

ENROLLED ORDINANCE 161-59

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 35, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE R-2 RESIDENTIAL AND C-1 CONSERVANCY DISTRICTS TO THE R-3 RESIDENTIAL AND C-1 CONSERVANCY DISTRICTS (ZT-1634)

WHEREAS the subject matter of this Ordinance having been approved by the Mukwonago Town Board on January 18, 2006, after Public Hearing, and the giving of requisite notice of said hearing, and duly referred to and considered by the Waukesha County Park and Planning Commission, and a recommendation for approval, thereon reported to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.61 of the Wisconsin State Statutes.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES ORDAIN that the District Zoning Map for the Town of Mukwonago Zoning Ordinance, adopted by the Town of Mukwonago on May 9, 1983, is hereby amended to conditionally rezone from the R-2 Residential and C-1 Conservancy Districts to the R-3 Residential and C-1 Conservancy Districts, certain lands located in part of the NW ¼ of Section 35, 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-1634), subject to the following conditions:

- A. The first floor of any proposed new construction on the subject property must be 2-4 ft. above the 100-year floodplain elevation of 792.4 MSL. First floor is defined as the top of the first floor’s sub flooring.
- B. A detailed grading and drainage plan must be submitted to and approved by the Land Resource Division of the Waukesha County Department of Parks and Land Use and the Town Engineer prior to the rezoning being effective. Said plan shall demonstrate to the satisfaction of the Town Engineer that, once implemented, the grades will accommodate all existing and proposed drainage patterns, surface water runoff and infiltration in order to improve the water quality of the water draining on and through the subject parcel.
- C. A vegetative buffer plan must be submitted to and approved by the Land Resources Division of the Waukesha County Department of Parks and Land Use prior to the rezoning becoming effective for 50 ft. inland from the Ordinary High Water Mark along 80 percent of the frontage on Phantom Lake. The vegetative buffer shall consist of grasses and vegetation at least two (2) feet tall and shall be installed prior to occupancy on the new residence. If the required vegetation is not at least 2 ft. tall prior to occupancy, a letter of credit or cash must be posted with the Town of Mukwonago to cover installation and maintenance of said vegetative buffer.

- D. Pursuant to Section 14.05 of the Town of Mukwonago Zoning Code the applicant shall submit an application for a special exception to the Town of Mukwonago Plan Commission to allow a footprint of no more than 1,140 sq. ft. on the subject property and this rezoning ordinance shall not take effect unless such special exception is granted. Adoption of this ordinance shall in no way limit or restrict the authority of the Plan Commission in consideration of the special exception, and this ordinance shall not be interpreted as vesting any right to the Developer with regard to the special exception.
- E. Any necessary variances must be applied for and granted by the Waukesha County Board of Adjustment to allow a minimal sized house on a lot of record, prior to the rezoning becoming effective.
- F. Prior to removal of the existing residence, a holding tank permit must be applied for and approved, and the holding tank must be installed on the Subject property.
- G. Prior to the rezoning becoming effective, the applicant must submit to and receive approval from the Town Attorney and Town Engineer proof that the subject property has lawful access to an improved public road.
- H. Prior to issuance of any zoning or building permits on the subject property by Waukesha County or the Town of Mukwonago, a structural soil analysis must be submitted to and approved by the Town Engineer verifying the structural integrity of the underlying soils on the subject property, and what may have to be done in order to accommodate any proposed new living unit.
- I. Petitioners shall submit to and receive approval from the Town Attorney and the Town Engineer, Deed Restrictions that will be imposed on the subject lands, prior to commencing construction of any improvement, whether public or private, or site development, or this conditional rezoning ordinance taking effect, whichever is earlier. The Deed Restrictions shall include but not necessarily be limited to such requirements as may be required pursuant to Section 14.05(2)(D) of the Town of Mukwonago Zoning Code.
- J. The Petitioners shall submit to and receive approval from the Town of Mukwonago Town Board, Town Engineer and the Waukesha County Planning and Zoning and Land Resources Divisions a proposed Certified Survey Map which complies with all provisions of the Town of Mukwonago Land Division and Development Control Ordinance and the Town of Mukwonago Zoning Ordinance prior to this rezoning taking effect. The Certified Survey Map shall set forth the access to subject property, the 100-year floodplain and wetland boundaries, and any requirements that the Town Engineer recommends be imposed on the subject lands.
- K. The Petitioners shall submit to and receive approval from the Town Engineer a drainage plan prior to this rezoning ordinance taking effect. The drainage plan shall accommodate all existing and proposed drainage patterns and surface water runoff which is generated on the subject property and flows through the subject property.
- L. The Petitioners shall satisfy all comments, conditions and concerns of the Town

Engineer, the Town Planner and all reviewing, objecting and approving bodies in regard to the Certified Survey Map, and shall obtain all necessary permits and approvals prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.

- M. Subject to the Petitioners approving in writing the issuance of this Conditional Rezoning Ordinance and the Petitioners acknowledging in writing that they have received a copy of this Conditional Approval, that they understand and accept the same and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioners would therefore need to re-commence that application process.
- N. The Petitioners shall pay all fees, costs and assessments due and owing to the Town of Mukwonago, including any permit fees for applicable permits, and for reimbursements of any expenses, costs and disbursements which have been incurred by the Town of Mukwonago in the drafting, review and enforcement of this Zoning Ordinance, including without limitation by reason of enumeration, design, engineering, inspection and legal work.
- O. The Petitioners shall satisfy all the aforementioned conditions within two years of the Town Board approving this conditional rezoning Ordinance

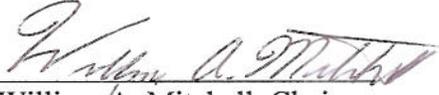
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

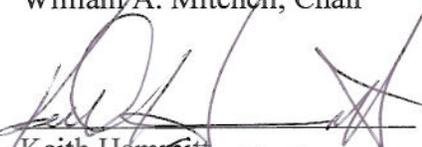
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

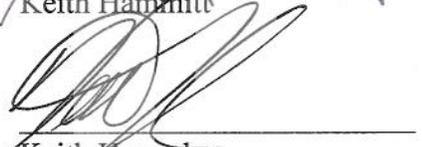
BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼ OF SECTION 35, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE R-2 RESIDENTIAL AND C-1 CONSERVANCY DISTRICTS TO THE R-3 RESIDENTIAL AND C-1 CONSERVANCY DISTRICTS (ZT-1634)

Presented by:
Land Use, Parks, and Environment Committee

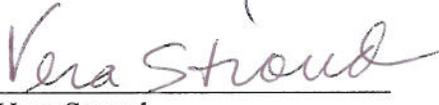

William A. Mitchell, Chair

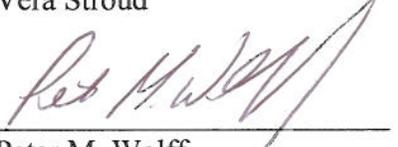

Keith Hammitt


Keith Harenda

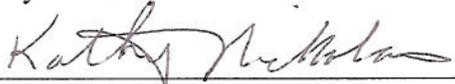
Absent
Pauline T. Jaske


Walter L. Kolb

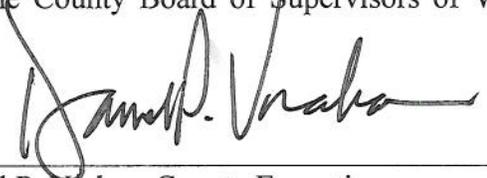

Vera Stroud


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: 12/1/06, 
Kathy Nickolaus, County Clerk

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

Approved:
Vetoed:
Date: 12-1-06, 
Daniel P. Vrakas, County Executive

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. 2006-B

AN ORDINANCE TO AMEND THE TOWN OF MUKWONAGO ZONING DISTRICT MAP
OF THE TOWN OF MUKWONAGO ZONING ORDINANCE BY CONDITIONALLY
REZONING CERTAIN LANDS IN THE TOWN OF MUKWONAGO FROM R-2 RESIDENTIAL AND
C-1 CONSERVANCY DISTRICTS TO R-3 RESIDENTIAL AND C-1 CONSERVANCY DISTRICTS

WHEREAS, the petition has been filed by Mark Marzion, for the property owned by Leonard Presser and Walter Leonardelli, the owners of certain lands in the Town of Mukwonago (hereinafter "Petitioners") to rezone and develop certain lands as described in Exhibit A attached hereto and incorporated herein, hereinafter "subject lands"; and

WHEREAS, said rezoning petition, was submitted to rezone the subject lands from R-2 Residential District to R-3 Residential District; and

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

WHEREAS, the Petitioners have supplied all required data pursuant to the Town of Mukwonago's Zoning Ordinance and a Public Hearing was conducted by the Town Board and the Plan Commission of the Town of Mukwonago on December 7, 2005; and

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

WHEREAS, the Town Board of the Town of Mukwonago, after careful review and upon consideration of the recommendation of the Town Plan Commission of the Town of Mukwonago, 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 of the Zoning Ordinance for the Town of Mukwonago, will not violate the spirit or intent of the Town of Mukwonago Master Plan, and 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 operation is conducted pursuant to the following conditions and is in strict compliance with the same.

NOW, THEREFORE, the Town Board of the Town of Mukwongo, Waukesha County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: ZONING MAP CHANGE.

The zoning map of the Town of Mukwonago is hereby conditionally amended to change the zoning on the subject lands as delineated in Exhibit A, from R-2 Residential District and C-1 Conservancy District to R-3 Residential and C-1 Conservancy Districts, with the location of the C-1 Conservancy District being determined by a detailed wetland staking and the actual 792.4 m.s.l. elevation being surveyed and approved by the Town Engineer, with the staking and survey being completed prior to this rezoning becoming effective.

SECTION 2: CONDITIONS OF REZONING

The above rezoning is conditioned upon the following conditions:

EXHIBIT "A"

161-0-065

8.

- A. The first floor of any proposed new construction on the subject property must be 2-4 ft. above the 100-year floodplain elevation of 792.4 MSL. First floor is defined as the top of the first floor's sub flooring.
- B. A detailed grading and drainage plan must be submitted to and approved by the Land Resource Division of the Waukesha County Department of Parks and Land Use and the Town Engineer prior to the rezoning being effective. Said plan shall demonstrate to the satisfaction of the Town Engineer that, once implemented, the grades will accommodate all existing and proposed drainage patterns, surface water runoff and infiltration in order to improve the water quality of the water draining on and through the subject parcel.
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- D. Pursuant to Section 14.05 of the Town of Mukwonago Zoning Code the applicant shall submit an application for a special exception to the Town of Mukwonago Plan Commission to allow a footprint of no more than 1,140 sq. ft. on the subject property and this rezoning ordinance shall not take effect unless such special exception is granted. Adoption of this ordinance shall in no way limit or restrict the authority of the Plan Commission in consideration of the special exception, and this ordinance shall not be interpreted as vesting any right to the Developer with regard to the special exception.
- E. Any necessary variances must be applied for and granted by the Waukesha County Board of Adjustment to allow a minimal sized house on a lot of record, prior to the rezoning becoming effective.
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- K. The Petitioners shall submit to and receive approval from the Town Engineer a drainage plan prior to this rezoning ordinance taking effect. The drainage plan shall accommodate all existing and proposed drainage patterns and surface water runoff which is generated on the subject property and flows through the subject property.
- L. The Petitioners shall satisfy all comments, conditions and concerns of the Town Engineer, the Town Planner and all reviewing, objecting and approving bodies in regard to the Certified Survey Map, and shall obtain all necessary permits and approvals prior to commencing construction of any improvement, whether public or private, or site development or approval of the final plat, whichever is earlier.
- M. Subject to the Petitioners approving in writing the issuance of this Conditional Rezoning Ordinance and the Petitioners acknowledging in writing that they have received a copy of this Conditional Approval, that they understand and accept the same and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioners would therefore need to re-commence that application process.
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- O. The Petitioners shall satisfy all the aforementioned conditions within two years of the Town Board approving this conditional rezoning Ordinance

SECTION 3: CERTIFICATION.

Upon certification by the Town Clerk that the aforementioned conditions have been satisfied, the Town Planner shall change the Town of Mukwonago Zoning Map from R-2 Residential District to R-3 Residential District for the subject lands, as depicted in attached Exhibit A.

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 R-2 Zoning District shall be in effect with no further notice if such conditions are not complied with on the terms and conditions stated herein.

SECTION 6: ACCEPTANCE.

Petitioners hereby accept all terms and conditions of the Town of Mukwonago conditional rezoning ordinance shown above.

Signed: _____
PETITIONER

PETITIONER

STATE OF WISCONSIN)
SS
COUNTY OF WAUKESHA)

Personally came before me this _____ day of _____, _____, the above named owner(s) of lands described above, _____ to me known to be the person who executed the foregoing instrument and acknowledged the same in such capacity.

NOTARY PUBLIC
My Commission Expires: _____

Dated this 11th day of October, 2006.

TOWN OF MUKWONAGO

Dave Dubey
Dave Dubey, Town Chairman

ATTEST:

Katherine W. Wilson
Katherine W. Wilson, Town Clerk

Published and posted this _____ day of _____, 2006.

KM: md

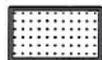
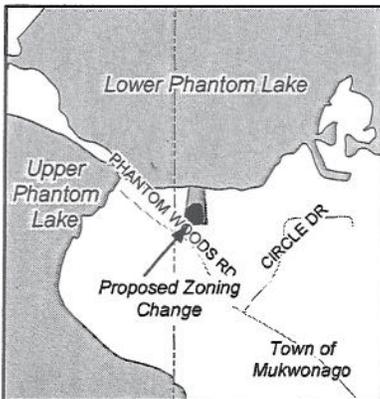
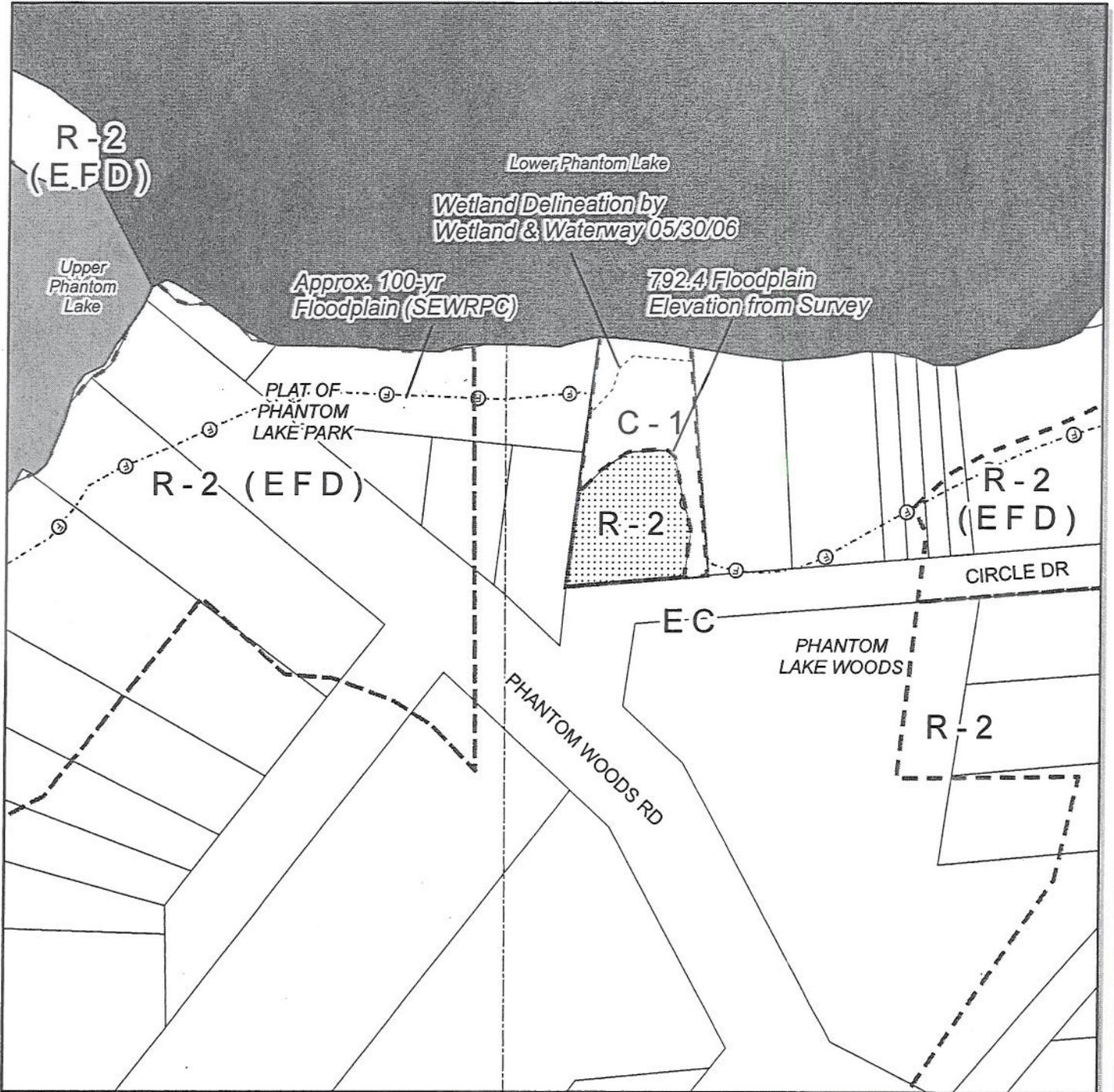
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161-0-065

11.

ZONING MAP AMENDMENT

PART OF THE NW 1/4 OF SECTION 35
TOWN OF MUKWONAGO



CONDITIONAL TOWN ZONING CHANGE FROM R-2 RESIDENTIAL TO R-3 RESIDENTIAL

FILE.....ZT-1634

DATE.....10-19-06

AREA OF CHANGE.....0.14 ACRES

TAX KEY NUMBER.....MUKT 2010.012



1 inch equals 100 feet



Prepared by the Waukesha County Department of Parks and Land Use

161-0-065

12.

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-11/28/06

(ORD) NUMBER-1610065

1 K. HERRO.....AYE
 3 T. ROLFS.....AYE
 5 J. MARCHESE.....AYE
 7 J. JESKEWITZ.....AYE
 9 P. HAUKOHL.....AYE
 11 K. HARENDA.....AYE
 13 J. MORRIS.....AYE
 15 D. SWAN.....AYE
 17 J. BEHREND.....AYE
 19 W. MITCHELL.....AYE
 21 W. KOLB.....AYE
 23 J. TORTOMASI.....AYE
 25 K. CUMMINGS.....AYE
 27 D. PAULSON.....AYE
 29 T. BULLERMANN.....AYE
 31 V. STROUD.....AYE
 33 K. HAMMITT.....AYE
 35 P. MEYER.....AYE

2 R. THELEN.....AYE
 4 R. HUTTON.....
 6 D. BROESCH.....
 8 J. DWYER.....AYE
 10 S. WOLFF.....AYE
 12 T. SCHELLINGER....AYE
 14 S. WIMMER.....AYE
 16 R. STEVENS.....AYE
 18 B. MORRIS.....AYE
 20 P. WOLFF.....AYE
 22 G. BRUCE.....AYE
 24 B. KRAMER.....AYE
 26 F. RUF.....AYE
 28 P. JASKE.....AYE
 30 K. NILSON.....AYE
 32 P. GUNDRUM.....AYE
 34 R. SINGERT.....AYE

TOTAL AYES-33

TOTAL NAYS-00

CARRIED X

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-33