

ENROLLED ORDINANCE 161-91

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF SUMMIT AND THE TOWN OF SUMMIT ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 22 AND PART OF THE NW ¼ OF SECTION 23, T7N, R17E, TOWN OF SUMMIT, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT (COUNTY) AND THE A-1 AGRICULTURAL DISTRICT (TOWN) TO THE R-1 RESIDENTIAL DISTRICT (COUNTY) AND THE R-1 ESTATE RESIDENTIAL DISTRICT (TOWN) (SZT-1635)

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 59.692 and 60.61 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 Summit, Waukesha County, Wisconsin, adopted on June 23, 1970, and the Town of Summit Zoning Ordinance adopted on August 12, 2003, are hereby amended to conditionally rezone from the A-P Agricultural Land Preservation District (County) and the A-1 Agricultural District (Town) to the R-1 Residential District (County) and the R-1 Estate Residential District (Town), as noted in the Town of Summit amending Ordinance No. 275-07, adopted by the Town of Summit on January 4, 2007, certain lands located in part of the NE ¼ of Section 22 and part of the NW ¼ of Section 23, T7N, R17E, Town of Summit, 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-1635) subject to the following conditions:

1. All conditions of the Town of Summit Board shall be incorporated as an integral part of this Conditional Rezoning (see attached Town of Summit Ordinance No. 275-07, Exhibit “A”).
2. The site layout must remain in substantial compliance with the conceptual development plan dated May 18, 2006, and referenced as Exhibit “B” (See attached Staff Report and Recommendation).
3. A Conditional Use Permit for a Residential Planned Unit Development must be obtained from Waukesha County.

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

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.

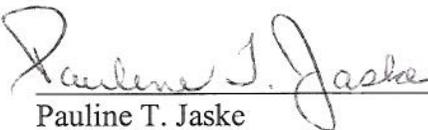
AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF SUMMIT AND THE TOWN OF SUMMIT ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 22 AND PART OF THE NW ¼ OF SECTION 23, T7N, R17E, TOWN OF SUMMIT, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT (COUNTY) AND THE A-1 AGRICULTURAL DISTRICT (TOWN) TO THE R-1 RESIDENTIAL DISTRICT (COUNTY) AND THE R-1 ESTATE RESIDENTIAL DISTRICT (TOWN) (SZT-1635)

Presented by:
Land Use, Parks, and Environment Committee


William A. Mitchell, Chair

Absent
Keith Hammitt

Absent
Keith Harenda


Pauline T. Jaske


Walter L. Kolb

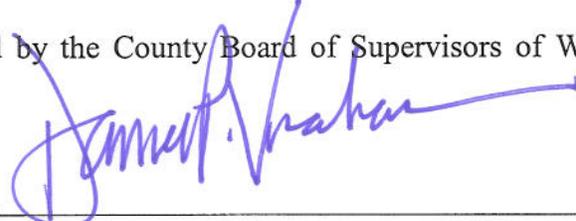
Absent
Vera Stroud


Peter M. Wolff

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

Date: 3/22/07, 
Kathy Nickolaus, County Clerk

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

Approved:
Vetoed:
Date: 3-22-07, 
Daniel P. Vrakas, County Executive

STATE OF WISCONSIN TOWN OF SUMMIT WAUKESHA COUNTY

ORDINANCE NO. 275-07

AN ORDINANCE TO CONDITIONALLY REZONE AND AMEND THE
TOWN OF SUMMIT ZONING DISTRICT MAP
OF THE TOWN OF SUMMIT CODE
BY PLACING CERTAIN LANDS IN THE TOWN OF SUMMIT
FROM THE A-1 AGRICULTURAL DISTRICT (SECTION 235-41)
TO THE R-1 ESTATE RESIDENTIAL DISTRICT (SECTION 235-31).

WHEREAS, a petition has been filed by John Siepmann, ("Petitioner"), on behalf of the owner of certain lands in the Town of Summit, to rezone certain property located at 35847 Delafield Road in the Town of Summit, as further described in the legal description attached hereto and incorporated herein ("subject property"); and

WHEREAS, said rezoning petition was submitted to rezone the subject property from A- 1 Agricultural District (Section 235-41 of the Town Code) to the R-1 Estate Residential District (Section 235-31 of the Town Code); and

WHEREAS, the Petitioner has supplied all required data pursuant to the Town Code, and a public hearing was conducted by the Town Plan Commission of the Town of Summit on November 16, 2006 as required by Section 235-80(B)(5) of the Town Code, upon due notice as required by Section 235-81 of the Town Code; and

WHEREAS, the Town Board of the Town of Summit, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety and welfare of the community, and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others, hereby determine that the rezoning will not violate the spirit or intent of the Town Code, will not be contrary to the public health, safety or general welfare of the Town of Summit, will not be hazardous, harmful, noxious, offensive and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same,

NOW, THEREFORE, the Town Board of the Town of Summit, Waukesha County, Wisconsin, DO ORDAIN as follows:

SECTION 1: The subject property is hereby conditionally rezoned to R-1 Estate Residential District, and the Zoning Map of the Town of Summit is hereby conditionally amended to change the zoning of the subject property from A-1 Agricultural District (Section 235-41 of the Town Code) to the R-1 Estate Residential District (Section 235-31

of the Town Code), if the conditions stated in Section 2 of this ordinance are complied with.

SECTION 2: The above rezoning and zoning map amendment is conditioned upon the following conditions, which must be complied with or this ordinance is null and void:

- A. **SUBJECT TO PLAN PRESENTATION AND COMPLIANCE.** The Subject Parcel must be developed in substantial conformity with the Town Master Plan and the information presented at the public hearing on November 16, 2006, including, but not limited to: 22 lots for single-family residential development and no more than 5 outlots which shall be dedicated in equal, undivided interest to the residential lots of this subdivision or to the Town of Summit for public access to Upper Genesee Lake, and subject to the plans and conditions described herein.
- B. **SUBJECT TO PRELIMINARY AND FINAL PLAT.** All conditions of approval of the Preliminary Plat, if said approval is granted, shall be complied with; and Petitioner shall prepare and submit a final plat for approval. The final plat shall be subject to the approval of the Town of Summit Town Plan Commission and Town Board. In addition, all terms and conditions of the Town of Summit Code shall be complied with in all respects, along with all applicable rules ordinances, statutes and other procedures related to said Preliminary and Final Plat, and subject to satisfying any conditions that may be imposed upon that land division, prior to this conditional rezoning ordinance being effective.
- C. **SUBJECT TO AGENCY APPROVALS.** This Ordinance is subject to Petitioner requesting and being granted approval from Waukesha County for a rezoning of the Waukesha County Shoreland and Floodland Protection Ordinance. And also subject to compliance with any and all conditions placed on that decision, prior to this conditional rezoning ordinance being effective. This ordinance is also subject to Petitioner requesting and being granted approval from Waukesha County for a conditional use permit for a Residential Planned Unit Development and complying with any and all conditions placed on that decision prior to the conditional rezoning ordinance being effective.
- D. **SUBJECT TO APPROVAL OF A PUBLIC ACCESS FOR UPPER GENESEE LAKE.** This ordinance is subject to Petitioner providing public access of at least 60 feet width to and along Upper Genesee Lake via a land dedication to the Town of Summit in a location that is subject to the approval of the Town Board. No improvements or development is required to be performed by the Petitioner as part of this dedication.
- E. **SUBJECT TO PUBLIC TRAIL EASEMENT ALONG DELAFIELD ROAD.** This ordinance is subject to Petitioner dedicating an easement for construction of a bicycle and pedestrian trail across the northern limits of this property

(CTH DR). The location and size of the dedication is subject to the approval of the Town Plan Commission and Town Park and Recreation Commission prior to this conditional rezoning ordinance being effective.

- F. SUBJECT TO ADEQUATE INGRESS AND EGRESS. This ordinance is subject to Petitioner providing written approvals to the Town Manager/Planner, in a form approved by the Town Engineer, from the Waukesha County Highway Department for the upgraded roadway intersection along CTH DR (Delafield Road) prior to this conditional rezoning ordinance being effective.
- G. SUBJECT TO ADEQUATE SEPTIC SYSTEM. Petitioner shall submit proof that each of the lots shown in the Preliminary Plat has adequate soils to maintain an on-site septic system to the Town Manager/Planner, subject to the Town Engineer's approval as to reliability of the information and form, and subject to such approval being granted by the Town Engineer prior to this conditional zoning ordinance being effective.
- H. SUBJECT TO LANDSCAPING PLAN. Petitioner shall submit a detailed landscaping and tree preservation plan for the roadway frontages along CTH DR (Delafield Road) and the internal boulevard street south of this County Highway, to the Town Manager/Planner, subject to the approval of both the Plan Commission and Town Engineer prior to this conditional rezoning ordinance being effective.
- I. SUBJECT TO EROSION CONTROL AND STORMWATER MANAGEMENT PLAN. Petitioner shall submit a detailed erosion control plan and a detailed stormwater management plan for the subject property to the Town Manager/Planner, subject to the approval of the Town Engineer. Petitioner shall submit any easements for stormwater facility maintenance to the Town Manager/Planner, subject to the approval of Waukesha County Parks and Land Use Department and the Town Attorney for form being granted.
- J. SUBJECT TO GRADING AND BUILDING SITES. Petitioner shall submit a final grading plan to the Town Manager/Planner, subject to the approval of the Town Engineer and the Waukesha County Department of Parks and Land Use, Environmental Division and Planning Staff. In addition to showing the final grade, the grading plan shall also locate building sites on the lots depicted on the Preliminary Plat, shall show the location of all septic system sites and shall demonstrate to the satisfaction of the Town Engineer that the homes on those lots will be located a minimum of two feet (2') above the groundwater table. Any substantial modifications to the Grading Plan require approval from the Town Engineer and Waukesha County Department of Parks and Land Use.

- K. **SUBJECT TO FINANCIAL GUARANTEE AND AGREEMENT.** Subject to Petitioner submitting to the Town Clerk and receiving approval as to form from the Town Attorney and as to amount from the Town Engineer, a letter of credit or cash and subject to the Petitioner submitting to and receiving from the Town Attorney and the Town Engineer, approval of a Developer's Agreement for the improvements (including all public, private and site development improvements), prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
- L. **SUBJECT TO REIMBURSEMENT OF EXPENSES.** The Petitioner shall pay all fees, costs, and assessments due and owing to the Town of Summit, including any permit fees for applicable permits, and for reimbursement of any expenses, costs and disbursements which have been incurred by the Town of Summit in the drafting, review or enforcement of this rezoning ordinance, including without limitation by reason of enumeration, design, engineering, inspection and legal work.
- M. **ONE YEAR TO SATISFY CONDITIONS.** All of the aforementioned conditions must be satisfied within one year of the date of Town Board approval of this conditional rezoning ordinance, unless extended by the Town of Summit Town Board, or the rezoning ordinance shall be null and void.
- N. **SUBJECT TO ACCEPTANCE.** Subject to the Petitioner and the subject property owner acknowledging in writing that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to re-commence the application process.

SECTION 3. The Town Engineer is hereby authorized and directed to note this rezoning on the Official Zoning Map of the Town of Summit upon successful development of the subject property and satisfaction of all conditions in Section 2 of this ordinance.

SECTION 4. The subject property owner is hereby put on notice that the Town of Summit may rezone the lands or portions thereof subject to this conditional rezoning ordinance to A-1 Agricultural District if the conditions of this ordinance are not fully complied with.

SECTION 5. SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the

ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 6. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage and publication and subject to the conditions stated in Section 2, and this ordinance is null and void and original district zoning shall be in effect with no further notice if said conditions are not complied with on the terms and conditions stated herein.

Passed and adopted this 4th day of January, 2007.

TOWN OF SUMMIT

Leonard J. Susa
Leonard Susa, Town Chair

ATTEST:

Henry J. Elling
Henry J. Elling, Town Clerk

Published and posted this 22nd day of January, 2007.

APPROVAL OF PETITIONER

Dated this _____ day of _____, 2007

PETITIONER

John Siepmann

APPROVAL OF SUBJECT PROPERTY OWNER

Dated this _____ day of _____, 2007.

SUBJECT PROPERTY OWNER

Jay Kenehan

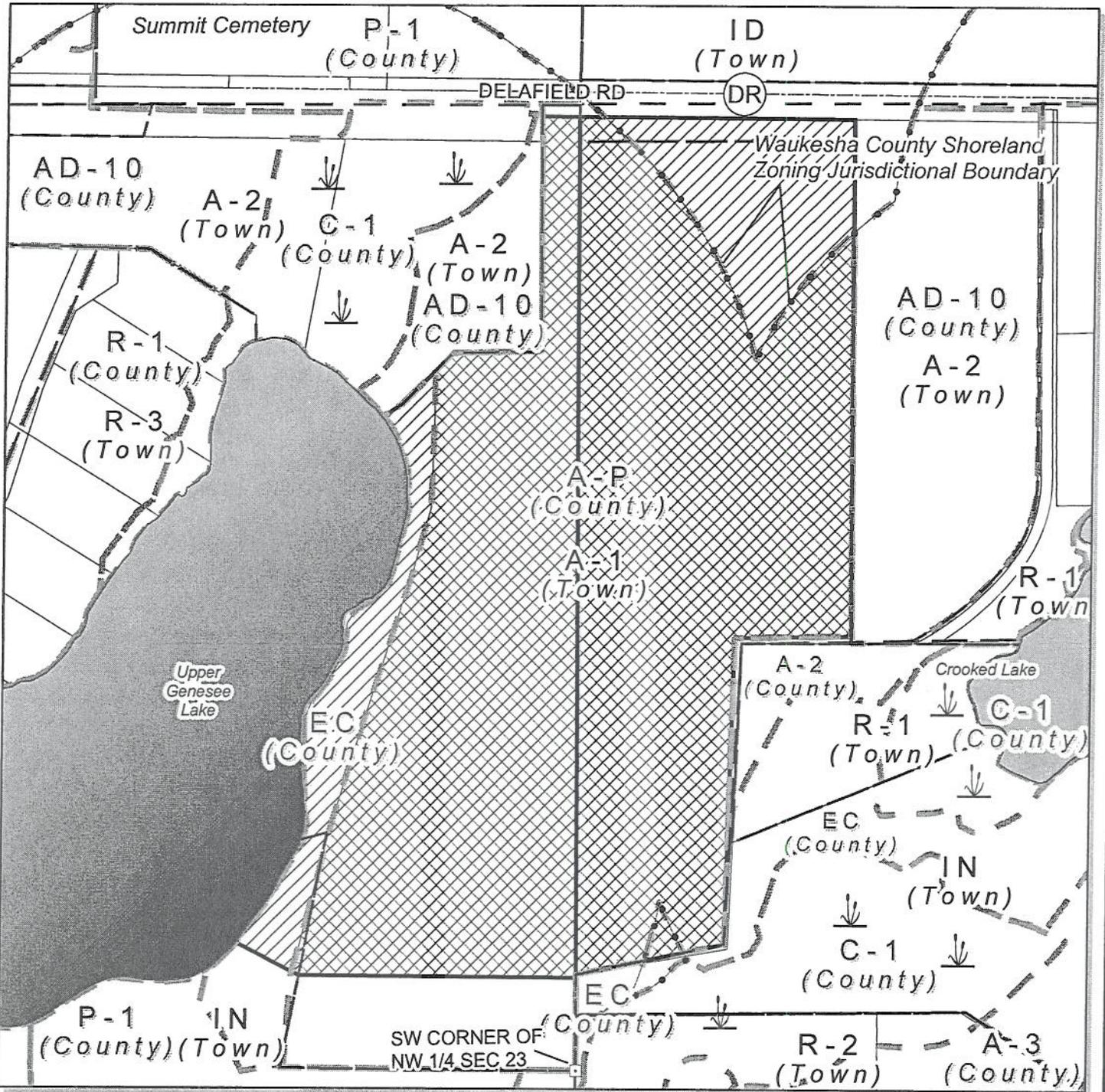
Barbara Kenehan

By: _____
Authorized Signatory

This instrument drafted by
Henry J. Elling, Town Manager/Planner

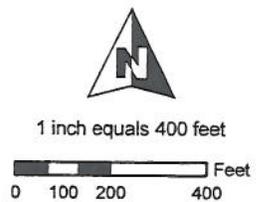
ZONING MAP AMENDMENT

PART OF THE NE 1/4 OF SECTION 22 AND NW 1/4 SECTION 23
TOWN OF SUMMIT



-  CONDITIONAL SHORELAND ZONING CHANGE FROM A-P AG PRESERVATION TO R-1 RESIDENTIAL (50 ACRES)
-  CONDITIONAL TOWN ZONING CHANGE FROM A-1 AGRICULTURAL TO R-1 RESIDENTIAL (58.9 ACRES)

FILE.....SZT-1635
 DATE.....02-15-07
 AREA OF CHANGE.....58.9 ACRES
 TAX KEY NUMBER.....SUMT 0661.984.002
 & SUMT 0666.995.001



Prepared by the Waukesha County
Department of Parks and Land Use

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/13/07

(ORD) NUMBER-1610100

- 1 K. HERRO.....AYE
- 3 T. ROLFS.....
- 5 J. MARCHESE.....AYE
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....AYE
- 13 J. MORRIS.....AYE
- 15 D. SWAN.....AYE
- 17 J. BEHREND.....AYE
- 19 W. MITCHELL.....AYE
- 21 W. KOLB.....AYE
- 23 J. TORTOMASI.....AYE
- 25 K. CUMMINGS.....AYE
- 27 D. PAULSON.....
- 29 T. BULLERMANN.....AYE
- 31 V. STROUD.....AYE
- 33 K. HAMMITT.....AYE
- 35 P. MEYER.....AYE

- 2 R. THELEN.....AYE
- 4 R. HUTTON.....AYE
- 6 D. BROESCH.....AYE
- 8 J. DWYER.....AYE
- 10 S. WOLFF.....
- 12 T. SCHELLINGER....AYE
- 14 S. WIMMER.....AYE
- 16 R. STEVENS.....AYE
- 18 B. MORRIS.....AYE
- 20 P. WOLFF.....
- 22 G. BRUCE.....
- 24 J. VITALE.....AYE
- 26 F. RUF.....
- 28 P. JASKE.....AYE
- 30 K. NILSON.....
- 32 P. GUNDRUM.....AYE
- 34 R. SINGERT.....AYE

TOTAL AYES-28

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS X

TOTAL VOTES-28