

ENROLLED ORDINANCE 163-79

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE OF THE TOWN OF LISBON, BY AMENDING A CONDITION OF APPROVAL OF SZ-1466 AS TO ALLOW A TOTAL OF THREE (3) ACCESS POINTS ONTO PLAINVIEW ROAD, INCLUDING THE PARCEL CONTAINING THE EXISTING RESIDENCE/BUILDINGS, ON CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF SECTION 11, T8N, R19E, TOWN OF LISBON (SZ-1466A)

WHEREAS the subject matter of this Ordinance having been recommended for approval by the Lisbon Town Board on October 13, 2008, after Public Hearing, and the giving of requisite notice of said hearing, and duly referred to and considered by the Waukesha County Park and Planning Commission, and a recommendation for approval, thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 59.692 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Town of Lisbon, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors on June 23, 1970, is hereby amended to amend the conditions of approval of SZ-1466 as to allow a total of three (3) access points onto Plainview Road, including the parcel containing the existing residence/buildings on certain lands located in the SW ¼ of Section 11, T8N, R19E, Town of Lisbon, 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 (SZ-1466A).

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

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

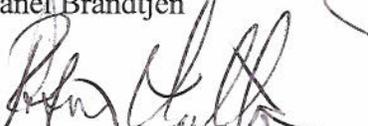
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

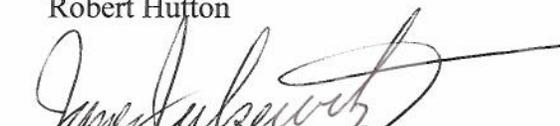
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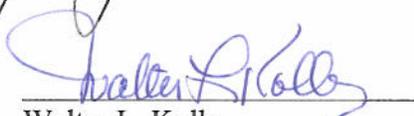
Presented by:  
Land Use, Parks, and Environment Committee

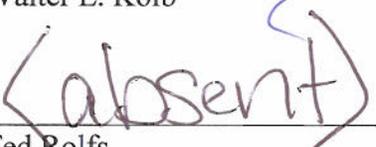
  
Fritz Ruf, Chair

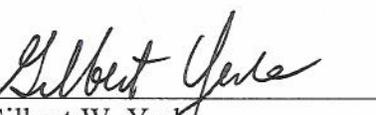
  
Janel Brandtjen

  
Robert Hutton

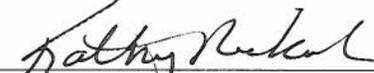
  
James Jeskewitz

  
Walter L. Kolb

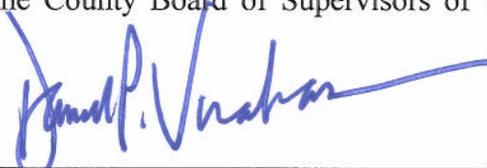
  
Ted Rolfs

  
Gilbert W. Yerke

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

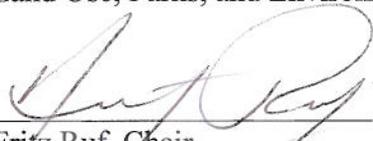
Date: 2/27/09,   
Kathy Nickolaus, County Clerk

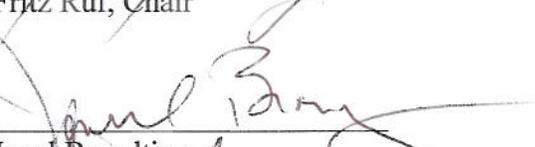
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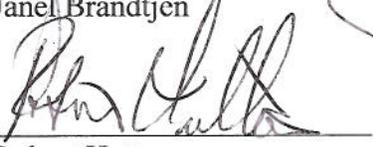
Approved: ✓  
Vetoed: \_\_\_\_\_  
Date: 3-2-09,   
Daniel P. Vrakas, County Executive

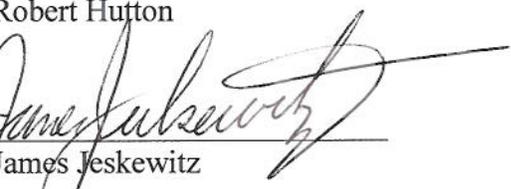
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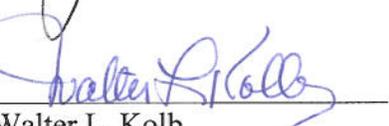
Presented by:  
Land Use, Parks, and Environment Committee

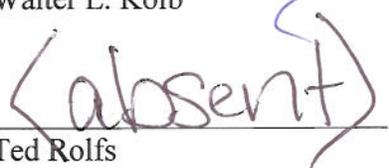
  
Fritz Ruf, Chair

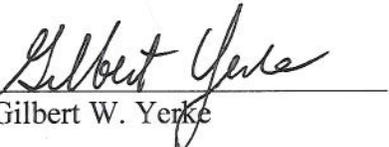
  
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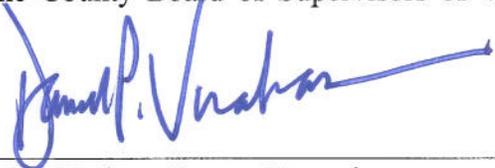
  
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Date: 2/27/09,   
Kathy Nickolaus, County Clerk

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

Approved: X  
Vetoed: \_\_\_\_\_  
Date: 3-2-09,   
Daniel P. Vrakas, County Executive

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

**DATE:** January 15, 2009

**FILE NO:** SZ-1466A

**PETITIONER/OWNER:** Frank Gross  
N80 W23792 Plainview Road  
Sussex, Wisconsin 53089

**TAX KEY NO.:** LSBT 0187.998.006

**LOCATION:**

Part of the SW ¼ of Section 11, T8N, R19E, Town of Lisbon, located at the Plainview Road address cited above containing a total of approximately 33.65 acres, of which 20.3 acres are within the County's zoning jurisdiction (C-1).

**EXISTING ZONING CLASSIFICATION:**

Conditional C-1 Conservancy District (County). The condition of SZ-1466 was that only one access point be allowed from the subdivision onto Plainview Road, excluding the parcel containing the existing residence/buildings. There are two existing access points and the proposal submitted with SZ-1466 was to add one additional access point.

It should be noted that the property previously also had R-1 zoning, but the drainage ditch that added the upland County zoning jurisdiction (R-1) has subsequently been determined to be not navigable by the WDNR and, therefore, only the C-1 zoning remains on the subject parcel. The Town of Lisbon has the property zoned A-2 Residence District requiring a minimum lot size of 30,000 square feet and a minimum average width of 120', and C-1 Conservancy.

**REQUEST:**

As noted above, since the approval of SZ-1466, the amount of land within the County's zoning jurisdiction has been reduced due to a navigability determination and, therefore, the only zoning classification that remains is C-1 Conservancy. The request resulting in SZ-1466A is to amend the condition of approval of SZ-1466 as stated above to allow a total of three (3) access points onto Plainview Road, including the parcel containing the existing residence/buildings. One of the existing access points on the parcel containing the existing residence/buildings will be removed, and two new access points are now proposed with the new submittal. The total number of access points will not be changing from the SZ-1466 request and the current proposal (SZ-1466A). The two westernmost access points will have shared driveways with two users each.

**EXISTING USES:** Residential, agricultural and conservancy lands.

**REQUESTED USES:**

Residential (four lots with a future lot proposed for a total of five lots) and conservancy lands.

163-0-081

**CONFORMANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN (WCDP):**

The WCDP designates the property as Low Density Urban Residential (20,000 square feet to 1.4 acres of lot area per dwelling unit) and Primary Environmental Corridor in the area of the proposed zoning change. The proposal conforms with the plan.

**PUBLIC HEARING DATE:** October 2, 2008

**PUBLIC REACTION:**

There were a few comments made by the public. One comment was regarding the fact that the development is not in keeping with the rural character of the area and the person objects to the request. It should be noted the current Town zoning allows lots 30,000 square feet in size and 120' in width. All of the lots proposed are between 3 and 20 acres in size and in excess of 200' in width. This individual also questioned if the property owner was going to remove one of the existing access points of his circular driveway? The proposal is to in fact remove one of the existing access points.

Another comment questioned if the lots "perked" and if they were going to be filled to raise the houses above the groundwater elevation. That individual further stated the houses should not have basements, even if they all "perked", and then the development would require less fill. The town will address groundwater separation when the property owners apply for permits for houses on the lots. The town requires a 3' separation distance from the bottom of the basement floor to high groundwater. The current proposal is to not have basements in the homes, and that should limit the amount of fill needed for construction. All of the lots "perked" and the soil tests have been submitted. This individual also asked if the property owner was also going to be the developer because he doesn't keep up his property. At this point, who will actually develop the property is unknown.

**TOWN PLAN COMMISSION AND TOWN BOARD ACTION:**

On October 2, 2008, the Town of Lisbon Plan Commission recommended approval of the request to the Town Board of Supervisors with a vote of 5-1 (Nelson). On October 13, 2008, the Town of Lisbon Board of Supervisors unanimously recommended approval of the request to Waukesha County.

**STAFF ANALYSIS:**

There is a large conservancy area to the north of the subject property, the southern portion of which is on the petitioner's property. This conservancy area was the subject of a previous rezone request (SZ-1466) on this property to C-1 as some of the conservancy area had been farmed in the past and therefore was previously zoned A-E. As noted above, since the approval of SZ-1466, the amount of land within the County's zoning jurisdiction has been reduced due to a navigability determination and, therefore, the only zoning classification that remains is C-1 Conservancy. A flood study encompassing the subject property has been determined by the SEWRPC in correspondence dated November 25, 2008 to be an adequate representation of the 100 year recurrence interval. The study has not yet been approved by the WDNR or FEMA. On October 3, 2008, the Commission also concurred with the PEC delineation conducted on the site which coincides with the wetland

delineation conducted on the site. The wetland delineation was approved by the WDNR on October 19, 2004 and by the ACOE on August 11, 2004. There are two wetland areas and two drainage ditches on or adjacent to the subject property.

At the time of the previous rezone request (SZ-1466), a subdivision was being proposed on the subject property adding one new access point. The petitioner has since revised his plans to better comply with all of the development requirements, and is now proposing a land division by Certified Survey Map, which would result in two new access points and the elimination of one of the existing access points.

Plainview Road is currently under the jurisdiction of the Town of Lisbon, and the request for three access points complies with the Town Code. In the event Waukesha County would obtain responsibility for the road in the future in accordance with the Jurisdictional Highway Plan, the County would only allow two access points when developing this property. The County Dept. of Public Works did indicate they would accept Plainview Road as a County Trunk Highway in the future if the Town wanted to transfer it to the County.

Generally, the soil types north of the floodplain boundary line are unsuitable for development. The soil types south of the floodplain boundary line are suitable for development purposes. The petitioner had monitoring wells and soil tests done in the early 1990's, and new soil tests have been submitted in conjunction with this new development proposal.

**STAFF RECOMMENDATION:**

Based upon the above information, the Planning and Zoning staff recommends **approval** of the petitioner's request to amend the previous condition of approval as requested. The request is in conformance with the WCDP and is consistent with the Town's zoning for this property which is a factor to consider in this case as the only County zoning jurisdiction on the property is C-1 Conservancy. The Conservancy area will benefit from the rezoning as no development will be allowed in the C-1 area. In addition, the request to amend the previous condition of approval complies with the Town Code regarding access to a public street and the Town Engineer has approved the number of access points due to good visibility and the spacing of the existing and proposed driveways. The County DPW is also in agreement with the proposal in the event the road would be transferred to the County in the future as the number of access points would be limited to three.

Respectfully submitted,

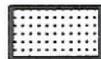
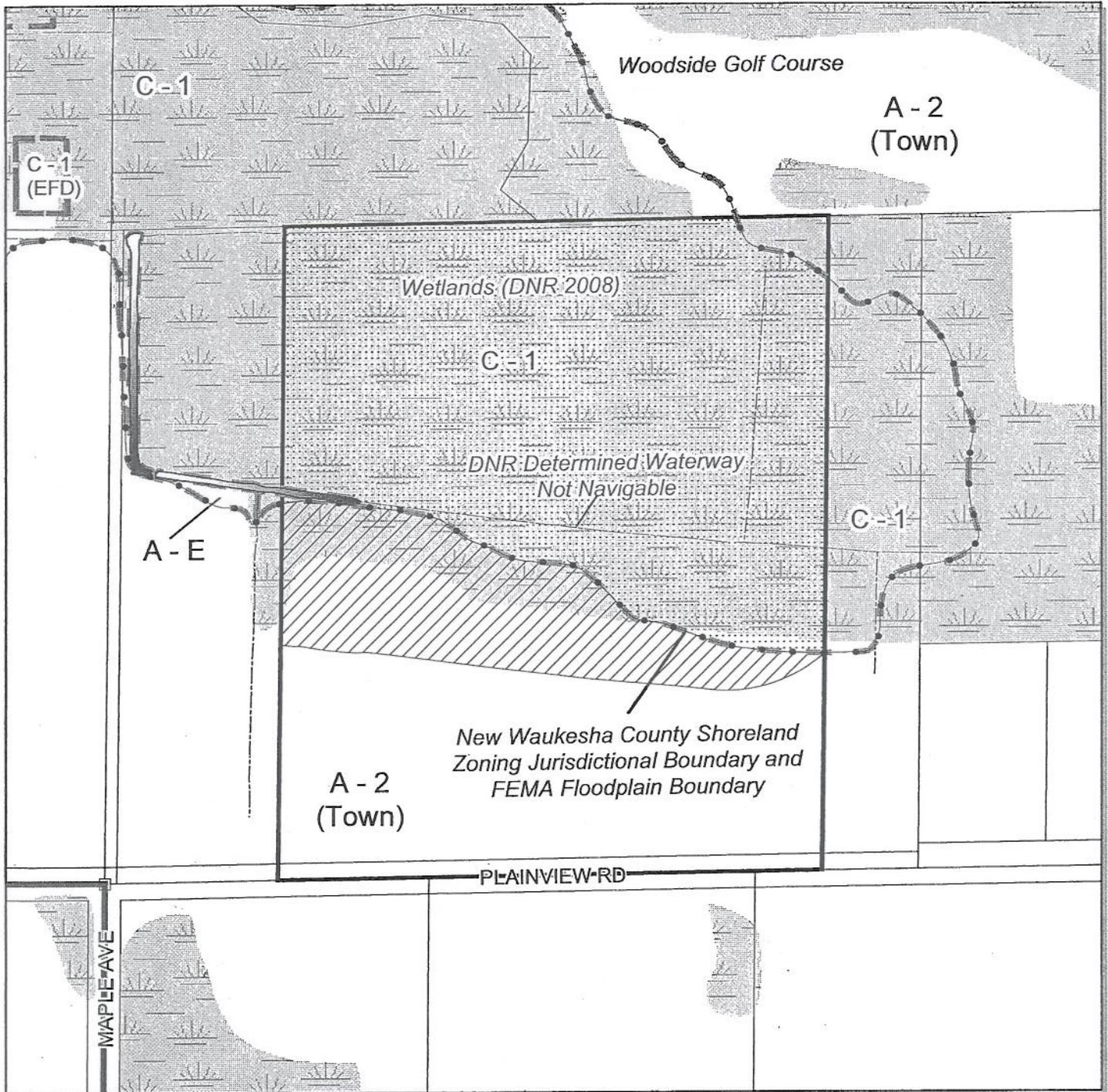


Sandy Scherer  
Senior Planner

Attachment: Map

# ZONING MAP AMENDMENT

PART OF THE SW 1/4 OF SECTION 11  
TOWN OF LISBON



CHANGE IN CONDITIONS OF APPROVAL FOR SHORELAND REZONE FILE NUMBER SZ-1466A (17.8 AC)



REMOVE R-1 RESIDENTIAL SHORELAND ZONING AS A RESULT OF NON-NAVIGABILITY DETERMINATION (5 AC)

FILE.....SZ-1466A

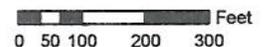
DATE.....01-15-09

AREA OF CHANGE.....22.8 ACRES

TAX KEY NUMBER.....LSBT 0187.998.006



1 inch = 300 feet



Prepared by the Waukesha County Department of Parks and Land Use

163-0-081

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-02/24/09

(ORD) NUMBER-1630081

1 D. FALSTAD.....AYE  
 3 R. HUTTON.....AYE  
 5 J. JESKEWITZ.....AYE  
 7 P. HAUKOHL.....AYE  
 9 J. HEINRICH.....AYE  
 11 F. RUF.....AYE  
 13 P. DECKER.....AYE  
 15 P. MEYERS.....AYE  
 17 J. TORTOMASI.....AYE  
 19 S. WIMMER.....AYE  
 21 W. ZABOROWSKI.....AYE  
 23 J. PLEDL.....AYE  
 25 G. YERKE.....AYE

2 T. ROLFS.....AYE  
 4 J. DWYER.....AYE  
 6 J. BRANDTJEN.....AYE  
 8 T. SCHELLINGER....AYE  
 10 D. SWAN.....AYE  
 12 P. WOLFF.....AYE  
 14 B. MORRIS.....AYE  
 16 D. PAULSON.....AYE  
 18 K. CUMMINGS.....AYE  
 20 P. JASKE.....AYE  
 22 P. GUNDRUM.....AYE  
 24 W. KOLB.....AYE

TOTAL AYES-25

TOTAL NAYS-00

CARRIED X

DEFEATED \_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-25