

ENROLLED ORDINANCE 168-21

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MERTON ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 19, T8N, R18E, TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE B-2 LOCAL BUSINESS DISTRICT (ZT-1755)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Merton Town Board on April 22, 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, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Merton Zoning Code, adopted by the Town of Merton on October 23, 2007, is hereby amended to rezone from the A-1 Agricultural District to the B-2 Local Business District, certain lands located in part of the NE ¼ of Section 19, T8N, R18E, Town of Merton, 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-1755.

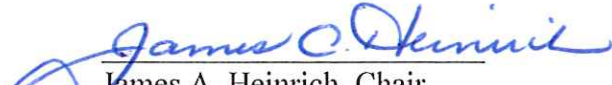
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Merton.

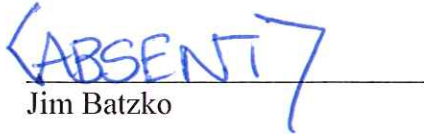
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.


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ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

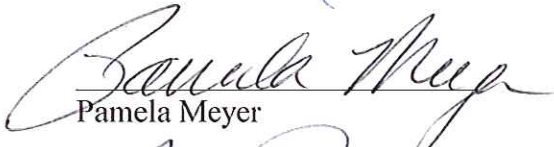
AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MERTON ZONING CODE BY REZONING CERTAIN LANDS LOCATED IN PART OF THE NE ¼ OF SECTION 19, T8N, R18E, TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE B-2 LOCAL BUSINESS DISTRICT (ZT-1755)

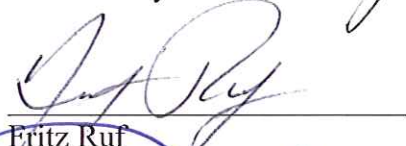
Presented by:
Land Use, Parks, and Environment Committee

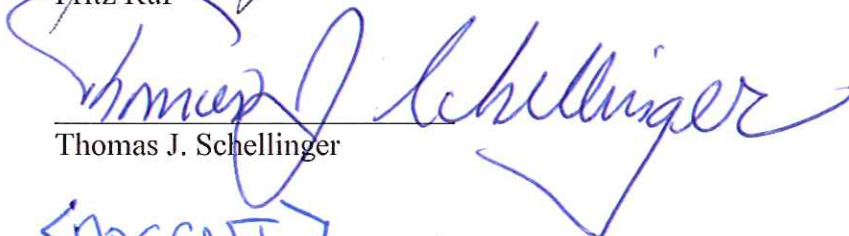

James A. Heinrich, Chair


Jim Batzko


Walter L. Kolb



Pamela Meyer


Fritz Ruf


Thomas J. Schellinger


Peter M. Wolff

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

Date: 6/28/13, 
Kathleen Novack, County Clerk

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

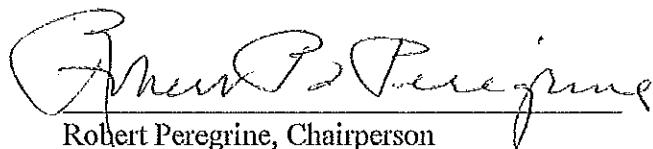
Approved: X
Vetoed: _____
Date: 7-1-13, 
Daniel P. Vrakas, County Executive

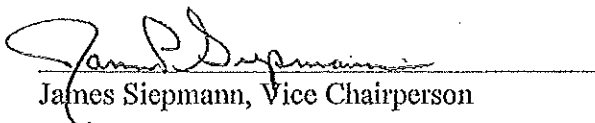
COMMISSION ACTION

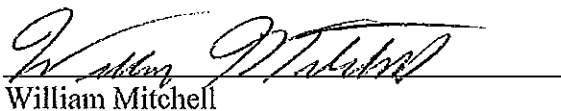
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Merton Zoning Ordinance hereby recommends approval of ZT-1755 (John Gehl) in accordance with the attached "Staff Report and Recommendation".

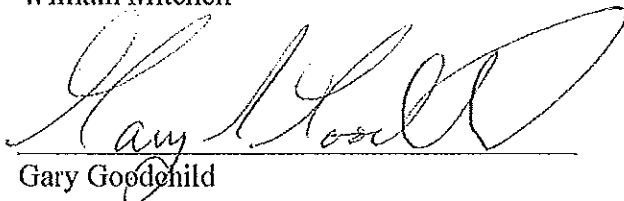
PARK AND PLANNING COMMISSION

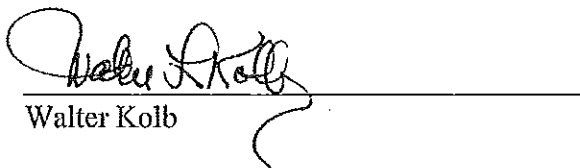
May 16, 2013

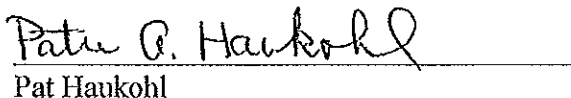

Robert Peregrine, Chairperson


James Siepmann, Vice Chairperson


William Mitchell


Gary Goodchild


Walter Kolb


Pat Haukohl


Fritz Ruf

WAUKESHA COUNTY PARK AND PLANNING COMMISSION
STAFF REPORT
ZONING MAP AMENDMENT

FILE NO: ZT-1755

TAX KEY NUMBER: MRTT 0361.977

DATE: May 16, 2013

NAME OF PETITIONER: Monica Navarrete-Nolan (representing NuGenesis and John Gehl)
N68 W33208 C.T.H. "K"
Oconomowoc, WI 53066

NAME OF OWNER: John Gehl
W31111 Beaver Lake Road
Hartland, WI 53029

LOCATION OF PROPERTY:

Part of the NE ¼ of Section 19, T8N, R18E, Town of Merton. More specifically the property is located at N68 W33208 Hwy. "K", and consists of approximately 3.4 acres.

PRESENT ZONING:

A-1 Agricultural District.

PROPOSED ZONING:

B-2 Local Business District.

PRESENT LAND USE:

The site largely consists of vacant buildings and structures that were formerly used for a garden center, nursery and small landscape business. In addition, there is a church on the site.

PROPOSED LAND USE:

Non-profit organic gardening educational facility.

PUBLIC HEARING DATE:

April 17, 2013.

PUBLIC REACTION:

None.

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

The Town and County Development Plans identify the property in the Mixed Use category. The proposal is consistent with that category as a mix of compatible uses are provided for within the category.

TOWN OF MERTON PLAN COMMISSION ACTION:

The Town of Merton Plan Commission, at its meeting on April 17, 2013, recommended to the Town Board, approval of the rezoning from the A-1 Agricultural and B-2 Business Local Business District.

TOWN OF MERTON BOARD ACTION:

The Town of Merton Board at its meeting on April 22, 2013, approved the request.

OTHER CONSIDERATIONS:

The rezoning is being proposed to provide the prospective tenant, NuGenesis, more flexibility in operating its proposed gardening oriented educational facility. NuGenesis would establish organic gardens and utilize a garage building for an educational center. Office and meeting space would be provided in the rear part of the church building. A church is expected to continue to operate in the main part of the church building. Parking will remain situated on the south end of the site. The layout of the site will not change much from that of the current configuration, as a garden center use previously occupied the site. NuGenesis provides educational opportunities for all ages and focuses on organic gardening and foods for medicinal purposes. Some of the garden beds will be wheelchair accessible. There will be two staff and many volunteers working at the facility.

The Town's B-2 zoning district allows for a variety of retail and customer service establishments and the Town Plan Commission may approve any similar use to those listed within the ordinance. The Town has indicated through its approval of the rezoning and related site plan that the use is considered compatible with the district guidelines. While the facility is not for profit, the number of people visiting the site for educational classes or to volunteer or attend special functions will likely be more than what would typically be expected in the A-1 Agricultural District. In addition, the Town's B-2 District offers more floor area ratio flexibility and has accommodations for the types of site elements such as signage that will be part of the proposed use.

There are no mapped natural resources on the site. The south portion of the subject property will become subject to the County Shoreland and Floodland Protection Ordinance upon the publication of the ordinance approving new Countywide zoning maps. The mapping change has no bearing on the current request. The attached Town rezoning ordinance contains a couple of errors that need to be corrected prior to the ordinance advancing to the County Board. There is a typographical error in the Tax Key No. (MRTT 0361.997 should read MRTT 0361.977) and the legal description commences at an incorrect point on the section line. Both issues have been brought to the attention of the Town. Upon receipt of a corrected Ordinance, the County rezoning ordinance will be advanced further to the County Board for consideration.

STAFF RECOMMENDATION:

It is the recommendation of the Planning and Zoning Division Staff that the request to rezone the property from the A-1 Agricultural to B-2 Local Business District be approved. The proposed educational gardening facility is a mixed use in its own right, offering both gardening and educational opportunities. The site also contains a church structure which further contributes to the mixed use setting. The range of uses is the type of hybrid setting that the Town and County Development Plan envisioned in establishing a Mixed Use designation for these lands.

Respectfully submitted,

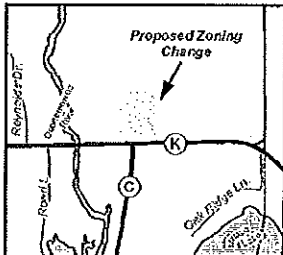
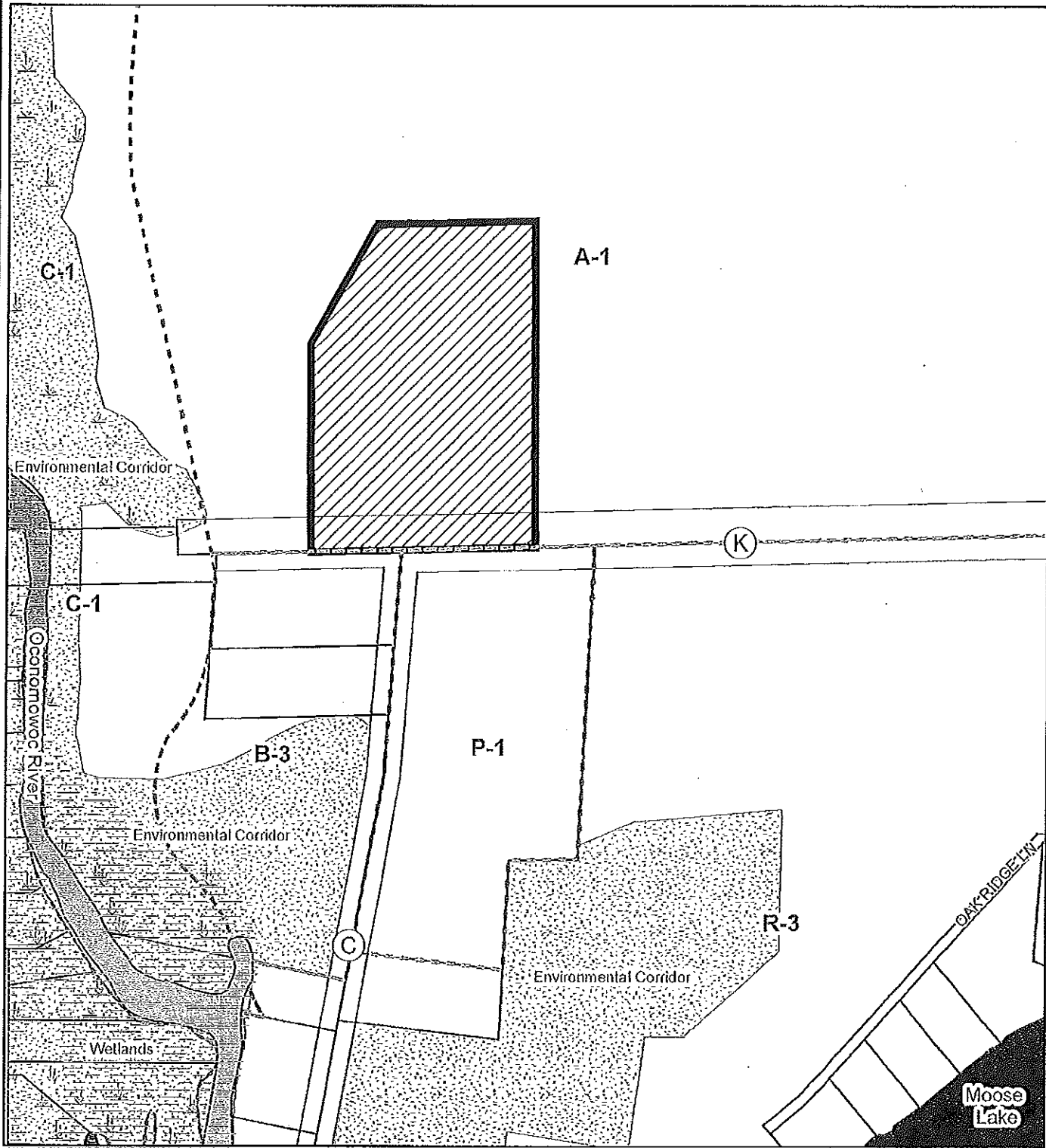
Jason Fruth


Jason Fruth
Planning and Zoning Manager

Attachments: Zoning Map
Town Ordinance

ZONING MAP AMENDMENT

PART OF THE NE 1/4 OF SECTION 19
TOWN OF MERTON



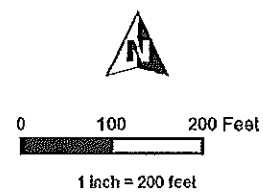
 TOWN ZONING CHANGE FROM A-1 AGRICULTURAL DISTRICT TO B-2 LOCAL BUSINESS DISTRICT (3.31 AC)

FILE.....ZT-1755

DATE.....5/16/13

AREA OF CHANGE.....3.31 ACRES

TAX KEY NUMBER.....MRTT 0361.977



Prepared by the Waukesha County Department of Parks and Land Use

168-0-021

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE BOUNDARIES OF THE B-2
LOCAL BUSINESS DISTRICT AS SHOWN ON THE DISTRICT
ZONING MAP, TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN
(JOHN P. GEHL PROPERTY)

The Town Board of Supervisors of the Town of Merton, Waukesha County,
Wisconsin, do ordain as follows:

SECTION 1. The District Zoning Map of the Town of Merton, Wisconsin, dated
April 9, 1974, as revised, and notations and references thereon, is hereby amended to
transfer the following described lands from A-1 Agricultural to B-2 Local Business
District:

Part of the Northeast 1/4 of Section 19, Town 8 North, Range 18 East,
commencing at the Southeast corner; thence West 998.70 feet; thence
North 468.60 feet; thence West 229.40 feet; thence South 29°30' West
194.14 feet; thence South 299.63 feet; thence East 325.00 feet to the
place of beginning. (Document No. 3286733; Tax Key No. MRTT
0361-977

SECTION 2. EFFECTIVE DATE. This ordinance shall take effect upon approval
by the Waukesha County Board and upon passage, posting and publication as required
by law.

DATED: April 22, 2013

TOWN OF MERTON
By: Richard Morris
Richard Morris, Chairman

ATTEST:

Susan J. Oman
Susan J. Oman, Clerk

Date Adopted: 4-23-13
Date Published: 4-24-13
Effective Date: 4-24-13

RECEIVED
MAY 22 2013
DEPT OF PARKS & LAND USE

168-0-021

6.

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-06/25/13

(ORD) NUMBER-1680021

- 1 C. SLATTERY.....AYE
- 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.....
- 25 G. YERKE.....AYE

- 2 D. FALSTAD.....AYE
- 4 J. BATZKO.....AYE
- 6 J. JESKEWITZ.....AYE
- 8 P. HAUKOHL.....AYE
- 10 D. SWAN.....AYE
- 12 P. WOLFF.....AYE
- 14 P. MEYER.....
- 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 X

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-23