

ENROLLED ORDINANCE 164-27

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF EAGLE ZONING ORDINANCE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 35, T5N, R17E, TOWN OF EAGLE, WAUKESHA COUNTY, WISCONSIN, FROM THE C-1 CONSERVANCY DISTRICT TO THE A-2 RURAL HOME AND C-1 CONSERVANCY DISTRICTS (ZT-1689)

WHEREAS the subject matter of this Ordinance having been approved by the Eagle Town Board on April 6, 2009 after Public Hearing, the requisite notice of the hearing was given, the matter was duly referred to and considered by the Waukesha County Park and Planning Commission, and a recommendation for approval was made, which was reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.61 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Eagle Zoning Ordinance, adopted by the Town of Eagle on December 1, 1990, is hereby amended to rezone from the C-1 Conservancy District to the A-2 Rural Home and C-1 Conservancy Districts, certain lands located in part of the NE ¼ of Section 35, T5N, R17E, Town of Eagle, 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 (ZT-1689).

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

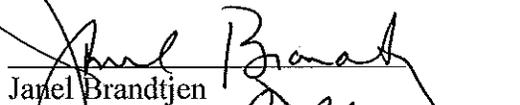
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

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FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

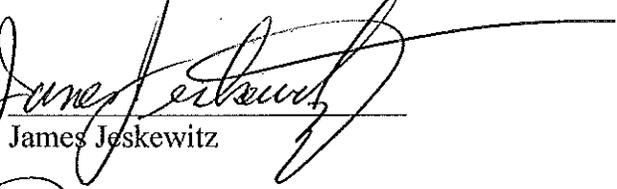
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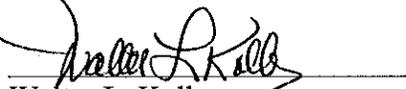
Presented by:
Land Use, Parks, and Environment Committee


Fritz Ruf, Chair


Janel Brandtjen


Robert Hutton


James Jeskewitz


Walter L. Kolb

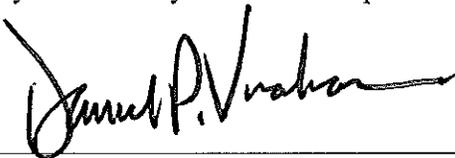

Ted Rolfs


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: 7-31-09, 
Kathy Nickolaus, County Clerk

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

Approved: X
Vetoed: _____
Date: 8-11-09, 
Daniel P. Vrakas, County Executive

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

FILE NO.: ZT-1689

TAX KEY NO.: EGLT 1865.989.001

DATE: April 23, 2009

PETITIONER: Jeffrey & Maureen Schaf
2249 W. Leland Avenue
Chicago, IL 60625

LOCATION:

The property is located in part of the NE ¼ of Section 35, T5N, R17E, Town of Eagle at W352 S10498 Tuohy Road, containing 12.55 acres.

PRESENT ZONING:

C-1 Conservancy District under the Town of Eagle Zoning Code and C-1 Conservancy District and EC Environmental Corridor District under the Waukesha County Shoreland and Floodland Protection Ordinance.

PRESENT LAND USE:

The property is occupied by a residence on the far east end of the parcel.

PROPOSED ZONING:

C-1 Conservancy and A-2 Rural Home District under the Town of Eagle Zoning Code. No change is being made to the County zoning, as it permits the proposed use.

PROPOSED LAND USE:

Replace existing house with a residence subject to the issuance of a Board of Adjustment decision (BA08:041) in the year 2008.

PUBLIC HEARING DATE:

April 6, 2009.

PUBLIC REACTION:

None.

TOWN PLAN COMMISSION ACTION:

At the April 6, 2009 meeting, the Plan Commission voted unanimously to approve the rezoning of the upland portion of the property to the A-2 Rural Home District.

TOWN BOARD ACTION:

The Town Board at the April 6, 2009 unanimously approved the rezoning to the A-2 Rural Home District.

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN:

The entire property, which consists primarily of wetlands and floodplain, as well as the upland portion of the property, is located in the Primary Environmental Corridor designation, which provides for single family residential use on a minimum of 5 acres. The proposed rezoning is consistent with the plan.

OTHER CONSIDERATIONS:

The property in question is a very unusually shaped parcel lying on the far west end of Eagle Springs Lake and is accessed off of Tuohy Road, via a very long private driveway out to an existing house that has been in existence for a number of years. It appears from the older aerial photographs, around 1941, that there may have been a much smaller, cottage type structure on the upland portion of this site, which has since been replaced with a somewhat newer house.

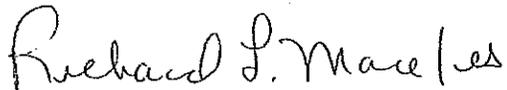
The petitioners have recently applied for and received a Variance to replace the existing residence on the site, with a new home subject to a number of conditions that were imposed by the Board of Adjustment (BA08:041). The reason for a variance was the new residence needed a variance from the 75 ft. setback requirement from the 100-year floodplain and the wetland areas that encompass a majority of the property. There is an upland partially wooded portion on the far northeast end of this long appendage type lot containing 12 ½ acres where upland woods exist on a small hill lie and on which the petitioners propose to replace the existing house with a new residence. They intend to remove the house and place the new residence in the approximate same location as the existing residence in an effort to try to protect the natural woodland characteristics of the remaining portion of the property.

There were actually two recent BOA actions on this property (BA06:052 and BA08:041), the most recent being the one referenced above. In 2006, a previous proposal was requested and approved, which did not, based on the old floodplain data, require any floodplain setbacks but was necessary to meet the conservancy/wetland setback requirements, because the wetlands were too close to the existing home site to meet the new standards. Another issue before the BOA was the disturbance of no more than the 32,600 sq. ft. of the Environmental Corridor. When the calculations were made for the construction of the new house and attached garage, as well as the driveway, there was a slight increase beyond the 32,600 sq. ft. due to the fact that the existing driveway is so long and consumes a very substantial part of the 32,600 sq. ft. That driveway is in existence and has been ever since prior to 1941. There are a number of other conditions requiring elevations above the 100-year floodplain, a minimum distance of 75 ft. from the lake, etc. which have all been incorporated into the 2008 BOA decision. Under the Waukesha County Shoreland and Floodland Protection Ordinance, the proposed residence is permitted with the variances as mentioned above, however the Town had the property zoned entirely in conservancy/wetlands. When an environmental report was prepared by Natural Landscape Inc. (5-08), which identified the specific location of the wetland, it was obvious that the existing wetland was closer to the residence than the minimum 75 ft. distance that is set forth in the Ordinance, therefore the variance was applied for and received. It is also important to note that the new home site is in the same location, although somewhat larger than the existing residence, in an effort to try to protect the natural qualities of the Upland Environmental Corridor that exists on this property. The wetland staking is being used to map the A-2 part of the proposed rezone.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved**. We feel that the proposed rezoning by the Town to the A-2 Rural Home District recognizes the upland characteristics of this site and will be consistent and compatible with the existing County Shoreland zoning on the property. We feel that the proposed change is also consistent with the purpose and intent of the County Development Plan and will be consistent with the BOA action of 2008.

Respectfully submitted,



Richard L. Mace
Planning and Zoning Manager

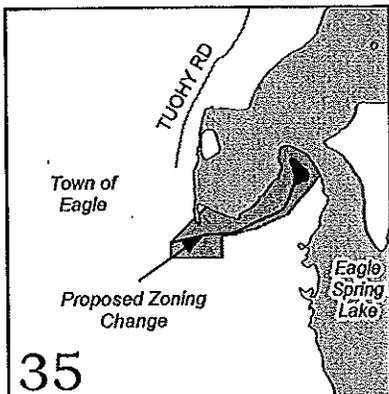
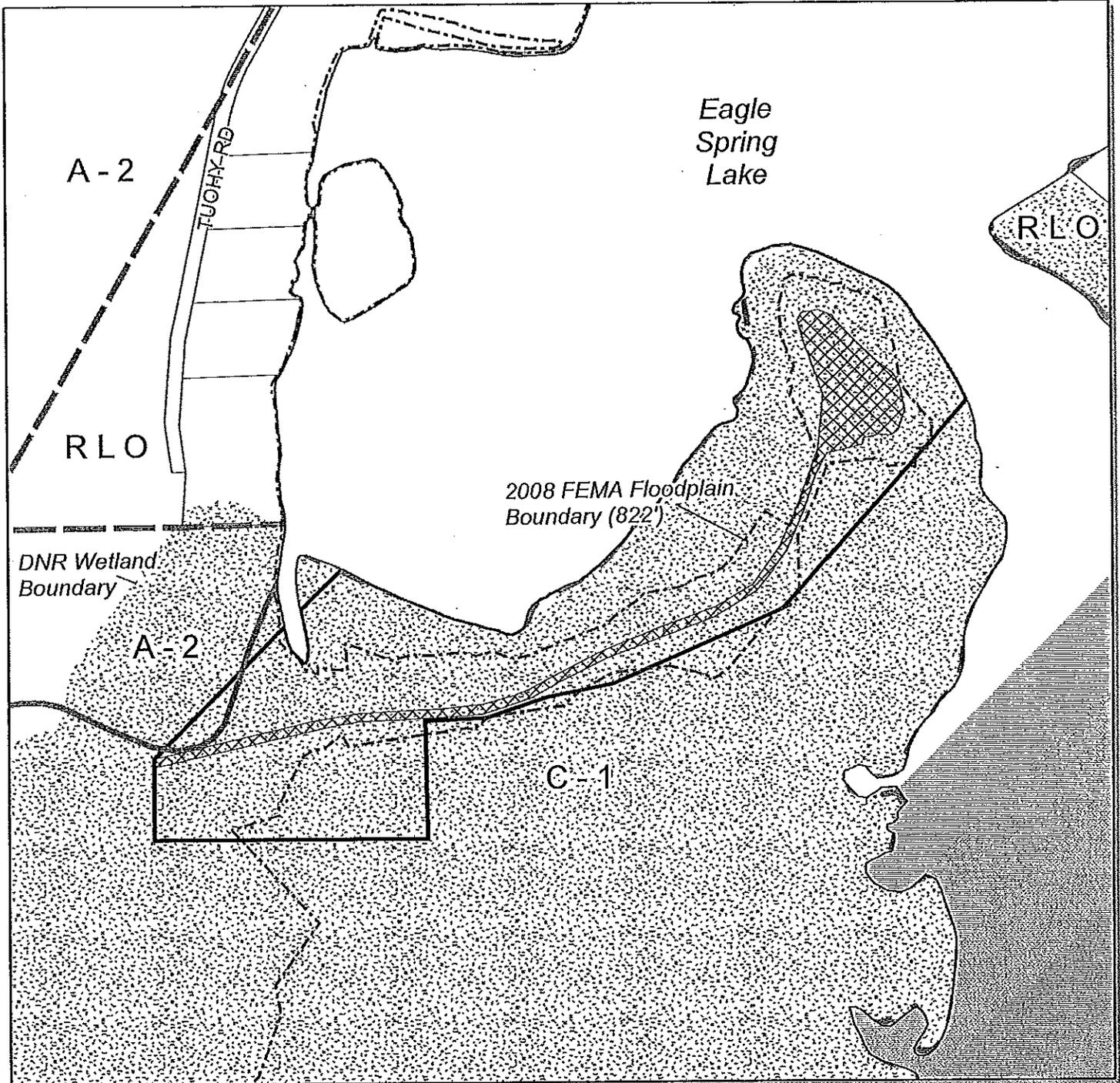
RLM:es

Attachment: . Map
Town Ordinance

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ZONING MAP AMENDMENT

PART OF THE NE 1/4 OF SECTION 35
TOWN OF EAGLE



CONDITIONAL TOWN ZONING CHANGE FROM C-1 CONSERVANCY TO A-2 RURAL HOME

FILE.....ZT-1689

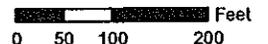
DATE.....04-23-09

AREA OF CHANGE.....0.65 ACRES

TAX KEY NUMBER.....EGLT 1865.989.001



1 inch = 200 feet



35

Prepared by the Waukesha County Department of Parks and Land Use

164-0-027

6.

STATE OF WISCONSIN

TOWN OF EAGLE

WAUKESHA COUNTY

ORDINANCE NO. 09-04A

AN ORDINANCE TO REZONE CERTAIN LANDS
IN THE TOWN OF EAGLE
WAUKESHA COUNTY, WISCONSIN

WHEREAS, the lands identified and described below is zoned C-1 Conservancy and the owners, Jeff and Maureen Schaf, have requested the land be rezoned to the A-2 Rural Home District and C-1 Conservancy District; and

WHEREAS, the Town of Eagle held a public hearing on April 6, 2009;

WHEREAS, the Planning Commission recommended granting the rezone application for all lands outside of the FEMA floodplain area, in compliance with all requirements of the A-2, and C-1 zoning districts and the Land Division Ordinance.

NOW THEREFORE, the Town of Eagle enacts this ordinance and rezones the land described and shown in the Waukesha County Attachment "Zoning Map Amendment" in the Town of Eagle, to the A-2 Rural Home District, granting the rezone application to:

W352 S10498 TUOHY ROAD- TAX KEY # EGLT 1865-989-001
PARCEL 1: PART OF THE NE1/4 OF SECTION 35, TOWN 5 NORTH,
RANGE 17 EAST, IN THE TOWN OF EAGLE, WAUKESHA COUNTY, WISCONSIN

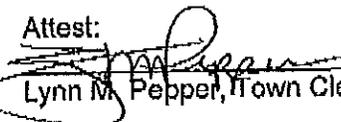
This ordinance is subject to enactment by the Waukesha County Board of Supervisors.

Adopted by the Town Board of Eagle on the 20th day of May, 2009, on motion by
Chairman Kwiatkowski, seconded by Supervisor Malek.

Approved:


Robert Kwiatkowski, Town Chairman

Attest:


Lynn M. Pepper, Town Clerk

Ayes 5 Noes 0 Absent 0

RECEIVED

JUL 01 2009

DEPT OF PARKS & LAND USE

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-07/28/09

(ORD) NUMBER-1640027

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.....

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.....
 22 P. GUNDRUM.....AYE
 24 W. KOLB.....AYE

TOTAL AYES-23

TOTAL NAYS-00

CARRIED X

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-23