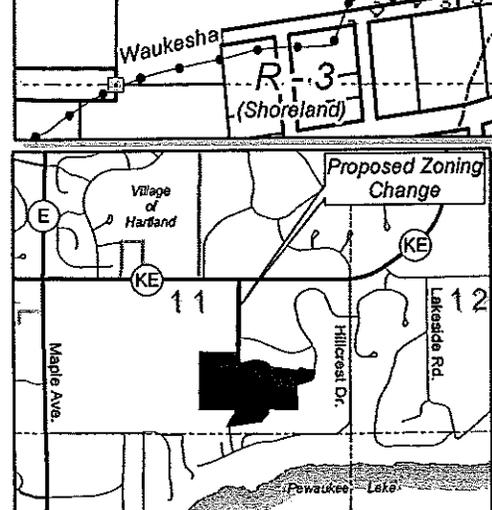
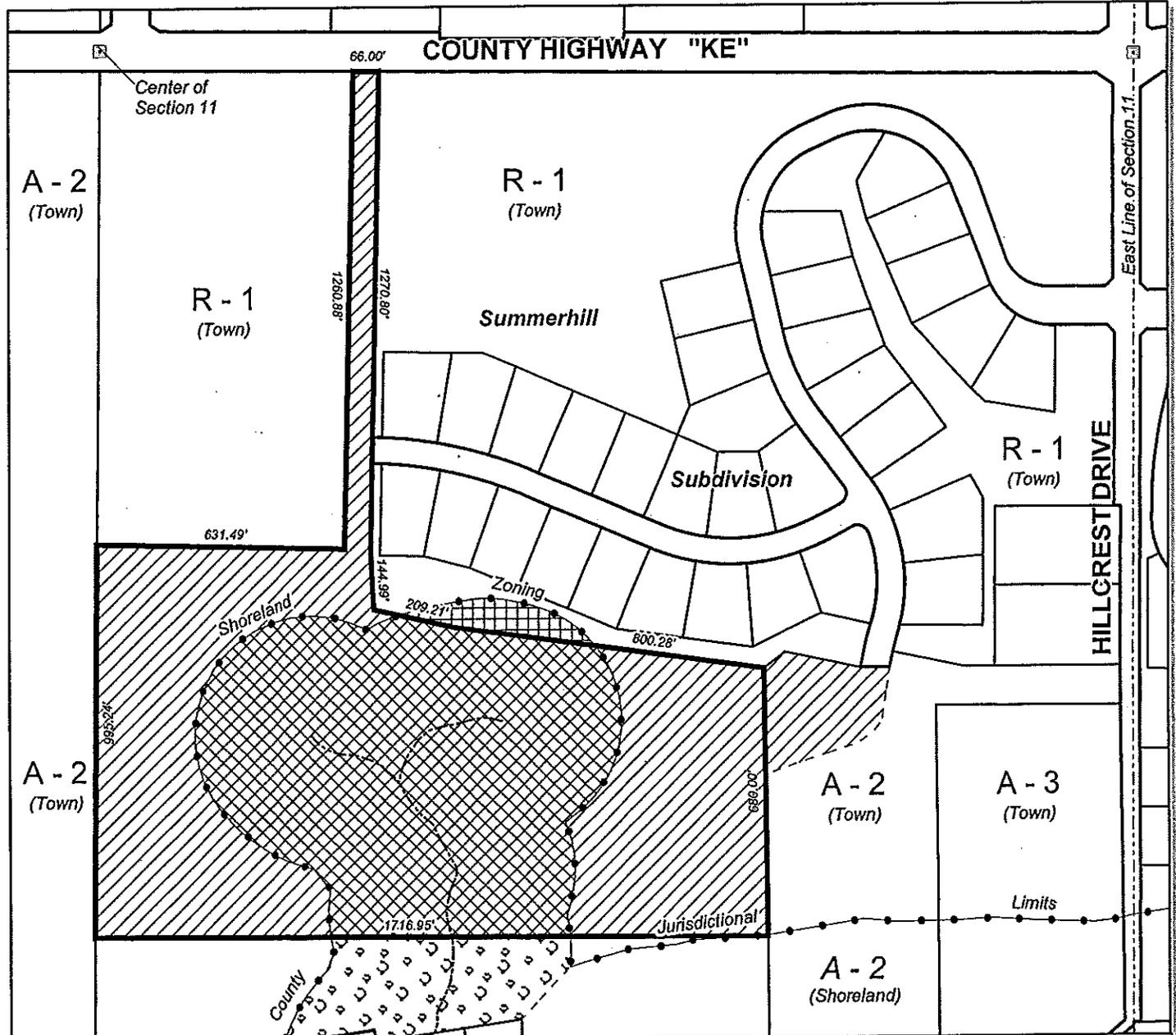
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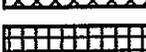
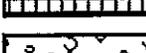
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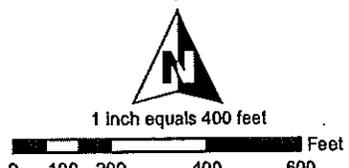
5.

# ZONING MAP AMENDMENT

## PART OF THE SOUTHEAST 1/4 OF SECTION 11 TOWN OF DELAFIELD



	TOWN ZONING CHANGE FROM A-2 TO CONDITIONAL R-1 (20.6 AC.)
	TOWN ZONING CHANGE FROM A-2 TO CONDITIONAL R-1 & ESTABLISH COND. R-1 UNDER SHORELAND ZONING (16.1 AC.)
	ESTABLISH R-1 UNDER SHORELAND ZONING (0.67 AC.)
	ESTABLISH EC UNDER SHORELAND ZONING (3.50 AC.)
FILE.....	SZT-1506
DATE.....	12-04-03
AREA OF CHANGE.....	40.9 ACRES
TAX KEY NUMBER.....	DELT 0764.991
	DELT 0764.990, DELT 9999.041, DELT 1764.997



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NOTE: This material supplements yellow copied Ordinance 158-0-126.

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**ZONING MAP AMENDMENT**

**FILE NO.:** SZT-1506

**DATE:** December 4, 2003

**PETITIONER:** Waukesha County Department of Parks and Land Use  
Bill Adams  
S25 W35260 Stillmeadow Court  
Oconomowoc, WI 53066

**PROPERTY OWNERS:**

Curtis Manke 809 N. Moreland Blvd. Waukesha, WI 53186	DELT 0764.991
Christian Lindemann W290 N3265 Hillcrest Dr. Pewaukee, WI 53072	DELT 0764.990
Thomas Kranick 1517 W. Pierce St. Milwaukee, WI 53204-1286	DELT 0764.997
Summerhill Homeowners Assoc.	DELT 9999.041

**LOCATION:**

The property is located in part of the SE ¼ of Section 11, Town of Delafield. More specifically, the property is located south of C.T.H. "KE" and west of Hillcrest Drive, containing a total area of approximately 41 acres.

**PRESENT ZONING:**

A-2 Residential District under the Town of Delafield Ordinance. The area of new shoreland jurisdiction presently has no shoreland zoning and this process will apply a new zoning category to that area.

**PRESENT LAND USE:**

Generally farm fields and woodlands with an old farmstead and outbuildings associated with the Manke property.

**PROPOSED ZONING:**

R-1 Residential District with conditions and EC Environmental Corridor District to be applied in the Shorelands on the Kranick property.

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**PROPOSED LAND USE:**

Residential Planned Unit Development (PUD) subdivision, with a total of 12 parcels contemplated at this time with lots being approximately 1¼ acres or larger in size, to be served with municipal sewer.

**PUBLIC HEARING DATE:**

November 4, 2003.

**PUBLIC REACTION:**

There was concern from some of the neighbors to the north in the existing Summerhill subdivision, which contains common open space and has a higher density than the proposed development. They were concerned with having to deal with additional traffic in their subdivision, as the road serving the proposed development will access through their subdivision and the fact that they thought there was too much density.

**TOWN PLAN COMMISSION:**

The Town of Delafield Plan Commission, at their meeting of November 18, 2003, recommended in favor of the rezoning subject to three conditions:

1. The land should be developed as a Residential Planned Unit Development (see attached Town approved Conditional Use Permit).
2. Development of the lands shall generally conform to the plans presented at the November 18, 2003, Plan Commission meeting dated November 17, 2003, with minor modifications to the plans to bring lot sizes and frontages in conformance with the PUD Code Requirements and with the recognition of a 12<sup>th</sup> lot created by the extension of Summerhill Drive on the Lindemann property.
3. If the development does not commence within one year, the approval of this Zoning Ordinance which includes County approval, shall revert back to its present zoning.

**TOWN BOARD ACTION:**

The Town of Delafield Board, at their meeting of November 25, 2003, approved the Ordinance with the conditions recommended by the Plan Commission.

**COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF DELAFIELD LAND USE PLAN:**

The County Development Plan indicates this area is identified with 26 acres of Primary Environmental Corridor and approximately 25 acres of upland for the entire area being rezoned, including the shorelands. With respect to part of the Manke parcel and part of the Lindemann parcel being rezoned to accommodate the development, 20.5 acres is Primary Environmental Corridor, with the remainder of approximately 19½ acres being in upland, and identified on the Land Use Plan as Suburban I Density Residential, which is 1.5 to 2.9 acres per dwelling unit. The proposed development, with 12 parcels, complies with the intent of the plan in that the plan would allow a total of 15 units on the Manke-Lindemann parcel.

**OTHER CONSIDERATIONS:**

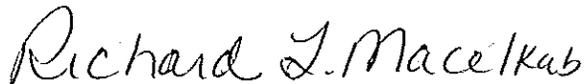
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navigable by definition; therefore, Shoreland Zoning Districts need to be applied to the area within 300 ft. of said stream. The slopes are so steep that there is essentially no floodplain that could be established because of the severity of the slopes and grade of the so-called stream. Because of the very steep and wooded nature of the area in question, most of the site would be placed in a Primary Environmental Corridor designation on the Land Use Plan. It is being recommended that rezoning to the EC District on the Kranick property be provided and conditional R-1 Residential District on the Manke/Lindemann property. The R-1 conditions are those imposed by the Town. The project also contains about 12½ acres of common open space, which will be owned by the lot owners in the subdivision and is almost entirely made up of Environmental Corridor. All of the lots will be served by an extension of existing roads from the Summerhill subdivision and will, with the exception of two parcels, be served by a 66 ft. private access easement. Each of the lots will be approximately 1¼ acres or larger, with the two lots on the private easement being three acres in size with limited building areas located within the corridor and two more lots in the corridor being 1.5 acres. All lots in the Primary Environmental Corridor have designated building envelopes and the remainder of those lots will have preservation easements. The area will be served with municipal sewer. The old farmstead that exists on the Manke farm will be removed. There are no Development Plans for the Kranick property at this point. The Town has provided conditions to this rezone and the Town and County will also be incorporating a PUD Conditional Use Permit on this property in order to deal with the common open space and other issues relating to the specific development plans for the site.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request to apply shoreland zoning to this area of the Town and to approve the rezoning of part of the Lindemann and all of the Manke property, as conditioned by the Town, be **approved**. We feel the proposed development and manner in which the Environmental Corridor will be preserved and protected, meets the spirit and intent of the County Development Plan and has very minimal, if any, adverse affects on adjacent lands and is consistent with the recommendations of the County Development Plan.

Respectfully submitted,



Richard L. Mace  
Planning and Zoning Manager

RLM:smv

Attachments: Map

N:\PLU FILES\PLANNING & ZONING\REZONES (RZ)\STAFF REPORTS\1506(WAUKESHA COUNTY & BILL ADAMS)\_DLT.DOC

158-0-126

3

Document Number

Document Title

**TOWN OF DELAFIELD  
ORDER GRANTING CONDITIONAL USE**

**WILLIAM ADAMS CONSULTING**

**THE ENCLAVE OF DELAFIELD  
SOUTHEAST 1/4 OF SECTION 11**

WHEREAS, Bill Adams, William Adams Consulting has petitioned the Town of Delafield to grant a Conditional Use under Section 17.05 5 AM, Residential Planned Unit Development to allow for the development of an 11-lot single family subdivision, and

WHEREAS, the legal description for the subject property is:

All that part of the Southeast Quarter (SE 1/4) of Section 11, Town 7 North, Range 19 East, Town of Delafield, Waukesha County, Wisconsin, bounded and described as follows:

Lot 2 and part of Lot 1 of Certified Survey Map No. 4032 and that part of the Southeast Quarter (SE 1/4) of Section 11, Town 7 North, Range 18 East, Town of Delafield, Waukesha County, Wisconsin, bounded and described as follows:

Beginning at the Northeast corner of said Lot 2 being the POINT OF BEGINNING; thence S.01°09'05"W., along the easterly line of said Lot 2, 1,270.82 feet; thence S.03°09'31"E., along said easterly line, 145.00 feet; thence S.77°20'07"E., 209.21 feet; thence S.82°17'45"E., along the northerly line of said Lot 2, 800.09 feet; thence N.53°00'55"E., 69.83 feet; thence S.78°17'26"E., 201.00 feet; thence N.89°43'46"E., 67.47 feet; thence S.11°42'34"W., 148.38 feet to a point of curve to the right whose radius point bears N78°17'26"W a distance of 133.00 feet and having a central angle of 67°29'31"; thence southwesterly along the arc a distance of 156.67 feet; thence S.79°12'05"W., 185.13 feet to a point along the easterly line of said Lot 2; thence S.00°33'54"E., along said easterly line, 397.87 feet; thence N.89°43'25"W., along the southerly line of said Lot 2, a distance 1,716.81 feet; thence N.00°27'27"E., along the westerly line of said Lot 2, a distance of 995.20 feet; thence S.88°37'59"E., along the northerly line of said Lot 2, a distance of 611.54 feet; thence N.01°09'05"E., 286.75 feet; thence S.88°49'50"E., 20.00 feet to a point along the westerly line of said Lot 2; thence N.01°09'05"E., along said westerly line, 974.05 feet; thence S.89°29'04"E., along the northerly line of said Lot 2, a distance of 66.00 feet to the POINT OF BEGINNING.

WHEREAS, the land is currently zoned A-2 and A-1, but has been approved by the Town Board for a rezoning to R-1 Residential District, and

Recording Area

Name and Return Address

Town of Delafield  
N14 W30782 Golf Road  
Delafield, WI 53018-2117

0764-991 and part of 0764-990

Parcel Identification Number (PIN)

158-0-126

WHEREAS, the owner agreed to develop the land as a Residential Planned Unit Development as a condition of the rezoning, and

WHEREAS, a public hearings were held on October 21 and November 4, 2003, to hear all parties regarding this matter, and

WHEREAS, the Town has determined that it is in the interest of the Town to allow this land to be developed as a Residential Planned Unit Development to allow for an open space (cluster) type of development, and

WHEREAS, the Town of Delafield Plan Commission has given the matter due consideration, and the Town Board has based its determination on the effect of granting a Conditional Use permit on the health, general welfare, safety and economic prosperity of the Town and specifically of the immediate neighborhood in which said use is located, and has given due consideration as to the effect of the Conditional Use on the established character and quality of the area, the rights of the adjoining owners, the overall appearance, the landscaping, the type of construction, the movement of traffic, parking, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect on the neighborhood as a result of noise, dust, smoke, odor or other similar factors, and has determined that a Conditional Use would be appropriate provided that the Conditional Use is operated pursuant to the following conditions and in strict compliance with the same.

THEREFORE, IT IS ORDERED AS FOLLOWS:

Commencing upon the date hereof, a Conditional Use permit for the subject premises is hereby granted. The Conditional Use permit herein shall apply only to use of the premises as described above and the Conditional Use permit shall continue in existence only so long as the Conditional Use is operated in compliance with this permit. This Conditional Use permit is subject to initial and continued compliance with each and every one of the following conditions, restrictions, and limitations.

- A. The project will be developed as a subdivision and meet all Town requirements for platting and improvements as defined in Chapter 18 of the Delafield Town Code. The general layout of lots and open space shall be as shown on the preliminary plat prepared by Welch Hanson Associates dated December 31, 2003, and with the recognition of a twelfth lot created by the extension of Summerhill Drive on the Lindemann property.
- B. No more than 12 single-family lots shall be allowed on the lands described above.
- C. All residential parcels shall meet the lot size, open space, lot width, setback and offset requirements as listed in Section 17.05 5 AM g. and h. of the Delafield Zoning Code.
- D. Developer shall enter into an agreement (Developer's Agreement) with the Town which will set forth all required improvements, financial surety and agreements with the Town.
- E. The deed restrictions shall be submitted and reviewed for approval at the time the preliminary plat is submitted and reviewed for approval.
- F. No sound attenuating fences shall be allowed. Split rail, landscape or other decorative fencing, no more than 4 feet in height shall be allowed, unless otherwise restricted by the development deed restrictions.
- G. All stormwater ponds and drainage facilities shall meet Town of Delafield and Waukesha County requirements and be constructed on outlots within the subdivision shall be maintained by the developer or

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- property owners within the subdivision. The location, size, computations and specific area of disturbance shall be prepared and submitted to the satisfaction of the Town Plan Commission and Waukesha County prior to preliminary plat approval.
- H. The final plat shall state on its face that the individual homeowners or homeowners association are fully responsible for improvements and maintenance of Items F, and G.
- I. Developer shall submit a landscaping plan for the development to the Plan Commission for review and approval, prior to commencement of construction.
- J. All lots shall be served by public sanitary sewer.
- \* K. There will be no dwelling or driveway construction in the Primary Environmental Corridor on Lots 2,3,4,8 and 11.
- \* L. No earth altering activities (grading, filling, etc.) or tree removal of trees with a diameter of 3-inches or greater measured 4 feet above the ground level (except for dead and diseased trees as determined by a professional tree specialist) shall be allowed beyond 25 feet from any structure on Lots 5,6,9 and 10, not to exceed 20,000 square feet. There shall be no clearing of trees to provide vistas of the lake or any other scenic view.
- \* M. The total area of land disturbance on Lots 1,2,3,4,7,8,11 and 12, including the house footprint shall not exceed 30,000 square feet on any single lot. Land outside the 30,000 square foot disturbance limit shall remain in, or be planted in natural vegetation (field grass, wildflowers, bushes and trees). No tree with a diameter of 3-inches or greater measured 4 feet above ground level shall be removed outside the area of disturbance, except for dead and diseased trees (as determined by a professional tree specialist) of any size. There shall be no tree clearing to provide vistas of the lake or any other scenic view.
- N. The current access to the Manke Farm shall be used for construction only. A sealer shall be placed on the driveway to reduce the amount of dust during the construction period. After construction of the subdivision is completed (final lift of asphalt is placed on the roads), the access road shall be paved for plowing purposes and gated at CTH KE such that it can only be used for emergency vehicles, until such time that access is provided to a public road west of the development or otherwise ordered by the Town Board. Any improvement or change to the driveway required by the Town or County shall be made part of the development plans and development agreement and shall be performed by the developer prior to final acceptance of the roads in the subdivision. The developer shall provide partial funding of a future public road from Old Schoolhouse Road southwest into the Kranick property. The amount of funds required shall be determined at the time the Developer's Agreement is approved and shall be included in the amount of security required as part of the Agreement.
- O. In the management and operation of the project as a residential subdivision, every attempt possible should be made to alleviate the potential for nuisances and disturbances to surrounding residential neighborhoods. Any complaints by adjacent property owners or any other person affected shall be reviewed by the Town Plan Commission which will make findings as to whether or not such nuisance exist, and, if so, what provisions ought to be made to abate the nuisances. All complaints regarding nuisances shall be subject to the nuisance provisions of the Town and other appropriate state or county laws. The findings and recommendations of the Town Plan Commission shall be forwarded to the Town Board for action.

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- P. No use is hereby authorized unless that use is conducted in a lawful, orderly and peaceful manner. Nothing in this permit shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the Town of Delafield, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority. This Conditional Use permit shall not be deemed to constitute a building permit, nor shall this permit constitute any other license or permit required by town ordinance or other law.
- Q. The Conditional Use hereby authorized shall be confined to the premises described, without extension or expansion, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Town Board as being in compliance with all pertinent ordinances, after review and recommendation by the Town Plan Commission.
- R. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for 12 months, or continued other than in strict conformity with the conditions of this approval, or should a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with the surrounding areas, or considerations of public health, safety or welfare, said Conditional Use may be terminated by action of the town board following referral to the Town Plan Commission for public hearing and recommendation thereof.
- S. Any subsequent change, alteration, or addition to the use approved herein shall first be submitted for approval to the Town Plan Commission and, if in the opinion of the Plan Commission, such change, alteration, or addition constitutes a substantial change, alteration, or addition based on the standards set forth herein, a public hearing before the Town Plan Commission shall be required pursuant to Section 17.10(6) of the town code. Any change, addition, or alteration of the physical premises, lands, or ownership, shall be considered substantial and shall require a new Conditional Use permit requiring full compliance with all town procedures and ordinances in place at the time.
- T. Should any paragraph or phrase of this Conditional Use permit be determined by a court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.
- U. The Conditional Use for the residential portion of the development shall be in effect for as long as the use remains residential as described herein.

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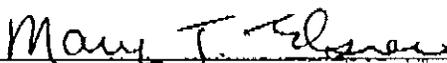
Let copies of this order be filed in the permanent records of the Town Board of the Town of Delafield, let a copy of this permit be recorded at the Waukesha County Register of Deeds as a covenant on the title for the premises for which this Conditional Use is granted, and let copies be sent to the proper Town authorities and the grantee.

Approved this 13<sup>th</sup> day of January, 2004

TOWN OF DELAFIELD



Paul L. Kanter, Chairman



Mary T. Ebsner, Town Clerk

APPROVAL

I hereby accept the terms of this Conditional Use in its entirety.

Dated this 13 day of JANUARY, 2004.



William Adams  
William Adams Consulting

This document drafted by Timothy G. Barbeau, P.E., R.L.S. (10/31/03)(11/11/03)(12/30/03)(1/13/04)

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WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-02/10/04

(ORD) NUMBER-1580126  
*as amended*

- 1 K. HERRO.....
- 3 D. STAMSTA.....AYE
- 5 J. MARCHESE.....
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....AYE
- 13 J. MORRIS.....AYE
- 15 D. SWAN.....
- 17 J. BEHREND.....AYE
- 19 W. MITCHELL.....AYE
- 21 W. KOLB.....AYE
- 23 P. PRONOLD.....
- 25 K. CUMMINGS.....AYE
- 27 D. PAULSON.....AYE
- 29 M. THOMAS.....AYE
- 31 V. STROUD.....AYE
- 33 D. PAVELKO.....AYE
- 35 C. SEITZ.....AYE

- 2 R. THELEN.....AYE
- 4 H. CARLSON.....AYE
- 6 D. BROESCH.....AYE
- 8 J. DWYER.....AYE
- 10 S. WOLFF.....AYE
- 12 J. GRIFFIN.....
- 14 J. LA PORTE.....AYE
- 16 R. MANKE.....
- 18 B. MORRIS.....AYE
- 20 M. KIPP.....
- 22 G. BRUCE.....AYE
- 24 A. SILVA.....AYE
- 26 S. KLEIN.....AYE
- 28 P. JASKE.....AYE
- 30 K. NILSON.....AYE
- 32 P. GUNDRUM.....AYE
- 34 R. SINGERT.....AYE

TOTAL AYES-28

TOTAL NAYS-00

CARRIED\_\_\_\_\_

DEFEATED\_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-28