

ENROLLED ORDINANCE 166-37

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE CITY OF WAUKESHA BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ AND NW ¼ OF SECTION 29, T6N, R19E, CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE R-3 RESIDENTIAL DISTRICT (SVZ-1718)

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 thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, Waukesha County, Wisconsin, as required by Section 59.692 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance adopted on June 23, 1970, for the City of Waukesha, Waukesha County, Wisconsin, is hereby amended to conditionally rezone certain lands located in part of the NE ¼ and NW ¼ of Section 29, T6N, R19E, City of Waukesha, from the A-1 Agricultural District to the R-3 Residential 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 SVZ-1718 subject to the following condition:

- The Certified Survey Map that will accomplish the proposed land division shall be reviewed and approved by the Waukesha County Department of Parks and Land Use - Planning and Zoning Division Staff, prior to its recordation in the Waukesha County Register of Deed’s office.

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

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

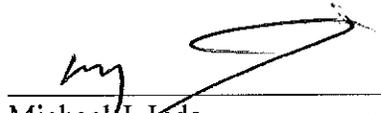
BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

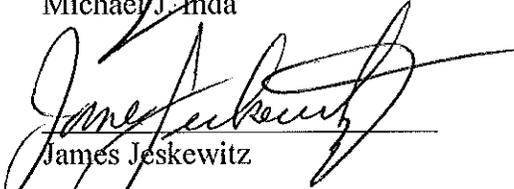
AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION
ORDINANCE DISTRICT ZONING MAP OF THE CITY OF WAUKESHA BY
CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF
THE NE ¼ AND NW ¼ OF SECTION 29, T6N, R19E, CITY OF WAUKESHA,
WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL
DISTRICT TO THE R-3 RESIDENTIAL DISTRICT (SVZ-1718)

Presented by:
Land Use, Parks, and Environment Committee


Fritz Ruf, Chair

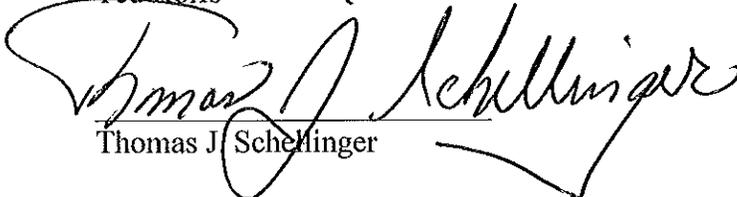
{Absent}
Robert Hutton


Michael J. Inda

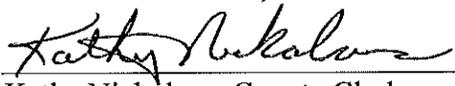

James Jeskewitz


Walter L. Kolb

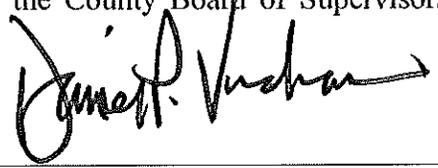
{Absent}
Ted Rolfs


Thomas J. Schellinger

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

Date: 8-26-2011, 
Kathy Nickolaus, County Clerk

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

Approved: ✓
Vetoed:
Date: 8-26-11, 
Daniel P. Vrakas, County Executive

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

DATE: July 21, 2011

FILE NO: SVZ-1718

PETITIONERS/OWNERS: Brian C. and Susan R. Tyndall
2838 River Road (C.T.H. "I")
Waukesha, WI 53189

TAX KEY NUMBER: WAKC 1409.002

LOCATION:

Lot 1B of Certified Survey Map No. 6776, located at the River Road address cited above, in the NE ¼ and the NW ¼ of Section 29, T6N, R19E, City of Waukesha. More specifically, the property is located on the west side of River Road, immediately south of its intersection with Lawnsdale Road. The property has frontage on the Fox River and contains 5.94 acres.

EXISTING ZONING:

The portion of the property that is within the Waukesha County Shoreland and Floodland Protection Ordinance jurisdictional limits is zoned A-1 Agricultural in the upland area, which requires a minimum lot area of three (3) acres, and C-1 Conservancy within the 100-year floodplain and wetland. The subject lands were annexed into the City of Waukesha on June 27, 2001. Under the City of Waukesha Zoning Ordinance, the upland portion of the property is zoned RS-3 Single-Family Residential, which requires a minimum lot area of 8,000 sq. ft., and the area within the 100-year floodplain and wetland is zoned C-1 Lowland Conservancy.

PROPOSED ZONING:

The upland portion of the property is proposed to be rezoned to the R-3 Residential District, under the Waukesha County Shoreland and Floodland Protection Ordinance, which requires a minimum lot area of 20,000 sq. ft. That portion of the property that is currently zoned C-1 Conservancy District will remain in the C-1 Conservancy District, under the Waukesha County Shoreland and Floodland Protection Ordinance. The zoning under the City of Waukesha Zoning Ordinance is not proposed to be amended.

EXISTING LAND USE:

The property contains a single-family residence, a barn, a large shed, and two silos.

PROPOSED LAND USE:

The petitioners are proposing to divide the property into three lots by a Certified Survey Map. One of the lots would be approximately 3.0 acres and would contain the existing buildings. The other lots would be approximately 1.3 acres and 1.5 acres and would be developed for residential use.

PUBLIC HEARING DATE:

June 22, 2011.

PUBLIC REACTION:

None.

CITY OF WAUKESHA PLAN COMMISSION ACTION:

At their meeting of June 22, 2011, the City of Waukesha Plan Commission recommended approval of the requested rezoning.

COMPLIANCE WITH THE CITY OF WAUKESHA LAND USE PLAN AND THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:

The upland portion of the property is designated Medium Density Residential, which calls for a density of 6,000 sq. ft. to 19,999 sq. ft. per dwelling unit, under both the City of Waukesha Land Use Plan and the Comprehensive Development Plan for Waukesha County. That portion of the property within with 100-year floodplain is designated as Primary Environmental Corridor under both Plans. The proposed development is in conformance with both Plans.

OTHER CONSIDERATIONS:

Per Section 59.692 of the Wisconsin State Statutes, the portion of the property that was within the Waukesha County Shoreland and Floodland Protection Ordinance jurisdictional limits (the area within 300 ft. of the Fox River) prior to its annexation into the City of Waukesha, remains subject to the provisions of the Waukesha County Shoreland and Floodland Protection Ordinance, with the City being responsible for the enforcement of those provisions. In 2006, the upland portion of the property was rezoned from the T-1 Temporary District to the RS-3 Single-Family Residential District (minimum lot area 8,000 sq. ft.), under the City of Waukesha Zoning Ordinance. However, the zoning under the Waukesha County Shoreland and Floodland Protection Ordinance was not amended at that time and the upland portion of the property remains zoned A-1 Agricultural under the Waukesha County Shoreland and Floodland Protection Ordinance.

The minimum required lot area in the A-1 Agricultural District is 3 acres. However, the property will be served by municipal sewer and the Waukesha County Shoreland and Floodland Protection Ordinance provides that when municipal sewer is available, "sewer reductions" may be granted to reduce the road setback, offset, floor area ratio, open space, lot size, and lot width requirements up to 30%. With a "sewer reduction", the minimum required lot area in the A-1 Agricultural District would be 2.1 acres. Since two of the proposed lots are less than 2.1 acres, the proposed land division cannot be accomplished until and unless the zoning under the Waukesha County Shoreland and Floodland Protection Ordinance is amended. The proposed rezoning of the upland portion of the property to the R-3 Residential District, under the Waukesha County Shoreland and Floodland Protection Ordinance, will change the minimum required lot area to 20,000 sq. ft. (14,000 sq. ft. with a "sewer reduction") and allow the proposed land division to proceed.

It should be noted that in 2007, the City of Waukesha Board of Zoning Appeals granted wetland and floodplain setback variances on the two proposed vacant lots to permit building envelopes that are setback 50 ft. from the wetland. The City's action allows for a variable floodplain setback of 25 ft. to 35 ft. This provides adequate building envelopes on those lots. The City's Board of Zoning Appeals noted that the extensive wetlands and floodplain on site along with the narrow band of uplands between the County highway and the floodplain created unusual circumstances, which justified setback relief. It should be noted that floodplain setback averaging would have allowed a floodplain setback of approximately 41.5 ft. for Lot 2 and a wetland setback of 48 ft. even without a

variance. In addition, the access to the two proposed vacant lots from River Road (C.T.H. "T"), which will be via one common access point, has been reviewed and approved by the Waukesha County Department of Public Works. Although wetland and floodplain areas of the subject property are currently depicted as future County greenway, the Waukesha County Parks Division is not interested in pursuing ownership at this time and the areas east of the river are likely to be formally removed from the Park and Open Space Plan in the near future.

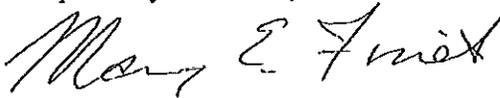
STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends approval of the requested rezoning subject to the following condition:

The Certified Survey Map that will accomplish the proposed land division shall be reviewed and approved by the Waukesha County Department of Parks and Land Use - Planning and Zoning Division Staff, prior to its recordation in the Waukesha County Register of Deed's office.

The proposed rezoning will bring the zoning under the Waukesha County Shoreland and Floodland Protection Ordinance into conformance with zoning under the City of Waukesha Zoning Ordinance and allow the proposed land division to proceed. The proposed rezoning and development will not alter the floodplain and wetland areas of the property and is consistent with both the Comprehensive Development Plan for Waukesha County and the City of Waukesha Land Use Plan.

Respectfully submitted,

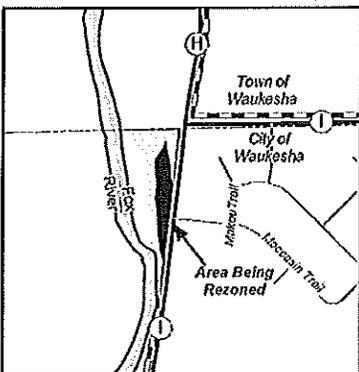
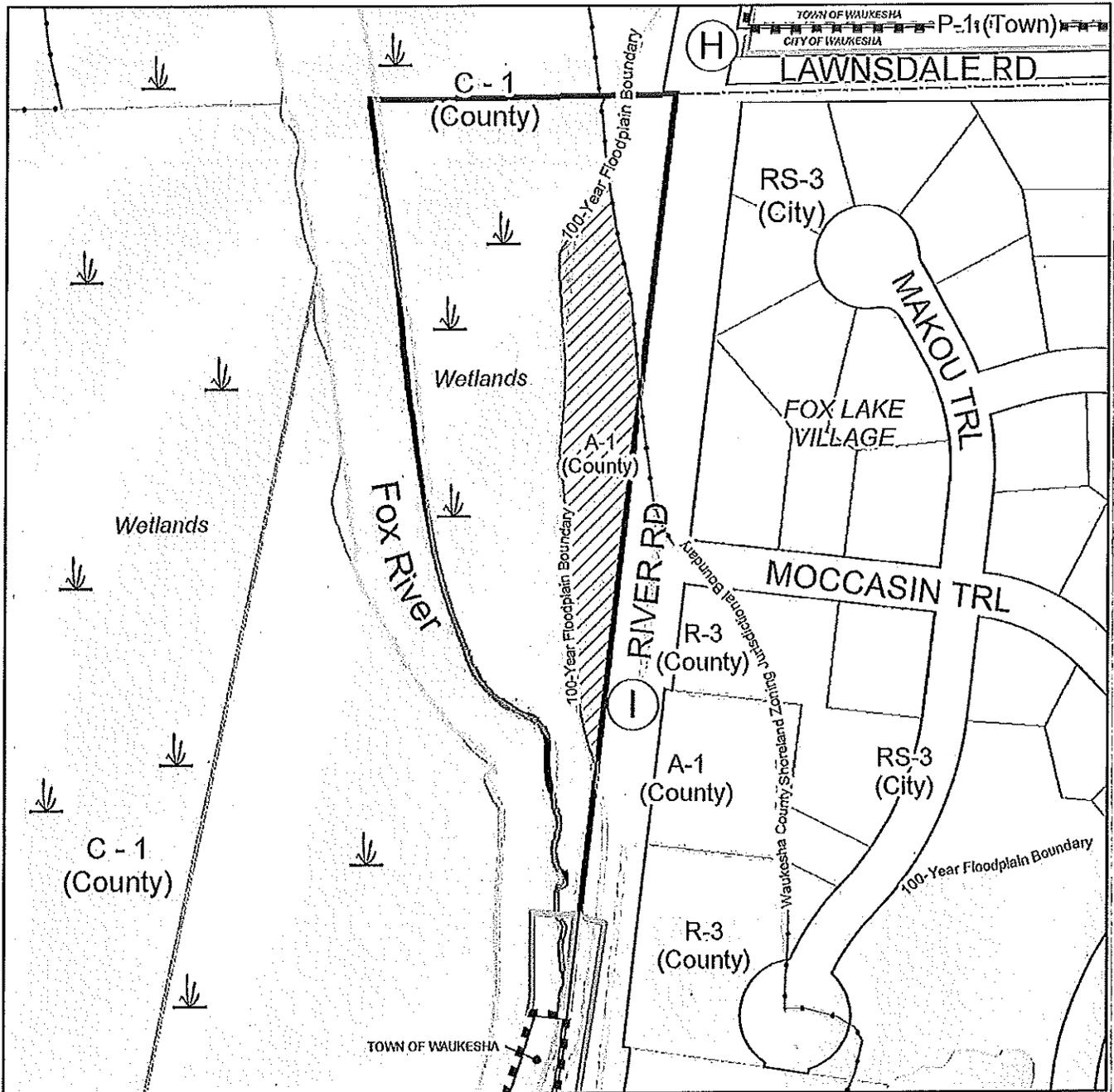


Mary E. Finet
Senior Land Use Specialist

Attachment: Map and Exhibit "A"

ZONING MAP AMENDMENT

PART OF THE NE 1/4 OF SECTION 29
CITY OF WAUKESHA (T6N, R19E)



SHORELAND ZONING CHANGE FROM A-1 AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT (approx. 1.26 Ac)

FILE.....SVZ-1718

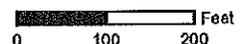
DATE.....07/21/11

AREA OF CHANGE.....APPROX. 1.26 ACRES

TAX KEY NUMBER.....WAKC 1409.002



1 inch = 200 feet



Prepared by the Waukesha County Department of Parks and Land Use

166-0-037

5.

COMMISSION ACTION

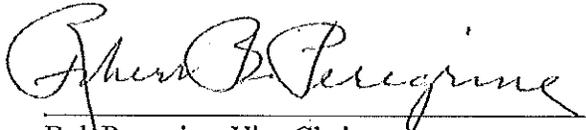
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance hereby recommends approval of SVZ-1718 (Brian and Susan Tyndall) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

July 21, 2011



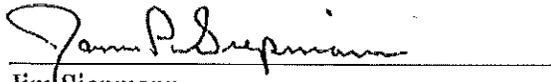
Gary Goodchild, Chairperson



Bob Peregrine, Vice Chairperson



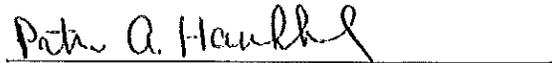
William Mitchell



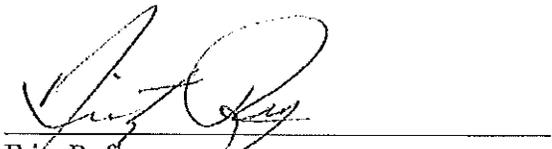
Jim Siepmann



Walter Kolb



Pat Haukohl



Fritz Ruf

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-08/23/11

(ORD) NUMBER-1660037

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 D. DRAEGER.....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 M. INDA.....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 _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-25