

ENROLLED ORDINANCE 173-007

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼, SW ¼ AND NE ¼ OF SECTION 18, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-1 AGRICULTURAL DISTRICT (RZ9)

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 March 7, 2018; 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.

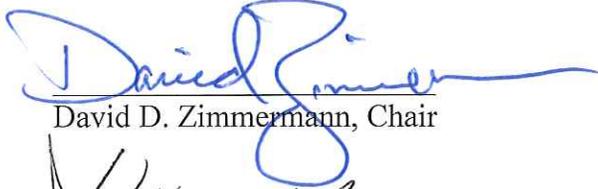
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the District Zoning Map for the Town of Mukwonago Zoning Code, adopted by the Town of Mukwonago on February 27, 2007, is hereby amended to conditionally rezone from the A-P Agricultural Land Preservation District to the A-1 Agricultural District, certain lands located in part of the NW ¼, SW ¼ and NE ¼ of Section 18, 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 RZ9, is hereby approved, subject to the following conditions:

1. The Waukesha County Park and Planning Commission approves the petitioner's request to not include the remnant parcel in the proposed two-lot certified survey map.
2. The Waukesha County Board approves the rezoning.
3. The petitioner submits a certified survey map for the two lots and obtains all required approvals of the same.
4. The petitioner records the approved certified survey map with the Waukesha County Register of Deeds office.
5. 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.
6. The property owner is responsible for any conversion penalties resulting from this rezoning.

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

AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE NW ¼, SW ¼ AND NE ¼ OF SECTION 18, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE A-1 AGRICULTURAL DISTRICT (RZ9)

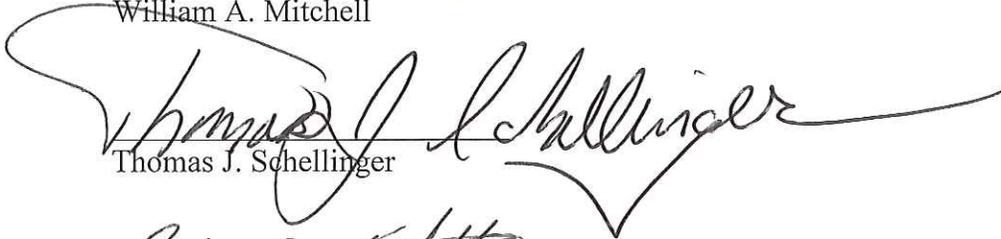
Presented by:  
Land Use, Parks, and Environment Committee

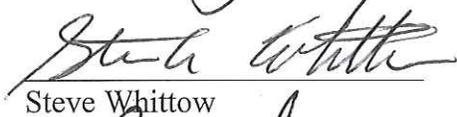
  
David D. Zimmermann, Chair

  
Kathleen M. Cummings

  
Keith Hammit

  
William A. Mitchell

  
Thomas J. Schellinger

  
Steve Whittow

  
Chuck Wood

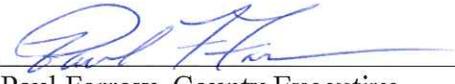
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 5/22/18,   
Kathleen Novack, County Clerk

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

Approved: X

Vetoed: \_\_\_\_\_

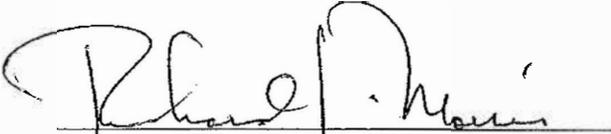
Date: 5-29-18,   
Paul Farrow, County Executive

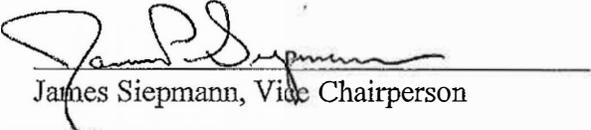
**COMMISSION ACTION**

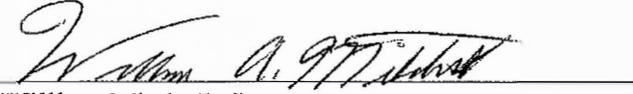
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Mukwonago Zoning Ordinance hereby recommends **approval** of **RZ9 (Jean Holtz Trust)** in accordance with the attached "Staff Report and Recommendation".

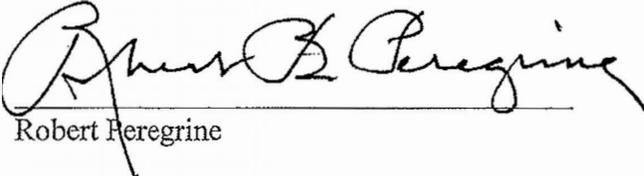
**PARK AND PLANNING COMMISSION**

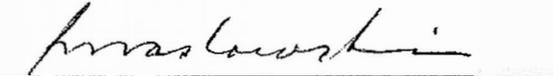
**April 19, 2018**

  
Richard Morris, Chairperson

  
James Siepmann, Vice Chairperson

  
William Mitchell, Secretary

  
Robert Peregrine

  
William Maslowski

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

**DATE:** April 19, 2018

**FILE NO.:** RZ9

**PETITIONER:** Jean Holtz Trust  
Marital Trust Created Under the Holtz Trust Et Al.  
W335 S7907 C.T.H. "E"  
Mukwonago, WI 53149

**TAX KEY NO.:** MUKT 1942.999

**LOCATION:**  
Part of the NW ¼, SW ¼ and NE ¼ of Section 18, T5N, R18E, Town of Mukwonago. More specifically, the property is located at the C.T.H. "E" address cited above. Approximately 6.6 acres of the 180-acre property is being requested to be rezoned.

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

**EXISTING LAND USE:**  
Residential/agricultural.

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

**PROPOSED LAND USE:**  
Residential/agricultural. A two (2) lot Certified Survey Map is proposed to settle an estate.

**PUBLIC HEARING DATE:**  
March 7, 2018.

**PUBLIC REACTION:**  
None.

**TOWN PLAN COMMISSION ACTION:**  
The Town of Mukwonago Plan Commission, at their meeting of March 7, 2018, recommended approval of the request to the Town Board.

**TOWN BOARD ACTION**  
On March 7, 2018, the Town of Mukwonago Board unanimously approved the rezoning request, subject to a number of conditions (see attached Town Ordinance).

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

The Waukesha County Comprehensive Development Plan and the Town of Mukwonago Land Use Plan designate the lands in the Suburban II Density Residential category (3 acre minimum density) and the Rural Density and Other Agricultural Land category (5 acre minimum density). The proposal does not create any additional density, as there are already two homes on the subject land. The acreage is simply being divided to settle an estate.

**STAFF ANALYSIS:**

The lands proposed to be rezoned are located in the northeast corner of the subject farm that is located to the west of C.T.H. "E" in the Town of Mukwonago. The petitioner received rezone approval and a remnant parcel waiver from the Waukesha County Park and Planning Commission in 2015 to allow for two lots to be divided from the farm. Because the Town's conditions of approval were not met within one year, the rezone process had to be re-initiated.

The existing large farm parcel (approximately 140 acres-west side of C.T.H. "E") that the lots would be divided from currently contains two houses and numerous agricultural outbuildings. The related proposed land division would create two, 3.3 acre parcels, leaving the vast majority of the acreage as "unplatted lands." Each parcel would contain one residence. The AP district requires a minimum 35 acre minimum parcel size. The proposed A-1 zoning designation allows for minimum three acre lots. Therefore, each resultant lot would be conforming.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request be **approved** subject to the following conditions:

1. The Waukesha County Park and Planning Commission approves the petitioner's request to not include the remnant parcel in the proposed two-lot certified survey map.
2. The Waukesha County Board approves the rezoning.
3. The petitioner submits a certified survey map for the two lots and obtains all required approvals of the same.
4. The petitioner records the approved certified survey map with the Waukesha County Register of Deeds office.
5. 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.
6. The property owner is responsible for any conversion penalties resulting from this rezoning.

The rezoning is consistent with plan designations and will allow for two existing residences and respective outbuildings to be located on two individual lots.

Respectfully submitted,

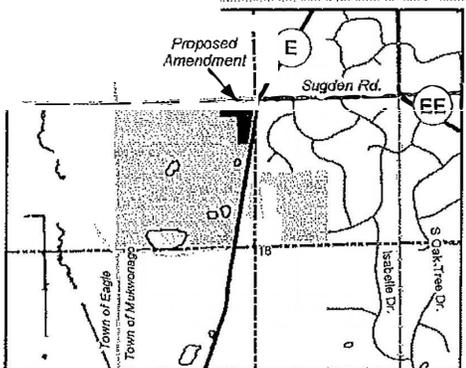
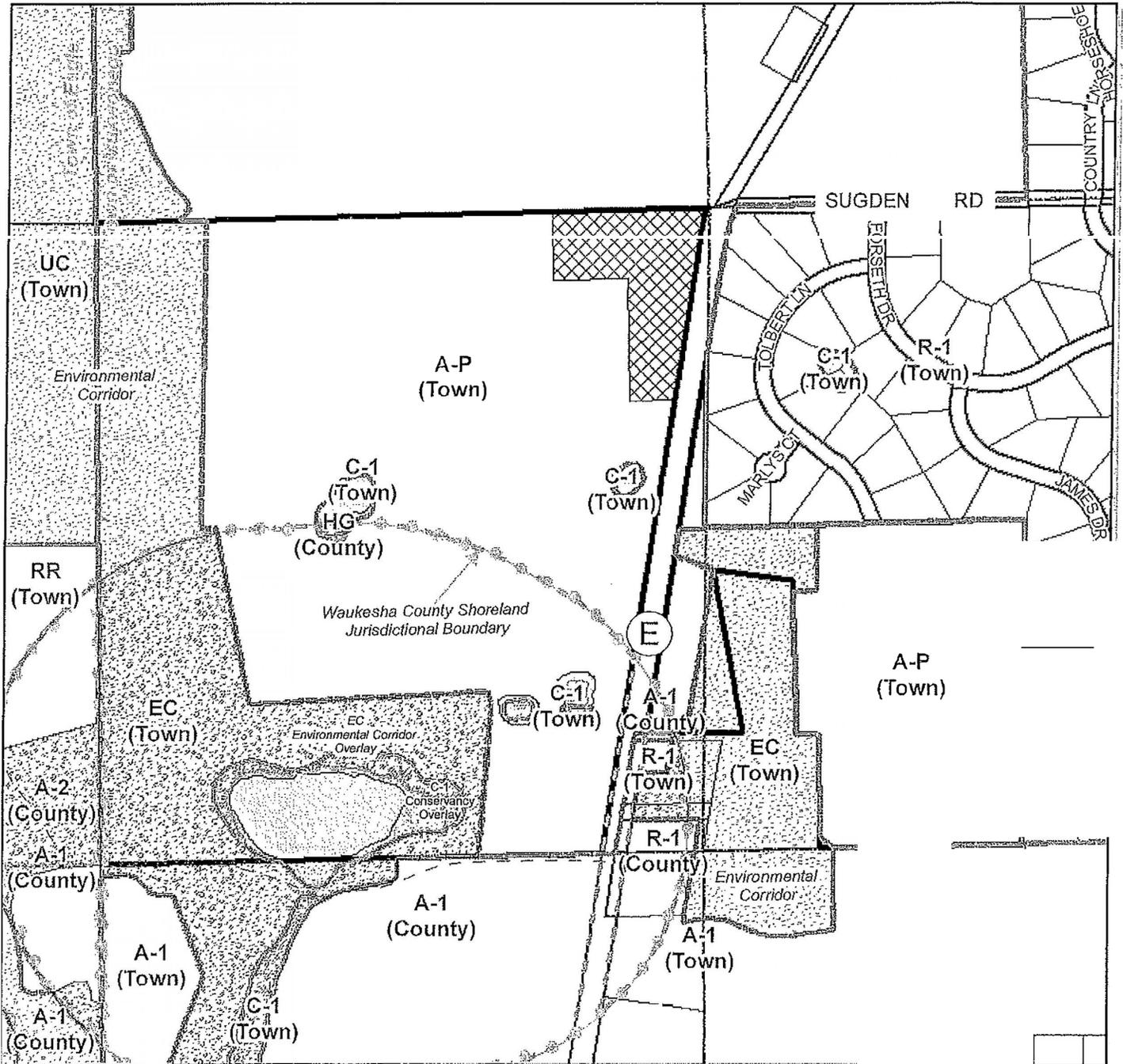
*Jason Fruth*

Jason Fruth  
Planning and Zoning Manager

Attachments: Map and Town Ordinance (2018-O-039)

# ZONING AMENDMENT

PART OF THE NW & NE 1/4 OF SECTION 18  
TOWN OF MUKWONAGO



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

FILE NO.....RZ-9  
 PETITIONER.....JEAN HOLTZ TRUST  
 DATE OF PLAN COMM. CONSIDERATION.....04/19/18  
 AREA OF CHANGE.....6.6 ACRES  
 TAXKEY NUMBER.....MUKT 1942.999



1 inch = 600 feet

Prepared by the Waukesha County Department of Parks and Land Use



**File Number: 173**

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. 2018-O-39

AN ORDINANCE TO REZONE A PORTION OF A CERTAIN PROPERTY IN SECTION 18, 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, the Jean Holtz Trust (herein referred to as “property owner”) owns a parcel of land off of CTH E in Section 18, T5N, R18E, designated as Tax Key MUKT1942999 (herein referred to as “subject property”); and

WHEREAS, the property owner has submitted a petition to the Town for a two-lot certified survey map (application 2018-07); and

WHEREAS, the property owner has submitted a petition to the Town to rezone the area in those two lots from AP to A-1:

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 March 7, 2018; 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 of 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

That portion of the subject property containing the two lots being created by certified survey map is conditionally rezoned to A-1 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 Park and Planning Commission approves the petitioner's request to not include the remnant parcel in the proposed two-lot certified survey map.
2. The Waukesha County Board approves the rezoning.
3. The petitioner submits a certified survey map for the two lots and obtains all required approvals of the same.
4. The petitioner records the approved certified survey map with the Waukesha County Register of Deeds office.
5. 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.
6. The property owner is responsible for any conversion penalties resulting from this rezoning.

SECTION 3: CERTIFICATION

Upon certification by the Town Clerk that the conditions set forth in Section 2 have been satisfied within the time period established in Section 5, 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

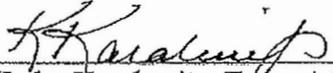
null and void and the current zoning shall be in effect with no further notice if such conditions are not satisfied within one year of the date of this decision.

Approved this 7<sup>th</sup> day of March, 2018

TOWN OF MUKWONAGO TOWN BOARD

  
\_\_\_\_\_  
Peter Topczewski, Town Administrator

ATTEST:

  
\_\_\_\_\_  
Kathy Karalewitz, Town Administrator

Published and <sup>02</sup>posted this 2 day of April, 2018

D1 - Foti	AYE	D14 - Wood	(2) AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	AYE
D3 - Morris	AYE	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	Absent
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	Absent
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whittow	AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

**173-0-005**

**Passed (23 Y - 0 N - 2 Absent)**

**Majority Vote**

