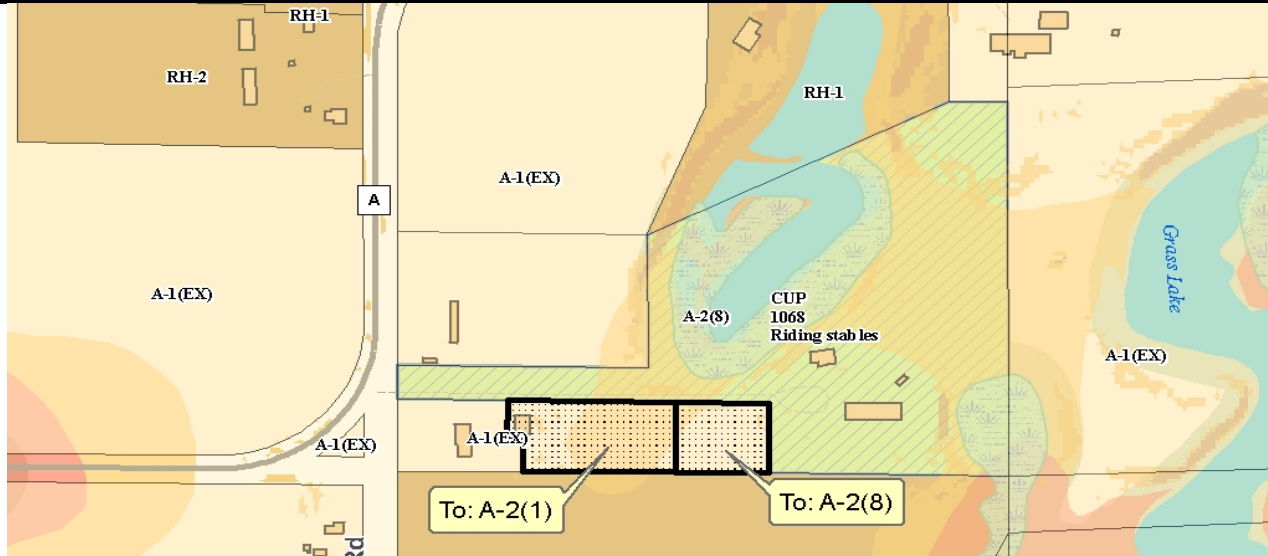




Staff Report

Zoning and Land Regulation Committee	<i>Public Hearing:</i> September 27, 2016	<i>Petition:</i> Rezone 11037
	<i>Zoning Amendment:</i> A-1EX Agriculture District to A-2(1) Agriculture District and A-2(8) Agriculture District	<i>Town/sect:</i> Rutland Section 13
	<i>Acres:</i> 1.25, 0.73 <i>Survey Req.</i> Yes	<i>Applicant</i> Richard Pederson
	<i>Reason:</i> Shifting of property lines between adjacent land owners	<i>Location:</i> 3213 County Highway A



DESCRIPTION: The applicant would like to exchange an acre of land with the adjacent neighbor in order to obtain an access easement to his legal sub-standard lot.

OBSERVATIONS: Lots 1 and 2 of CSM #1424 was approved by the Dane County Agriculture, Zoning, Planning, and Water Resources Committee in 1974. See map.. Lot 2, the easterly lot, was granted a variance for lack of road frontage onto a public street. A note was added to the CSM that stated that no building to occur on Lot 2 until a suitable public street dedication was arranged.

The applicant is proposing to create a 66-foot wide joint access easement agreement pursuant to Dane County Code of Ordinance Section 75.19(8) to address the requirement of the previous approval. An easement would be placed on the adjacent neighbor’s property to the north. There is an existing paved 10-foot wide driveway on the adjacent neighbor’s land.

The property is a legal lot of record. An old barn is located on the property. Approximately 50% of the lot contains Class II soils. There are several ponds in close proximity to the lot. Development of the lot will need to comply with Shoreland regulations. Note: Impervious surface limits apply to lots within 300 feet of a pond (30% maximum).

TOWN PLAN: The property is located in the Town’s Agricultural Preservation Area. The plan notes “limited number of access points onto town roads while providing appropriate levels of access to private property” . The plan does not prohibit the use of shared driveways or require 66 feet of frontage.

RESOURCE PROTECTION: The property is located outside the resource protection area, however, future development shall comply with shoreland regulations given that the property is within 1000’ of a lake.

STAFF: The proposal meets the dimensional standards of the zoning districts. A variance will be needed in order to create a new lot configuration with one having not frontage on a public street. Staff suggests that a private driveway agreement pursuant to Dane County Code of Ordinance Section 75.19(8) be required to address access to the lot.

TOWN: Approved with no conditions.

DANE COUNTY CODE OF ORDINANCE SECTION 75.19

(8) Standards and procedures for ingress/egress access via shared driveway

easement. To promote the clustering of residential lots, preservation of farmland, and efficient use of land, the committee may approve exceptions to the frontage requirement of section 75.19(6)(b) where the committee finds that the exception protects the public health, safety, and welfare, but only in towns where the town board has previously voted to adopt policies to allow such exceptions. The zoning and land regulation committee and town board may approve the creation of lots with access provided by a shared driveway easement, in lieu of fee-title frontage onto a public right-of-way, provided all of the following criteria are met, and carries out the purposes stated in s. 75.19(6)(b):

- (a) The committee shall not approve any exception to the frontage requirement of section 75.19(6)(b) without finding that the exception is consistent with applicable town comprehensive plans adopted by the county board, town land/subdivision ordinances, and the Dane County Comprehensive Plan.
- (b) The shared driveway easement shall be a minimum of 66 feet wide, and encompass the entire length of the driveway that will service the lot or lots.
- (c) No more than four (4) lots, whose principal use is residential, may be served by a shared driveway easement including the lot on which the easement is located. Shared driveway easements shall not be extended to service additional lots.
- (d) If two or more lots are proposed to be served by a shared driveway easement, including the lot on which the easement is located, at least one of the lots must have a minimum of 66 feet of frontage connecting directly onto a public street at a location where the driveway shall be constructed. The committee may waive this requirement by granting a variance under s. 75.21.
- (e) A legal description of the shared driveway easement must be prepared by a registered land surveyor. The shared driveway easement shall be shown on the Certified Survey Map and include, at a minimum, the data submission requirements of section 75.17(3)(d), (g), (h), and (i). The committee may require that additional data be provided to ensure compliance with the provisions of this section.
- (f) The shared driveway easement shall constitute a covenant running with the land, and must comply with the following:
 - 1. A shared driveway easement must be set forth in a shared driveway easement agreement. The shared driveway easement agreement must be approved by the town board and the zoning and land regulation committee, and recorded with the Dane County Register of Deeds in compliance with secs. 706.05 and 59.43(2m) of the Wisconsin Statutes.
 - 2. A shared driveway easement agreement must name the affected town and Dane County as co-holders of the easement, with full enforcement rights.
 - 3. A shared driveway easement agreement must contain the following:
 - a. A provision stating that the shared driveway must be maintained to provide adequate access to emergency vehicles, school buses and other equipment, as determined by the town engineer, local fire department and EMS service.
 - b. A provision that addresses the year-round maintenance of the shared driveway, allocates the costs of maintenance among the property owners, their heirs, successors, and assigns, and determines which property owner or owners shall decide when maintenance or repair is necessary.
 - c. A provision authorizing either the town, at its sole discretion, or Dane County to inspect and conduct repair work on the shared driveway, at the expense of the property owners, if such owners fail to adequately maintain the driveway.
 - d. A provision consenting to the dedication of a future town road right-of-way within the shared driveway easement, at any time if the town, in its sole discretion, accepts it.
 - e. A provision requiring that buildings constructed on the parcel(s) be setback from the shared driveway easement as specified in section 10.17(3)(b).
 - f. A provision granting permanent, unimpeded access to the lots served by the shared driveway easement for emergency service responders, utility services, and other access which could be had by a public road.
 - g. A provision prohibiting any modifications to the shared driveway easement agreement without the written preapproval of the town and the Dane County zoning and land regulation committee.
- (g) The shared driveway shall be constructed according to applicable town driveway construction standards and located entirely within the boundaries of the shared driveway easement.
- (h) The property owner(s) shall be responsible for all costs associated with the shared driveway easement.
- (i) Accesses onto public rights-of-way must comply with applicable provisions of town, county, or state access regulations, including intersection improvements or acceleration lanes as determined by the town engineer, Dane County Public Works, Highway and Transportation Department or the Wisconsin Department of Transportation, as appropriate.
- (j) Gates, fences, or other obstructions on shared driveways are prohibited.
- (k) Shared driveway easements shall not be named, and lots accessed by the shared driveway easement must comply with numbering requirements of Chapter 76, Dane County Code,