Enrolled 157-35

PROPOSED ORDINANCE ~~157-36~~

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 6, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-1 AGRICULTURAL DISTRICT
(ZT-1444)

WHEREAS the subject matter of this ordinance having been approved by the Mukwonago Town Board on June 5, 2002, after public hearing, and the giving of requisite notice of said hearing, and duly referred to and considered by the Waukesha County Park and Planning Commission, and a recommendation for approval, thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.61 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the District Zoning Map for the Town of Mukwonago Zoning Ordinance, adopted by the Town of Mukwonago on May 9, 1983, is hereby amended to conditionally rezone from the A-P Agricultural Land Preservation District to the A-1 Agricultural District, certain lands located in part of the SE ¼ of Section 6, T5N, R18E, Town of Mukwonago, 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 (ZT-1444) and subject to the following conditions:

1. The subject property shall be combined by a Certified Survey Map with the property to the east, which shall be approximately 3.05 acres in size, when consideration is given to the right-of-way of County Trunk Highway "E", with a minimum average width of 200 ft.

2. The Certified Survey Map must be recorded in the Waukesha County Register of Deed's Office.

3. All existing and proposed structures on the new parcel must conform to the offset requirements of the Town of Mukwonago Zoning Ordinance.

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

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

BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this ordinance are hereby repealed.

Referred on: 07/23/02	File Number: 157-O-036	Referred to: LU

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 6, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-1 AGRICULTURAL DISTRICT (ZT-1444)

Presented by:
Land Use, Parks, and Environment Committee

Walter L. Kolb, Chair

Pauline T. Jaske

James Jeskewitz

Scott J. Klein

Daniel Pavelko

Absent
Vera Stroud

Matt Thomas

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

Date: August 16, 2002, Patricia E. Madden
Patricia E. Madden, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:
Approved: ✓
Vetoed:
Date: 8-19, Daniel M. Finley
Daniel M. Finley, County Executive

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

FILE NO.: ZT-1444

DATE: July 11, 2002

PETITIONER/OWNER: Jerome and Betty Rockteacher
W330 S6787 C.T.H. "E"
Mukwonago, Wisconsin 53149

TAX KEY NO.: MUKT 1896.999

LOCATION:
Part of the SE ¼ of Section 6, T5N, R18E, Town of Mukwonago. The portion of the property to be rezoned contains approximately 2.3 acres, when consideration is given to the right-of-way of the road.

PRESENT ZONING:
A-P Agricultural Land Preservation District, requiring 35-acre minimum lot sizes.

PRESENT LAND USE:
Vacant.

PROPOSED ZONING:
A-1 Agricultural District, allowing three-acre minimum lot sizes with a 200' minimum average width.

PUBLIC HEARING DATE:
June 5, 2002.

PUBLIC REACTION:
None.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:
The Town of Mukwonago Plan Commission, on June 5, 2002, voted to recommend to the Town Board approval of the rezoning request in conformance with Exhibit "A". The Town of Mukwonago Board, on June 12, 2002, concurred with the Town Plan Commission's recommendation.

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF MUKWONAGO MASTER PLAN:
The Waukesha County Development Plan designates the area in the Rural Residential Density and Other Agricultural Lands Use category, which is a five-acre category. The Town of Mukwonago Land Use Plan designates the area in a three-acre agricultural category. The proposal is in conformance with both plans, however, the Town Plan is slightly out of conformance with the County Plan. Because this is an existing parcel and lands are being added to create a larger parcel, the proposal is considered compatible with the County Land Use Plan.

OTHER CONSIDERATIONS:

The applicant is proposing to rezone approximately 2.3 acres of the A-P (Agricultural Land Preservation District) zoned lands in order to combine the area by using a Certified Survey Map with a .8-acre parcel located to the east, which currently contains a residence and two detached accessory buildings. This is being requested as the applicant would like to put an addition on the existing garage that is located on the westerly lot line of the small .8-acre parcel. That .8-acre parcel is currently zoned A-1 Agricultural District, but is less than one acre in size. The applicant previously applied for a Conditional Use under the Agricultural Preservation Zoning District, in the Town of Mukwonago Zoning Ordinance, but because one of the conditions of the Conditional Use was that the property would be owned by the Rockteachers' or a family member, the Rockteachers' attorney indicated that they should not sign the Conditional Use so the permit can be issued. Therefore, they are now asking for a rezoning request so a new three-acre conforming lot can be created containing the residence and two detached accessory buildings. The Town Plan Commission and Town Board, at this time, have approved the Certified Survey Map subject to the Waukesha County Board approving the rezoning request.

STAFF RECOMMENDATION:

It is the opinion of the Planning Staff this request be **approved** in accordance with the Town Board's action of June 12, 2002 (see Exhibit "A"). The proposal is consistent with both the Waukesha County Development Plan and the Town of Mukwonago Development and creates a three-acre conforming parcel with all structures meeting the offset requirements of the Town of Mukwonago Zoning Ordinance.

Respectfully submitted,

Kathy Moore/smv

Kathy Moore
Senior Planner

KM:smv

Attachments: Exhibit "A"

N:\PLU NEW FILE SYSTEM (IN-PROGRESS)\PLANNING & ZONING\REZONES (RZ)\STAFF REPORTS\1444.MKT(JEROME & BETTY ROCKTEACHER).DOC

EXHIBIT "A"

NOW, THEREFORE, the Town Board of the Town of Mukwongo, Waukesha County Wisconsin, DO ORDAINS AS FOLLOWS:

SECTION 1: ZONING MAP CHANGE.

The zoning map of the Town of Mukwonago is hereby conditionally amended to change the zoning on the subject lands as delineated in Exhibit 1, from the A-P Agricultural Land Preservation District to the A-1 Agricultural District, if the conditions stated in Section 2 are satisfied.

SECTION 2: The above rezoning is conditioned upon the following conditions:

A. The subject property shall be combined by a Certified Survey Map with the property to the east, which shall be approximately 3.05-acres in size, when consideration is given to the right-of-way of County Trunk Highway "E", with a minimum average width of 200 ft.

B. The Certified Survey Map must be recorded in the Waukesha County Register of Deeds office.

C. All existing and proposed structures on the new parcel must conform to the offset requirements of the Town of Mukwonago Zoning Ordinance.

SECTION 3: CERTIFICATION.

Upon certification by the Town Clerk that the aforementioned conditions have been satisfied, the Town Planner shall change the Town of Mukwonago zoning maps from A-P Agricultural Land Preservation District to the A-1 Agricultural District for the subject lands.

SECTION 4: SEVERABILITY.

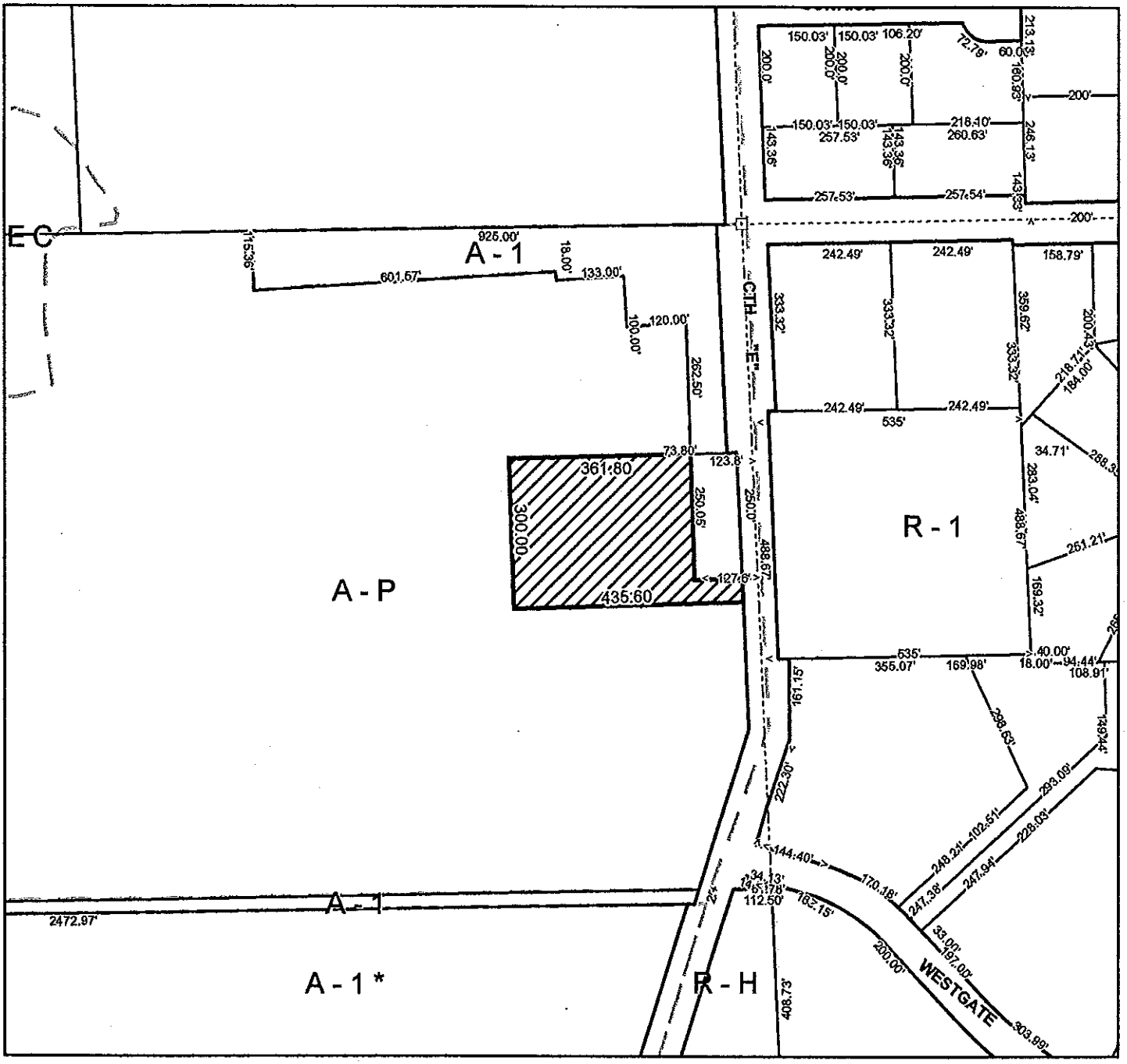
The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed to those terms that conflict.

SECTION 5: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon passage and posting or publication as provided by law, subject to the conditions stated in Section 2 being satisfied, and this Ordinance is null and void and the original district zoning shall be in effect without further notice if said conditions are not fully complied with on the terms and conditions stated herein.

ZONING MAP AMENDMENT

PART OF THE SOUTHEAST 1/4 OF SECTION 6
TOWN OF MUKWONAGO



ZONING CHANGE FROM A-P (AG. LAND PRESERVATION DISTRICT) TO A-1 (AGRICULTURAL DISTRICT)

FILE.....ZT-1444

DATE.....7-11-02

AREA OF CHANGE.....2.2 ACRES

TAX KEY NUMBER.....MUKT 1896.999

1 inch equals 300 feet

Feet 0 75 150 300 450

Prepared by the Waukesha County Department of Parks and Land Use

157-0-036

6.

STATE OF WISCONSIN TOWN OF MUKWONAGO WAUKESHA COUNTY

ORDINANCE NO. 2002-A

AN ORDINANCE TO AMEND THE TOWN OF MUKWONAGO ZONING DISTRICT MAP OF THE TOWN OF MUKWONAGO ZONING ORDINANCE BY CONDITIONALLY REZONING LANDS IN THE TOWN OF MUKWONAGO, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-1 AGRICULTURAL DISTRICT

WHEREAS, the petition has been filed by Jerome and Betty Rockteacher, for the owners of certain lands in the Town of Mukwonago hereinafter "(Petitioners)" to rezone and develop certain property as described in Exhibit 1 attached hereto and incorporated herein, hereinafter subject lands; and

WHEREAS, said rezoning petition, which was submitted to rezone the subject lands from A-P Agricultural Land Preservation District to the A-1 Agricultural District; and

WHEREAS, the petitioners have supplied all required data pursuant to the Town of Mukwonago Zoning Ordinance and a Public Hearing was conducted by the Town Board and the Plan Commission of the Town of Mukwonago on June 5, 2002; and

WHEREAS, the rezoning petition has been submitted to the Town Plan Commission of the Town of Mukwonago for report and recommendation; and

WHEREAS, the Town Plan Commission of the Town of Mukwonago has recommended to the Town Board of the Town of Mukwonago that said rezoning change may be made under certain conditions; and

WHEREAS, the proposed expanded parcel will not adversely affect the existing agricultural use, and will make the existing parcel conforming in size, and all buildings will conform to the offset requirement, whereby, no new lot is being created, it is merely a lot line adjustment; and

WHEREAS, the Town Board of the Town of Mukwonago, after careful review and the recommendation of the Town Plan Commission of the Town of Mukwonago, have determined that all procedure requirements and notice requirements have been satisfied, having given the matter due consideration and having based its determination on the effect of granting of said rezoning on the health, safety, and welfare of the community, immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved, as well as the impact on the surrounding properties as to the noise, dust, smoke, odor and others, is hereby determined that the rezoning will not violate the spirit or intent the Zoning Ordinance for the Town of Mukwonago, will not be contrary to the public health, safety or general welfare of the Town of Mukwonago, will not be hazardous, harmful, noxious, offensive or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a substantial adverse affect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and is in strict compliance with the same and is consistent with the recommendation of the Town of Mukwonago Master Plan and the Waukesha County Development Plan.

157-0-036

NOW, THEREFORE, the Town Board of the Town of Mukwongo, Waukesha County Wisconsin, DO ORDAINS AS FOLLOWS:

SECTION 1: ZONING MAP CHANGE.

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B. The Certified Survey Map must be recorded in the Waukesha County Register of Deeds office.

C. All existing and proposed structures on the new parcel must conform to the offset requirements of the Town of Mukwonago Zoning Ordinance.

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Upon certification by the Town Clerk that the aforementioned conditions have been satisfied, the Town Planner shall change the Town of Mukwonago zoning maps from A-P Agricultural Land Preservation District to the A-1 Agricultural District for the subject lands.

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The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed to those terms that conflict.

SECTION 5: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon passage and posting or publication as provided by law, subject to the conditions stated in Section 2 being satisfied, and this Ordinance is null and void and the original district zoning shall be in effect without further notice if said conditions are not fully complied with on the terms and conditions stated herein.

Dated this 10th day of July, 2002.

TOWN OF MUKWONAGO

Tom Stuart, Town Chairman

ATTEST:

Katherine W. Wilson

Katherine W. Wilson, Town Clerk

Published and posted this 11th day of July, 2000.