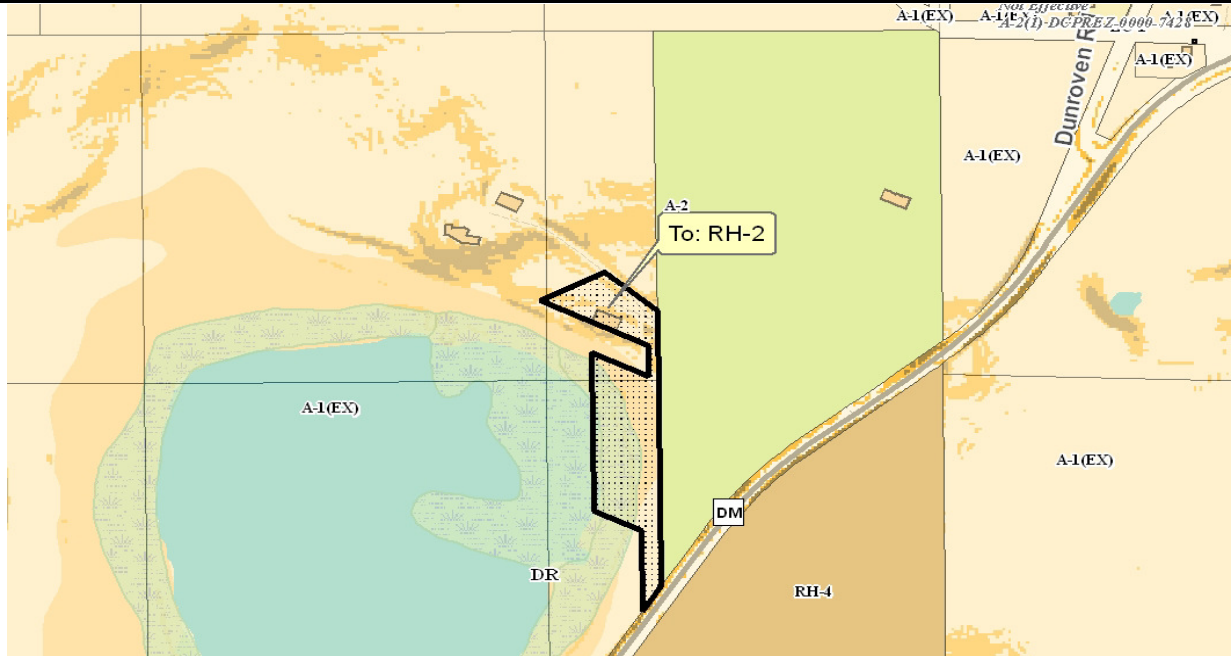




Staff Report

Zoning and Land Regulation Committee

<i>Public Hearing:</i> April 28, 2015	<i>Petition:</i> Rezone 10832
<i>Zoning Amendment:</i> A-1EX Exclusive Agriculture District to RH-2 Rural Homes District	<i>Town/sect:</i> Dane Section 12
<i>Acres:</i> 4.6 <i>Survey Req. Yes</i>	<i>Applicant</i> Richard A Eberle
<i>Reason:</i> Creating one residential lot	<i>Location:</i> 6354 County Highway DM



DESCRIPTION: Applicant proposes to separate an existing accessory building from the property and create a new building site. It appears that access to the property would be via an existing driveway and easement across the neighboring A-2 zoned parcel to the east.

OBSERVATIONS: There is an area of wetlands associated with a large pond which encroaches onto approximately half of the proposed RH-2 parcel. The existing accessory building has been converted to an office building with sanitary fixtures. Only one residential dwelling is permitted on a single parcel of land under the zoning code. A zoning inspection would be conducted to determine if the existing structure is being used, or has the capacity, for residential purposes.

TOWN PLAN: The property is located in the town's Agricultural Preservation Zrea. Portions of the property immediately adjacent to the large pond are also shown as "open space / environmental corridor" in the town plan (Map 3). Town plan policies "generally discourage" development within those areas. Per the Town plan, there are 4 housing density rights associated with the 1979 landholding.

RESOURCE PROTECTION: An area of resource protection is associated with the wetlands surrounding the existing pond.

DANE COUNTY HIGHWAY: County Highway DM is not a controlled access highway. Any changes in use of existing access or new points require a permit from Dane County Highway Department.

STAFF: Staff has identified several issues with the proposal. The proposed lot design encompasses environmentally sensitive lands where development is discouraged under town plan policies and/or county ordinances. The current configuration of lot does not meet land division requirements. Parcels are required to have a minimum 66' of road access at a point where a driveway "shall be constructed", though it appears access would be proposed via the existing easement.

It is unclear if the existing access easement across the neighboring property can be amended to facilitate that access. Access to the south through the proposed lot would result in a driveway bisecting an agricultural field, which conflicts with town plan policies. The lot design also does not maintain the minimum 66' width all the way back to what would presumably be the building setback line, narrowing to 33' wide.

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Staff Report 10832 continued

The applicant's existing residence on A-1EX zoned land was permitted under "Farm Plan" #98. The applicant may no longer satisfy the code requirement that "substantial" farm income be derived from farm operations (rental income may not be included). The applicant has submitted petition #10843 (May public hearing), which proposes to separate 30+ acres of ag land (see attached map). It appears the residence may no longer be in compliance with the zoning code requirement for "substantial" farm income. Staff suggests the petition be postponed and that consideration be given to bringing the existing residence into compliance by rezoning to an appropriate category (e.g., RH-1).

4/28 ZLR: The petition was postpone until the Town Action Report is received.

TOWN: The Town approved the petition with no conditions.

Staff update:

The County Treasurer has advised Zoning Staff that there are delinquent taxes on the property in the amount of \$38,780. Staff suggests that the petition be postponed until the following issues are resolved:

1. Amend the petition to comply with the farm plan agreement and reconfigure of proposed residential lot to address wetland issue.
2. Contact the County Treasurer to resolve delinquent tax issue.

5/26 ZLR: The petition was postpone allowing the applicant time to address the pending issues.

Staff update:

Mr. Eberle has revised his proposal in order to address the staff concerns. He has reconfigured the residential lot to a 2.7-acre parcel showing a building envelope contained around the accessory building. This newly configured lot would be assigned the zoning district classification of RH-1. He has also requested that the remaining 75 acres of A-1 Exclusive Agriculture lands be rezoned to RH-4 to account for the existing residential house in an ag preservation area.

The proposed changes area reasonably acceptable to address the outstanding concerns on the property. The reconfigured lot moves the building envelope outside the wetland area and addresses the existing accessory building concerns. The rezoning of the remaining lands addresses the inactive farm plan. The Town of Dane has reviewed the proposed amendments and found them to be acceptable.

If approved, County Staff suggests the following conditions and amendments to Petition #10832:

1. The petition is amended to create a 2.7-acre residential lot as noted on the attached CSM. The lot shall be assigned the zoning district classification of RH-1.
2. A deed restriction shall be recorded on the 2.7-acre lot to prohibit any commercial activity on the property.
3. The petition is amended to assign the zoning district classification of RH-4 to the remaining 75 of A-1 Exclusive Agriculture property.
4. A deed restriction shall be recorded on the 75 acres to prohibit further land divisions and prohibit further residential development. The housing density rights have been exhausted on the original Kelley farm.
5. The petition shall not become effective nor shall the land division officer sign off on the certified survey map until such time as all delinquent taxes have been paid on the 102-acre property.

10/13 ZLR: The ZLR Committee recommended approval of the petition with the above mentioned conditions.

11/5 COUNTY BOARD: The petition was re-referred back to the Committee due to delinquent taxes on the property.

Staff Update: The delinquent 2012, 2013, and 2014 taxes have been paid on the property. Unable to verify if the 2015 taxes were paid.