

ENROLLED ORDINANCE 179-57

APPROVE TOWN OF DELAFIELD ORDINANCE NO. 2024-08 THAT REPEALS AND RECREATES SECTION 17.04(5)(d) OF THE TOWN OF DELAFIELD ZONING CODE RELATING TO OPEN SPACE REQUIREMENTS IN THE M-1 ZONING DISTRICT (RZ151)

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 September 10, 2024; and

WHEREAS, the Town of Delafield Ordinance No. 2024-08 repeals and recreates Section 17.04(5)(d) of the Town of Delafield Zoning Code relating to open space requirements in the M-1 Zoning District; 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 Town of Delafield Ordinance No. 2024-08 which repeals and recreates Section 17.04(5)(d) of the Town of Delafield Zoning Code relating to open space requirements in the M-1 Zoning District as more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference, is hereby approved.

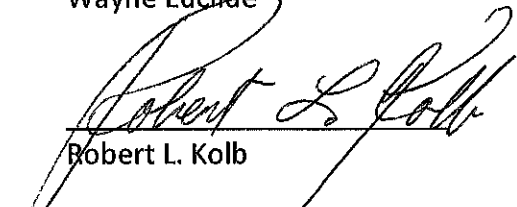
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Delafield.

APPROVE TOWN OF DELAFIELD ORDINANCE NO. 2024-08 THAT REPEALS AND RECREATES SECTION 17.04(5)(D) OF THE TOWN OF DELAFIELD ZONING CODE RELATING TO OPEN SPACE REQUIREMENTS IN THE M-1 ZONING DISTRICT (RZ151)

Presented by:  
Land Use, Parks, and Environment Committee

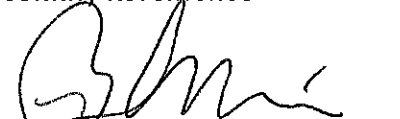
  
Christine M. Howard, Chair

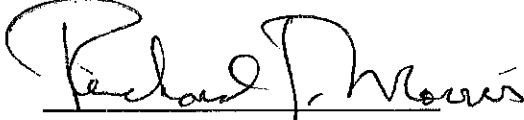
  
Wayne Euclide

  
Robert L. Kolb

**Absent**

Johnny Koremenos

  
Brian Meier

  
Richard Morris

**Absent**

Steve Styza

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

Date: 12/20/24,   
Margaret Wartman, County Clerk

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

Approved:

Vetoed:

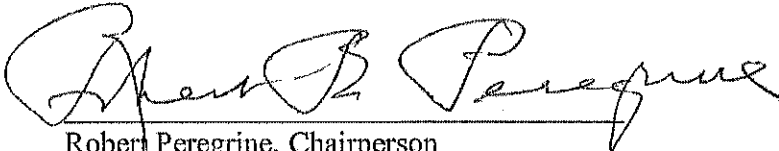
Date: 12/20/2024,   
Paul Farrow, County Executive

COMMISSION ACTION

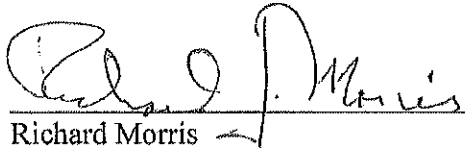
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Text of the Town of Delafield Zoning Code hereby recommends **approval** of **RZ151 (Town of Delafield Board)** in accordance with the attached "Staff Report and Recommendation".

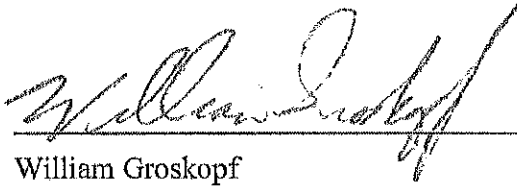
PARK AND PLANNING COMMISSION

November 21, 2024

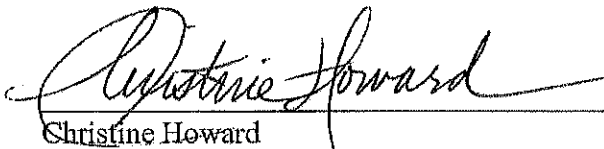
  
Robert Peregrine, Chairperson

  
James Siepmann

  
Richard Morris

  
William Groskopf

  
Gary Szpara

  
Christine Howard

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**  
**STAFF REPORT AND RECOMMENDATION**  
**TEXT AMENDMENT**

**FILE NO.:** RZ151

**DATE:** November 21, 2024

**PETITIONER:** Town of Delafield Board  
W302 N1254 Maple Ave.  
Delafield, WI 53018

**REQUEST:**  
Repeal and re-create Section 17.04(5)(d) of the Town of Delafield Zoning Code relating to open space requirements in the M-1 Industrial District.

**PUBLIC HEARING DATE:**  
September 3, 2024

**PUBLIC REACTION:**  
A representative of a business seeking to develop a light industrial site indicated that both their analysis and the town staff's analysis showed that the current 65% open space standard for industrial use is high. He stated that town staff suggested that he could seek a change to the town standard and he noted that such a change would help his business make productive use of their site.

**TOWN PLAN COMMISSION ACTION:**  
The Town of Delafield Plan Commission, at their meeting of September 3, 2024, recommended approval of the request by a vote of 4 to 2.

**TOWN BOARD ACTION:**  
The Town Board of Delafield, at their meeting of September 10, 2024, recommended approval of the request per Town Ordinance 2024-08 by a vote of 3 to 0.

**COMPLIANCE WITH THE COUNTY COMPREHENSIVE DEVELOPMENT PLAN:**  
The County Development Plan encourages economic development and a robust local economy. The proposal would allow for a more reasonable level of development on properties that are planned for light industrial type uses.

**OTHER CONSIDERATIONS:**  
The Town of Delafield is proposing to lower the open space requirement for the M-1 Industrial District from 65% of lot area to 55% of lot area. The Town Engineer explained that an open space measure was introduced into the town code in 1998 as an alternative to the former floor area ratio scheme of permitting building bulk. Each zoning district has open space limitations which essentially act as impervious surface limitations.

The town's 65% open space standard for the M-1 District is fairly restrictive as compared to other area communities. However, the town does not have a significant amount of land in this use type; there are just five properties in the town zoned M-1. The request to lower the threshold to 55% was prompted by the request of a property owner seeking to develop their property for light industrial type use.

The town indicated that they examined other local ordinances which gave them comfort in relaxing open space standards to 55%. Many of the comparable codes that they examined employ a floor area ratio scheme which does not compare neatly to an open space requirement. For the sake of comparison, the Waukesha County zoning ordinances are quite permissive in requiring just 30% greenspace on similarly zoned industrial parcels.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request be **approved**. The relaxation of the town's open space requirements will make development of light industrial properties in the town more viable while still providing ample green space for stormwater and landscaping areas. This change furthers opportunities for economic development on properties that are planned and zoned for industrial use.

Respectfully submitted,

*Jason Fruth*

Jason Fruth  
Planning and Zoning Manager

Attachment: Town of Delafield Ordinance No. 2024-08

JF:kb

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STATE OF WISCONSIN

TOWN OF DELAFIELD

WAUKESHA COUNTY

ORDINANCE NO. 2024-08

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**AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 17.04  
OF THE TOWN OF DELAFIELD TOWN CODE CONCERNING  
OPEN SPACE REQUIREMENTS IN THE M-1 ZONING DISTRICT**

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WHEREAS, the Town of Delafield has a Town Zoning Code that creates certain rules and regulations relating to open space requirements in the M-1 Zoning District; and

WHEREAS, pursuant to Section 17.10(5)(B) of the Town Zoning Code, the Town Board initiated this proposal to amend the text of the Town Zoning Code to decrease the required open space in the M-1 district by 10%; and

WHEREAS, the Town Board referred the proposed text amendment to the Town Plan Commission for report and recommendation pursuant to Wisconsin Statutes Section 62.23(7)(d)(2); and

WHEREAS, pursuant to Wisconsin Statutes Section 62.23(7)(d)(1)b Class 2 Notice was provided for the joint hearing held by the Town Board and Town Plan Commission, which occurred on September 3, 2024; and

WHEREAS, pursuant to Section 17.10(5)(E)(2) of the Town Code, the Town Plan Commission conducted the necessary investigation and made a recommendation in favor of the proposed text amendment; and

WHEREAS, the Town Board finds that this Town Zoning Code amendment will benefit the health, safety and welfare of the Town of Delafield by allowing a greater amount of open space in the M-1 District; and

WHEREAS, the Town Board finds that this change to the Town Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, further the Town Board of the Town of Delafield having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such amendment on the health, safety and welfare of the community, hereby determine that the amendment will not violate the spirit or intent of the Town Zoning Code for the Town of Delafield, will not be contrary to the public health, safety or general welfare of the Town of Delafield, and the amendment is consistent with the Town of Delafield Comprehensive Plan.

NOW, THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1:** Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning Code," Section 17.04 entitled "Zoning Districts," Subsection 5 entitled "Specific District," Subsection M entitled "M-1 Industrial District," Subsection 5 entitled "Area Regulations," Subsection d entitled "Open Space". is hereby repealed and re-created as follows:

**d. Open Space**

With the exception of rustic structures which shall be permitted, 55% of each lot shall remain as open space.

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: CONTINUATION OF EXISTING PROVISIONS

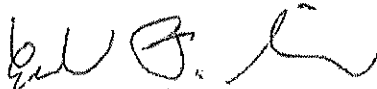
The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

SECTION 4: EFFECTIVE DATE.

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

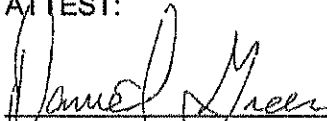
Dated this 10<sup>th</sup> day of September, 2024.

TOWN OF DELAFIELD



Edward Kranick, Town Chairman

ATTEST:



Dan Green, Town Administrator/Clerk

Published and/or posted this 10<sup>th</sup> day of September, 2024.

**VOTE RESULTS** >

21 YES

0 NO

0 ABSTAIN

4 ABSENT

**Ordinance 179-O-060**

Ordinance 179-O-060: Approve Town Of Delafield Ordinance No. 2024-08 That Repeals And Recreates Section Code Relating To Open Space Requirements In The M-1 Zoning District (RZ151)

 **Passed By Majority Vote**

D1 - Styza	S	AYE	D10 - Thieme	ABSENT	D19 - Enriquez	AYE
D2 - Euclide		AYE	D11 - Howard	M	D20 - Schellinger	AYE
D3 - Morris		ABSENT	D12 - Wolff	AYE	D21 - Gaughan	AYE
D4 - Batzko		AYE	D13 - Leisemann	AYE	D22 - Szpara	AYE
D5 - Grant		AYE	D14 - Mommaerts	AYE	D23 - Hammitt	AYE
D6 - Walz		AYE	D15 - Kolb	ABSENT	D24 - Bangs	AYE
D7 - LaFontain		AYE	D16 - Crowley	AYE	D25 - Johnson	AYE
D8 - Koremenos		AYE	D17 - Meier	AYE		
D9 - Heinrich		AYE	D18 - Nelson	ABSENT		