

Enrolled 157-124  
~~PROPOSED ORDINANCE 157-125~~

1  
2  
3 AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING  
4 ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN  
5 PART OF THE SW ¼ OF SECTION 35, T5N, R18E, TOWN OF MUKWONAGO,  
6 WAUKESHA COUNTY, WISCONSIN, FROM THE R-2 RESIDENTIAL  
7 DISTRICT TO THE R-3 RESIDENTIAL DISTRICT (ZT-1473)  
8  
9

10 WHEREAS the subject matter of this Ordinance having been approved by the Mukwonago  
11 Town Board on February 12, 2003, after Public Hearing, and the giving of requisite notice of  
12 said hearing, and duly referred to and considered by the Waukesha County Park and Planning  
13 Commission, and a recommendation for approval, thereon reported to the Land Use, Parks and  
14 Environment Committee and the Waukesha County Board of Supervisors, as required by Section  
15 60.61 of the Wisconsin State Statutes.  
16

17 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES  
18 ORDAIN that the District Zoning Map for the Town of Mukwonago Zoning Ordinance, adopted  
19 by the Town of Mukwonago on May 9, 1983, is hereby amended to conditionally rezone from  
20 the R-2 Residential District to the R-3 Residential District, certain lands located in part of the  
21 SW ¼ of Section 35, T5N, R18E, Town of Mukwonago, Waukesha County, Wisconsin, and  
22 more specifically described in the "Staff Report and Recommendation" and map on file in the  
23 office of the Waukesha County Department of Parks and Land Use, and made a part of this  
24 Ordinance by reference (ZT-1473), subject to the following condition:  
25

26 The above rezoning is conditioned upon Lots 2 and 3 and Lots 4 and 5 of the Ruppert  
27 Heights Subdivision being combined by Certified Survey Map, which must be approved  
28 by the Town of Mukwonago Plan Commission, Town of Mukwonago Board, and the  
29 Waukesha County Department of Parks and Land Use.  
30

31 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of  
32 this Ordinance with the Town Clerk of Mukwonago.  
33

34 BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage,  
35 approval and publication.  
36

37 BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of  
38 provisions of this Ordinance are hereby repealed.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 SW ¼ OF SECTION 35, T5N, R18E, TOWN OF MUKWONAGO,  
WAUKESHA COUNTY, WISCONSIN, FROM THE R-2 RESIDENTIAL  
DISTRICT TO THE R-3 RESIDENTIAL DISTRICT (ZT-1473)

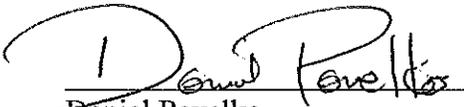
Presented by:  
Land Use, Parks, and Environment Committee

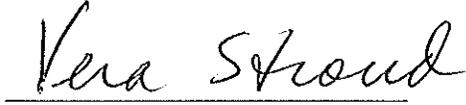
  
Walter L. Kolb, Chair

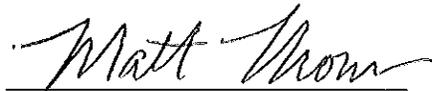
  
Pauline T. Jaske

Absent  
James Jeskewitz

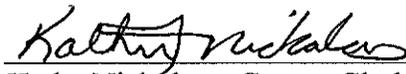
 (no)  
Scott J. Klein

  
Daniel Pavelko

  
Vera Stroud

  
Matt Thomas

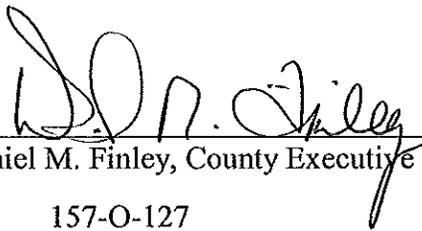
The foregoing legislation adopted by the County Board of Supervisors of Waukesha County,  
Wisconsin, was presented to the County Executive on:

Date: 3-28-03,   
Kathy Nickolaus, County Clerk

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

Approved:

Vetoed:

Date: 3-31-03,   
Daniel M. Finley, County Executive

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

**FILE NO.:** ZT-1473

**DATE:** February 20, 2003

**PETITIONER:** William Eichfeld  
c/o Fred Scheunert  
S110 W30490 YMCA Camp Road  
Mukwonago, WI 53149

**TAX KEY NO.:** MUKT 2011.003 and 2011.005

**LOCATION:**

Lots 2 through 5, Ruppert Heights Subdivision, being part of the SW ¼ of Section 35, T5N, R18E, Town of Mukwonago, containing approximately 49,200 sq.ft.

**PRESENT ZONING:**

R-2 Residential District, allowing development with 30,000 sq.ft. minimum lot sizes, and a 120' minimum average width.

**PRESENT LAND USE:**

Vacant.

**PROPOSED ZONING:**

R-3 Residential District, allowing development at 20,000 sq.ft. minimum lot sizes with a 120 ft. minimum average width.

**PUBLIC HEARING DATE:**

February 5, 2003.

**PROPOSED LAND USE:**

Two single-family residential living units.

**PUBLIC REACTION:**

None.

**TOWN PLAN COMMISSION AND TOWN BOARD ACTION:**

The Town of Mukwonago Plan Commission, on February 5, 2003, recommended to the Town Board approval of the rezoning request in conformance with Exhibit "A". The Town of Mukwonago Board, on February 12, 2003, concurred with the Town Plan Commission's recommendation.

**COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF MUKWONAGO MASTER PLAN:**

The Waukesha County Development Plan designates the area in the Low Density Urban Development category, allowing development at 20,000 sq.ft. to 1.4 acres per dwelling unit. The Town of Mukwonago Land Use Plan designates the area in the High Density Residential category, allowing .5 acre lots. The proposal is in conformance with both plans.

167-0-127

**OTHER CONSIDERATIONS:**

The applicant is proposing Lots 2 through 5 of Ruppert Heights Subdivision be rezoned from the R-2 Residential District which requires 30,000 sq.ft. minimum lot sizes with 120' width, to the R-3 Residential District which requires a 20,000 sq.ft. lot size with 120' width. The subject property was before the Town Plan Commission, which discussed the redivision and combination of the lots. However, it was the determination of the Town Attorney that the subject properties would have to be rezoned or a Variance be granted by the Town of Mukwonago Board of Adjustment to allow the combination of Lots 2 and 3 into one parcel, and Lots 4 and 5 into another parcel. The parcels which would be combined would be 200' wide and approximately 120' deep, which makes them approximately 24,000 sq.ft. in area, which is below the 30,000 sq.ft. minimum lot size requirements of the Town of Mukwonago Zoning Ordinance. The Town Attorney takes the position that the newly created parcels would no longer be considered legal lots of record and, therefore, would have to meet all Zoning Ordinance requirements. It should be noted that this area is also in the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance; however, the County's position on the combination of these lots is that when combined, they become more conforming, and do not need rezoning, so the only zoning change being requested at this time is an amendment to the Town of Mukwonago Zoning Ordinance.

Other parcels in the area are approximately 16,000 sq.ft. in area, so the rezoning designation of this property would be compatible with adjacent lot sizes. The applicant did contact some of the other property owners in the area; however, it was determined that there was no benefit to them to be rezoned to the R-3 category and the Town was not compelled to rezone the area. The soils in the area are suitable for onsite sewage disposal systems and soils tests have been completed on one of the proposed combined parcels. The Town Plan Commission and Town Board recommended approval of this rezoning subject to the requirement that a Certified Survey Map be prepared to combine Lots 2 and 3, and Lots 4 and 5 into two parcels.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request be **approved** in accordance with the Town Board's action of February 12, 2003 (see Exhibit "A"). The proposal is consistent with both the Waukesha County Development Plan and Town of Mukwonago Development Plan and creates two conforming lots which then can meet all the requirements of the Town of Mukwonago Zoning Ordinance.

Respectfully submitted,

*Kathy Moore/smv*

Kathy Moore  
Senior Planner

KM:smv

Attachments: Exhibit "A"

AN ORDINANCE TO AMEND THE TOWN OF MUKWONAGO ZONING DISTRICT MAP OF THE TOWN OF MUKWONAGO ZONING ORDINANCE BY CONDITIONALLY REZONING LANDS IN THE TOWN OF MUKWONAGO, FROM THE R-2 RESIDENTIAL DISTRICT TO THE R-3 RESIDENTIAL DISTRICT

WHEREAS, the petition has been filed by William F. Eichfeld, the owner of certain lands in the Town of Mukwonago hereinafter "(Petitioner)" to rezone and develop certain property as described in Exhibit 1 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 the R-3 Residential District; and

WHEREAS, the petitioners have supplied all required data pursuant to the Town of Mukwonago Zoning Ordinance and a Public Hearing was conducted by the Town Board and the Plan Commission of the Town of Mukwonago on February 5, 2003; 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 Town Plan Commission of the Town of Mukwonago has recommended the Town Board of the Town of Mukwonago that said rezoning change may be made under certain conditions; and

WHEREAS, the proposed rezoning will be consistent with other development in the area and will be in compliance with the recommended densities of the Town of Mukwonago Master Plan and the Waukesha County Development Plan; and

WHEREAS, the Town Board of the Town of Mukwonago, after careful review and the recommendation of the Town Plan Commission of the Town of Mukwonago, have determined that all procedure 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, 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, is 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 operation is conducted pursuant to the following conditions and is in strict compliance with the same and is consistent with the recommendation of the Town of Mukwonago Master Plan and the Waukesha County Development Plan.

NOW, THEREFORE, the Town Board of the Town of Mukwongo, Waukesha County Wisconsin, DO ORDAINS 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 1, from the R-2 Residential District to the R-3 Residential District, if the conditions stated in Section 2 are satisfied.

SECTION 2: The above rezoning is conditioned upon Lots 2 and 3 of Ruppert Heights Subdivision being combined and Lots 4 and 5 of Ruppert Heights Subdivision being combined with such combinations being accomplished by Certified Survey Map, and subject to the Certified Survey Map being approved by the Town of Mukwonago Town Board, and the Waukesha County Department of Parks and Land Use.

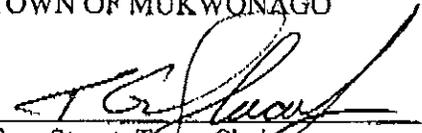
SECTION 3: CERTIFICATION.  
Upon certification by the Town Clerk that the aforementioned conditions have been satisfied, the Town Planner will change the Town of Mukwonago zoning maps from R-2 Residential District to the R-3 Residential District for the subject lands.

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.

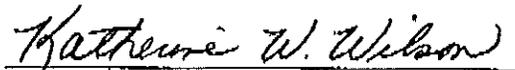
SECTION 5: EFFECTIVE DATE.  
This Ordinance shall take effect immediately upon passage and posting or publication as provided by law subject to the satisfaction of the conditions precedent stated in Section 2, and following approval by the Waukesha County Board of Supervisors.

Dated this 21<sup>st</sup> day of February, 2003.

TOWN OF MUKWONAGO

  
Tom Stuart, Town Chairman

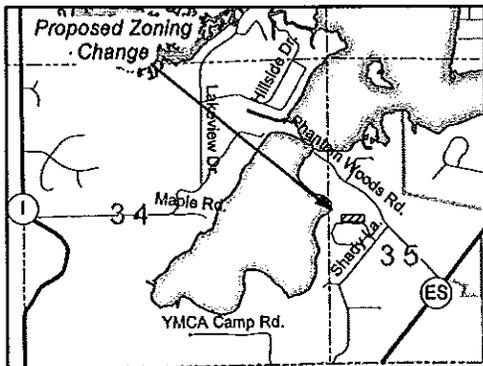
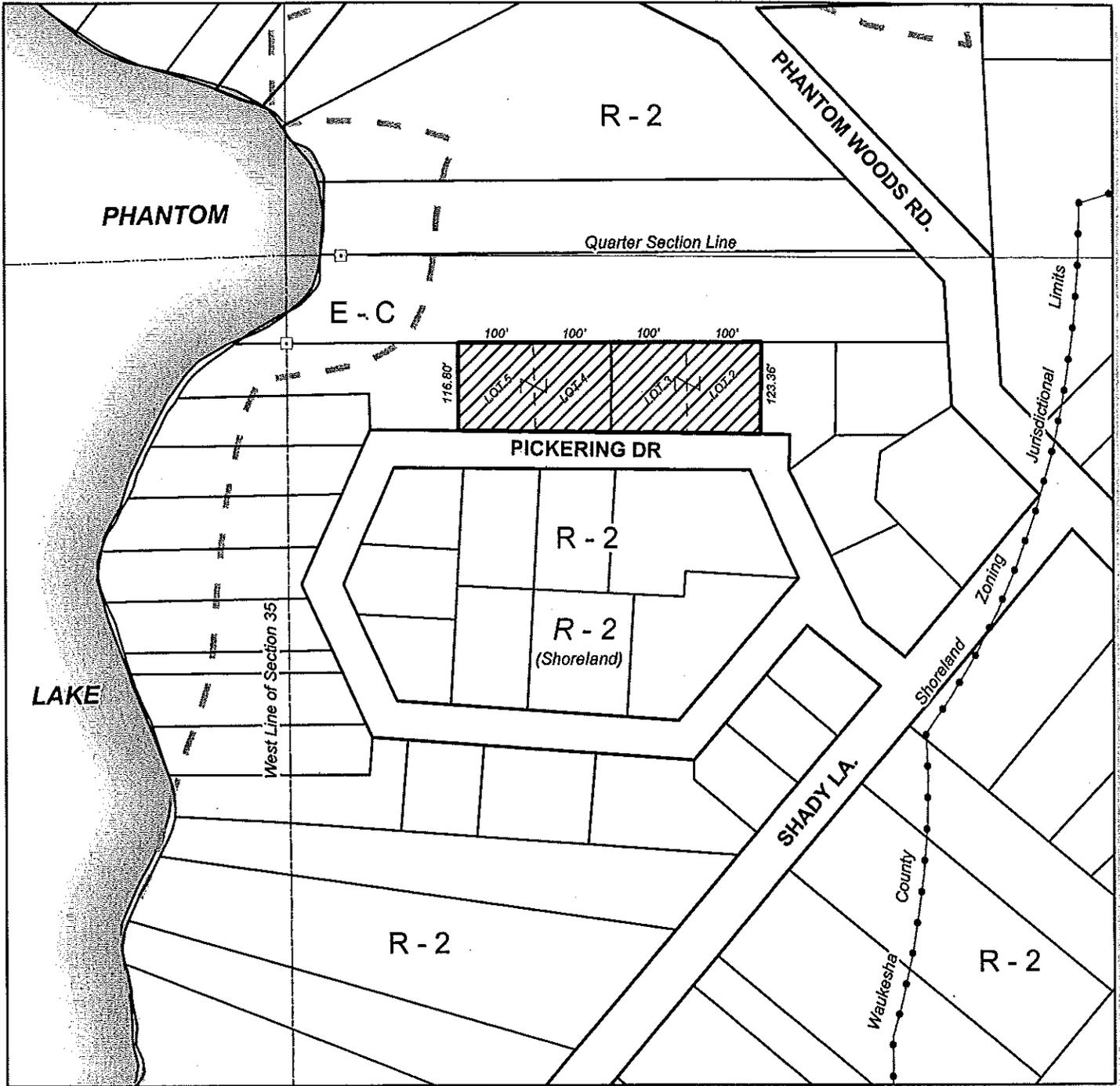
ATTEST:

  
Katherine W. Wilson, Town Clerk

Published and posted this 24<sup>th</sup> day of February, 2003.

# ZONING MAP AMENDMENT

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



TOWN ZONING CHANGE FROM R-2 RESIDENTIAL (30,000 SQ. FT. MINIMUM TO R-3 RESIDENTIAL (20,000 SQ.FT. MINIMUM)

FILE.....ZT-1473

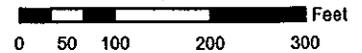
DATE.....2-20-03

AREA OF CHANGE.....1.1 ACRES

TAX KEY NUMBER.....MUKT 2011.003  
MUKT 2011.005



1 inch equals 200 feet



Prepared by the Waukesha County Department of Parks and Land Use

157-0-127

V

DATE-03/25/03

(ORD) NUMBER-1570127

- 1 K. HERRO.....AYE
- 3 D. STAMSTA.....AYE
- 5 J. MARCHESE.....AYE
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....
- 13 J. MORRIS.....
- 15 D. SWAN.....AYE
- 17 J. BEHREND.....AYE
- 19 M. SONNENTAG.....
- 21 W. KOLB.....AYE
- 23 P. PRONOLD.....AYE
- 25 K. CUMMINGS.....AYE
- 27 D. PAULSON.....AYE
- 29 M. THOMAS.....AYE
- 31 V. STROUD.....AYE
- 33 D. PAVELKO.....AYE
- 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.....AYE
- 22 G. BRUCE.....AYE
- 24 A. SILVA.....AYE
- 26 S. KLEIN.....NAY
- 28 P. JASKE.....AYE
- 30 K. NILSON.....AYE
- 32 P. GUNDRUM.....AYE
- 34 R. SINGERT.....AYE

TOTAL AYES-31

TOTAL NAYS-01

CARRIED X

DEFEATED \_\_\_\_\_

UNANIMOUS \_\_\_\_\_

TOTAL VOTES-32