

ENROLLED ORDINANCE 175-72

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING CODE BY APPLYING A PLANNED DEVELOPMENT DISTRICT OVERLAY FOR HERITAGE HILL ESTATES PDD-17, FOR CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 19, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN (RZ74)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Mukwonago Town Board on December 16, 2020; 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 Mukwonago Zoning Code, adopted by the Town of Mukwonago on November 24, 2020, is hereby amended to apply a Planned Development District Overlay, Heritage Hill Estates PDD-17, for certain lands located in part of the SE ¼ of Section 19, T5N, R18E, Town of Mukwonago, 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 RZ74, is hereby approved, as set forth in the Town of Mukwonago Ordinance No 2020-O-51.

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.

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Ordinance hereby recommends **approval** of **RZ74 (Relentless Properties, LLC_Koch)** in accordance with the attached “Staff Report and Recommendation”.

PARK AND PLANNING COMMISSION

January 21, 2021

William Mitchell (via Microsoft Teams)

William Mitchell, Chairperson

James Siepmann (via Microsoft Teams)

James Siepmann, Vice Chairperson

Robert Peregrine (via Microsoft Teams)

Robert Peregrine

Richard Morris (via Microsoft Teams)

Richard Morris

Thomas Michalski (via Microsoft Teams)

Thomas Michalski

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

DATE: January 21, 2021

FILE NO.: RZ74

OWNER: Relentless Properties LLC.
5200 Deer Road
East Troy, WI 53120-9645

APPLICANT: Ryan Koch
Relentless Properties LLC.
5200 Deer Road
East Troy, WI 53120-9645

TAX KEY NO.: MUKT 1948.999.001

LOCATION:

Part of the SE ¼ of Section 19, T5N, R18E, Town of Mukwonago. More specifically, the property is located at S92 W33360 CTH NN, containing approximately 56 acres. The westerly proposed outlot (see Exhibit "A" is excluded from this rezoning).

EXISTING ZONING:

A-1 Agricultural with EC Environmental Corridor Overlay District.

PROPOSED ZONING:

A-1 Agricultural District and EC Environmental Corridor Overlay District with a Planned Development District (Heritage Hill Estates, PDD-17).

EXISTING USE(S):

Farm and single-family residence.

REQUESTED USE(S):

Eleven (11) lot Planned Unit Development subdivision.

PUBLIC HEARING DATE:

December 2, 2020.

PUBLIC COMMENT:

None.

TOWN PLAN COMMISSION ACTION:

On December 2, 2020, the Town of Mukwonago Plan Commission unanimously recommended approval of the rezone request, to the Town Board.

TOWN BOARD ACTION:

On December 16, 2020, the Mukwonago Town Board unanimously adopted the rezone ordinance.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF MUKWONAGO CDP:

The Comprehensive Development Plan for Waukesha County designates the property as Rural Density and Other Agricultural Lands and Primary Environmental Corridor and defers to the Town of Mukwonago Land Use Plan for rural density requirements. The Town of Mukwonago Land Use Plan designates the property as Agricultural Residential (3.2 acres/dwelling unit) and Primary Environmental Corridor. The proposed rezone will comply with both plans.

STAFF ANALYSIS:

The subject property is located on CTH NN, just north of the Agape Agrihood subdivision, and is approximately 55.59 acres, excluding the road right-of-way. The property is bordered to the north and west by agricultural parcels and to the east by large residential parcels. The existing farm residence, (proposed Lot 11) is served by a private sewage system and private well. The lot contains several agricultural buildings including a barn and chicken coop.

The property, which is fully within the jurisdiction of the Town of Mukwonago, is currently zoned A-1 Agricultural District, which requires a minimum three (3) acre lot size and 200' of average width. Portions of the property are also designated as EC Environmental Corridor, the boundaries of which were delineated by SEH in June 2020.

The petitioner is proposing an 11-lot subdivision, with two Outlots, known as Heritage Hill Estates (Exhibit A). The development will be served by private sewage (mound) systems and private wells. The development complies with the 3.2 acres/dwelling unit density requirement of the town plan. The developer has proposed to rezone the property to allow for a Planned Development District designation to be applied to the lands that allows for flexibility in the lot area regulations. The proposed minimum lot size is 1.5-acres, whereas the typical A-1 District lot minimum is three acres.

The development is subject to the Waukesha County Stormwater Management and Erosion Control Ordinance. The proposed stormwater basin along CTH NN and Heritage Hill Court will be reviewed and approved by Waukesha County Land Resources.

One access point will serve the development, the location of which is directly across from Red Brae Drive. The existing farm residence will continue to have access from the existing gravel drive. If access is ever proposed to Outlot 2, Waukesha County Department of Public Works (DPW) will have to further evaluate access to the lot. The county has reviewed a preliminary plat for the development. The county review letter notes that, while the vast majority of the environmental corridor is conserved within an outlot, several lots do encroach into the environmental corridor. The town plan recommends that environmental corridors be preserved in their entirety in conservation design projects. The county review letter recommended some lot line adjustments to better comply with plan recommendations. The town and county will have an opportunity to comment further on this matter at time of final plat review.

STAFF RECOMMENDATION:

Based on the above analysis, the Planning and Zoning Division Staff recommends **approval** of the request subject to the conditions of Town of Mukwonago Ordinance 2020-0-51.

The rezone will allow for a conservation design development. The reduction of lot sizes minimizes impacts to the environmental corridor.

Respectfully submitted,

Jacob Heermans

Jacob Heermans
Senior Land Use Specialist

Attachments: Town Ordinance (2020-O-051)
Exhibit A
Map

N:\PRKANDLU\Planning and Zoning\Rezoning\Staff Reports\RZ74 Relentless Properties LLC_Koch mkt.doc

ORDINANCE 2020-O-51

**AN ORDINANCE TO ESTABLISH A PLANNED DEVELOPMENT
DISTRICT PURSUANT TO CHAPTER 36 OF THE MUNICIPAL CODE**

WHEREAS, the Town Board for the Town of Mukwonago adopted a zoning code for the Town of Mukwonago in 1953 and has amended it from time to time since then; and

WHEREAS, that zoning code is codified as Chapter 36 of the Town of Mukwonago Municipal Code, titled "Town Zoning;" and

WHEREAS, No Limit Excavating LLC owns the property at S92W33360 CTH NN (MUKT1948999001) and has submitted a petition to the town to establish a planned development district pursuant to the standards and requirements in the zoning code for a development project consisting of 11 residential lots and 1 outlot; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on December 2, 2020 to consider the petitioner's application and to accept public comment; and

WHEREAS, the Plan Commission and Town Board considered the following factors in making their decisions as set forth in Article 8 of Chapter 36:

- (1) whether development in the proposed project is in keeping with the spirit and intent of this chapter;
- (2) whether development in the proposed project is consistent with the town's comprehensive plan;
- (3) the effects of development in the proposed project on traffic safety and efficiency, both within and outside of the district;
- (4) whether the proposed plan for development in the proposed project is properly planned and is properly coordinated with the existing and anticipated land uses on properties in the immediate and surrounding area;
- (5) the extent to which the natural features, open space, and/or farmland on the site are preserved;
- (6) the extent to which the rural character of the area is preserved;
- (7) whether development in the proposed project complies with provisions of this chapter and other land development regulations of the town that may apply;
- (8) the effects of development in the proposed project on public services and facilities;
- (9) whether adequate water and sanitary sewer facilities can be provided to development in the proposed project;
- (10) the proposed means of maintaining any undeveloped areas of the proposed project for the purpose for which it was set aside;
- (11) effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- (12) effects of the proposed use on the normal and orderly development and improvement of the surrounding properties for uses permitted in the zoning district and adjoining districts;

- (13) whether the proposed open space in the project, in terms of quality, size, location, and aesthetic value, justify the approval of the project;
- (14) whether the size, quality, and architectural design of all buildings in the project will have an adverse effect upon the general character of the town and surrounding neighborhood;
- (15) whether the proposed development is consistent with the general character of the town and the immediate neighborhood;
- (16) whether the plan for development is superior to development that is permitted based on the design and development standards of the underlying zoning district; and
- (17) any other factor that relates to the purposes of this chapter as set forth in s. 36-5 or as allowed by state law.

WHEREAS, the Plan Commission recommended approval at their meeting on December 2, 2020; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on December 16, 2020; and

WHEREAS, the Town Board for the Town of Mukwonago, after carefully reviewing the recommendation of the Plan Commission for the Town of Mukwonago and having given the matter due consideration having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Town of Mukwonago, will enhance property values in the Town and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Town or for any other reason cause a substantial adverse effect on the property values and general desirability of the Town.

NOW, THEREFORE, the Town Board for the Town of Mukwonago, Waukesha County, does hereby ordain as follows:

Section 1. Amend the zoning map established in s. 36-666 to show the planned development district consisting of the area of the preliminary plat as depicted in Attachment A, excluding Outlot 2. The extent of the Environmental Corridor (EC) district shall remain unchanged.

Section 2. Amend Appendix D, titled "Dimensional Standards in Planned Development Districts," by adding the following content to the end of that part:

Heritage Hill Estates (PDD-17)

Lot density, maximum: 11 residential lots and 1 outlet

Lot size, minimum: 1.5 acres

Lot width, minimum: 120 feet, except 80 feet for lots on the cul-de-sac bulb

Setback, minimum: 35 feet

Offset, minimum: 20 feet

Maximum floor area of accessory buildings: 1,000 square feet (special exceptions for floor area are not allowed)

The design and exterior building materials for accessory buildings must match the principal building.

Unspecified standards: per Suburban Estates (SE) zoning district

Section 3. If the Town Board has not approved a final development plan for the proposed development project by June 1, 2022, the zoning of the subject property as set forth herein shall lapse and automatically revert to the previous zoning classifications without any further action by the Town.

Section 4. 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 5. The Town of Mukwonago Town Clerk is directed to send three signed copies of this ordinance to the Waukesha County Clerk for approval of the Waukesha County Board of Supervisors.

Section 6. This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

Adopted this 16th day of December 2020

TOWN OF MUKWONAGO



Peter Topczewski, Town Chair

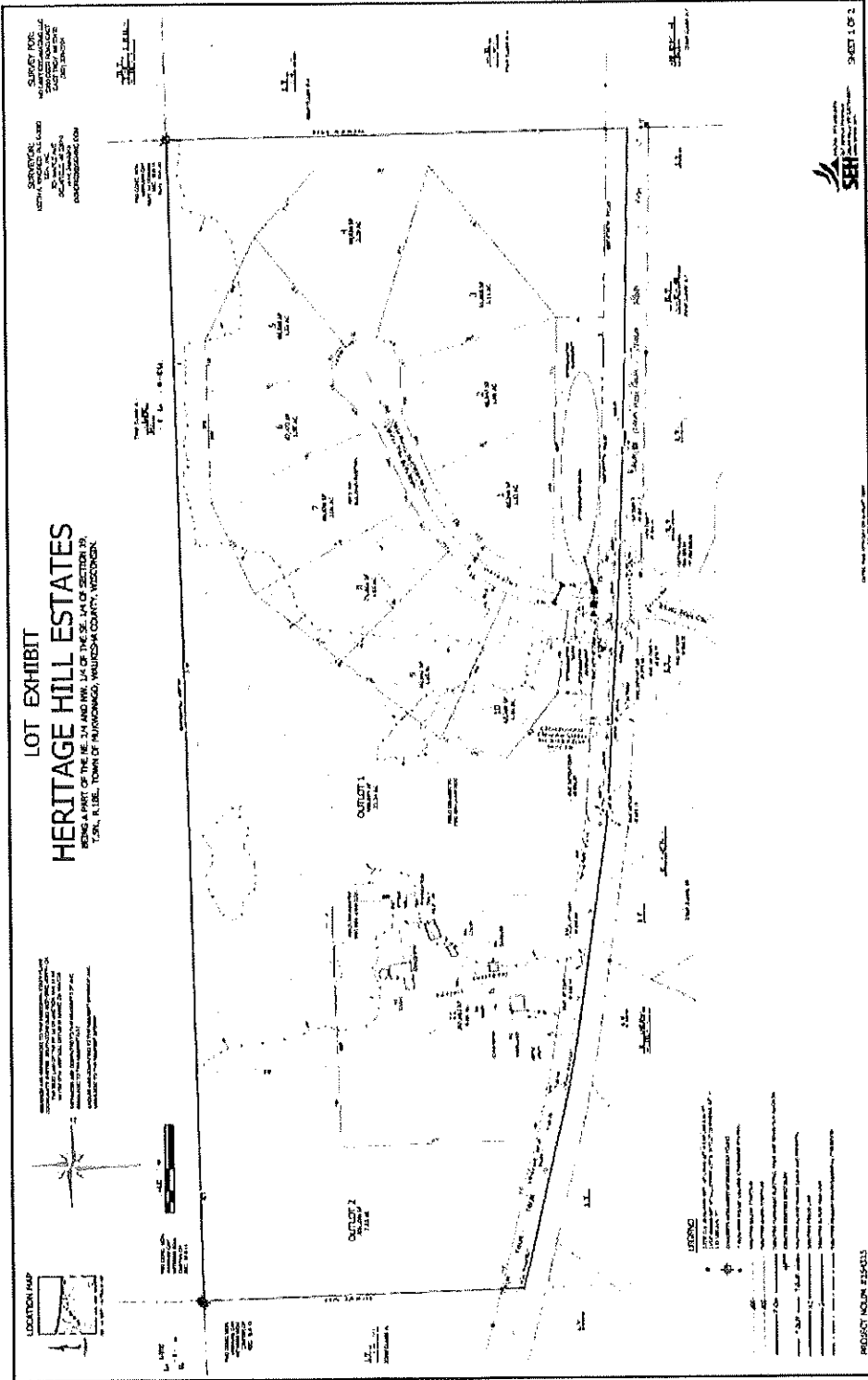
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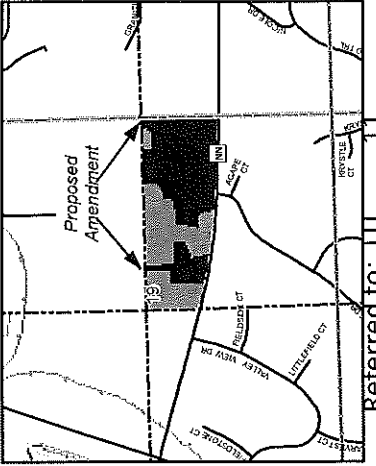
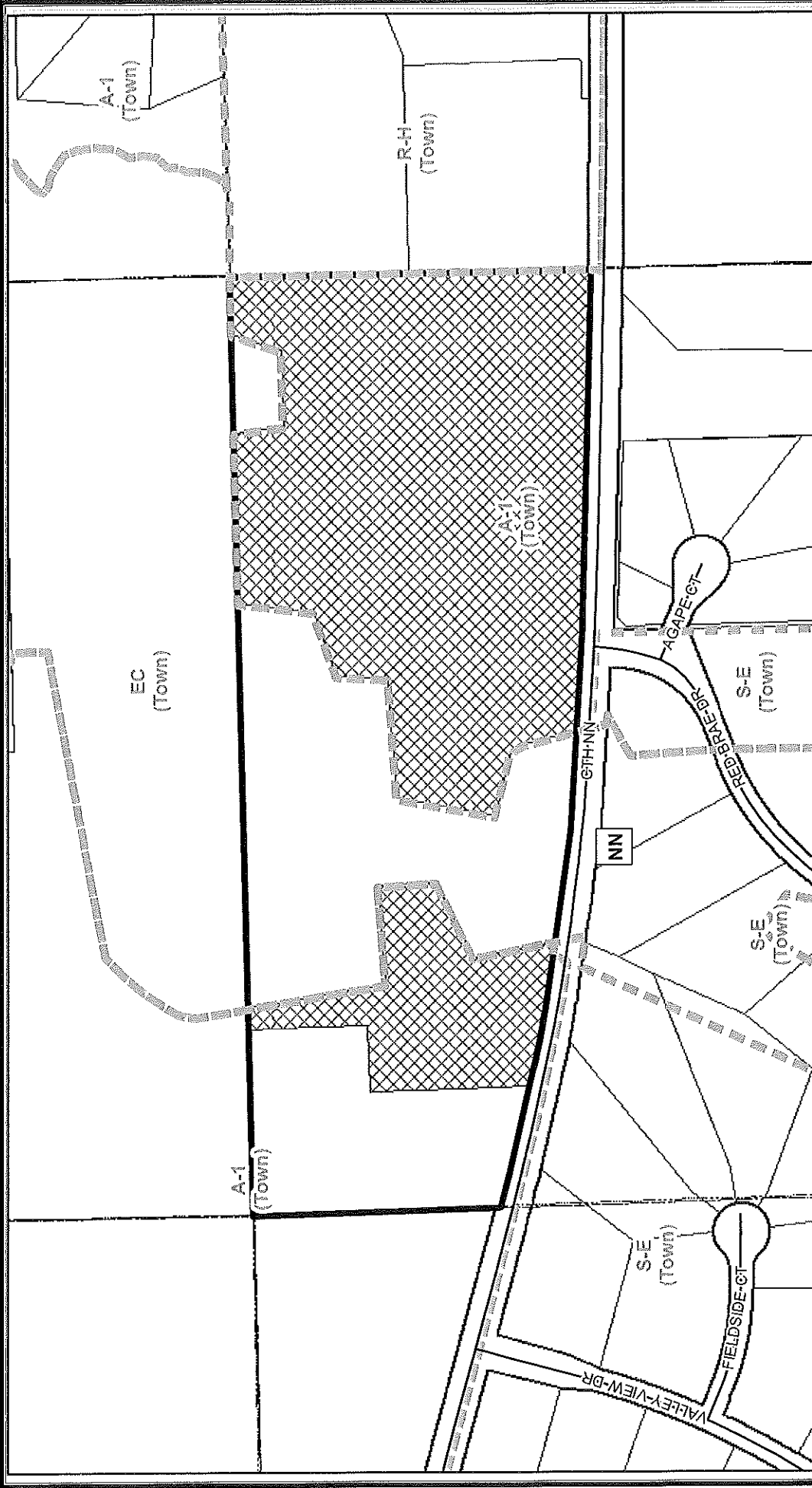


Kathy Karalewitz, Town Administrator

Published and/or posted this 12 day of January, 2020

Attachment A. Preliminary Plat of Heritage Hill Estates Subdivision





TOWN ZONING CHANGE TO ADD PLANNED DISTRICT DEVELOPMENT DISTRICT DESIGNATION TO LANDS ZONED A-1 AGRICULTURAL DISTRICT WITH AN EC ENVIRONMENTAL CORRIDOR OVERLAY

FILE.....RZ74
 DATE OF PLAN COMMISSION.....1/21/21
 AREA OF CHANGE.....34.1 ACRES
 TAX KEY NUMBER.....MUKT 1948.999.001

1 inch = 400 feet
 Feet
 0 200 400

ZONING AMENDMENT

PART OF THE SE 1/4 OF SECTION 19,
 TOWN OF MUKWONAGO

Referred on: 02/04/21

Referred to: LU 11

Prepared by the Waukesha County Department of Parks and Land Use

File Number: 175-O-07Z

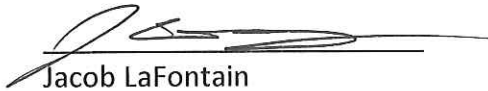
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TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN (RZ74)

Presented by:
Land Use, Parks, and Environment Committee


William A. Mitchell, Chair

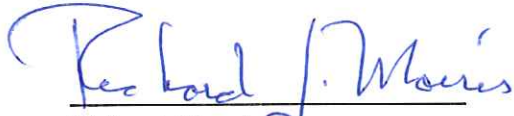
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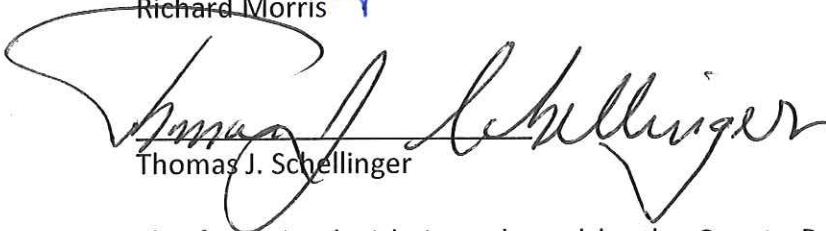
Keith Hammitt


Jacob LaFontain


Thomas A. Michalski


Chris Mommaerts


Richard Morris


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: 3/1/2021, 
Margaret Wartman, County Clerk

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

Approved: X

Vetoed: _____

Date: 3/2/2021, 
Paul Farrow, County Executive



VOTE RESULTS: Passed By Majority Vote

AYE: 25

NAY: 0

ABSENT: 0

D1 - Foti	AYE
D2 - Zimmermann	AYE
D3 - Morris	AYE
D4 - Batzko	AYE
D5 - Dondlinger	AYE
D6 - Walz	AYE
D7 - LaFontain	AYE
D8 - Michalski	AYE
D9 - Heinrich	AYE
D10 - Swan	AYE
D11 - Howard	AYE
D12 - Wolf	AYE
D13 - Decker	AYE

D14 - Mommaerts	AYE
D15 - Mitchell	Motion AYE
D16 - Crowley	AYE
D17 - Paulson	AYE
D18 - Nelson	AYE
D19 - Cummings	AYE
D20 - Schellinger	AYE
D21 - Gaughan	AYE
D22 - Wysocki	AYE
D23 - Hammitt	AYE
D24 - Whittow	AYE
D25 - Johnson	Second AYE