

ENROLLED ORDINANCE 168-97

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 17, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-1 AGRICULTURAL DISTRICT (ZT-1771)

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 18, 2013, 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 60.61, Wisconsin Statutes.

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 February 27, 2007, is hereby amended to 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 17, 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 ZT-1771, is hereby approved.

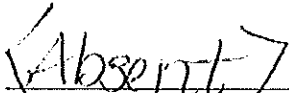
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

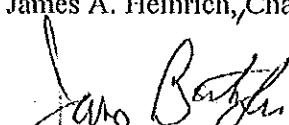
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

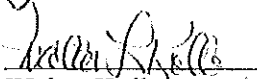
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.


AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 17, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-1 AGRICULTURAL DISTRICT (ZT-1771)

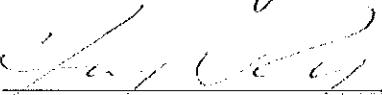
Presented by:
Land Use, Parks, and Environment Committee

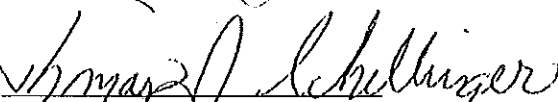

James A. Heinrich, Chair

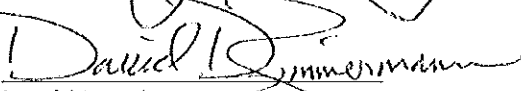

Jim Batzko


Walter Kolb



Pamela Meyer


Fritz Ruf


Thomas J. Schellinger


David D. Zimmermann

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

Date: 3/25/2014, 
Kathleen Novack, County Clerk

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

Approved: X

Vetoed:

Date: 3/28/2014, Daniel P. Vrakas
Daniel P. Vrakas, County Executive

Digitally signed by Daniel P. Vrakas
DN: cn=Daniel P. Vrakas, o=Waukesha County, ou=Waukesha
County Executive, email=countyexec@waukesha-county.gov, c=US
Date: 2014.03.28 11:22:34 -0500

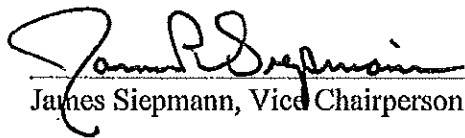
COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Code hereby recommends **approval** of (ZT-1771 – Don Swan Farms, LLC) in accordance with the attached “Staff Report and Recommendation”.

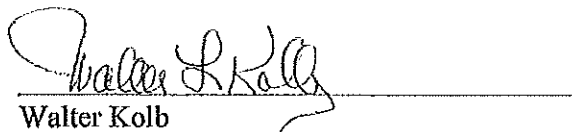
PARK AND PLANNING COMMISSION

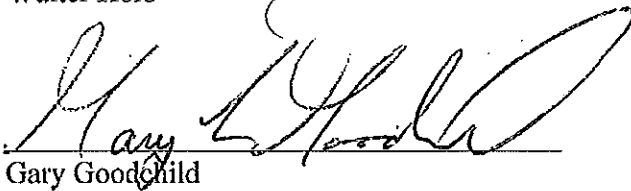
February 20, 2014

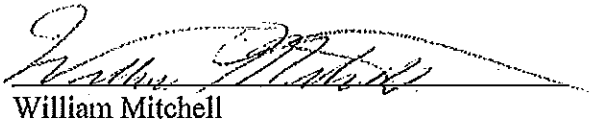

Robert Peregrine, Chairperson



James Siepmann, Vice Chairperson

Absent
Patricia Haukohl


Walter Kolb


Gary Goodchild


William Mitchell


Fritz Ruf

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

DATE: February 20, 2014

FILE NO: ZT-1771

OWNER/PETITIONER: Don Swan Farms, LLC
c/o Cynthia Fisher
W309 S7915 Avon Drive
Mukwonago, WI 53149

TAX KEY NUMBERS: MUKT 1940.998

LOCATION:

The subject property is located in the SE ¼ of Section 17 of the Town of Mukwonago, T5N, R18E, on the southeast side of Beulah Road, approximately 1,800 ft. south of the intersection of Beulah Road and C.T.H. "EE". It contains approximately 14.1 acres.

PRESENT ZONING:

A-P Agricultural Land Preservation District, requiring a minimum lot area of 35 acres.

PRESENT LAND USE:

Agricultural.

PROPOSED ZONING:

A-1 Agricultural District, requiring a minimum lot area of three (3) acres.

PROPOSED LAND USE:

Residential.

PUBLIC HEARING DATE:

December 4, 2013.

PUBLIC REACTION:

There were no public comments at the public hearing.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

The Town of Mukwonago Plan Commission, at their meeting of December 4, 2013, recommended to the Town Board that they approve the request for rezoning, subject to the conditions recommended in the Town Planner's Report, plus the addition of conditions noting that the property owner is responsible for any conversion penalties resulting from the rezoning and if there are any conversion penalties for this rezoning for which the Town is responsible, the property owner shall reimburse the Town for such costs. The Mukwonago Town Board, at their meeting of December 18, 2013, approved the request for rezoning, subject to the conditions recommended by the Town Plan Commission, which are set forth in Ordinance No. 2013-O-10 (see Exhibit "A").

CONFORMANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY AND THE TOWN OF MUKWONAGO LAND USE PLAN:

The proposed zoning is in conformance with the Comprehensive Development Plan for Waukesha County, which designates the subject property as Rural Density and Other Agricultural Land (5 acres per dwelling unit), and with the Town of Mukwonago Land Use Plan, which designates the subject property as Agricultural Residential (3.2 acres per dwelling unit).

STAFF ANALYSIS:

The 14.1 acre parcel to be rezoned is part of a larger farm, consisting of two additional parcels located immediately east of the parcel to be rezoned. The two parcels owned by Don Swan Farms, LLC that are not being rezoned have a combined area of approximately 100 acres and would remain in the A-P Agricultural Land Preservation District. The portion of the farm being rezoned is pastureland, with areas of steep slopes. That portion of the farm not being rezoned is primarily used as cropland and contains fewer areas of steep slopes. All of the farm buildings are located on that part of the farm that is not being rezoned. The applicant noted at the public hearing that they do not intend to claim tax credits for Agricultural Land Preservation zoning. It should be noted that lands in the Town of Mukwonago are not eligible for farmland zoning tax credits any longer because no lands within the Town are planned for farmland preservation, which means that lands subject to the Town's Zoning Ordinance and zoned Agricultural Preservation District are not eligible for zoning tax credits.

The parcel to be rezoned is proposed to be divided, by a Certified Survey Map, into a 5.84 acre parcel and an 8.26 acre parcel, as shown on the exhibit that is attached to the Town of Mukwonago Ordinance. Further divisions of the proposed lots would not be permitted without an amendment to the Comprehensive Development Plan for Waukesha County. The Town of Mukwonago has conditioned their approval of the proposed Certified Survey Map upon the owner stipulating the lots cannot be further divided and that restriction has been noted on the proposed Certified Survey Map.

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends **approval** of the requested rezoning, subject to the conditions set forth in the Town of Mukwonago Ordinance No. 2013-O-10, which is attached as Exhibit "A". The proposed zoning is in conformance with the Comprehensive Development Plan for Waukesha County and the Town of Mukwonago Land Use Plan and the rezoning will allow for the creation of two building sites while allowing the primary farm operation to remain intact.

Respectfully submitted,

Mary Finet

Mary E. Finet
Senior Land Use Specialist

Attachments: Exhibit "A" and Map

EXHIBIT "A"

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. 2013-O-10

AN ORDINANCE TO REZONE A CERTAIN PROPERTY IN SECTION 17, T5N R18E, IN THE TOWN OF MUKWONAGO AND TO AMEND THE ZONING MAP OF THE TOWN OF MUKWONAGO PURSUANT TO SEC. 82-51 OF THE ZONING ORDINANCE FOR THE TOWN OF MUKWONAGO

WHEREAS, Don Swan Farm LLC (herein referred to as "property owner") owns a 15-acre parcel off of Beulah Road in Section 17, T5N R18E, designated as Tax Key MUKT1940998 (herein referred to as "subject property"), and more particularly described as follows:

PT SE1/4 SE1/4 SEC 17 T5N R18E S & E OF HWY 15 AC DOC# 2613686; and

WHEREAS, the property owner has submitted a petition to the Town requesting that the subject property currently classified as Agricultural Land Preservation (A-P) district be rezoned to Agricultural (A-1) district; and

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

WHEREAS, required public notice of the public hearing has been provided consistent with Section 62.23 of the Wisconsin Statutes and the Town's zoning code; and

WHEREAS, the Town of Mukwonago Town Board and the Town of Mukwonago Plan Commission conducted a joint public hearing on December 4, 2013; and

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

WHEREAS, The Town Board finds that the proposed zoning is consistent with the Town's comprehensive plan; and

WHEREAS, the Town of Mukwonago Town Board, after careful review and upon consideration of the recommendation of the Town of Mukwonago Plan Commission, 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 granting of said rezoning on the health, safety, and welfare of the community, and the 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, has 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 development is conducted pursuant to the following conditions and is in strict compliance with the same.

NOW, THEREFORE, the Town of Mukwonago Town Board, Waukesha County, Wisconsin, ordains as follows:

SECTION 1: ZONING MAP CHANGE

The subject property is conditionally rezoned to Agricultural (A-1) district and the zoning map is hereby conditionally amended to incorporate such change.

SECTION 2: CONDITIONS OF REZONING

The rezoning of the subject property as specified herein and the amendment of the zoning map of the Town of Mukwonago are conditioned on the following:

1. The Waukesha County Board approves the rezoning.
2. The property owner obtains approval from all reviewing and objecting agencies for a two-lot land division that is generally consistent with the lot layout as depicted in Exhibit A with regard to lot size and configuration.
3. The property owner records the certified survey map of the approved two-lot land division with the Waukesha County register of deeds office within one year of the date of this decision.
4. If there are any conversion penalties for this rezoning for which the Town is responsible, the property owner shall reimburse the Town for such costs.
5. The property owner is responsible for any conversion penalties resulting from this rezoning.

SECTION 3: CERTIFICATION

Upon certification by the Town Clerk that the aforementioned conditions have been satisfied, the Town Planner shall change the zoning classification of the subject property on the Town of Mukwonago zoning map as indicated herein.

SECTION 4: SEVERABILITY

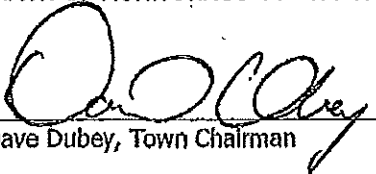
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision,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

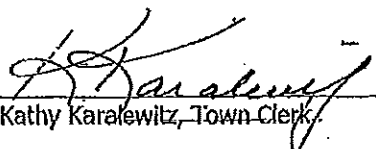
This ordinance shall be in full force and effect from and after its passage and posting or publication as provided by law subject to the conditions stated in Section 2, and this ordinance is null and void and the current zoning shall be in effect with no further notice if such conditions are not satisfied within one year of the date of this decision.

Approved this 18th day of December, 2013

TOWN OF MUKWONAGO TOWN BOARD

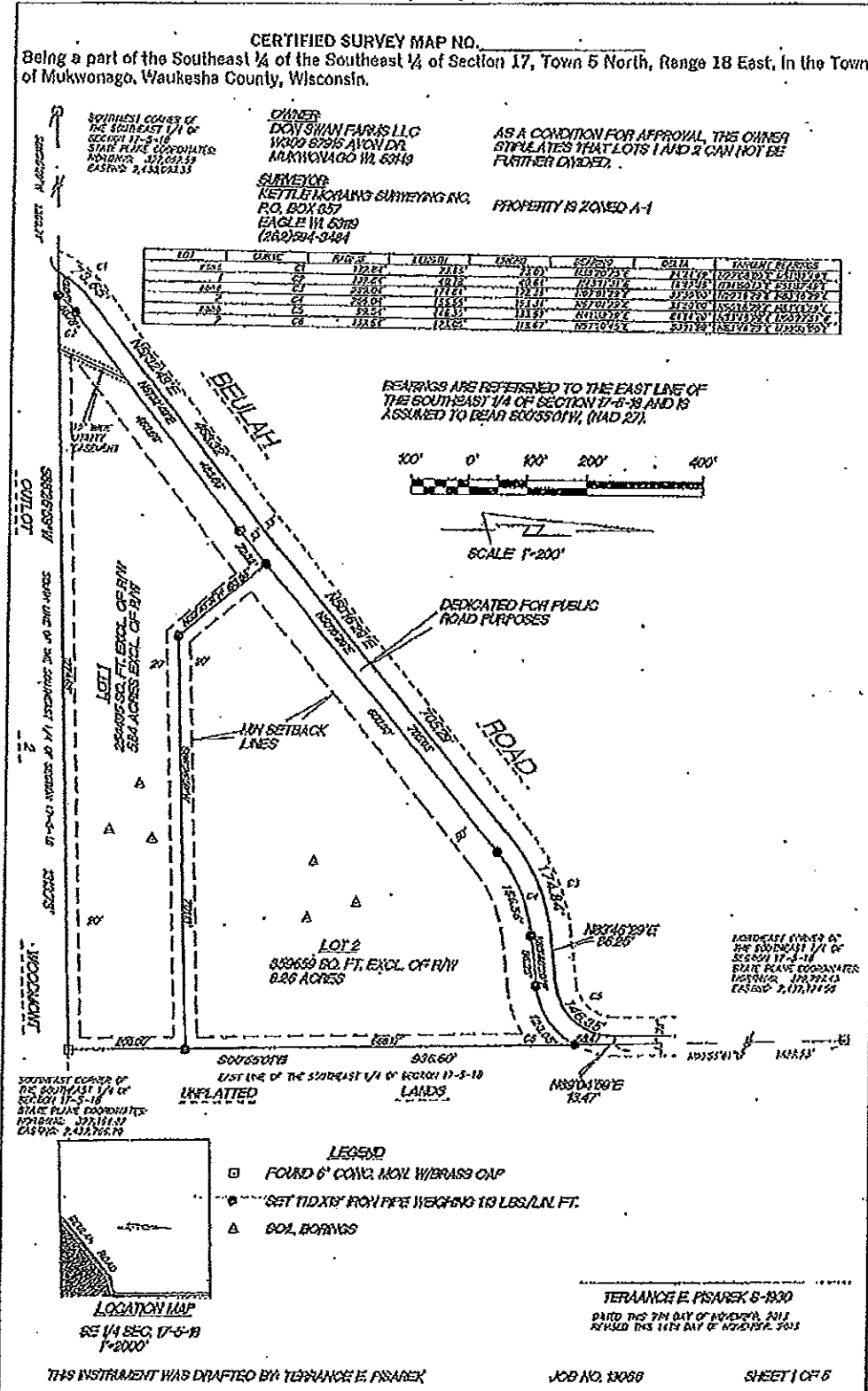

Dave Dubey, Town Chairman

ATTEST:


Kathy Karalewitz, Town Clerk

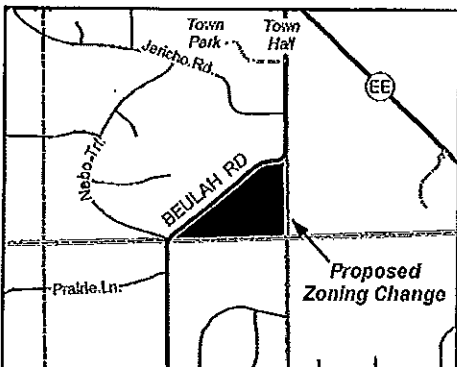
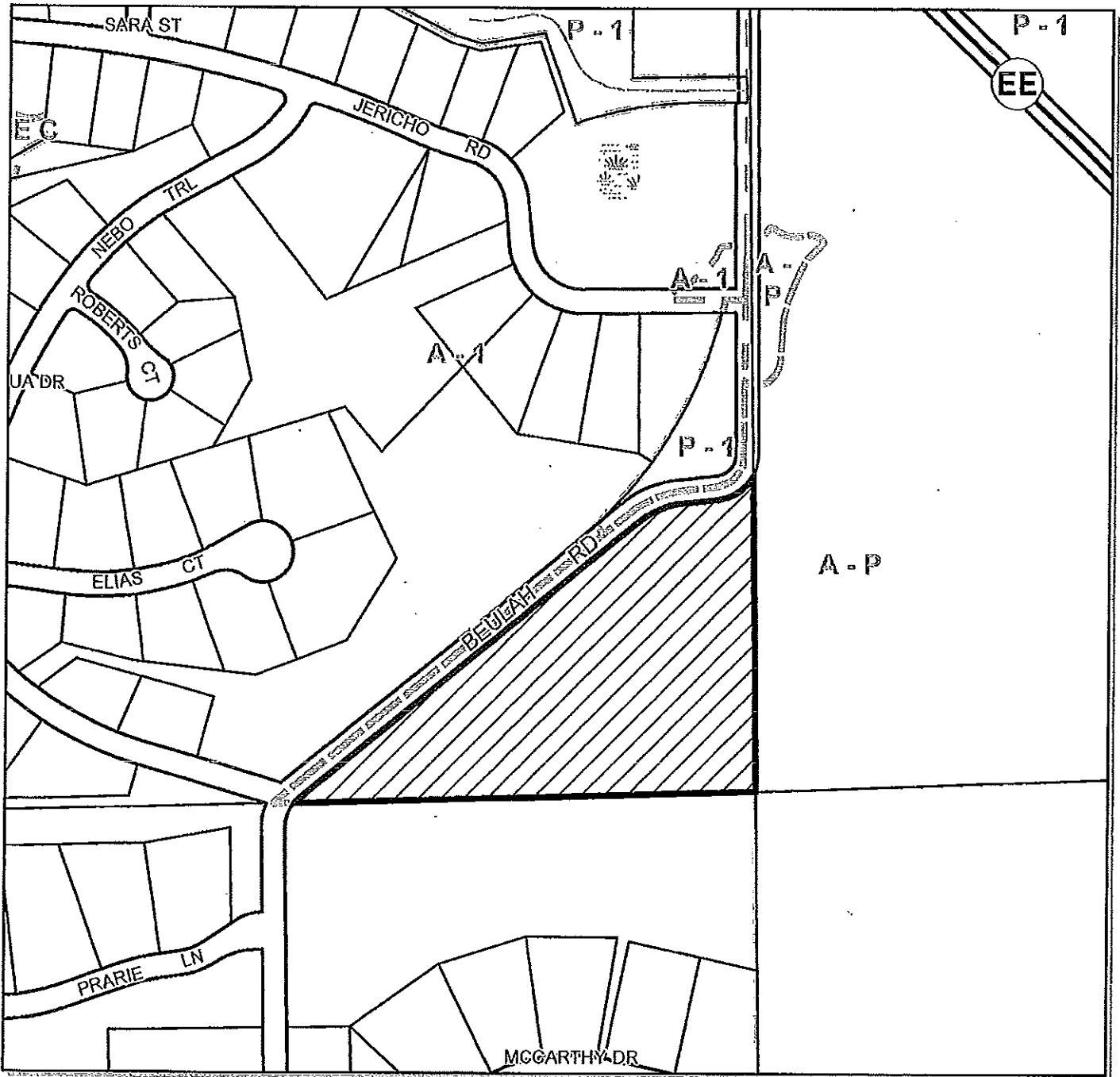
Published and posted this 3 day of Jan, 2013-2014

Exhibit A -- Proposed Certified Survey Map



ZONING AMENDMENT

PART OF THE SE 1/4 OF SECTION 17
TOWN OF MUKWONAGO

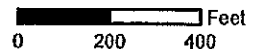


CONDITIONAL TOWN ZONING AMENDMENT FROM A-P AGRICULTURAL
LAND PRESERVATION DISTRICT TO A-1 AGRICULTURAL DISTRICT

FILE.....ZT-1771
DATE.....02/20/14
AREA OF CHANGE.....14.1 ACRES
TAX KEY NUMBERS.....MUKT 1940.998



1 Inch = 400 feet



Prepared by the Waukesha County Department of Parks and Land Use

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/25/14

(ORD) NUMBER-1680097

1

3 R. MORRIS AYE

5 J. BRANDTJEN AYE

7 J. GRANT AYE

9 J. HEINRICH AYE

11 F. RUF AYE

13 P. DECKER AYE

15 W. KOLB AYE

17 D. PAULSON AYE

19 C. CUMMINGS AYE

21 W. ZABOROWSKI AYE

23 K. HAMMITT AYE

25 G. YERKE AYE

2 D. Zimmermann AYE

4 J. BATZKO AYE

6

8 P. HAUKOHL AYE

10 D. SWAN AYE

12 P. WOLFF AYE

14 P. MEYER AYE

16 M. CROWLEY AYE

18 L. NELSON AYE

20 T. SCHELLINGER AYE

22 P. JASKE AYE

24 D. DRAEGER AYE

TOTAL AYES-23

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-23