

ENROLLED ORDINANCE 163-98

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 20, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE R-H RURAL HOME DISTRICT (ZT-1684)

WHEREAS the subject matter of this Ordinance having been approved by the Mukwonago Town Board on October 15, 2008, 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 February 27, 2007, is hereby amended to conditionally rezone from the A-1 Agricultural District to the R-H Rural Home District, certain lands located in part of the SW ¼ of Section 20, 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-1684), subject to the following conditions:

- A. County Approval: The Waukesha County Board shall approve of the rezoning of the subject property to the Rural Home (R-H) zoning classification, and the petitioner shall satisfy all comments, conditions, and concerns of such approval.
- B. Petitioner shall pay 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.
- C. Professional Fees: Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application.
- D. Payment of Charges: Any unpaid bills owed to the Town by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes.

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.

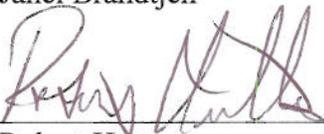
BE IT FURTHER ORDAINED that all ordinances inconsistent with or in contravention of provisions of this Ordinance are hereby repealed.

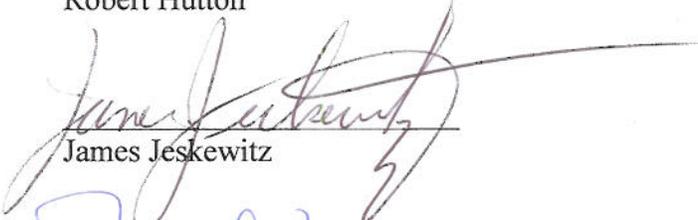
AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING ORDINANCE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ OF SECTION 20, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN, FROM THE A-1 AGRICULTURAL DISTRICT TO THE R-H RURAL HOME DISTRICT (ZT-1684)

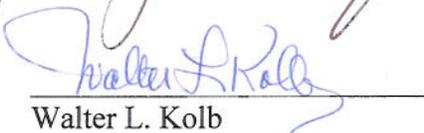
Presented by:  
Land Use, Parks, and Environment Committee

  
Fritz Ruf, Chair

N/A (Absent)  
Janel Brandtjen

  
Robert Hutton

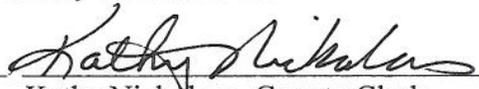
  
James Jeskewitz

  
Walter L. Kolb

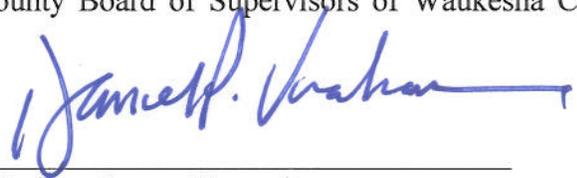
N/A (Absent)  
Ted Rolfs

(Absent)  
Gilbert W. Yerke

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

Date: 3/27/09   
Kathy Nickolaus, County Clerk

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

Approved: X  
Vetoed: \_\_\_\_\_  
Date: 3-27-09   
Daniel P. Vrakas, County Executive

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

**DATE:** February 19, 2009

**FILE NO:** ZT-1684

**PETITIONERS:** Robert and Shirley Harbold  
S92 W32635 C.T.H. "NN"  
Mukwonago, WI 53149

Kim Kusch and Vicki Harbold  
S92 W32782 C.T.H. "NN"  
Mukwonago, WI 53149

**TAX KEY NO.'S.:** MUKT 1951.999.005 and MUKT 1951.999.007

**LOCATION:**

Parcel 1 and 2 of Certified Survey Map No. 9607, located in part of the SW ¼ of Section 20, T5N, R18E, Town of Mukwonago. The property is located north of C.T.H. "NN" and west of Stone Brook Pass consisting of approximately 31.8 acres.

**EXISTING ZONING CLASSIFICATION:**

A-1 Agricultural District.

**REQUESTED ZONING CLASSIFICATION:**

R-H Rural Home District (5 acre minimum lot size).

**EXISTING USES:**

One residence on a seven-acre parcel (1951.999.005) and a cell tower on a 24-acre parcel (1951.999.007) See Exhibit "A".

**REQUESTED USES:**

Four residential lots, each having 5 acres and a combination of the cell tower with parcel 1951.999.005.

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

The WCDP recommends 5 acres rural density in the subject area and the proposed rezone complies with said Plan as well as the Town's Plan.

**PUBLIC HEARING DATE:**

October 1, 2008.

**PUBLIC REACTION:**

One neighbor questioned what is allowed in the R-H zoning district and another neighbor questioned where the road was eliminated.

163-0-099

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

On October 1, 2008, the Town of Mukwonago Plan Commission recommended approval of the request to the Town Board of Supervisors.

On October 15, 2008, the Town of Mukwonago Board of Supervisors approved the amendment to the Town of Mukwonago Zoning Map, subject to several conditions. (See attached Ordinance No. 2008-A – Exhibit “A”)

**STAFF ANALYSIS:**

The property in question includes two existing parcels of record, which have been previously created by Certified Survey Map (CSM) and is occupied by a residence on the seven-acre and a cell tower that just lies to the north of the aforementioned residence on the 24-acre parcel. The site is served with a joint access onto C.T.H. “NN” and by a cul-de-sac street to the north called Granite Trail. The proposed land division includes two five-acre parcels to be off of Granite Trail and a third parcel with access onto C.T.H. “NN” and the area occupied by the cell tower being merged with the existing seven-acre lot. Soils on the site contain Miami sandy loam soils, which have excellent drainage capabilities for on-site waste disposal systems and have slopes ranging anywhere from 2% to 12%. The site contains open farmland which is presently being actively farmed along with the aforementioned residence and cell tower. Lands surrounding the site are presently developed with residential lots containing 1 to 1 ½ acres up to 3 acres in area. To the south of C.T.H. “NN” is a large open space that is owned by a developer and is part of the Whispering Oaks subdivision, which has been retained in common open space and utilized for agricultural purposes. A Primary Environmental Corridor exists to the immediate northwest of the site containing a fairly extensive stand of evergreens and deciduous trees, some of which are located on an open space network affiliated with the subdivision to the north. The present zoning on the site does not permit a redivision of the land in question without rezoning or as a Planned Unit Development and therefore was the subject of the rezone to the R-H five-acre zoning category.

**STAFF RECOMMENDATION:**

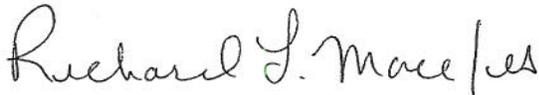
It is the opinion of the Planning and Zoning Division Staff that this request be **approved** in accordance with the Ordinance adopted by the Town of Mukwonago Board on October 15, 2008 and as outlined below.

- A. **County Approval:** The Waukesha County Board shall approve of the rezoning of the subject property to the Rural Home (R-H) zoning classification, and the petitioner shall satisfy all comments, conditions, and concerns of such approval.
- B. Petitioner shall pay 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.

- C. Professional Fees: Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this development, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application.
- D. Payment of Charges: Any unpaid bills owed to the Town by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes.

We find that the proposed development and division of the subject land into the parcels described is consistent and compatible with the provisions of the Town's Plan and the Waukesha County Development Plan. The one parcel being created, which fronts on C.T.H. "NN", will be subject to access approval by the Waukesha County Dept. of Public Works if the common access is not used. A new access could be allowed as long as it is a minimum of 500 ft. from the street, which lies to the east of these parcels and considered safe by the Waukesha County Highway Dept. after a field inspection.

Respectfully submitted,

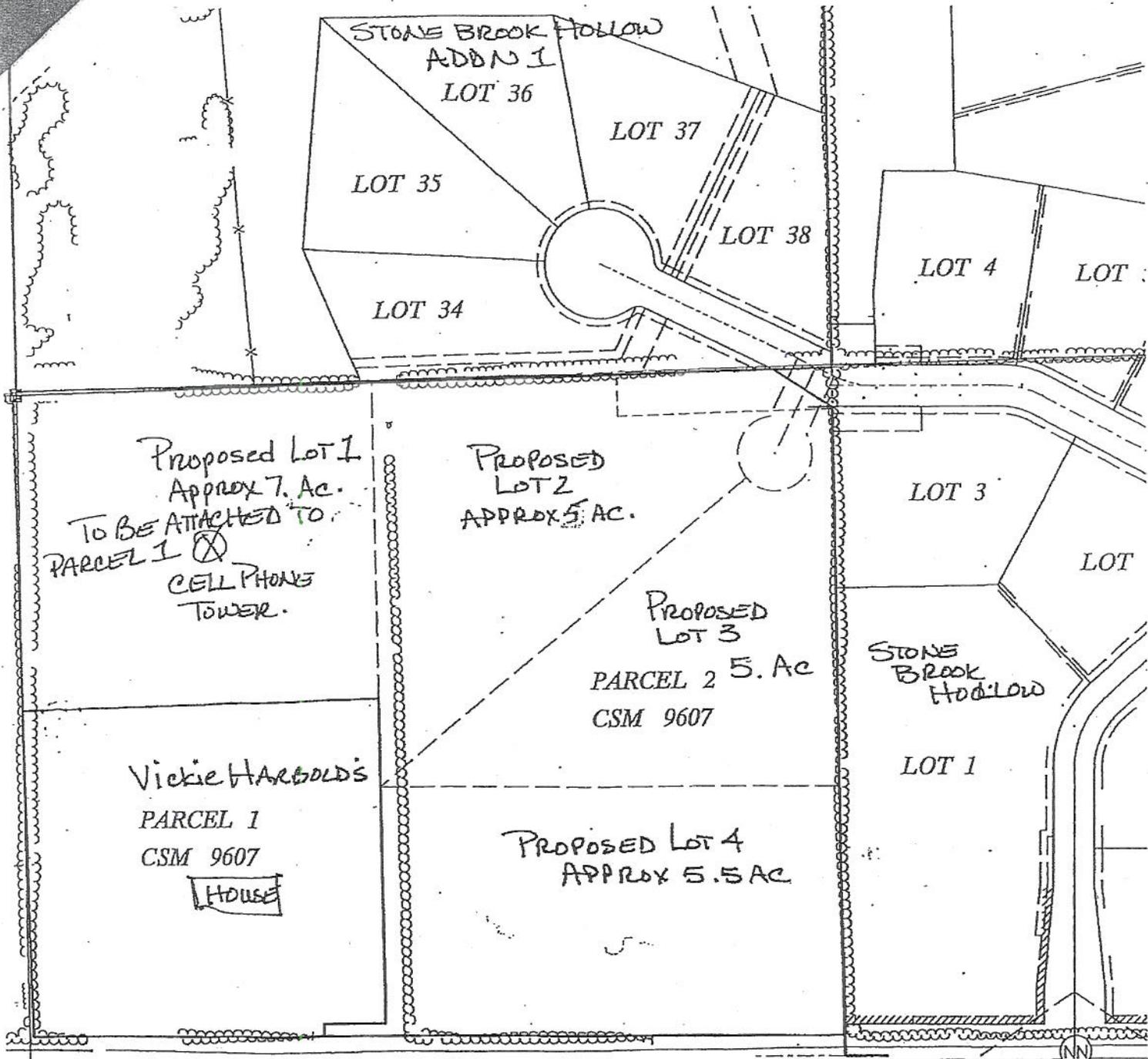


Richard L. Mace  
Planning and Zoning Manager

Attachments: Town Ordinance  
Exhibit "A"  
Map

N:\PRKANDLU\Planning and Zoning\Rezoning\Staff Reports\1684 Harbold Kusch mkt.doc

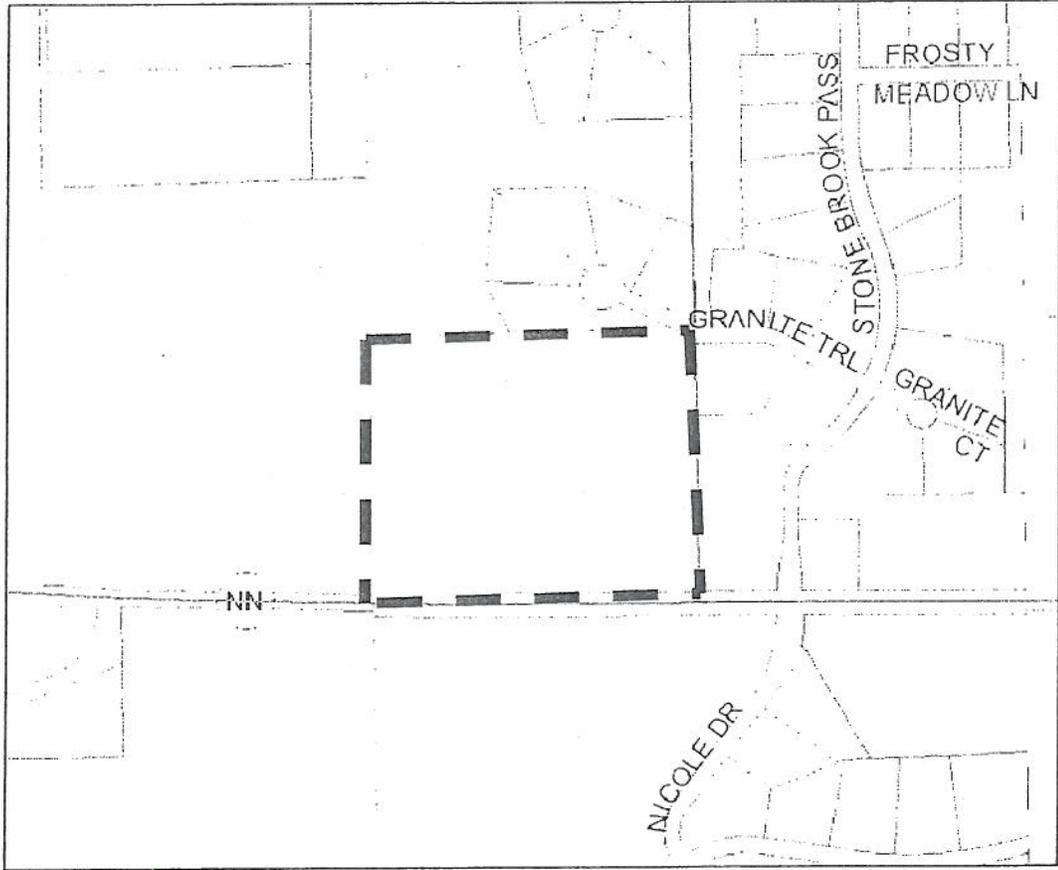
EXHIBIT "A"



C.T.H. "NN"

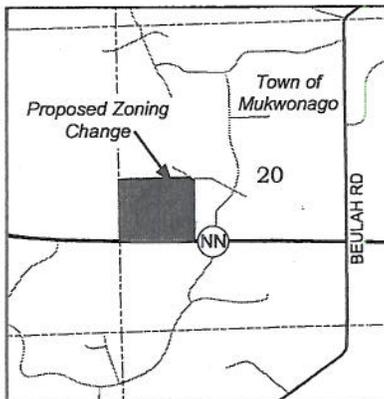
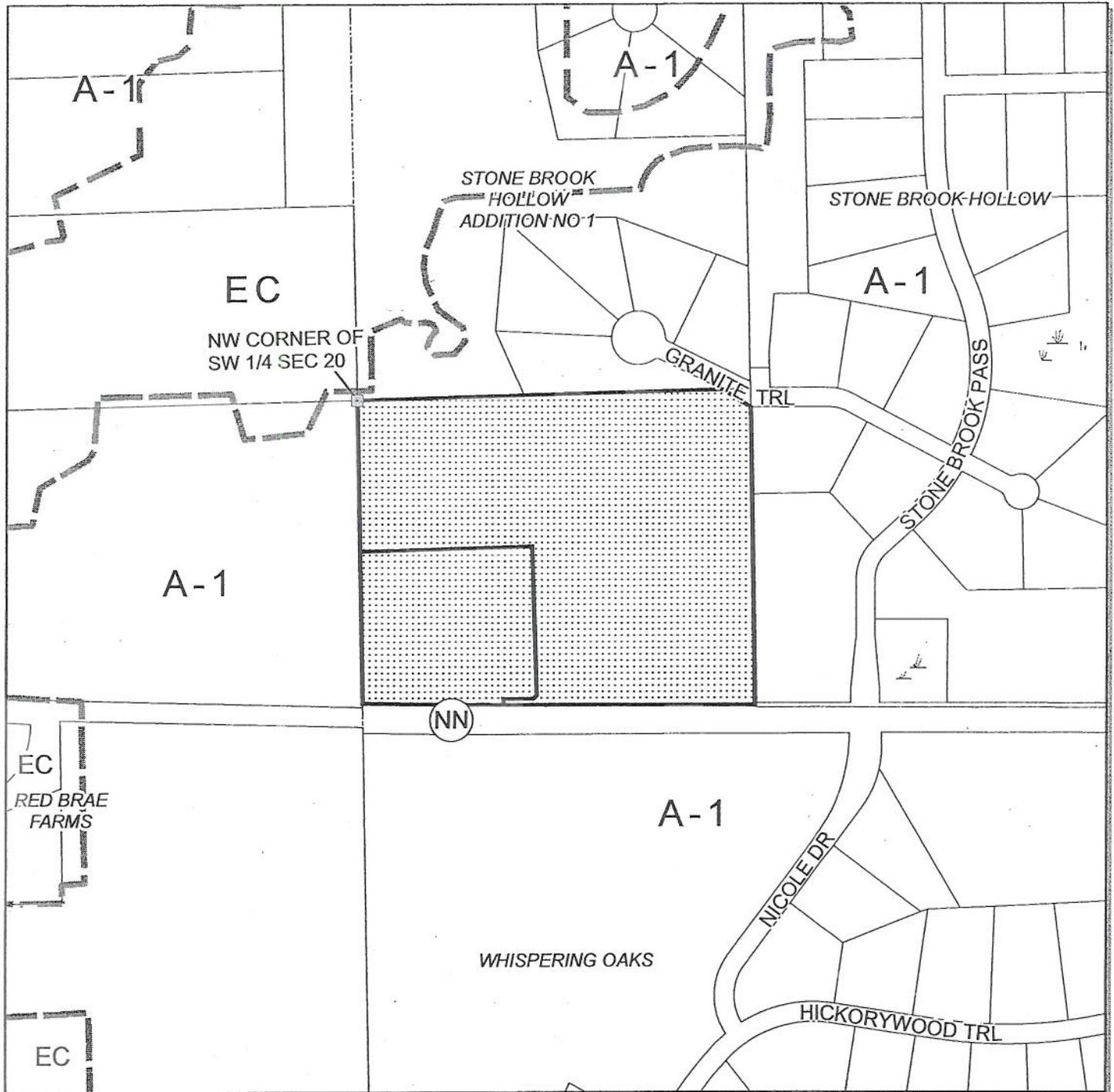
CSM 9607 WAS CREATED SO DAUGHTER (VICKIE HARBOLD) COULD BUILD A HOUSE AND LIVE THERE.

Exhibit A



# ZONING MAP AMENDMENT

PART OF THE SW 1/4 OF SECTION 20  
TOWN OF MUKWONAGO



CONDITIONAL TOWN ZONING CHANGE FROM A-1 AGRICULTURAL TO R-H RURAL HOME

FILE.....ZT-1684

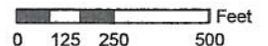
DATE.....02-12-09

AREA OF CHANGE.....31.8 ACRES

TAX KEY NUMBER.....MUKT 1951.999.005 & .007



1 inch = 500 feet



Prepared by the Waukesha County Department of Parks and Land Use

12.

163-0-099

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/24/09

(ORD) NUMBER-1630099

1 D. FALSTAD.....AYE  
3 R. HUTTON.....AYE  
5 J. JESKEWITZ.....AYE  
7 P. HAUKOHL.....AYE  
9 J. HEINRICH.....AYE  
11 F. RUF.....AYE  
13 P. DECKER.....AYE  
15 P. MEYERS.....AYE  
17 J. TORTOMASI.....AYE  
19 S. WIMMER.....AYE  
21 W. ZABOROWSKI.....AYE  
23 J. PLEDL.....AYE  
25 G. YERKE.....AYE

2 T. ROLFS.....  
4 J. DWYER.....AYE  
6 J. BRANDTJEN.....AYE  
8 T. SCHELLINGER....AYE  
10 D. SWAN.....AYE  
12 P. WOLFF.....AYE  
14 B. MORRIS.....AYE  
16 D. PAULSON.....AYE  
18 K. CUMMINGS.....AYE  
20 P. JASKE.....AYE  
22 P. GUNDRUM.....AYE  
24 W. KOLB.....AYE

TOTAL AYES-24

TOTAL NAYS-00

CARRIED\_\_\_\_\_

DEFEATED\_\_\_\_\_

UNANIMOUS X

TOTAL VOTES-24