

Enrolled Ordinance 172-08

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF DELAFIELD ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE 1/4 OF SECTION 35, T7N, R18E, TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE A-2 RURAL HOME DISTRICT (ZT-1848)

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 April 11, 2017, 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 SE 1/4 of Section 35, T7N, R1 SE, 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-1848, is hereby approved.

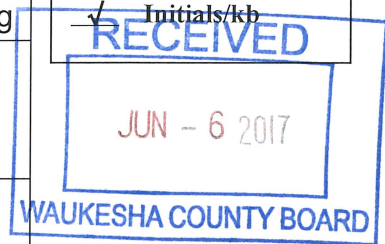
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Delafield.

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

ORDINANCE ADMINISTRATIVE FACT SHEET

Title of O/R:	AMEND THE DISTRICT ZONING MAP OF THE TOWN OF DELAFIELD ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 35, T7N, R18E, TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE A-2 RURAL HOME DISTRICT (ZT-1848)	
Submitting Department:	Parks and Land Use – Planning & Zoning	
Department Contact(s): (Include dept. manager or staff who has worked on this ordinance in addition to the dept. head)	Dale Shaver, Director Jason Fruth, Planning Manager	
Who will appear at committee meetings?	Jason Fruth, Planning Manager	
Date of Co. Board Meeting at which you plan O/R to be considered:	June 27, 2017	Fiscal Note by DOA? (DOA fills this in.) No
Routing Number:	Routing # 70-15-17	

Checklist
<input checked="" type="checkbox"/> Cover Sheet
<input checked="" type="checkbox"/> Ordinance
<input checked="" type="checkbox"/> Signature Sheet
<input checked="" type="checkbox"/> Staff Report
<input checked="" type="checkbox"/> Map
<input checked="" type="checkbox"/> Town Ordinance
<input checked="" type="checkbox"/> Initials/kb



LUPE
 6/7/17
 mm
 10 minutes

Does this O/R create or abolish any positions or involve other Human Resources issues in your department?

_____ Yes* X No

* If yes, the ordinance should be reviewed by HR prior to submission to Corp. Counsel.

Does this O/R appropriate or transfer expenditure authority, additional resources or change the Budget intent?

_____ Yes* X No

*If department staff developed a fiscal impact statement, please send to your assigned budget analyst concurrent with forwarding of O/R to Corp. Counsel.

Does this O/R authorize the execution of any new or extended contracts/leases/MOUs or other agreements that obligate the County?

_____ Yes* X No

*If yes, the proposed documents must be forwarded to risk management and Corp. Counsel for approval. The O/R will not be forwarded to the Co. Board until related agreements receive approval. Departments are responsible for putting approved documents on file with the Co. Clerk.

Are there documents (other than contracts, leases or MOUs) that should be included with this O/R before it goes to the County Board office?

 X Yes* _____ No

If yes, all documents must be received by Corp. Counsel before the ordinance can be forwarded to DOA for review. Contracts or leases that are affected by or are the subject of an O/R must be provided to Corp. Counsel.

Sec. 59.14(1m) Summary (for publication purposes): This Ordinance will rezone property that is subject to the Town of Delafield Zoning Code and located at S12 W29085 Summit Avenue, Town of Delafield from the A-1 Agricultural District to the A-2 Rural Home District.

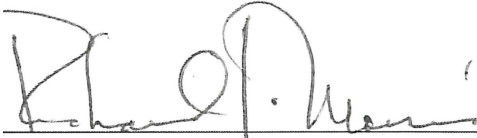
Referred on:	File Number: 172-0-008	Referred to:
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COMMISSION ACTION

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-1848 (Ronald Bartsch)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

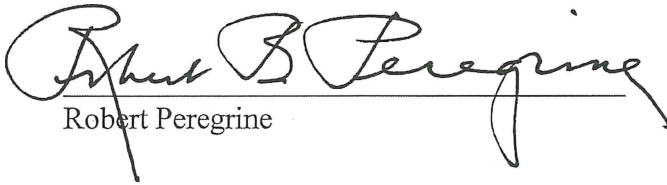
May 18, 2017



Richard Morris, Chairperson

Absent

William Mitchell

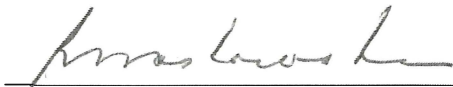


Robert Peregrine

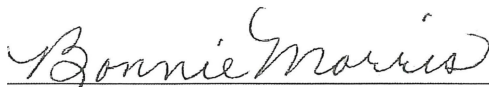


ABSENT

Keith Hammit



William Maslowski



Bonnie Morris

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

DATE: May 18, 2017

FILE NO.: ZT-1848

PETITIONER/OWNER: Ronald Bartsch
S12 W29085 Summit Avenue
Waukesha, WI 53188-9476

TAX KEY NO.: DELT 0860.990

LOCATION:

Part of the SE ¼ of Section 35, T7N, R18E, Town of Delafield. More specifically the property is located at S12 W29085 Summit Avenue and contains approximately 6.7 acres.

EXISTING ZONING:

A-1 Agricultural District.

EXISTING LAND USE:

Single Family Residential.

PROPOSED ZONING:

A-2 Rural Home District.

PROPOSED LAND USE:

Single Family Residential.

PUBLIC HEARING DATE:

April 5, 2017.

PUBLIC REACTION:

An adjacent property owner in the same situation, would like to construct an accessory building, and wanted to see how the rezoning process works. The same individual also stated that he has no problems with his neighbor's request to rezone the subject property.

TOWN PLAN COMMISSION ACTION:

The Town of Delafield Plan Commission, at their meeting of April 5, 2017, recommended approval of the request to the Town Board.

TOWN BOARD ACTION

On April 11, 2017, the Town of Delafield Board approved the rezoning request.

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 northern 2.35 acres in the Rural Density and Other Agricultural Lands category (2.755 acres per

dwelling unit based on the Town of Delafield Comprehensive Plan), with the remainder of the property in the Isolated Natural Resource category (5 acres per dwelling unit). It should be noted that per the Town Engineer’s report, the existing 335 feet of lot frontage on Summit Avenue could not accommodate the creation of any new lots since the A-2 District has a minimum lot width requirement of 200 feet. Therefore, this proposal to rezone from A-1 to A-2 is in conformance with Town and County Plan recommendations.

STAFF ANALYSIS:

The petitioner is proposing to rezone his 6.71-acre parcel located near the intersection of Summit Ave (U.S. 18) and Elmhurst Road (C.T.H. “G”) from the A-1 Agricultural District to the A-2 Rural Home District. The parcel is rectangular in shape and is bounded by Summit Avenue to the north and the Genesee/Delafield municipal boundary to the south. The lot contains a single-family residence and had an accessory building that was recently lost due to fire damage. Both the residence and the site of the destroyed accessory building are located at the top of a steep hill that sits roughly 70 feet higher than the elevation of Summit Avenue. The adjacent lots are zoned A-1 agricultural, however a 4 acre lot, (S12 W28925 Summit Avenue) two lots to the east was rezoned from A-1 to A-2 as was an 8.88 acre parcel (W289 S755 Elmhurst Rd) located approximately 1,200 feet north of the subject property.

According to the Town Engineer, there are two primary reasons for this request. The first stated reason is to rezone the 6.71-acre parcel into a district where it conforms to the minimum lot size requirements. The A-1 District requires 40-acre minimum lot sizes vs. a three-acre minimum in the A-2 District. The second reason of the rezone was to reduce the proportionate amount of open space required from 95% (A-1) to 85% (A-2), to allow the petitioner to rebuild an accessory building that had recently burned down.

STAFF RECOMMENDATION:

This proposal to rezone would bring a legal non-conforming lot into conformance with its zoning district and would allow the current owner some additional flexibility from the very restrictive A-1 District open space provisions, in order to rebuild an accessory building destroyed by fire. Additionally with 335 feet in average lot width, a rezone to A-2 would not allow the petitioner to create an additional lot since the 200 foot minimum average lot width cannot be achieved, even if the A-2 District’s minimum lot size of three acres could be met with a conceptual land division into two lots. This action if approved, might be interpreted as spot zoning due to the lack of any adjacent lands with existing A-2 zoning. However, the Town and County Comprehensive Development Plan recommends that areas be placed in zoning districts consistent with their existing use. Therefore, it is the opinion of the Planning and Zoning Division Staff that this request be **approved.**

Respectfully submitted,

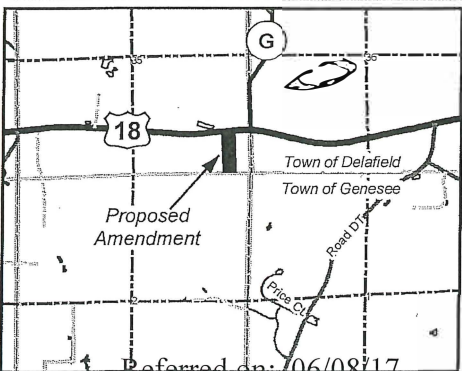
Ben Greenberg

Ben Greenberg
Senior Land Use Specialist

Attachments: Map
Town Ordinance 2017-01

ZONING AMENDMENT

PART OF THE SE 1/4 OF SECTION 35
TOWN OF DELAFIELD

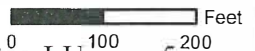


TOWN ZONING CHANGE FROM A-1 AGRICULTURAL DISTRICT TO A-2 RURAL HOME DISTRICT

FILE NO.ZT-1848
 PETITIONERBARTSCH
 DATE OF PLAN COMM. CONSIDERATION05/18/17
 AREA OF CHANGE6.7 ACRES
 TAXKEY NUMBERDELT 0860.990



1 inch = 200 feet



Prepared by the Waukesha County Department of Parks and Land Use

Referred on: 06/08/17

File Number: 172 O 008

Referred to: LU 5

Ordinance No. 2017-01

An Ordinance to amend the Zoning Map of the Town of Delafield from A-1 to A-2 on lands located in the Southeast ¼ of the Southeast ¼ of Section 35, Town 7 North Range 18 East, Town of Delafield, Waukesha County Wisconsin (Bartsch Property)

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 Southeast ¼ of the Southeast ¼ of Section 35, Town 7 North, Range 18 East, Town of Delafield, Waukesha County, Wisconsin described as follows: Commencing at the Southeast corner of said Southeast ¼, thence due West along the south line of said ¼ section, 656.90 feet; thence North 0°49'23" West, 936.36 feet to the center of USH 18; thence North 85°05'30" East, 463.19 feet; thence, North 85°53'25" East, 49.83 feet; thence North 86°46'20" East, 49.79 feet; thence North 88°02'25" East, 49.67 feet; thence South 89°49'48" East, 49.97 feet to the east line of the Southeast ¼ of Section 35; thence South 0°44'50" East, 983.87 feet to the point of beginning;

Excepting therefrom all that part of the Southeast ¼ of said Section 35 commencing at the Southeast corner of said ¼ Section; thence West along the south line of said ¼, 328.45; thence North 0°56' West, 965.31 feet; thence North 85°36' along the centerline of USH 18, 128.15 feet; thence northeasterly along an arc of a curve to the right of radius 3514.58 feet, chord bears North 87°14' East, 200.44 feet; thence South 0°56'30" East along the east line of said ¼ section 984.82 feet to the point of commencement;

Also excepting lands described on Reel166/Image348, Document No. 2540658, Waukesha County Register of Deeds.

Section 2: Severability.

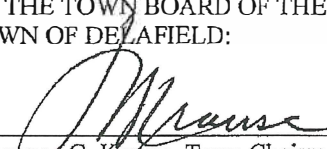
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, 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 11th day of April, 2017.

BY THE TOWN BOARD OF THE TOWN OF DELAFIELD:


Lawrence G. Krause, Town Chairman

ATTEST:


Mary T. Ebsner
Town Clerk/Treasurer

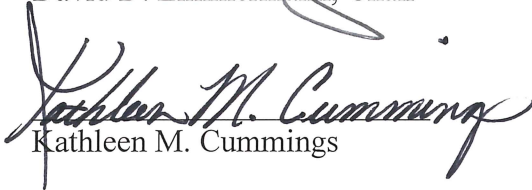
tgbl H:\1171600\Doc\O 170406 Bartsch Rezoning.docx

RECEIVED
4/12/2017
DEPT OF PARKS &
LAND USE

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF DELAFIELD ZONING CODE
BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 35,
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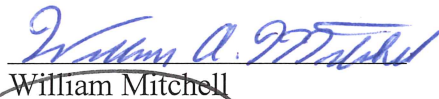
Presented by:
Land Use, Parks, and Environment Committee

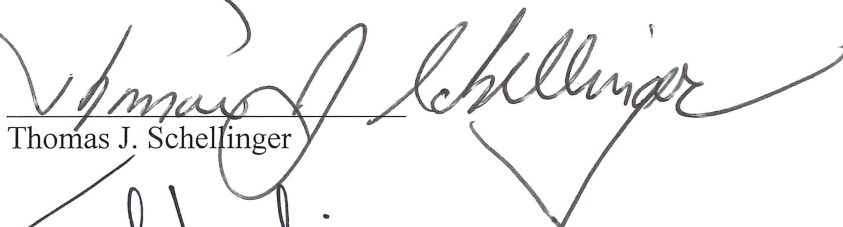

David D. Zimmermann, Chair

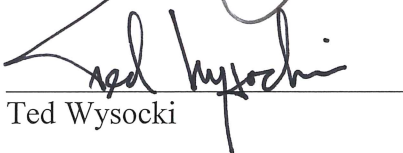

Kathleen M. Cummings

Keith Hammitt


Robert L. Kolb


William Mitchell


Thomas J. Schellinger


Ted Wysocki

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

Date: 4/29/17, 
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: _____

Date: 7/7/17, 
Paul Farrow, County Executive

D1 - Kolb	AYE	D14 - Wood	Absent
2 - Zimmermar	(M) AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinge	Absent	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cumming	AYE
D7 - Grant	AYE	D20 - Schelling	AYE
D8 - Michalski	AYE	D21 - Zaborows	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	Absent
D11 - Howard	AYE	D24 - Whittow	(2) AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

172-0-008

Passed (22 Y - 0 N - 3 Absent)

Majority Vote

