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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 E ½ OF SECTION 9, T5N, R18E, TOWN OF MUKWONAGO,
6 WAUKESHA COUNTY, WISCONSIN, FROM THE R-1 RESIDENTIAL
7 DISTRICT TO THE R-2 RESIDENTIAL DISTRICT (ZT-1528)
8
9

10 WHEREAS the subject matter of this Ordinance having been approved by the Mukwonago
11 Town Board on March 10, 2004, after Public Hearing, and the giving of requisite notice of said
12 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-1 Residential District to the R-2 Residential District, certain lands located in part of the E
21 ½ of Section 9, T5N, R18E, Town of Mukwonago, Waukesha County, Wisconsin, and more
22 specifically described in the "Staff Report and Recommendation" and map on file in the office of
23 the Waukesha County Department of Parks and Land Use, and made a part of this Ordinance by
24 reference (ZT-1528), subject to the following conditions:
25

- 26 1. Subject to the parcels being combined by a Certified Survey Map, which must
27 be approved by the Town of Mukwonago Town Board and the Waukesha
28 County Department of Parks and Land Use Planning and Zoning Division
29 Staff.
- 30 2. Subject to the petitioners providing to and receiving approval from the Town
31 Planner, proof from the Waukesha County Register of Deeds office that the
32 subject parcels have access via an easement to Sudgen Road.
- 33 3. Subject to the petitioners providing to and receiving approval from the Town
34 Planner proof that the access road to the 3.02 acre remnant parcel (Haessly's)
35 is not from Whitmore Road, up a steep slope exceeding the Town of
36 Mukwonago's Building Code requirements.
- 37 4. Subject to the petitioners accepting the terms and conditions of the conditional
38 rezoning ordinance in writing.
- 39 5. Subject to the petitioners paying all fees, costs and assessments due and owing
40 to the Town of Mukwonago, including any permit fees for applicable permits,
41 and for reimbursement of any expenses, costs and disbursements which have
42 been incurred by the Town of Mukwonago in the drafting, review and
43 enforcement of this zoning ordinance, including without limitation by reason
44 of enumeration, design, engineering, inspection and legal work.
45

46 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of
47 this Ordinance with the Town Clerk of Mukwonago.
48

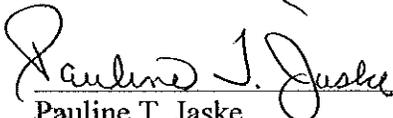
49 BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage,
50 approval and publication.
51

52 BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of
53 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 E ½ OF SECTION 9, T5N, R18E, TOWN OF MUKWONAGO,
WAUKESHA COUNTY, WISCONSIN, FROM THE R-1 RESIDENTIAL
DISTRICT TO THE R-2 RESIDENTIAL DISTRICT (ZT-1528)

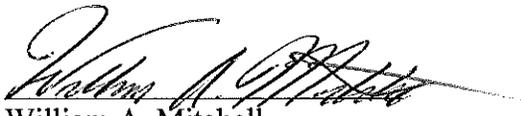
Presented by:
Land Use, Parks, and Environment Committee

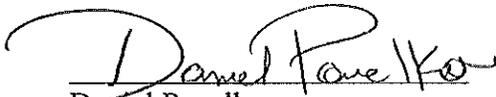

Walter L. Kolb, Chair

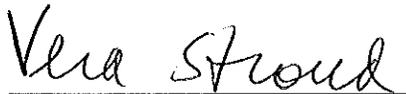

Pauline T. Jaske


James Jeskewitz


Scott J. Klein


William A. Mitchell

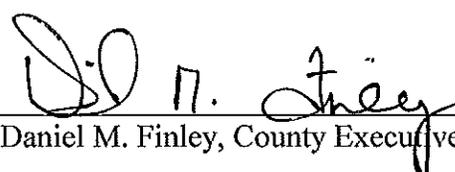

Daniel Pavelko


Vera Stroud

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

Date: 4-16-04, 
Kathy Nickolaus, County Clerk

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

Approved:
Vetoed:
Date: 4-19-04, 
Daniel M. Finley, 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 Code hereby recommends approval of (ZT-1528 Jean McKey and Dale Haessly) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

March 18, 2004

Absent
Betty Willert, Chairperson

Vytautas Janusonis
Vy Janusonis

Absent - Left at 4:15 PM
Mareth Kipp

Absent
Ellen Gennrich

Walter Kolb
Walter Kolb

Absent - Left at 4:00 PM
Joseph LaPorte

Walter Baade
Walter Baade

Bob Hamilton
Robert Hamilton

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

FILE NO.: ZT-1528

DATE: March 18, 2004

PETITIONERS: Jean McKey
S73 W31398 Spring Lake Drive
Mukwonago, WI 53149

Dale Haessly
S73 W31330 Whitmore Road
Mukwonago, WI 53149

TAX KEY NO.: MUKT 1905.980, MUKT 1905.981 and MUKT 1905.975

LOCATION:
Part of the E ½ of Section 9, T5N, R18E, Town of Mukwonago. More specifically the parcel lies on the south shore of Spring Lake, on the north side of a private drive known as Whitmore Road, containing approximately 36,000 sq. ft.

PRESENT ZONING:
R-1 Residential District, requiring one acre minimum lot sizes.

PRESENT LAND USE:
Single-family residence and accessory structure.

PROPOSED ZONING:
R-2 Residential District, allowing development at a 30,000 sq. ft. minimum lot size, with a 120' minimum average width.

PROPOSED LAND USE:
To combine existing legal lots of record under the "merger of substandard lot of record provisions" of the Town of Mukwonago's Subdivision Control Ordinance.

PUBLIC HEARING DATE:
March 3, 2004.

PUBLIC REACTION:
None.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:
The Town of Mukwonago Plan Commission, on March 3, 2004, voted to recommend to the Town Board approval of the rezoning request in accordance with the attached Exhibit "A". The Town of Mukwonago Board, on March 10, 2004, approved the rezoning in accordance 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 Residential category allowing development at 20,000 sq. ft. to 1.4 dwelling units per acre. The Town of Mukwonago Land Use Plan designates the area in the one-acre category. The proposal to combine the substandard legal lots of record is more in conformance with both plans.

OTHER CONSIDERATIONS:

Ms. McKey is proposing to combine a portion of Mr. Haessly's property, which is a 3.24 acre parcel and combine it with her two substandard lots of record, one of which is approximately 75' wide and 132' in area and contains a shed and septic system and the other which is approximately 100' wide and 115' deep and contains a single-family residence and create a single new parcel. Mr. Haessly's 3.24 acre parcel was created by a Certified Survey Map in the early 1980's. When Mr. Haessly transfers a portion of his property, which includes a private road reservation to Ms. McKey, his parcel will be 3.02 acres and her new combined parcel will be approximately 36,400 sq. ft., which exceeds the R-2 Residential zoning category of 30,000 sq. ft. minimum lot sizes. In June 2003, the Town Plan Commission and Town Board reviewed the proposal under the "merger of substandard legal lots of record provision" of the Town of Mukwonago Subdivision Control Ordinance in order to deal with combining adjacent substandard lots of record owned by the same owner. One of the provisions of that Ordinance, requires that parcels be rezoned to a compliant zoning district category if at all possible. In this case, the Town of Mukwonago has a 30,000 sq. ft. minimum lot size requirement, which is exceeded when these two parcels are combined. However, when combined, they do not meet the current R-1 one acre zoning requirement. Therefore, in accordance with the merger provisions of their Subdivision Control Ordinance, they must be rezoned.

The properties are located on the south shore of Spring Lake, however, because of recent court decisions, the County cannot require these properties to be combined under the provisions of the Waukesha County Shoreland and Floodland Protection Ordinance.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff this request be **approved** in accordance with the Town Board's action of March 10, 2004 (see Exhibit "A"). The proposal is more consistent with the Waukesha County Development Plan and the Town of Mukwonago Master Plan densities when the subject substandard legal lots of record are combined and will meet the Town of Mukwonago Zoning Ordinance requirements for a R-2 Residential zoning district.

Respectfully submitted,

Kathy Moore / kb

Kathy Moore
Senior Planner

KM:kb

Attachments: Exhibit "A" and Map

STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. 2004-5

EXHIBIT "A"

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 THE R-1 RESIDENTIAL DISTRICT TO THE R-2 RESIDENTIAL DISTRICT

WHEREAS, the petition has been filed by Jean McKey and Dale Haessly, 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-1 Residential District to R-2 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 March 3, 2004 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 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 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, 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 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. The Town Board has determined that the proposal to combine the subject lands is more compatible with the Town of Mukwonago Master Plan.

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-1 Residential District to R-2 Residential District.

SECTION 2: CONDITIONS OF REZONING

The above rezoning is conditioned upon the following conditions:

- A. Subject to the parcels being combined by a Certified Survey Map, which must be approved by the Town of Mukwonago Town Board and the Waukesha County Department of Parks and Land Use Planning and Zoning Division Staff.
- B. Subject to the petitioners providing to and receiving approval from the Town Planner, proof from the Waukesha County Register of Deeds office that the subject parcels have access via an easement to Sudgen Road,
- C. Subject to the petitioners providing to and receiving approval from the Town Planner proof that the access road to the 3.02 acre remnant parcel (Haessly's) is not from Whitmore Road, up a steep slope exceeding the Town of Mukwonago's building code requirements.
- D. Subject to the Petitioners accepting the terms and conditions of the conditional rezoning ordinance in writing.
- E. Subject to the Petitioners paying all fees, costs and assessments due and owing to the Town of Mukwonago, including any permit fees for applicable permits, and for reimbursement 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,

SECTION 3: CERTIFICATION.

Upon certification by the Town Clerk that the aforementioned conditions have been satisfied, the Town Engineer shall amend the Town of Mukwonago zoning maps from the R-1 Residential District to the R-2 Residential District for the subject lands.

SECTION 4: SEVERABILITY.

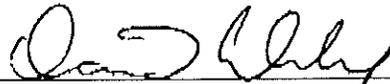
The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, 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.

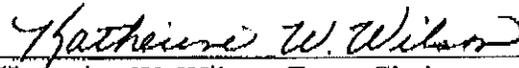
This Ordinance shall be in full force and effect from and after its passage and posting or publication as provided by law subject to the condition stated in Section 2, and this ordinance is null and void and the R-1 Residential District Zoning shall be in effect with no further notice if such conditions are not complied with on the terms and conditions stated herein.

Dated this 19th day of March, 2004.

TOWN OF MUKWONAGO


Dave Dubey, Town Chairman

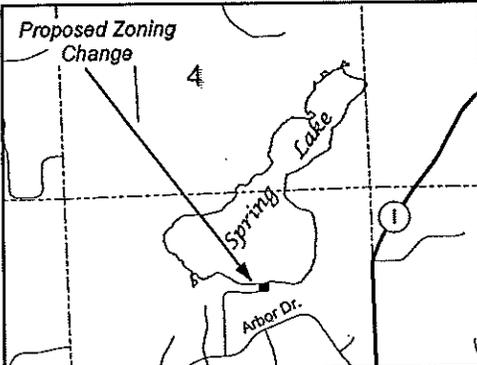
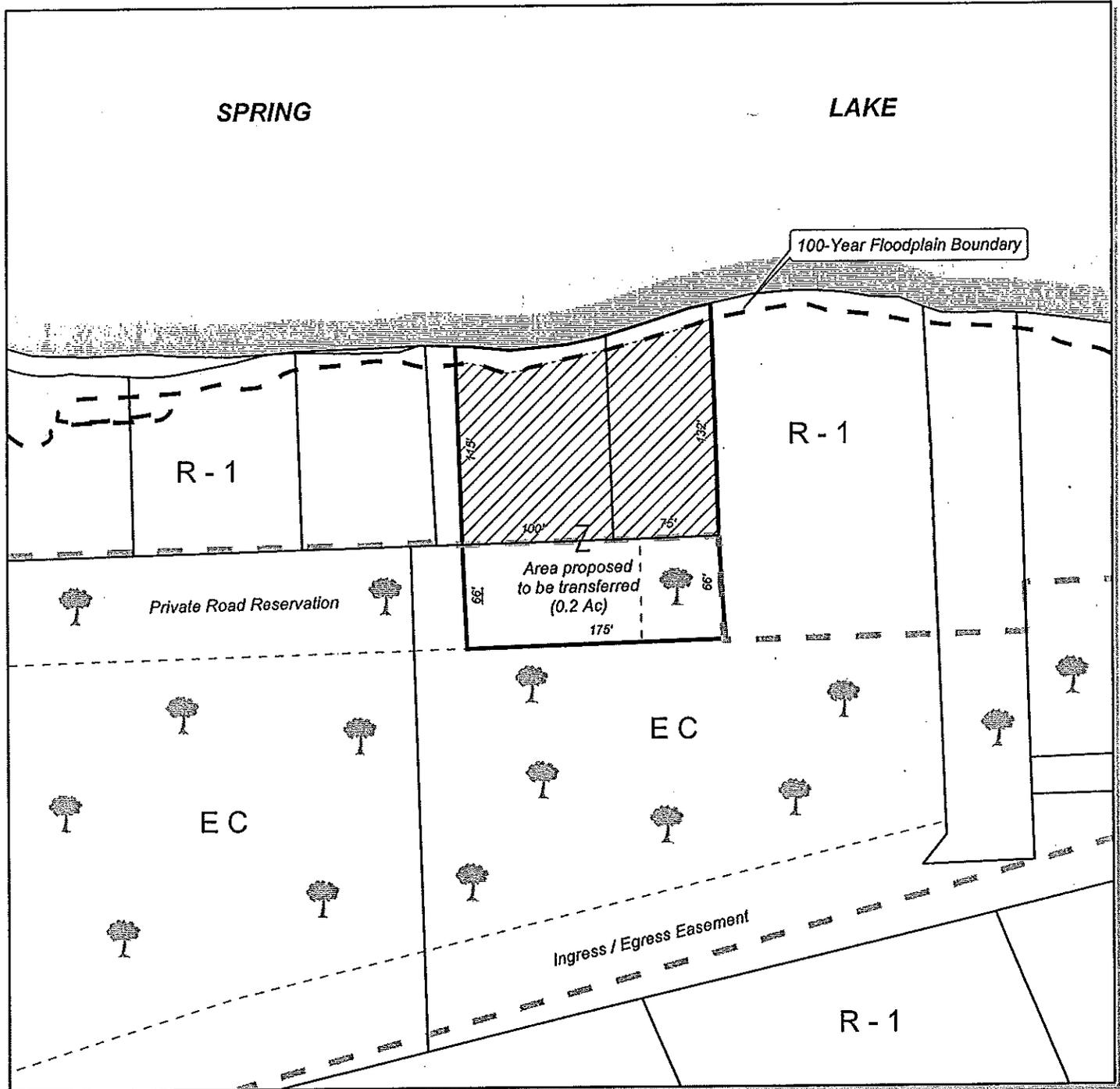
ATTEST:


Katherine W. Wilson, Town Clerk

Published and posted this 23rd day of March, 2004

ZONING MAP AMENDMENT

PART OF THE EAST 1/2 OF SECTION 9
TOWN OF MUKWONAGO



TOWN ZONING CHANGE FROM R-1 RESIDENTIAL (1 ACRE MINIMUM) TO R-2 RESIDENTIAL (30,000 SQ.FT. MINIMUM)

FILE.....ZT-1528

DATE.....3-18-04

AREA OF CHANGE.....0.5 ACRES

TAX KEY NUMBER.....MUKT 1905.980
MUKT 1905.981

Prepared by the Waukesha County Department of Parks and Land Use

1 inch equals 100 feet

0 25 50 100 150 Feet

158-0-159

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-04/13/04

(ORD) NUMBER-1580159

1 K. HERRO.....AYE
3 D. STAMSTA.....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.....
19 W. MITCHELL.....AYE
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 B. MORRIS.....AYE
20 M. KIPP.....AYE
22 G. BRUCE.....AYE
24 A. SILVA.....AYE
26 S. KLEIN.....AYE
28 P. JASKE.....AYE
30 K. NILSON.....AYE
32 P. GUNDRUM.....AYE
34 R. SINGERT.....AYE

TOTAL AYES-34

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-34