

Staff Report



Zoning & Land Regulation Committee

Public Hearing: January 27, 2026

Report updated for the February 10th ZLR Work Meeting

Zoning Amendment Requested:

TO

Size: 0.17 Acres

Survey Required: Yes

Reason for the request:

rezoning a portion of land from wetland status to non-wetland status pursuant to Dane County Code of Ordinance Section 11.10.

Petition 12244

Town, Section:

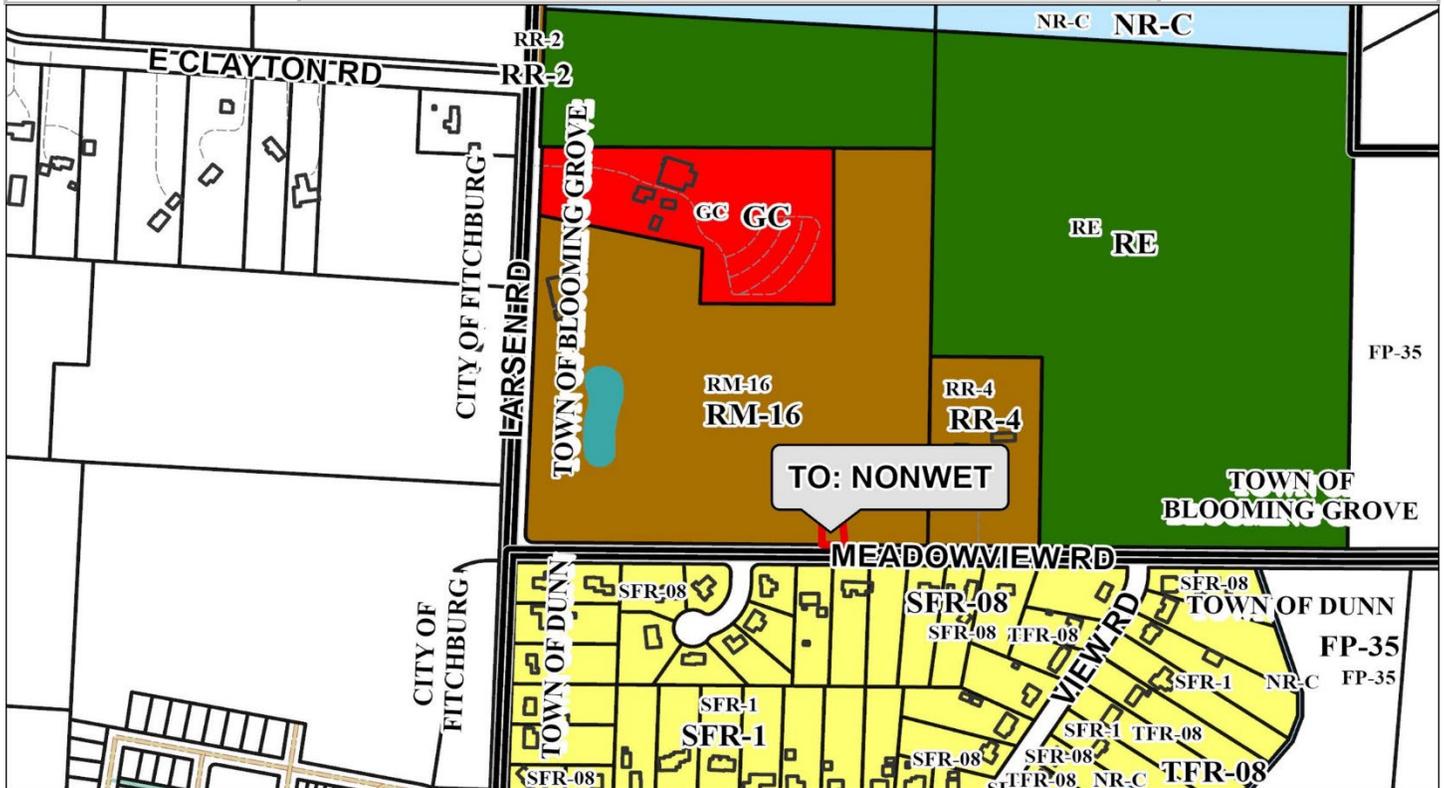
BLOOMING GROVE, Section 31

Applicant:

DAVE AND JULIE WOOD

Address:

3200 LARSEN ROAD



DESCRIPTION: Applicant requests to rezone 0.17 acres (7,415 sq ft) out of wetland overlay zoning under DCCO s. 11.10 wetland regulations, to enable fill associated with a driveway for a proposed residential development. They would like to construct multiple condominium homes here, which would be proposed for approvals if this petition is approved.

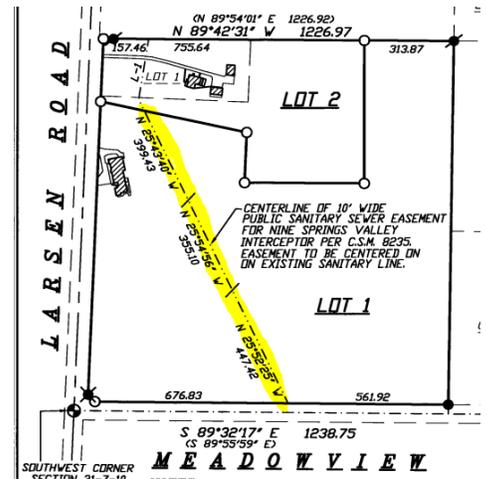
OBSERVATIONS AND RESOURCE PROTECTION: A wetland delineation was done to confirm the extent of wetlands on site; a copy of the delineation map is included in the packet. The rezone out-of-wetland request (0.17 acres) is larger than the proposed impacts to wetland (0.05 acres of fill for driveway) in order to satisfy Dane County’s required 75-foot setback to wetlands. The proposed rezone area (roughly 69 feet wide) is still not enough to satisfy the wetland setback on both sides, the proposed rezone area would need to increase based on this.

The owners obtained a U.S. Army Corps of Engineers (USACE) non-jurisdictional wetland determination, and provided this to DNR. DNR determined that the 0.05 acres of proposed wetland impacts are in an urban area, the wetland is not rare or high-quality, and that the development plans demonstrate compliance with stormwater requirements per Wisconsin Pollutant Discharge Elimination System (WPDES) stormwater permits and applicable statutes. As a result, DNR determined the proposed wetland impacts qualify for a state wetland permitting exemption under Wis Stats 281.36(4n). The USACE determination was for the entire wetland; DNR’s determination was specific to the proposed impacts.

The property contains a residence, a stormwater management pond, and a public sanitary sewer easement for the Nine Springs Valley Interceptor (see image below). The easement runs from Meadowview Road, just west of the proposed driveway near Zuercher Court, up to the northwest corner of the site (behind the home and pond). The easement and other improvements may pose practical constraints to locating additional access points.

The wetland inventory maps may be amended, or portions declassified, if the Committee finds that the removal of wetland area will not have a “significant adverse impact” upon any of the following:

- (a) Storm and flood water storage capacity;
- (b) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (d) Shoreline protection against soil erosion;
- (e) Fish spawning, breeding, nursery or feeding grounds;
- (f) Wildlife habitat; or
- (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types.



In finding that the proposal will not have significant adverse impacts, as listed above, the Committee should still consider if the proposal is consistent with the Town and County comprehensive plan goals and objectives.

COMPREHENSIVE PLAN: While not part of this particular rezone application, the applicant also wishes to develop a 6-unit condominium on this property, which this proposed private road would connect to once constructed. The Town of Blooming Grove and City of Madison are under a [cooperative plan agreement](#) and Madison’s legal counsel believes that any additional development (including a condo plat) will require review and approval by the City in accordance with the Cooperative Plan. The City has shared that the Cooperative Plan would not prevent a wetland rezone for a driveway/private road, and thus did not share detailed opinions about this particular request.

This petition is in the town’s Environmental Conservancy planning area and is subject to the land use policies related to that designation. The town plan states that development should not be allowed in these areas, as it may lead to environmental and development problems. Trails and “...a few, simple paths... made of natural materials”, are permitted and development should “...conform to the rules for watershed and water quality, and water control regulations”. This proposal is for a private drive for a condominium project and would likely have a paved surface.

Perhaps the drive could be constructed in a way that would not lead to environmental problems and conform to watershed, water quality, and water control regulations and get closer to meeting the intent of the language in the town plan. Additionally, directly north of this area on the same property, the plan permits “Neighborhood Residential” that is completely surrounded by the Environmental Conservancy area—so it could be argued that the Neighborhood Residential area needs to have a road/driveway connection to the existing roadways through the Environmental Conservancy areas in order to accommodate planned development. However, this access could also come from another area. For questions about the town plan, contact Senior Planner Ben Kollenbroich at (608) 266-9108 or Kollenbroich.Benjamin@danecounty.gov.



Urban Renewal Overlay	
Scenic Drive Overlay	
Government / Institutional	
Rural Residential	
Neighborhood Residential	
Urban Residential Neighborhood	
Mixed Use Campus	
Agriculture Preservation	
Neighborhood Mixed-Use	
Roadside Mixed-Use	
Environmental Conservancy (Includes: wetlands, hydric soils, unbuildable soils, and The Blooming Grove Drumlins)	
Proposed Bike/Pedestrian Path	

TOWN ACTION: The process of rezoning lands out of wetland does not require town action. The Town of Blooming Grove has been notified of this petition and may opt to provide advisory comments.

JANUARY 27TH ZLR HEARING: On January 27th the ZLR Committee held a public hearing on the proposal. The Committee postponed action due to public opposition, to give more time for consideration of the concerns raised.

Guy Gorsky, who spoke in opposition, has provided additional written comments which have been included in the meet packet for your consideration.

The applicant has also provided additional material following the hearing for your consideration.

Because both sets of written comments came in after the public hearing, the ZLR Committee may vote to add them to the record at the Committee's discretion.

STAFF RECOMMENDATION: The Committee should weigh the low-quality nature and small size of the proposed wetland impact against the clear directive of the County and Town Comprehensive Plans to protect these resources, as embodied in the County Ordinance. The approval of this rezone, especially for a paved private road to serve a multi-unit development in an Environmental Conservancy area, may undermine the long-term intent of the ordinance and the stated goals of the comprehensive plan. The Committee can weigh these wetland impacts against alternative access approaches, but first must determine that the requirements of Chapter 11 are satisfied for removing these lands from the inland-wetland zoning district.

During the public hearing the committee questioned the potential use of gravel for the access. DCCO 10.102(8)(d)2. requires that surfacing for condominium access located within an urban service area be paved with a hard, all-weather surface such as asphalt, concrete, cement or brick.

Staff also notes that the record indicates there are practicable alternatives to the proposal that would avoid or substantially reduce impacts to mapped wetlands and areas regulated under the Inland-Wetland District. While such alternatives may require changes in site design, layout, or other aspects of the applicant's proposal, wetland zoning regulations are adopted to protect public health, safety, and welfare by avoiding incremental loss of wetlands and their functions (e.g., flood storage, water quality protection, and habitat). Accordingly, staff places greater weight on avoidance of regulated wetland impacts than on applicant preference for a particular site configuration, and finds that the availability of less-impacting alternatives weighs against the requested removal from the district.

While the applicant obtained a nonfederal jurisdictional determination from the Army Corps of Engineers, and provided an exemption determination from WI DNR, this information is not synonymous with satisfying the County standards for wetland protection removal or compliance with land use policies. The Committee should consider if the applicant has demonstrated that the public benefit of the wetlands will be kept intact even with complete removal of all levels of wetland protection regulation.

Based on staff's review of the application materials, the applicant's public hearing testimony, and subsequent correspondence, the applicant has stated that potential significant adverse impacts to wetlands will be addressed; however, the record does not include sufficient supporting documentation (e.g., geotechnical groundwater data, grading plans, stormwater management plans) to allow staff to evaluate those claims. Without this information, staff cannot determine that the request meets the findings and performance standards in Chapter 11 for removal of lands from the Inland-Wetland District. **Staff recommends denial of the petition.**

If the Committee finds that the requirements of Chapter 11 have been satisfied and chooses to approve the rezone, staff suggests the following conditions be attached to mitigate future impacts and protect the remaining resource:

1. Deed restrict the remaining wetland area on the property to prohibit any future development and limit disturbance beyond the approved driveway footprint.

Please contact Hans Hilbert at (608) 266-4993 or hilbert.hans@danecounty.gov if you have questions about this petition or staff report.