



Staff Report

Public Hearing: **February 24, 2015**

Petition: **Rezone 10813**

Zoning Amendment:
A-1EX Exclusive Agriculture District to A-2 Agriculture District and RH-1 Rural Homes District

Town/sect:
Christiana Section 03

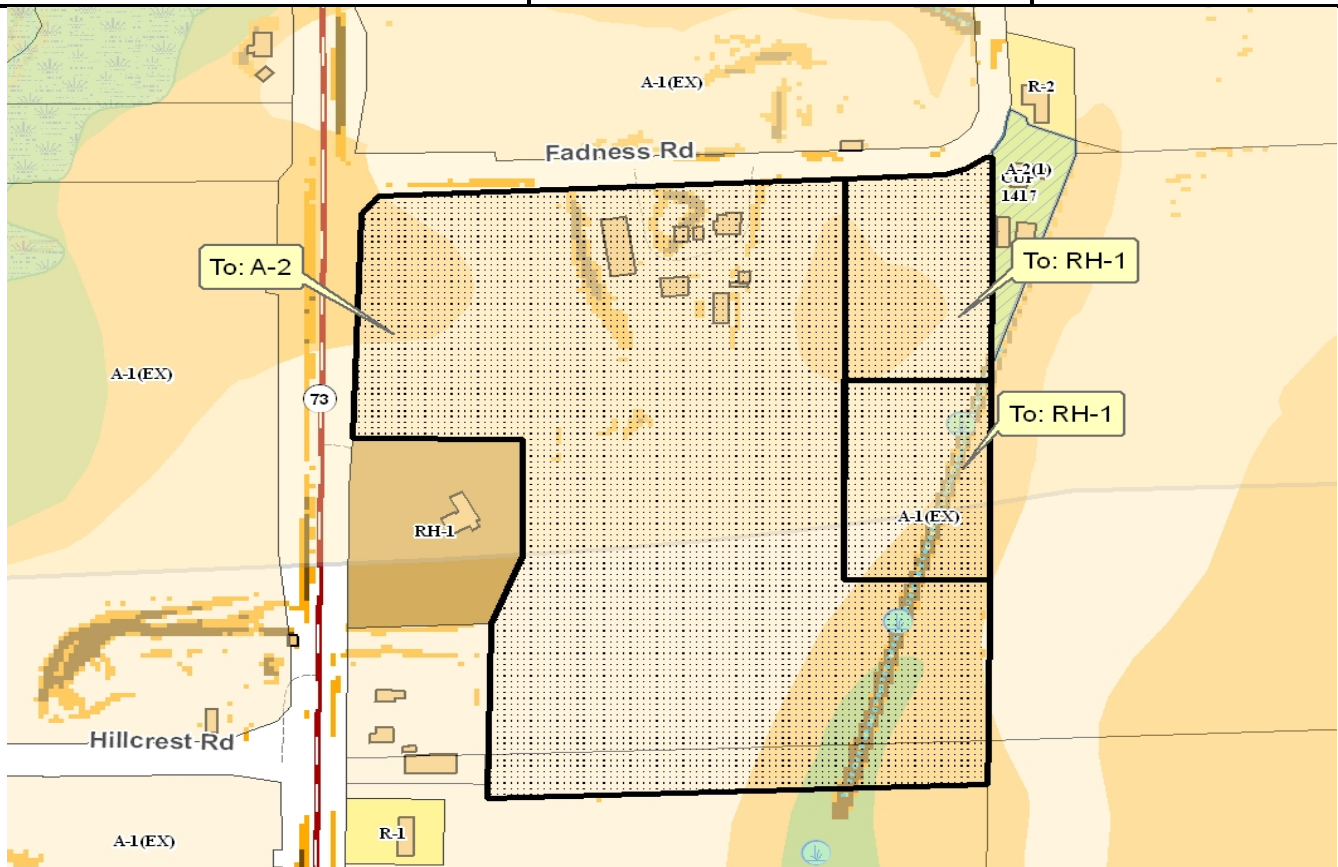
Acres: 25.8, 3.3, 3.0
Survey Req. Yes

Applicant
Hoesly Living TR, Bette

Reason:
Creating two residential lots and separating existing residence from the farmland

Location:
2998 Fadness Rd

Zoning and Land Regulation Committee



DESCRIPTION: Applicant proposes to create two new residential lots and to provide zoning compliance for the existing residence and farm buildings. Proposal would involve transfer of two splits from a farm located in a different section of the town. A third new lot would be “reserved” for future use in the very southeastern corner of the proposed A-2 parcel, adjacent to and immediately south of the proposed RH-1 lots.

OBSERVATIONS: Proposed RH-1 lots consist of approximately 93% Class II and 7% Class III soils. An intermittent stream (constructed drainage) provides drainage from a field on the neighboring property to the south and southwest to northeast bisecting the southerly proposed RH-1 parcel. There are two mapped isolated wetlands under 2 acres in size along the constructed drainage.

TOWN PLAN: The property is located in the town’s agricultural preservation area. Development is limited to one residential dwelling unit per 35 acres owned as of 5/3/79. The town plan includes a “Limited Intra-Ownership Transfer of Development Rights Program”.

RESOURCE PROTECTION: There are no resource protection corridors on the property.

STAFF: (see below)

STAFF:

Proposed transfer of development rights: The applicant was previous owner of a farm in section 15 and proposes to transfer two splits from that farm to the subject property in section 3. A density study for the section 15 property is attached. Prior to selling the farmland, the owner recorded an "allocation of development rights" document with the register of deeds attempting to allocate two of the development rights from the farm in section 15 to the subject property in section 3. This allocation was not presented to the town for review and consideration, which is a requirement of the town TDR program.

The applicable portion of the town policy on intra-ownership transfer of development rights is listed below.

(From town of Christiana Comprehensive Plan, pages 42-43)

14. Limited Intra-Ownership Transfer of Development Rights Program

To further the goal of preserving large tracts of productive agricultural land and high quality soils, limited transfers of splits may be permitted under the criteria and standards listed below. The town has established a two-tier policy to guide potential transfers of development rights.

A. Transfers between multiple original farm units currently under single ownership.

- i. A minimum of 35 acres from each original *May 3, 1979* farm unit must currently be under single ownership. For the purposes of this policy, single ownership is defined as contiguous parcels owned by one individual or by a married couple, partnership, or corporation including that individual.
- ii. The proposed transferring parcel must clearly have a split available under the town's density policy based on contiguous ownership as of *May 3, 1979*.
- iii. Any transfer proposed under this policy shall be subject to the phasing limitation of no more than 1 split per 5 year period.
- iv. Appropriate documentation must accompany any transfer, including, at a minimum, a deed restriction and/or agricultural conservation easement on the sending parcel identifying a minimum 35 acres of land, or amount of land commensurate to the number of splits transferred, to be preserved exclusively for long-term agricultural use. Such documentation shall also indicate the number of splits remaining, if any, on the remaining lands of the sending property. Receiving parcels shall also be accompanied by a notice document indicating that the property received a split(s) from the sending property. All such documents must include appropriate legal descriptions of the properties involved, and must be recorded with the Dane County Register of Deeds.

As indicated above and in the application materials, the applicant recorded an "allocation of development rights" document to reserve two development rights from the farm in section 15 for future use on the subject property in section 3. In that document, the buyers of the ~80 acres of farmland in section 15 acknowledged that the property they were acquiring had no development rights. However, the proposal was not presented to the town for consideration and approval under the town's TDR program. Such a determination is required by the town to ensure that any proposed transfer satisfies the purpose and intent of the TDR program. In addition, staff could find no record of any deed restriction or conservation easement being recorded on the ~80 acre "sending" property, nor any notice document on the subject "receiving" property in section 3 as required under the town limited TDR program.

Density status of subject property in section 3: As indicated on the attached density study report for the subject property in section 3, it appears all eligible splits have been exhausted for the original ~70 acre farm. A 35 acre parcel was sold to WISDOT in 2014. Generally, land sales over 35 acres result in the transfer of a commensurate number of available splits. In addition, the town counts such sales to public entities as a split unless "sufficient evidence" is provided documenting that the sale did not involve a density unit. It is unclear if such "sufficient evidence" exists to the satisfaction of the town.

Proposed creation of new residential lots: The proposed creation of a lot (proposed lot 3) without direct road frontage is inconsistent with town plan policies. Town policies require that, "All residential lots shall be created by certified survey map and shall have frontage on a public road of at least 66 feet." (Town comprehensive plan page 40, #2). The applicant also indicates that the 2nd split transferred from the property in section 15 would be reserved for future use (shown as future lot 4 on the preliminary CSM). This future lot would also not have the minimum 66' of road frontage required by the town plan.

STAFF, continued:

It's important to note that the provision in the county's subdivision code allowing for access via easement in lieu of road frontage stipulates that no exception shall be approved without a finding that the exception is consistent with the applicable town plan (see provision, below).

From sec. 75.19(8)(a), Dane County Code

(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.

Staff recommendation: Staff recommends that the petition be postponed until town action is received and to provide time to further investigate the various issues and concerns outlined in this report.

TOWN: Pending.