

ENROLLED ORDINANCE 173-059

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF LISBON ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 25, T8N, R19E, TOWN OF LISBON, WAUKESHA COUNTY, WISCONSIN, FROM THE A-3 AGRICULTURAL RESIDENTIAL ESTATE DISTRICT TO THE B-4 COMMERCIAL SPECIAL USE DISTRICT (RZ19)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Lisbon Town Board on September 24, 2018; and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.62, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Lisbon Zoning Code, adopted by the Town of Lisbon on April 9, 2010, is hereby amended to rezone from the A-3 Agricultural Residential District to the B-4 Commercial Special Use District, certain lands located in part of the SE ¼ of Section 25, T8N, R19E, Town of Lisbon, Waukesha County, Wisconsin, 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 RZ19, is hereby approved.

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

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

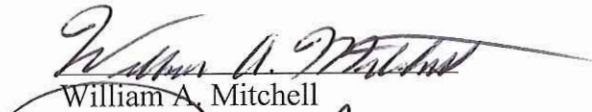
AMEND THE DISTRICT ZONING MAP OF THE TOWN OF LISBON ZONING CODE BY  
REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 25,  
T8N, R19E, TOWN OF LISBON, WAUKESHA COUNTY, WISCONSIN, FROM  
THE A-3 AGRICULTURAL RESIDENTIAL ESTATE DISTRICT TO THE  
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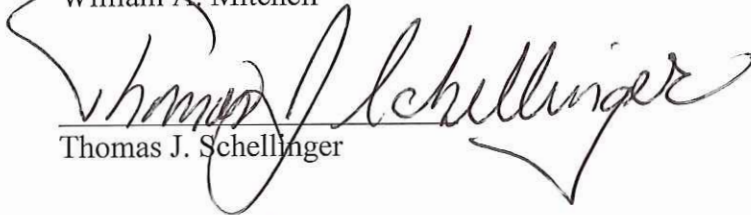
Presented by:  
Land Use, Parks, and Environment Committee

  
David D. Zimmermann, Chair

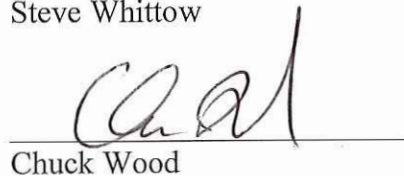
  
Kathleen M. Cummings

absent  
Keith Hammitt

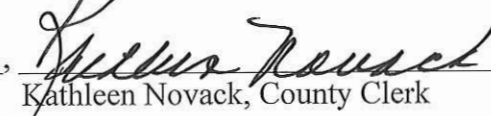
  
William A. Mitchell

  
Thomas J. Schellinger

absent  
Steve Whittow

  
Chuck Wood

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

Date: 4/27/18,   
Kathleen Novack, County Clerk

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

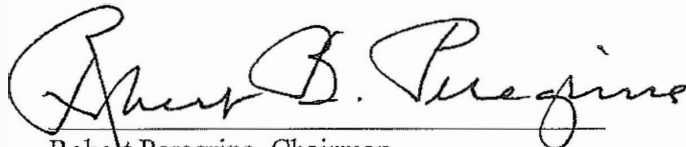
Approved: X  
Vetoed: \_\_\_\_\_  
Date: 12-3-18,   
Paul Farrow, County Executive

**COMMISSION ACTION**

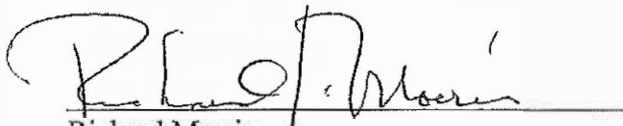
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Lisbon Zoning Code and Map hereby recommends approval of **RZ19 (Casey's General Store)** in accordance with the attached "Staff Report and Recommendation".

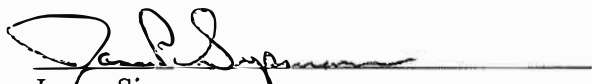
**PARK AND PLANNING COMMISSION**

**October 18, 2018**

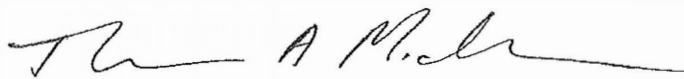
  
Robert Peregrine, Chairman

  
William Mitchell

  
Richard Morris

  
James Siepmann

  
William Maslowski

  
Thomas Michalski

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

**DATE:** October 18, 2018

**FILE NO.:** RZ19

**OWNER:** Thomas Gengler  
W220 N5701 Town Line Road  
Lisbon, WI 53089

**APPLICANT:** Casey's General Store  
c/o Heather Hennick  
One Convenience Blvd.  
Ankeny, IA 50021

**TAX KEY NO.:** LSBT 0244.999.003

**LOCATION:**  
Lot 1, Certified Survey Map No. 4061, Volume 32, Page 42, located in part of the SE ¼ of Section 25, T8N, R19E, Town of Lisbon. More specifically, the property is located at W220 N5701 Town Line Road, containing approximately 3.3 acres.

**EXISTING ZONING:** A-3 Agricultural Residential Estate District.

**PROPOSED ZONING:** B-4 Commercial Special Use District.

**EXISTING USES:**  
Residential and agricultural, including several agricultural accessory buildings.

**PROPOSED USES:**  
Construction of a convenience store and fuel station with a canopy.

**PUBLIC HEARING DATE:** July 12, 2018

**PUBLIC COMMENT:**

- An adjacent neighbor expressed concerns about the operation and did not want a 24-hour operation, which could lead to additional crime and noise. He would like to see a high quality, 8 foot privacy fence along the west lot line to reduce noise and light pollution, and to relocate the dumpster further to the east. He does not want to have outside music or semi-truck fueling. He also questioned the location of the 27-foot high free standing sign, the stormwater plan, who is providing the municipal services, and when the business would open.
- Another adjacent neighbor expressed concerns regarding the lighting and would like it directed away from their yard.
- Another neighbor expressed concerns regarding the operation being open 24/7 and wanted to know whether the store and gas pumps would both be open 24/7 or just the gasoline pumps. If it is only the pumps, could they dim the lights after the store closes? He felt it would attract noisy crowds and motorcycles after nearby area bars close. He questioned if the proposed sign could be a lower monument sign matching the building materials instead of a tall pole sign for aesthetic purposes.

*The Town limited hours of customer hours to 5:00 a.m. to 11:00 p.m. The Town has addressed privacy along the lot line with provision of fencing requirements, lighting plans show cut off type fixtures, the dumpster location has been shifted, no semi-truck fueling areas are provided and signage plans have been revised to reflect a monument sign.*

**TOWN PLAN COMMISSION ACTION:**

On July 12, 2018, the Town of Lisbon Plan Commission recommended to postpone action on the rezone and conditional use requests in order to allow the Board of Appeals (BOA) time to act on the variances required (driveway width, parking and landscaping ) and also to have plan revisions made by the applicant and reviewed by staff. The BOA acted on August 22, 2018, and on September 13, 2018, the Plan Commission subsequently unanimously recommended approval of the rezone to the Town Board and also conditional approval of the conditional use requests and a site plan/plan of operation, 5-1.

**TOWN BOARD ACTION:**

On September 24, 2018, the Town Board unanimously approved Ordinance No. 08-18 (attached) specific to the subject rezoning request.

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF LISBON CDP:**

The Waukesha County CDP designates the subject property as Commercial and Office Park. The County Park and Open Space Plan indicates proposed County Trails along both C.T.H. "V" and C.T.H. "VV".

The Town of Lisbon's CDP similarly designates the lands but with the local Commercial Special Use plan refinement in accordance with the Border Agreement with the Village of Sussex.

Therefore, the proposed zoning change will be consistent with the purpose and intent of the Town and County Comprehensive Development Plans and the proposed development will comply with both plans.

**STAFF ANALYSIS:**

The subject property is located at the northwest corner of C.T.H. "VV" and C.T.H. "V" on the north side of C.T.H. "VV" and contains approximately 3.3 acres. The developer is proposing to construct a convenience store and fuel station with a canopy, a monument sign, and a detention area on the property. The site plan that was submitted with the rezone application is attached as Exhibit "A". Compliance with Town, County and Village of Sussex conditions will require submittal of revised site plans should this rezone and related Conditional Use and Site Plan approvals be obtained. The site will be served with municipal sewer and a private well.

The lands adjoining this parcel are zoned as used: R-1 Residential to the west; A-10 Agricultural, UC Upland Corridor and C-1 Conservancy to the north; Village of Sussex lands across C.T.H "VV" to the south (residential, unused/open), and Village of Menomonee Falls lands across C.T.H. "V" to the east (agricultural). There is a residence located on the parcel immediately to the west.

The lands adjoining this parcel are designated on the CDP as: Commercial and Office Park (Commercial Special Use on Lisbon's CDP) to the west; Commercial and Office Park (Commercial Special Use on Lisbon's CDP) and INRA to the north; Commercial and Office Park and Industrial to the south across C.T.H. "VV" (Village of Sussex); and Low Density Residential to the east across C.T.H. "V" (Village of Menomonee Falls).

The Town and Village of Sussex requested a number of design considerations in response to comments offered. In response, the developer has amended the site plan to include a cedar fence between the property and the residential property to the west. Lighting will be cut off type fixtures only. Hours of operation will be from 5:00 a.m. to 11:00 p.m. The Town and Village required some architectural enhancements to the building and a monument sign rather than a pylon sign. The petitioner is working with the County Department of Public Works regarding driveway locations and Land Resources regarding stormwater management. The related Conditional Use conditions require approval of those County entities. The provided Site Plan is a preliminary plan that does not reflect all required design considerations. The Town will review and approve revised final plans as part of the Conditional Use/Site Plan process.

**STAFF RECOMMENDATION:**

Based on the above analysis, the Planning and Zoning Division Staff recommends approval of this rezone request in accordance with the Town of Lisbon's adopted Ordinance (08-18) approving the same. The proposed zoning change complies with the Town and County CDPs for this site and is consistent with the Village of Sussex CDP to the south. Appropriate site planning measures and the conditions of approval for the Conditional Use and Site Plan/Plan of Operation have been taken at the Town level to alleviate the concerns of the neighbors who spoke at the public hearing to help minimize any adverse affects. This area is also in transition with the construction of a new intermediate school to the west, the Village of Sussex light industrial uses to the south and an ATC laydown yard to the north. Therefore, the proposed use is not inconsistent with many of the existing uses in the area. The rezone will allow for the development of a new convenience store and fuel station which is within the purpose and intent of the Town of Lisbon's Zoning Ordinance.

Respectfully submitted,

*Sandra L. Scherer*

Sandy Scherer  
Senior Planner

Attachments: Town Ordinance 08-18  
Exhibit "A"  
Rezone Map

N:\PRK\ANDL\Planning and Zoning\Rezoning\Staff Reports\RZ19 Caseys General Store Ist.doc

RECEIVED

STATE OF WISCONSIN

TOWN OF LISBON

DEPT OF LAND USE  
WAUKESHA COUNTY

Ord. 08-18

**ORDINANCE REZONING LSBT 0244.999.003, FROM A-3 AGRICULTURAL RESIDENTIAL ESTATE DISTRICT TO B-4 COMMERCIAL SPECIAL USE DISTRICT IN THE TOWN OF LISBON, WAUKESHA COUNTY, WISCONSIN**

**WHEREAS**, Casey's General Store petitioned the Town of Lisbon to rezone property from A-3 Agricultural Residential Estate District to B-4 Commercial Special Use District; and

**WHEREAS**, the change in zoning is consistent with the Town of Lisbon Comprehensive Plan land-use element; and

**WHEREAS**, the Lisbon Plan Commission and Town Board of Supervisors held a Joint Public Hearing on the rezoning request on Thursday, July 12, 2018.

**NOW, THEREFORE**, the Town Board of the Town of Lisbon, Waukesha County, Wisconsin, does ordain as follows:

**SECTION 1:** The following described property is rezoned from A-3 Agricultural Residential Estate District to B-4 Commercial Special Use District:

LOT 1 CERT SURV 4061 VOL 32/42 PT SE1/4 SEC 25 T8N R19E R1660/1311.  
ALSO KNOWN AS LSBT 0244.999.003

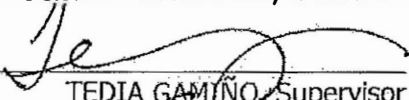
**SECTION 2:** All ordinances or parts of ordinances conflicting with or contravening the provisions of this ordinance are hereby repealed.

**SECTION 3:** This ordinance shall take effect upon passage and posting as provided by law.

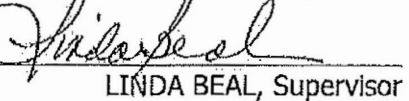
**PASSED AND ADOPTED** by the Town Board of the Town of Lisbon, Waukesha County, Wisconsin this 24<sup>th</sup> day of September, 2018.

TOWN BOARD, TOWN OF LISBON  
WAUKESHA COUNTY, WISCONSIN

BY:   
JOSEPH OSTERMAN, Chairman

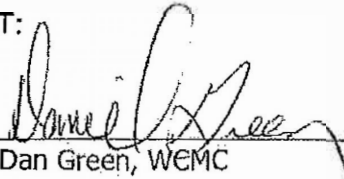
BY:   
TEDIA GAMINO, Supervisor

BY:   
MARC MOONEN, Supervisor

BY:   
LINDA BEAL, Supervisor

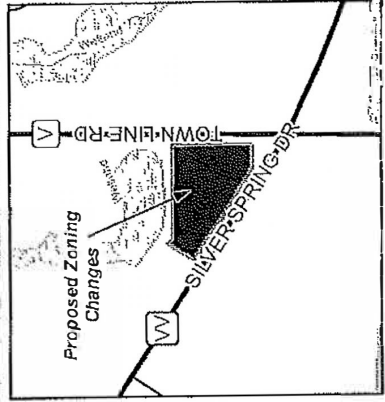
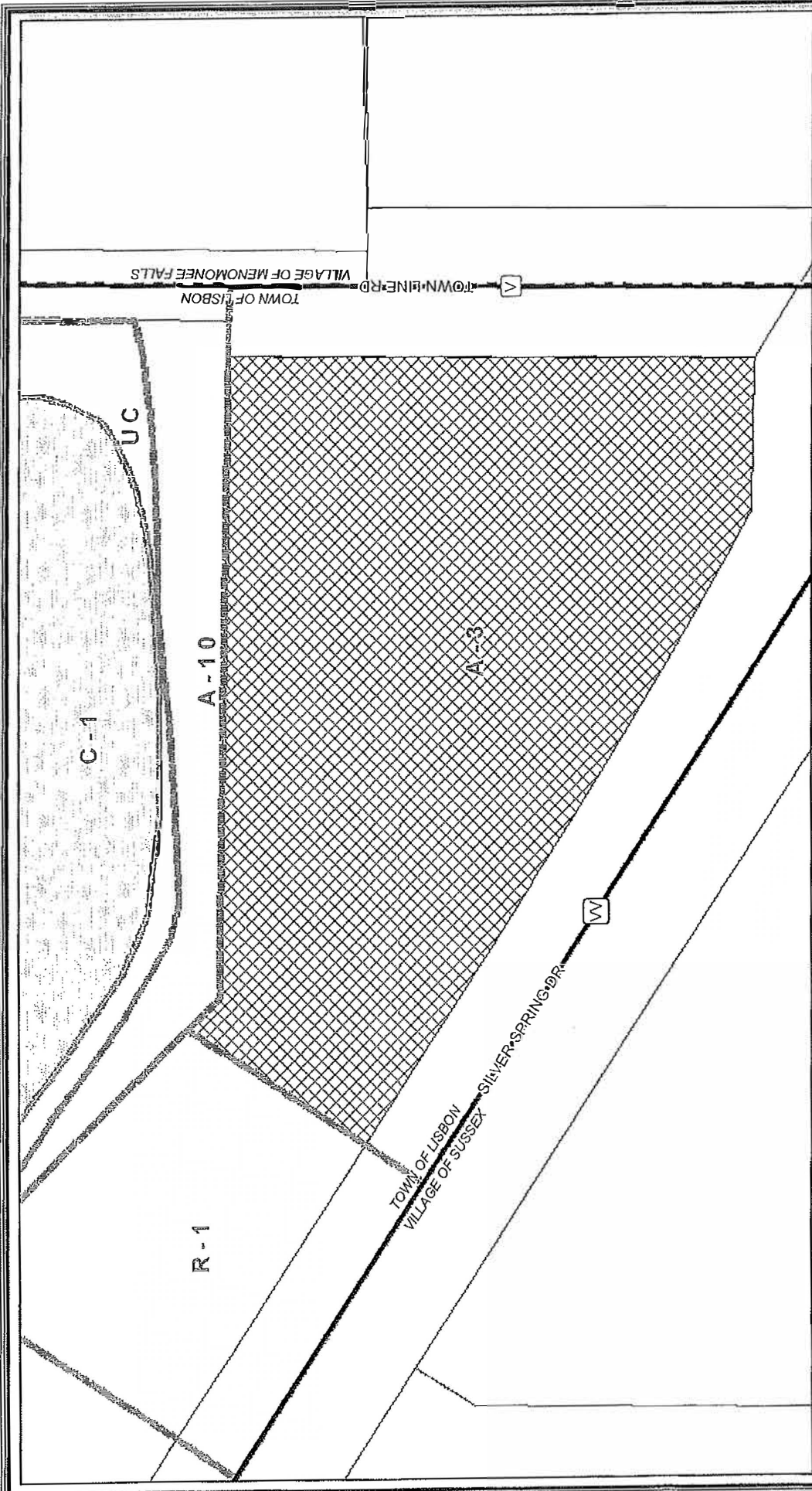
BY:   
REBECCA PLOTECHER, Supervisor

ATTEST:

BY:   
Dan Green, WEMC  
Town Clerk







# ZONING MAP AMENDMENT

PART OF THE SE 1/4 OF SECTION 25  
TOWN OF LISBON



1 inch = 100 feet



Prepared by the Waukesha County Department of Parks and Land Use

TOWN ZONING CHANGE FROM A-3 AGRICULTURAL/RESIDENTIAL ESTATE DISTRICT TO B-4 COMMERCIAL SPECIAL USE DISTRICT



WETLANDS

FILE.....RZ-19  
 DATE.....10/18/18  
 AREA OF CHANGE.....3.3 ACRES  
 TAX KEY NUMBER.....LSBT 0244.999.003



D1 - Foti	AYE	D14 - Wood	AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	(2) AYE	D17 - Paulson	AYE
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whitlow	AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

173-0-059

Passed (25 Y - 0 N - 0 Absent)

Majority Vote

