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2
3 AMEND THE ZONING DISTRICT MAP OF THE TOWN OF EAGLE ZONING ORDINANCE
4 AND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION
5 ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF EAGLE, BY
6 CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF
7 THE NW ¼ AND THE W ½ OF THE SW ¼ OF SECTION 31, T5N, R17E, TOWN OF
8 EAGLE, WAUKESHA COUNTY, WISCONSIN, FROM THE AP AGRICULTURAL
9 LAND PRESERVATION DISTRICT (TOWN AND COUNTY) TO THE
10 A-2 RURAL HOME DISTRICT (TOWN AND COUNTY)
11 (SZT-1465)
12
13

14 WHEREAS the subject matter of this Ordinance having been duly referred to and considered by
15 the Waukesha County Park and Planning Commission, after Public Hearing, and the giving of
16 requisite notice of said hearing and the recommendation thereon reported to the Land Use, Parks
17 and Environment Committee and the Waukesha County Board of Supervisors, Waukesha County,
18 Wisconsin, as required by Sections 60.61 and 59.692 of the Wisconsin State Statutes.
19

20 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES
21 ORDAIN that the Waukesha County Shoreland and Floodland Protection Ordinance District
22 Zoning Map for the Town of Eagle, Waukesha County, Wisconsin, adopted on June 23, 1970, is
23 hereby amended to conditionally rezone from the AP Agricultural Land Preservation District
24 (Town and County) to the A-2 Rural Home District (Town and County), certain lands located in
25 part of the SW ¼ of the NW ¼ and the W ½ of the SW ¼ of Section 31, T5N, R17E, Town of
26 Eagle, Waukesha County, Wisconsin, and more specifically described in the "Staff Report and
27 Recommendation" and map on file in the office of the Waukesha County Department of Parks and
28 Land Use and made a part of this Ordinance by reference (SZT-1465) and subject to the following
29 condition:
30

31 The proposed development shall contain no more than one dwelling unit per five acres of
32 land.
33

34 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this
35 Ordinance with the Town Clerk of Eagle.
36

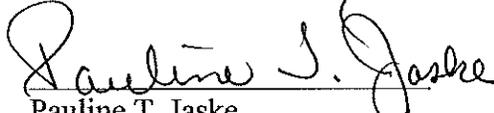
37 BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage,
38 approval and publication.
39

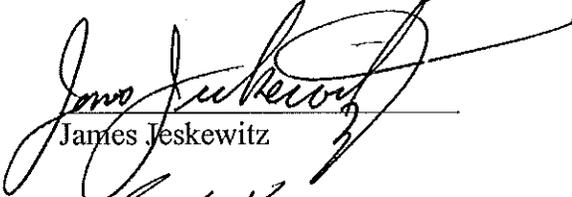
40 BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of
41 provisions of this Ordinance are hereby repealed.

AMEND THE ZONING DISTRICT MAP OF THE TOWN OF EAGLE ZONING ORDINANCE AND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF EAGLE, BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF THE NW ¼ AND THE W ½ OF THE SW ¼ OF SECTION 31, T5N, R17E, TOWN OF EAGLE, WAUKESHA COUNTY, WISCONSIN, FROM THE AP AGRICULTURAL LAND PRESERVATION DISTRICT (TOWN AND COUNTY) TO THE A-2 RURAL HOME DISTRICT (TOWN AND COUNTY) (SZT-1465)

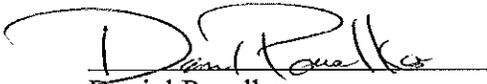
Presented by:
Land Use, Parks, and Environment Committee

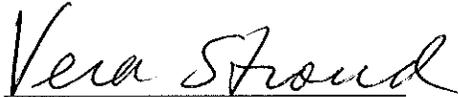

Walter L. Kolb, Chair

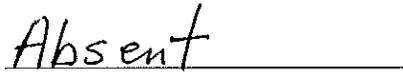

Pauline T. Jaske


James Jeskewitz

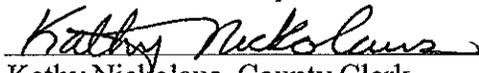

Scott J. Klein


Daniel Pavelko


Vera Stroud


Absent
Matt Thomas

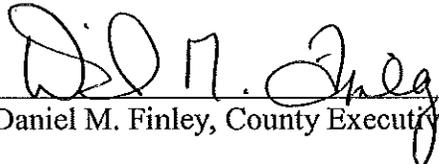
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 3-14-03, 
Kathy Nickolaus, County Clerk

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

Approved:

Vetoed:

Date: 3-17-03, 
Daniel M. Finley, County Executive

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

FILE NO.: SZT-1465

DATE: December 19, 2002

PETITIONER/OWNER: David Cass
W223 N798 Saratoga Drive
Waukesha, Wisconsin, 53186

TAX KEY NO.: EGLT 1851.998 (Former Tax Key No.)
EGLT 1851.998.002 (Present Tax Key No.)

LOCATION:

The property is located in part of the SW ¼ of the NW ¼ and the West ½ of the SW ¼ of Section 31, T5N, R17E, Town of Eagle. More specifically, the property is located directly east of Little Prairie Road and directly south of C.T.H. "NN", containing approximately 81.25 acres.

PRESENT ZONING:

A-P, Agricultural Land Preservation District, requiring a minimum lot size of 35 acres with a minimum average width of 600 linear feet.

PRESENT LAND USE:

Agricultural with some woodland.

PROPOSED ZONING:

A-2, Rural Home District, requiring a minimum lot area of three acres with a minimum average width of 200 linear feet.

PROPOSED LAND USE:

The proposed rezone of all 81.25 acres to A-2 Rural Home District is to allow for a single-family residential subdivision of 15 lots, with an average of 5.04 acres per lot.

PUBLIC HEARING DATE:

November 11, 2002.

PUBLIC REACTION:

Peter Gross, property owner at S105 W39708 CTH "NN", spoke in opposition to the rezoning request and mentioned that his comments remained the same as the hearing dated October 1, 2002. The hearing held on October 1, 2002, did not include a staff representative of Waukesha County Parks and Land Use, therefore the hearing was re-noticed and heard again on November 11, 2002. On October 1, 2002, Mr. Gross stated that he would rather see the property remain agricultural. He also stated that at a hearing earlier this year to rezone the home and eight acres that used to be part of this property, the neighbors were told that the remaining acreage would be kept in the A-P Agricultural Preservation District. Andy Gladcheck, property owner at W102 Little Prairie Road, in Jefferson County, northwest of the property,

157-0-106

stated that he was told the Kuhls were splitting off a piece for the house and that the remaining land could only be divided into two 40-acre parcels. He feels he was misled by the board and is surprised they would even consider the rezone. Mr. Wilton, Town Plan Commission Chairman, clarified that the property could not be divided into parcels less than 35 acres until a rezone is approved at all levels, therefore the responses to land division inquiries were correct. Mr. Gladcheck stated that a "Board" would not let the previous owners build on Little Prairie Road and C.T.H "NN" because the road had a bad corner. He also stated that the Kettle Moraine State Forest is located to the north of the property and that grading is occurring preliminary to receiving any approvals. The Plan Commission noted that they have not heard any requests from the previous owner (Kuhl) regarding any development on the subject parcel. According to the Commission minutes, Bill Orchard, represented family members who own property to the west of the parcel in question and pointed out that the rezone goes against the Town's land use plan. He did not formally object to the rezone, but is interested in what will happen to the land after the rezone.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On October 1, 2002, in a meeting held jointly with the Town Plan Commission and Town Board, the rezone to A-2 Rural Home District was approved with a minimum five-acre density. The Planning Commission approved the request with a vote of 4-3. The Town Board accepted the recommendation of the Planning Commission with a vote of three to one (3:1) with one abstention. The meeting was mistakenly not held jointly with the Waukesha County Department of Parks and Land Use and therefore, a new public hearing was noticed and heard. On November 11, 2002, a meeting was held jointly with the Town Plan Commission, Town Board and a staff representative of the Waukesha County Department of Parks and Land Use. The Plan Commission's motion to approve the rezone request resulted in a four to three (4:3) vote in favor based upon a density of one unit per five acres.

The Town Board of Eagle enacted the Ordinance and rezoned the land to the A-2 Rural Home District with a one unit per five-acre density on a vote of three to one (3:1) with one abstention.

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF EAGLE LAND USE PLAN:

The Waukesha County Land Development Plan (WCLDP) designates this parcel as Rural Density Residential, Other Agricultural and Open Lands, which permits development at densities of 1 unit per 5 acres. The proposal conforms to the WCLDP. The Town of Eagle Land Use Plan indicates agricultural and Upland Conservancy on the northern boundary. After further review, our Department feels that there may be an error in mapping the northern portion of the property Upland Conservancy since the land is relatively flat and used for agriculture. The topographic and aerial maps of the property do not show any indication that it should be considered Upland Conservancy.

The Agricultural land use goals are as follows:

- Agricultural land use and operations be encouraged by the Town as a resource for the use and benefit of present and future generations.
- Preservation of agricultural land be promoted as a means to retain the Town's rural character and to provide open space.

The Town Land Use Plan also states that areas identified as agricultural are expected to remain in farming. Therefore, our Department does not feel that the proposal meets the Town of Eagle Land Use Plan.

STAFF ANALYSIS:

The property currently consists of tillable agricultural land with approximately three acres of woodland on the east side of the property. There are six prominent soil types on the property, Boyer, Chelsea, Casco, Fox, Grays and Oshtemo Series. All soil types are well drained and suitable for a residence with an on site septic system. Soil types Fox and Grays are Prime Agricultural Soils. The property is relatively flat where the land is used for agricultural purposes. The greatest slope is located at proposed Lot 10 as shown on the land concept plan submitted October 10, 2002. The steepest slope is approximately 10% in that area.

The current zoning on the subject property is A-P, Agricultural Preservation. Troy Township (Walworth County) is to the south and Palmyra Township (Jefferson County) is to the west. There are wooded residential parcels directly south and southwest of the subject parcel, which are also surrounded by agricultural land. The existing uses south and southwest of the subject property both appear to be similar to the use proposed. An approximate eight-acre parcel with a residence was recently rezoned from A-P to U-C directly south of the subject property. There are a few parcels zoned A-2 Rural Home District and A-P Agricultural Preservation directly north and east of the subject property and there is a large piece of land in the Kettle Moraine State Forest to the north, which are within Waukesha County Shoreland and Floodland Protection Ordinance standards.

The property is approximately 81.25 acres in size and A-2 Rural Home District requires three acres per dwelling unit. The petitioner is proposing 15 lots, approximately five acres in size per lot. The petitioner has had soil borings taken at the property and the soils should permit conventional systems, according to the petitioner. The petitioner also contacted Waukesha County Public Works and the proposed road will be at least 500 feet east of the intersection of C.T.H. "NN" and Little Prairie Road in conformance with D.O.T. standards. The northeast corner of the property lies within the Waukesha County Shoreland and Floodland Protection Ordinance standards. Any future land divisions on said property should comply with the WCLDP, which requires five acres per dwelling unit. The land division will require Town and County approval.

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends **approval** of the rezone request. It is the opinion of our Department that the proposal does not meet the Town of Eagle Land Use Plan, however, the site is in conformance with the County Land Use Plan and natural resources should not be impacted by the proposed rezone.

Respectfully submitted,

Amy A. Barrows, SMC

Amy A. Barrows
Senior Land Use Specialist

AAB:kb/smv

Attachment: Map

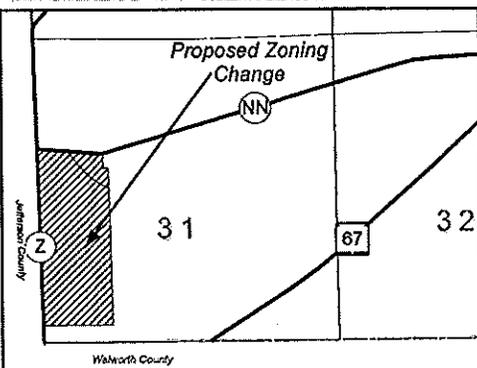
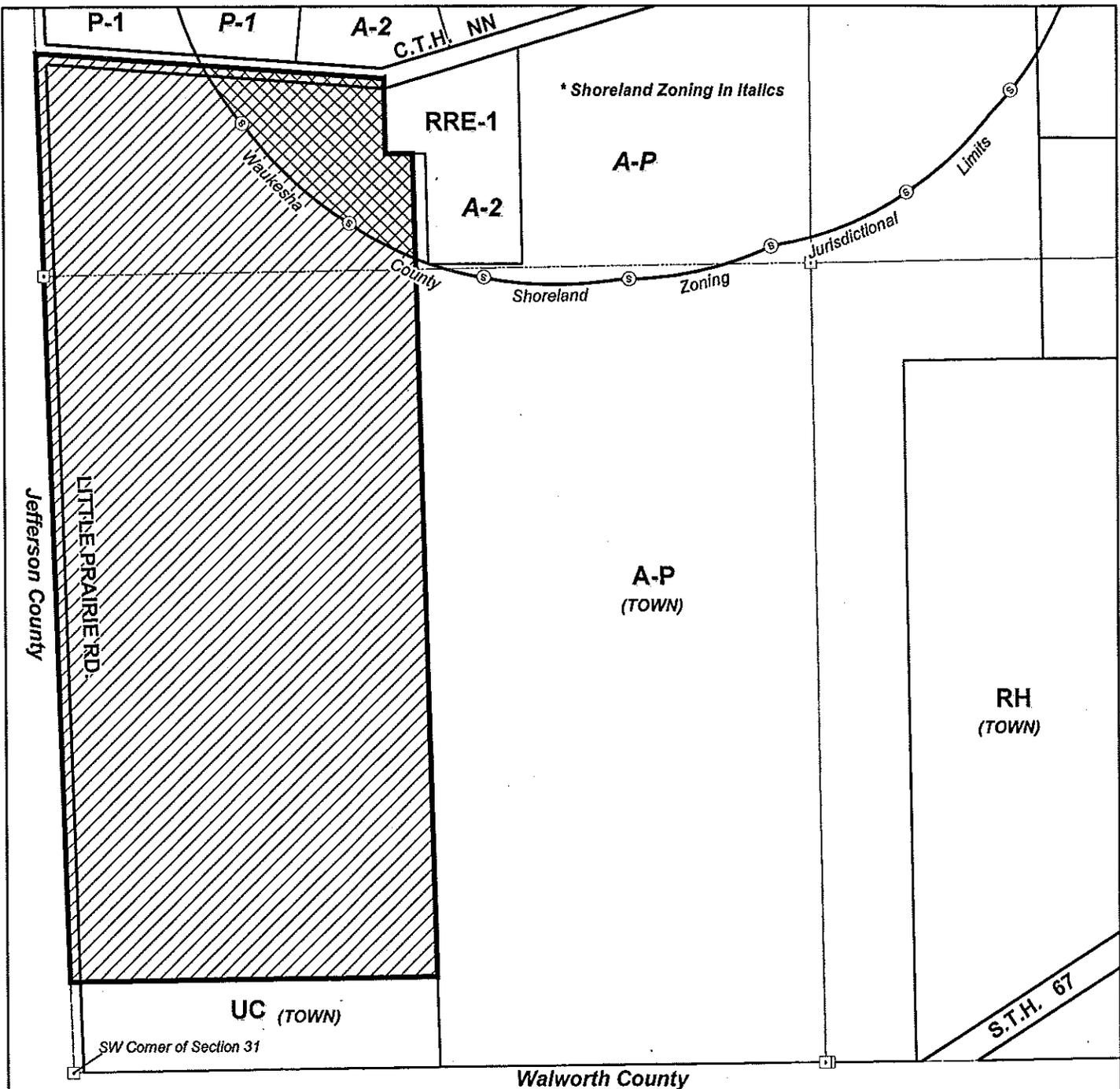
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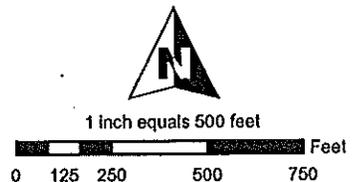
ZONING MAP AMENDMENT

PART OF THE SOUTHWEST 1/4 OF SECTION 31
TOWN OF EAGLE



-  CONDITIONAL TOWN ZONING CHANGE FROM A-P TO A-2 (79.1 AC.)
-  COND. TOWN/SHORELAND ZONING CHANGE FROM A-P TO A-2 (5.3 AC.)

FILE.....ZT-1465
 DATE.....12-19-02
 AREA OF CHANGE.....84.4 ACRES
 TAX KEY NUMBER.....EGLT 1851.998.002



Prepared by the Waukesha County Department of Parks and Land Use

157-0-106

ORDINANCE NO. 02-08

AN ORDINANCE TO REZONE CERTAIN LANDS
IN THE TOWN OF EAGLE
WAUKESHA COUNTY, WISCONSIN

WHEREAS, the land identified and described below is zoned A-P Agricultural Land Preservation District and the owner David Cass has requested the land to be rezoned to the A-2 Rural Home District with a five-acre density; and

WHEREAS, the Town of Eagle held a public hearing jointly with a staff representative from Waukesha County Department of Parks and Land Use on November 11, 2002,

WHEREAS, the Town Board of Eagle finds as follows:

1. Adequate public facilities exist to accommodate the development which would take place on these parcels upon the requested rezone; and
2. Provision of public facilities to accommodate development will not place an unreasonable burden upon affected local units of government to provide governmental services; and
3. This land is suitable for residential dwelling units which development will not result in undue water or air pollution, soil erosion, or adversely affect natural areas;

NOW, THEREFORE, the Town Board of Eagle enacts this Ordinance and rezones the following described land in the Town of Eagle, Waukesha County, Wisconsin, to the A-2 Rural Home District with a five-acre density:

A parcel of land located in the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ and the West $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 31, Town 5 North, Range 17 East, Waukesha County, Wisconsin. More particularly described as follows: beginning at the Northwest corner of the Southwest $\frac{1}{4}$ of said Section 31; thence N 01 degree 49'49" W along the West line of the Northwest $\frac{1}{4}$ of said Section 31, a distance of 737.33 feet to the centerline of C.T.H. "NN"; thence S 85 degrees 40'39" E along the centerline of said road a distance of 1084.07 feet; thence 69.72 feet along the arc of a nontangent curve to the left with a radius of 400.00 feet and whose chord bears N 89 degrees 01'29" E a distance of 69.63 feet; thence S 1 degree 03'41" E 247.50 feet; thence N 88 degrees 56'19" E 88.17 feet; thence S

1 degree 26'15" E 2734.55 feet; thence S 89 degrees 22'32" W 1213.77 feet; thence N 1 degree 49'53" W 2337.50 feet to the POINT OF BEGINNING. Said parcel contains 84.42 acres.

This Ordinance is subject to enactment by the Waukesha County Board of Supervisors.

Enacted by the Town Board of Eagle on this 11 day of NOVEMBER, 2002, on Motion of Supervisor KWIATKOWSKI; seconded by Supervisor BURTON.

APPROVED:

Donald Wilton

Donald Wilton, Town Chairman

ATTEST:

Sally McMillan

Sally McMillan, Town Clerk

Ayes	<u>3</u>
Noes	<u>2</u>
Absent	<u>0</u>

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/11/03

(ORD) NUMBER-1570106

1 K. HERRO.....AYE
 3 D. STAMSTA.....AYE
 5 J. MARCHESE.....AYE
 7 J. JESKEWITZ.....
 9 P. HAUKOHL.....NAY
 11 K. HARENDA.....AYE
 13 J. MORRIS.....
 15 D. SWAN.....AYE
 17 J. BEHREND.....AYE
 19 M. SONNENTAG.....AYE
 21 W. KOLB.....AYE
 23 P. PRONOLD.....AYE
 25 K. CUMMINGS.....AYE
 27 D. PAULSON.....AYE
 29 M. THOMAS.....
 31 V. STROUD.....AYE
 33 D. PAVELKO.....NAY
 35 C. SEITZ.....AYE

2 R. THELEN.....AYE
 4 H. CARLSON.....AYE
 6 D. BROESCH.....AYE
 8 J. DWYER.....AYE
 10 S. WOLFF.....AYE
 12 J. GRIFFIN.....AYE
 14 J. LA PORTE.....AYE
 16 R. MANKE.....AYE
 18 D. FANFELLE.....AYE
 20 M. KIPP.....
 22 G. BRUCE.....
 24 A. SILVA.....AYE
 26 S. KLEIN.....AYE
 28 P. JASKE.....AYE
 30 K. NILSON.....NAY
 32 P. GUNDRUM.....
 34 R. SINGERT.....AYE

TOTAL AYES-26

TOTAL NAYS-03

CARRIED X

DEFEATED _____

UNANIMOUS _____

TOTAL VOTES-29