

ENROLLED ORDINANCE 170-93

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF DELAFIELD ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 36, T7N, R18E, TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE A-2 RURAL HOME DISTRICT (ZT-1825)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Delafield Town Board on October 13, 2015, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.62, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Delafield Zoning Code, adopted by the Town of Delafield on July 20, 1998, is hereby amended to rezone from the A-1 Agricultural District to the A-2 Rural Home District, certain lands located in part of the NW ¼ of Section 36, T7N, R18E, Town of Delafield, Waukesha County, Wisconsin, 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-1825, is hereby approved.

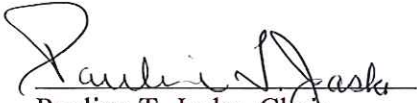
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Delafield.


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

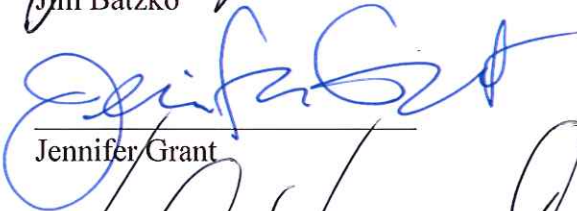
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

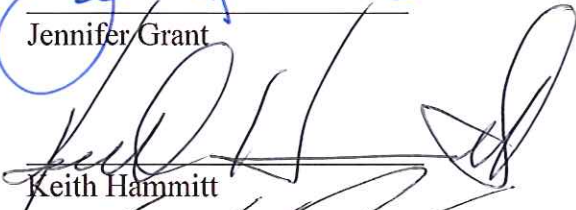
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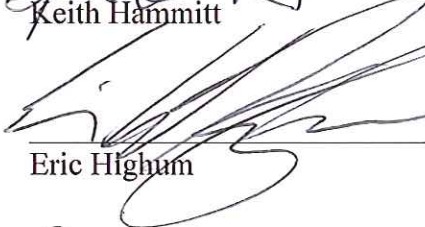
Presented by:
Land Use, Parks, and Environment Committee

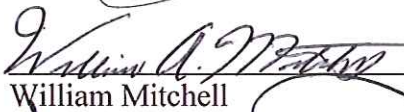

Pauline T. Jaske, Chair


Jim Batzko


Jennifer Grant


Keith Hammitt


Eric Higham


William Mitchell


Thomas J. Schellinger

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

Date: 3/25/16, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed:

Date: 3/28/16, 
Paul Farrow, County Executive

COMMISSION ACTION

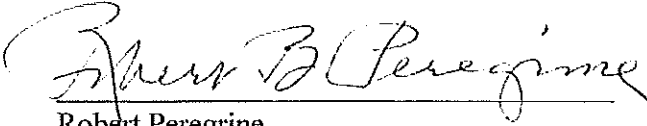
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Delafield Zoning Code hereby recommends approval of ZT-1825 (Joshua Kouba) in accordance with the attached "Staff Report and Recommendation".

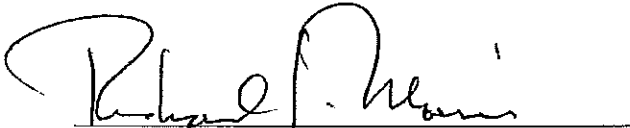
PARK AND PLANNING COMMISSION

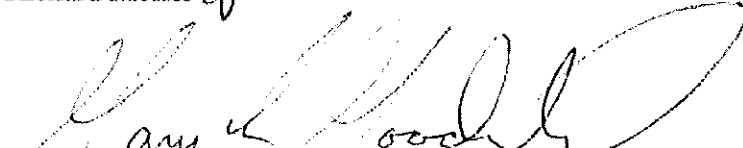
February 25, 2016

Absent


James Siepmann, Chairperson


Robert Peregrine


Richard Morris


Gary Goodchild


William Mitchell


Bonnie Morris

absent
Keith Hammitt

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

DATE: February 25, 2016

FILE NO.: ZT-1825

PETITIONER/OWNER: Joshua Kouba
N16 W26593 Tall Reeds Lane #H
Pewaukee, WI 53072-6639

TAX KEY NO.: DELT 0862.994

LOCATION:
Part of the NW ¼ of Section 36, T7N, R18E, Town of Delafield. More specifically, the property is located on the west side of Elmhurst Road, approximately 600 ft. south of Sylvan Trail, containing approximately 5 acres.

EXISTING ZONING:
A-1 Agricultural District.

EXISTING LAND USE:
Vacant.

PROPOSED ZONING:
A-2 Rural Home District.

PROPOSED LAND USE:
The petitioner is in the process of purchasing the property in order to construct a single family residence.

PUBLIC HEARING DATE:
October 6, 2015.

PUBLIC REACTION:
There were comments by a Plan Commissioner regarding accidents on Elmhurst Road and the proposed driveway placement. The Plan Commission also noted that this parcel could not be divided in the future. Neighbors to the southeast expressed concern about the impact of development that would be permitted within the A-2 district on both the subject parcel and potentially the surrounding parcels, citing specific concerns about storm water run-off.

TOWN PLAN COMMISSION ACTION:
The Town of Delafield Plan Commission, at their meeting of October 6, 2015 recommended approval of the request to the Town Board.

TOWN BOARD ACTION
On October 13, 2015, the Town of Delafield Board approved the rezoning request. The Town transmitted the rezone ordinance to the Planning and Zoning Division on February 5, 2016.

CONFORMANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF DELAFIELD COMPREHENSIVE DEVELOPMENT PLAN:

The Waukesha County Comprehensive Development Plan and the Town of Delafield Comprehensive Plan designate the lands in the Rural Density and Other Agricultural Land category (5.0 to 34.9 acres per dwelling unit). The proposed use complies with the purpose and intent of both plans.

STAFF ANALYSIS AND RECOMMENDATION:

The petitioner is proposing to purchase the property in question and construct a single family residence. The petitioner is proposing to rezone the subject parcel from the A-1 Agricultural District to the A-2 Rural Home District to bring the parcel into a district that better matches the dimensions and proposed use of the existing parcel. The property is subject to the Town of Delafield Zoning Ordinance. The A-1 District requires a minimum parcel size of 40 acres, whereas the A-2 District requires a minimum three acre parcel size. Prior to 1998, the A-1 District only required a three acre minimum lot size. The parcel and many nearby it became substandard relative to lot area when the Town amended its zoning code in 1998 to increase the A-1 District minimum lot size to 40 acres. As was noted during the review of a similar rezoning request in 2012 for a similar parcel, the Town, acting upon the advice of the Town Attorney, chose not to place the lots that were rendered substandard into a new zoning classification but instead left the decision to rezone to individual owners, if and when they were so inclined. The majority of the nearby parcels to the northeast are developed and zoned A-2.

The A-2 District requires 85% of a lot to remain in open space, whereas the A-1 District requires 95% open space because parcels within the A-1 District are expected to be much larger in area. The petitioners wish to build a new home on the parcel and the house and associated improvements will meet all A-2 District requirements but would not comply with the A-1 District open space standard, given the small parcel size in comparison to the district 40 acre minimum. The parcel contains no mapped natural resources and is located on a hillside which slopes from south to north. Though the topography of the site should be conducive for drainage, the soils types on the subject parcel are often indicative of a high water table. Accordingly, it is recommended that soil tests be conducted to determine whether any special basement protection measures should be implemented. Surrounding uses include agricultural lands to the west and east as well as single family residential development to the north and south.

The Town Engineer has indicated that the remaining substandard parcels along Elmhurst Road in the vicinity would be candidates for rezoning to the A-2 District if other neighboring property owners come forward in the future. Therefore, it appears as though the Town will, over time, look to guide the neighborhood towards the A-2 District. Therefore, Staff does not feel that the proposed single lot zoning is an illegal spot zone but instead another incremental rezone in an area that will likely continue to evolve into an A-2 neighborhood.

Planning and Zoning Staff recommend that the request be **approved**. The rezoning will place the property into a more conforming zoning district and will allow for future residential development.

Respectfully submitted,

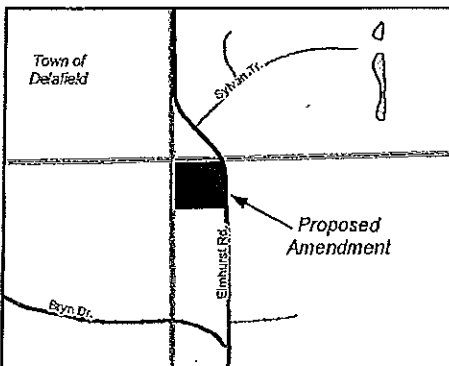
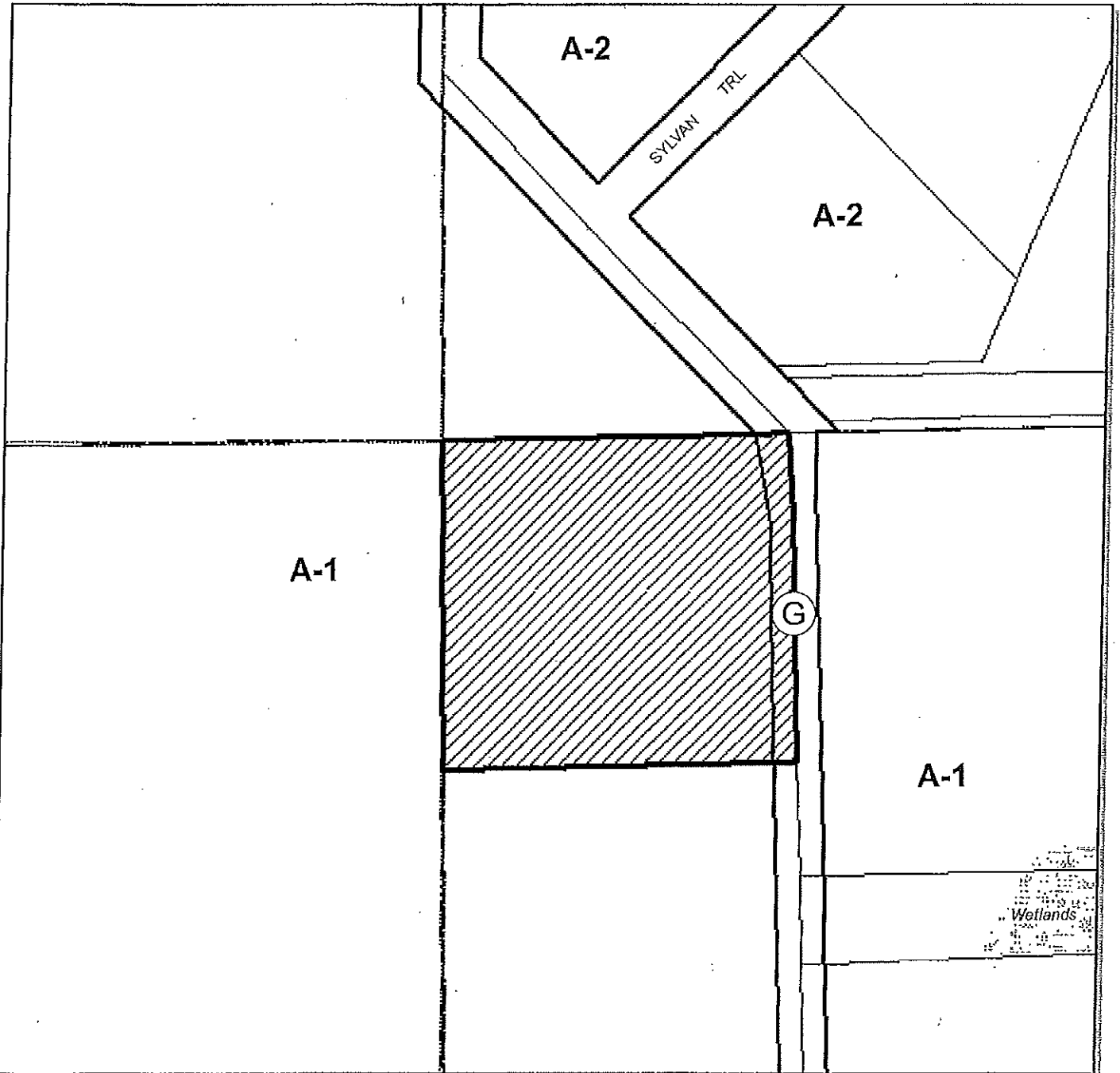
Ben Greenberg

Ben Greenberg
Senior Land Use Specialist

Attachments: Map and Town Ordinance (2015-07)

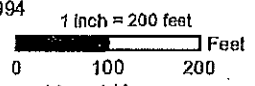
ZONING AMENDMENT

PART OF THE NW 1/4 OF SECTION 36
TOWN OF DELAFIELD



 TOWN ZONING CHANGE FROM A-1 AGRICULTURAL DISTRICT TO A-2 RURAL HOME DISTRICT

FILE NO.....ZT-1825
 PETITIONER.....JOSHUA KOUBA
 DATE OF PLAN COMM. CONSIDERATION.....02/25/16
 AREA OF CHANGE.....5.0 ACRES
 TAX KEY NUMBER.....DELT 0862.994



Referred on: 03/03/16

Prepared by the Waukesha County Department of Parks and Land Use
 File Number: 170-O-096

Referred to: LU 5

Ordinance No. 2015-07

An Ordinance to amend the Zoning Map of the Town of Delafield from A-1 to A-2 on lands located in the Northwest ¼ of the Northwest ¼ of Section 36, Town 7 North Range 18 East, Town of Delafield, Waukesha County Wisconsin

The Town Board of Delafield, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1:

The Town of Delafield Zoning Map is hereby amended to change the zoning classification from A-1 to A-2 on the following described parcel of land:

A part of the Northwest 1/4 of the Northwest ¼ of Section 36, T7N, R18E, Town of Delafield, Waukesha County, Wisconsin, described as follows: Commencing at the Northwest corner monument of Section 36, said monument being the place of beginning; thence running East on the North line of said Section, 475.20 feet to a point in the center line of Highway "G"; thence running Southeasterly on said center line 450.20 feet to a point; thence running Westerly 492.00 feet to a point in the West line of Section 36; thence running North along said west line 450.20 feet to the place of beginning, containing 5.00 acres more or less.

Section 2: 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 as to those terms that conflict.

Section 3: Effective Date.

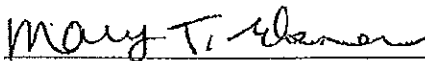
This ordinance shall take effect immediately upon passage by Waukesha County and posting or publication as provided by law.

This ordinance passed this 13th day of October, 2015.

BY THE TOWN BOARD OF THE
TOWN OF DELAFIELD;


Lawrence G. Krause, Town Chairman

ATTEST:


Mary T. Elsner
Town Clerk/Treasurer

tgbl HA1151600Doc\O 151007 Judith Williams Rezoning.docx

V

DATE-03/22/16

(ORD) NUMBER-1700096

1 R. KOLB.....AYE
 3 R. MORRIS.....AYE
 5 J. BRANDTJEN.....AYE
 7 J. GRANT.....AYE
 9 J. HEINRICH.....AYE
 11 C. HOWARD.....AYE
 13 P. DECKER.....AYE
 15 B. MITCHELL.....AYE
 17 D. PAULSON.....AYE
 19 K. CUMMINGS.....AYE
 21 W. ZABOROWSKI.....AYE
 23 K. HAMMITT.....AYE
 25 G. YERKE.....AYE

2 D. Zimmermann.....AYE
 4 J. BATZKO.....AYE
 6 J. WALZ.....
 8 E. HIGHUM.....AYE
 10 D. SWAN.....AYE
 12 P. WOLFF.....AYE
 14 C. PETTIS.....AYE
 16 M. CROWLEY.....AYE
 18 L. NELSON.....AYE
 20 T. SCHELLINGER...AYE
 22 P. JASKE.....AYE
 24 S. WHITTOW.....AYE

TOTAL AYES-24

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-24

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