

ENROLLED ORDINANCE 163-33

AMEND THE TOWN OF GENESEE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF GENESEE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF SECTION 30, T6N, R18E, TOWN OF GENESEE, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-2 RURAL HOME DISTRICT (CZ-1673)

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 a recommendation for approval thereon reported to the Land Use, Parks and Environmental Committee, and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Section 59.69 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the Town of Genesee District Zoning Map of the Waukesha County Zoning Code, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors, on February 26, 1959, is hereby amended to conditionally rezone certain lands located in part of the SW ¼ of Section 30, T6N, R18E, Town of Genesee, from the A-P Agricultural Land Preservation District to the A-2 Rural Home District, 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 (CZ-1673), subject to the following conditions:

1. The northerly parcel (GNT 1559.999) shall not be further divided. In addition, no lot line shall be adjusted or reconfigured on the aforementioned parcel in any way absent the express written approval of the Town Board of the Town of Genesee.
2. A copy of this restriction shall be recorded with the office of the Waukesha County Register of Deeds and a copy provided to the Planning and Zoning Division Staff and the Town Planning Staff prior to the issuance of any permits to construct the residence or other buildings on the site.
3. Based on the site conditions, the access from the Town Road into the north parcel be on the northerly part of the access strip (north fork), which fronts on Town Highway “GG”.

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

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 the provisions of this Ordinance are hereby repealed.

Referred on: 09/04/08	File Number: 163-O-034	Referred to: LU
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AMEND THE TOWN OF GENESEE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF GENESEE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF SECTION 30, T6N, R18E, TOWN OF GENESEE, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-2 RURAL HOME DISTRICT (CZ-1673)

Presented by:  
Land Use, Parks, and Environment Committee

Absent  
Fritz Ruf, Chair

Absent  
Janel Brandtjen

Robert Hutton  
Robert Hutton

James Jeskewitz  
James Jeskewitz

Walter L. Kolb  
Walter L. Kolb

Ted Rolfs  
Ted Rolfs

Gilbert W. Yerke  
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: 9-26-08, Kathy Nickolaus  
Kathy Nickolaus, County Clerk

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

Approved: X  
Vetoed: \_\_\_\_\_  
Date: 9-29-08, Daniel P. Vrakas  
Daniel P. Vrakas, County Executive

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

FILE NO.: CZ-1673

TAX KEY NO.: GNT: 1559.999 and GNT: 1559.992

DATE: July 31, 2008

PETITIONER: Mark and Brenda Johansen  
2217 Stony Ridge Drive  
Waukesha, WI 53186

PETITIONER/OWNER: Richard Kipp  
E5237 Irish Ridge Road  
Viroqua, WI 54665

LOCATION:

The northern parcel is located within part of the SW ¼ of Section 30, T6N, R18E, Town of Genesee and is located adjacent to, and southeast of Town Highway "GG", containing approximately 8 acres. The southern parcel is located in part of the SW ¼ of Section 30 and part of the NW ¼ of Section 31, T6N, R18E, Town of Genesee and abuts C.T.H. "ZZ" to the south and is located between the roads Woodland Wonderland Court and Woodchuck Hollow, containing approximately 28 acres.

PRESENT ZONING:

A-P Agricultural Land Preservation District.

PRESENT LAND USE:

Agricultural.

PROPOSED ZONING:

A-2 Rural Home District.

PROPOSED LAND USE:

Residential.

PUBLIC HEARING DATE:

June 23, 2008.

PUBLIC REACTION:

A neighboring property owner wanted to be sure neither of the lots would be landlocked and informed the buyers of the dangerous corner along Town Highway "GG", which results in several car accidents each year. A few neighboring property owners were concerned about the number of horses that would be allowed on the property.

TOWN PLAN COMMISSION:

The Town of Genesee Plan Commission, at their meeting of June 23, 2008, recommended approval of the rezoning, subject to the northern parcel being restricted from any further land division.

**TOWN BOARD ACTION:**

The Town of Genesee Board, at their meeting of July 14, 2008, voted to approve the rezoning with the following condition: The northerly parcel (GNT 1559.999) shall not be further divided. In addition, no lot line shall be adjusted or reconfigured on the aforementioned parcel in any way absent the express written approval of the Town Board of the Town of Genesee (Exhibit "A").

**COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN:**

The Waukesha County Land Use Plan designates the property as Rural Density Residential, which allows a maximum density of one (1) unit per five (5) acres of land. The proposal, as conditioned by the Town of Genesee, complies with the Plan.

**OTHER CONSIDERATIONS:**

The two (2) parcels subject to this request are owned by Richard Kipp, collectively, consist of approximately 28 acres and are used for agricultural purposes. The northern parcel abuts Town Highway "GG" and the southern parcel abuts C.T.H. "ZZ". The properties contain at least three (3) kettles and the topography is undulating throughout. The property does not contain any primary environmental corridor or evidence of wetlands. There are isolated areas on both properties containing soils indicative of seasonal high groundwater although other areas contain soils deemed suitable for Residential Development. The parcels are surrounded by residential subdivisions with three (3) acre lot sizes or larger and are zoned A-2 Rural Home District. There are areas on both lots, according to the soils maps, which should accommodate residential use with septic systems.

The Johansen's are proposing to purchase the northern parcel, containing approximately eight (8) acres. They are interested in constructing a residence and operating a private horse farm for personal use on the property. The Johansen's are requesting to rezone the property from the A-P Agricultural Land Preservation District to the A-2 Rural Home District, since residential structures are only allowed in A-P zoned lands when a member of the family who lives in the residence makes a substantial part of his or her living from the operation. Since the Johansen's are proposing to have a private horse farm, which is considered farming, but are not profiting from the operation, they will not be making a substantial part of their living from the operation. In addition, the existing parcels are non-conforming in aggregate to the lot size requirements of the A-P Agricultural Land Preservation District category since combined they do not contain 35 acres. The Johansen's originally proposed to amend the zoning category of the northern parcel to A-5 Mini-Farm District, which requires a five (5) acre minimum lot size and does not have any restrictions related to the number of horses. Our office suggested the proposed zoning be amended to the A-2 Rural Home District, which requires a three (3) acre minimum lot size. A-2 Rural Home District is consistent with the zoning category of the surrounding lands and has a limit on the number of horses allowed. One (1) horse is allowed for the first three (3) acres of land and an additional horse is allowed for each additional acre thereafter. The petitioner's would be allowed approximately five to six (5 to 6) horses on the property. Since the Waukesha County Land Use Plan designates the property in the Rural Density Residential category, a maximum density of one (1) unit per five (5) acres is permitted. It should be noted the Waukesha County Planning and Zoning Division and the Town of Genesee Plan Commission felt the A-5 Mini Farm District may be considered spot zoning for this particular area. There currently are no lots zoned A-5 Mini Farm District within the limits of the Town of Genesee.

As a result of the Johansen's request, our office contacted Mr. Kipp to determine if he would be interested in amending the zoning district on the southerly parcel, which is also currently non-conforming to the A-P Agricultural Land Preservation District requirements, since it is just less than 20 acres in size, whereas 35 acres is required. Mr. Kipp has no intentions of developing this parcel at the present time. The Johansen's have been notified that if Mr. Kipp amends the zoning category of the southerly parcel and they wish to have more horses than their lot would allow, they can either have additional lands transferred from the southerly parcel to the northerly parcel or they can lease additional lands from contiguous property to increase the maximum number of horses permitted.

Although the subject highway is not a County Trunk Highway, on July 28, 2008, the Planning and Zoning Division Staff visited the northern parcel with the Waukesha County Public Works Staff for assistance, to determine if safe site distance would be provided for ingress/egress to Town Highway "GG" from the parcel. Accordingly, the Staff recommends the access be limited to the northeast side of the access strip, which fronts on Town Highway "GG" as it affords a good access point for safe viewing distance. In addition, the Town should consider reducing the speed limit to 25 miles per hour around the subject curve and install a "slow down" sign southwest of the curve for northbound vehicles.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff this request to amend the County Zoning Code be **approved**, subject to the following conditions:

1. The northerly parcel (GNT 1559.999) shall not be further divided. In addition, no lot line shall be adjusted or reconfigured on the aforementioned parcel in any way absent the express written approval of the Town Board of the Town of Genesee.
2. A copy of this restriction shall be recorded with the office of the Waukesha County Register of Deeds and a copy provided to the Planning and Zoning Division Staff and the Town Planning Staff prior to the issuance of any permits to construct the residence or other buildings on the site.
3. Based on the site conditions, the access from the Town Road into the north parcel be on the northerly part of the access strip (north fork), which fronts on Town Highway "GG".

The Planning and Zoning Division Staff further recommends the Town reduce the speed limit (to 25 miles per hour from 35 miles per hour) and install the signage mentioned above. As recommended, the proposed rezoning is in conformance with the Waukesha County Development Plan, which allows for uses similar to all of the surrounding properties. The proposal, as conditioned, should provide a safe access for the residents as well as the traveling public using Town Highway "GG".

Respectfully submitted,

*Amy Barrows / Kab*

Amy A. Barrows  
Senior Land Use Specialist

Attachment: Exhibit "A"  
Map

RECEIVED  
JUL 20 2008  
DEPT OF PARKS & LAND USE

**CERTIFICATION**

This is to certify that the  
attached is a true and accurate copy  
of Resolution 08-5R

Passed and adopted by the Town Board of the Town of Genesee,  
Waukesha County, Wisconsin on the  
14<sup>th</sup> Day of July, 2008

*Barbara A. Whitmore*  
Barbara A. Whitmore, WCMC  
Clerk  
Town of Genesee

Subscribed and sworn to before me  
this 17<sup>th</sup> day of July, 2008.

*Elizabeth Friedman*  
Notary Public, State of Wisconsin  
My commission expires on: 1-11-09

**RESOLUTION 08-5R**

**TOWN BOARD OF THE TOWN OF GENESEE**

**A Municipal Corporation**

WHEREAS, a Zoning Amendment request was filed by Mark & Brenda Johansen, agent for Richard Kipp to amend the Town of Genesee District Zoning Map of the Waukesha County Zoning Code from the A-P Agricultural Land Preservation District to the A-2, Rural Home District, on the following described properties:

Part of the SW ¼ of Section 30, T6N, R18E, Town of Genesee and is located adjacent to and southeast of C.T.H. GG. Also known as Tax Key No. GNT 1559.999, and

Part of the SW ¼ of Section 30 and part of the NW ¼ of Section 31, T6N, R18E, Town of Genesee and abuts C.T.H. ZZ to the south. Also known as Tax Key No. GNT 1559.992

and,

WHEREAS, A Joint Public Hearing was held by the Town of Genesee Plan Commission and the Waukesha County Department of Parks and Land Use on June 23, 2008 at the Genesee Town Hall located at S43 W31391 Highway 83 Genesee Depot, Wisconsin to consider said request: and

WHEREAS, the Town of Genesee Plan Commission held a public meeting to discuss said request. After discussion in regards to said request, by motion, properly made and seconded, the Genesee Town Plan Commission voted to recommend to the Town Board an approval of the request.

WHEREAS, the Genesee Town Board held a public meeting on Monday, July 14, 2008 to discuss said request. **BASED UPON THE SAME:**

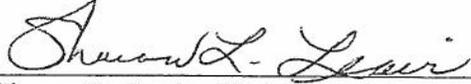
IT IS HEREBY RESOLVED BY THE TOWN BOARD OF THE TOWN OF GENESEE, it being the town affected by said proposed zoning amendment, THAT, the request for the petitioner be approved subject to the following condition:

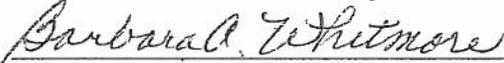
1. The northerly parcel (GNT 1559.999) shall not be further divided. In addition, no lot line shall be adjusted or reconfigured on the aforementioned parcel in any way absent the express written approval of the Town Board of the Town of Genesee.

AND FURTHER BE IT RESOLVED;

BY THE TOWN BOARD OF THE TOWN OF GENESEE, that the Town of Genesee does hereby give notice to the County that it approves the zoning amendment request of Mark & Brenda Johansen, agent for Richard Kipp.

Dated this 14 day of July, 2008

  
Sharon L. Leair, Chairman

  
Barbara A. Whitmore, Town Clerk

# ZONING MAP AMENDMENT

PART OF THE NW 1/4 OF SECTION 31 AND SW 1/4 OF SECTION 30  
TOWN OF GENESEE



CONDITIONAL ZONING CHANGE FROM A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO A-2 RURAL HOME DISTRICT

FILE.....CZ-1673

DATE.....07-31-08

AREA OF CHANGE.....28 ACRES

TAX KEY NUMBER.....GNT 1559.999 & .992



1 inch equals 500 feet



Prepared by the Waukesha County Department of Parks and Land Use

163-0-034

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-09/23/08

(ORD) NUMBER-1630034

1	D. FALSTAD.....	AYE	2	T. ROLFS.....	AYE
3	R. HUTTON.....	AYE	4	J. DWYER.....	AYE
5	J. JESKEWITZ.....	AYE	6	J. BRANDTJEN.....	AYE
7	P. HAUKOHL.....	AYE	8	T. SCHELLINGER....	AYE
9	J. HEINRICH.....	AYE	10	D. SWAN.....	AYE
11	F. RUF.....	AYE	12	P. WOLFF.....	AYE
13	J. BEHREND.....	AYE	14	B. MORRIS.....	AYE
15	P. MEYERS.....	AYE	16	D. PAULSON.....	AYE
17	J. TORTOMASI.....	AYE	18	K. CUMMINGS.....	AYE
19	S. WIMMER.....	AYE	20	P. JASKE.....	AYE
21	W. ZABOROWSKI.....	AYE	22	P. GUNDRUM.....	AYE
23	J. PLEDL.....	AYE	24	W. KOLB.....	AYE
25	G. YERKE.....	AYE			

TOTAL AYES-25

TOTAL NAYS-00

CARRIED \_\_\_\_\_

DEFEATED \_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-25