

ENROLLED ORDINANCE 164-103

REPEAL AND RECREATE THE ZONING MAP OF THE TOWN OF MUKWONAGO
ZONING CODE UNDER SECTION 82-51(A) OF THE TOWN OF
MUKWONAGO MUNICIPAL CODE (ZT-1699)

WHEREAS the subject matter of this Ordinance having been approved by the Mukwonago Town Board on December 16, 2009, 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 Town of Mukwonago Zoning Code, adopted by the Town of Mukwonago on February 27, 2007, is hereby amended to repeal and recreate the Zoning Map of the Town of Mukwonago under Section 82-51(a) of the Town of Mukwonago Municipal Code, and more specifically described in the "Staff Report and Recommendation" 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-1699), is hereby approved.

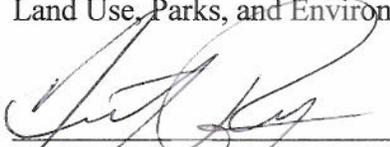
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Mukwonago.

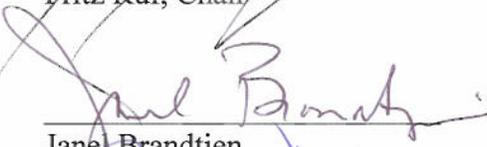
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

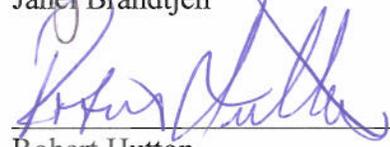
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

REPEAL AND RECREATE THE ZONING MAP OF THE TOWN OF MUKWONAGO
ZONING CODE UNDER SECTION 82-51(A) OF THE TOWN OF
MUKWONAGO MUNICIPAL CODE (ZT-1699)

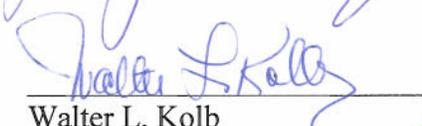
Presented by:
Land Use, Parks, and Environment Committee

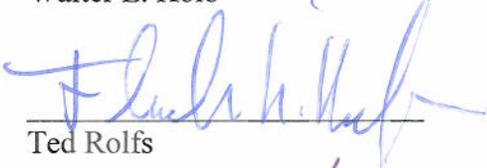

Fritz Ruf, Chair

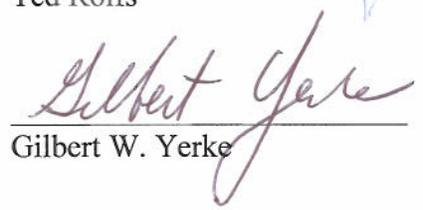

Janel Brandtjen


Robert Hutton

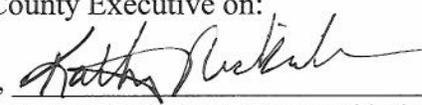

James Jeskewitz


Walter L. Kolb

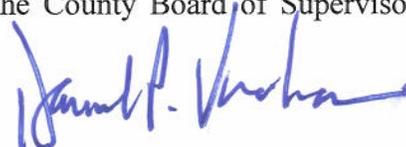

Ted Rolfs


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: 4-16-2010, 
Kathy Nickolaus, County Clerk

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

Approved: x
Vetoed: _____
Date: 4-19-10, 
Daniel P. Vrakas, County Executive

COMMISSION ACTION

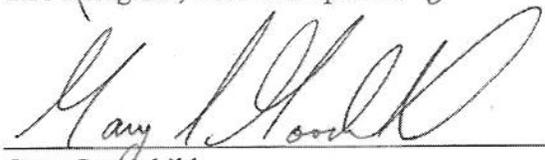
The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Zoning Code, hereby recommends approval of (ZT-1699 Town of Mukwonago Map Amendment) in accordance with the attached "Staff Report and Recommendation".

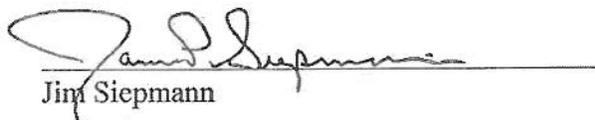
PARK AND PLANNING COMMISSION

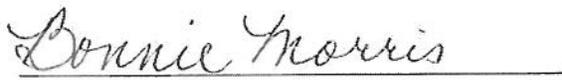
March 11, 2010


William Mitchell, Chairperson


Bob Peregrine, Vice Chairperson


Gary Goodchild


Jim Siepmann


Bonnie Morris


Walter Kolb


Pat Haukohl

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

FILE NO.: ZT-1699

DATE: March 11, 2010

PETITIONER: Town of Mukwonago Board
Town of Mukwonago Hall
W320 S8315 Beulah Rd.
Mukwonago, WI 53149

NATURE OF REQUEST:

Amendment to the Town of Mukwonago Zoning Map consistent with the future Land Use Map in the Town's Comprehensive Plan.

PUBLIC HEARING DATE:

December 2, 2009.

PUBLIC REACTION:

Three persons were present and were concerned with how the changes would affect their properties. Explanations were provided to each of the individuals explaining how the Ordinance would affect them. One of the persons was a member of the Town's Plan Commission.

TOWN PLAN COMMISSION:

On December 2, 2009, the Town of Mukwonago Plan Commission voted to recommend to the Town Board approval of the proposed amendment to the Town of Mukwonago Zoning Map.

TOWN BOARD ACTION:

The Town of Mukwonago Town Board, at their meeting of December 16, 2009, approved the amendment to the Town of Mukwonago Zoning Map as recommended by the Town Plan Commission.

OTHER CONSIDERATIONS:

The proposed amendments to the Town of Mukwonago's Ordinance are being considered at this time to bring about compliance and concurrence between the Town's Zoning Map and the recently enacted Town of Mukwonago Comprehensive Plan. Changes reflecting the relationship of Lowland Conservancy and Upland Conservancy to identified environmental corridors are being properly reflected. The floodplains are now incorporated into appropriate categories, consistent with the recently changed designations that the County has approved with the floodplain mapping. A number of parcels remain zoned in the AP Ag Preservation District based upon the fact that those owners may be receiving tax credits from the State and the Town wanted to continue to keep them eligible. One exception to that is the land acquired from the Wilson family by Waukesha County for an addition to Mukwonago Park, which is being retained in the AP Ag Preservation District. It appears with this exception that all other publicly owned properties in the Town were put in the P-1 Public District. The Staff contacted the Town regarding the reason for that and was advised that the only

reason they could think of was an oversight, but would find out and contact us. However, no final word was received as to why this parcel was not identified as P-1 District as it was owned by the County. However the map recognizes it is publicly owned and at such time in the future as we wish to convert its use to park use, there should be no difficulty doing so, especially since the Land Use Plan recognizes it as future recreational lands. One complicating factor regarding that matter however is the conversion fees that are required to be paid for rezoning AG Preservation lands to something else under the State's Farmland Preservation Program. The program mandates the payment of such conversion fees to the State when lands are zoned out of agricultural uses to other uses. However, recent legislation introduced in the legislature indicates that those conversion fee requirements may be delayed for some time while various Counties update their old Agricultural Preservation Plans. This would stay those fees until new Plans are approved by the Counties, in which case there may be some revision to a new Agricultural Preservation Plan. Waukesha County's map needs to be revised by 2012, which may negate the need for the payment of conversion fees based on a new plan.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request to be **approved**. We feel that the Town's effort to update their Zoning Map to be consistent with their Comprehensive Land Use Plan and to recognize the zoning districts for the most part, as used, is consistent with the recommendations of the Town and County Comprehensive Plans and is appropriate.

Respectfully submitted,

Richard L. Mace

Richard L. Mace
Planning and Zoning Manager

RLM:es

Attachments: Town Ordinance 2009-9, Zoning Map

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STATE OF WISCONSIN

TOWN OF MUKWONAGO

WAUKESHA COUNTY

ORDINANCE NO. 2009-9

AN ORDINANCE REVISING CHAPTER 82 OF THE TOWN OF MUKWONAGO MUNICIPAL CODE, TITLED "ZONING," BY THE REPEAL AND RECREATION OF THE ZONING MAP ESTABLISHED UNDER SECTION 82-51(A) OF THE TOWN OF MUKWONAGO MUNICIPAL CODE

RECEIVED
JAN 20 2010
DEPT OF PARKS & LAND USE

WHEREAS, the Town Board for the Town of Mukwonago originally adopted a zoning code for the Town of Mukwonago in 1953 and has amended it from time to time since then; and

WHEREAS, said zoning code is now codified as Chapter 82 of the Town of Mukwonago Municipal Code, entitled "Zoning;" and

WHEREAS, Section 82-51(a) of the zoning code established a zoning map that depicts the boundaries of the various zoning districts established by the zoning code; and

WHEREAS, the Town Board adopted a comprehensive plan pursuant to state law; and

WHEREAS, the Plan Commission for the Town of Mukwonago prepared a recommended ordinance to make various revisions to the zoning map so as to be consistent with the future land use map in the Town's comprehensive plan; and

WHEREAS, the Town Clerk for the Town of Mukwonago has properly referred the matter to the Plan Commission and to the Waukesha County Park and Planning Commission, pursuant to Section 82-265(c) of the Town of Mukwonago Zoning Code; and

WHEREAS, the Plan Commission has conducted the necessary investigation, and scheduled a public hearing for the Plan Commission and the Town Board, pursuant to Section 82-265(c)(2) of the Town of Mukwonago Municipal Code; and

WHEREAS, upon due notice as required by Section 82-267(a) of the Town of Mukwonago Municipal Code and Wisconsin Statutes Section 62.23(7)(d)(1), the Town Board held a public hearing on December 2, 2009, pursuant to Section 82-265(d) of the Town of Mukwonago Municipal Code along with the Plan Commission; and

WHEREAS, within a reasonable time after the hearing, the Plan Commission has reported its recommendation to the Town Board; 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 procedural requirements and notice requirements have been satisfied, having given the matter due consideration and having based its determination on the effect of the proposed change to the zoning code on the health, safety, and welfare of the community, has hereby determined that the proposed change to the zoning code will not be contrary to the public health, safety or general welfare of the Town of Mukwonago.

NOW, THEREFORE, the Town Board of the Town of Mukwonago, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1. The zoning map established pursuant to Section 82-51(a) of the Town of Mukwonago Municipal Code is hereby repealed and recreated as depicted in Exhibit A attached hereto and incorporated herein by reference.

164-0-106

5.

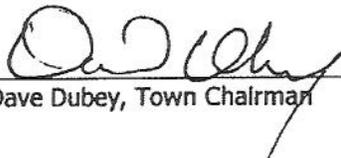
SECTION 2. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of other provisions, sections, or portions of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3. The Town of Mukwonago Town Clerk is directed to send three signed copies of this ordinance to the Waukesha County Clerk for approval of the Waukesha County Board of Supervisors.

SECTION 4. This ordinance shall be in full force and effect from and after its passage and posting or publication as provided by law and approval of the Waukesha County Board of Supervisors, whichever is later.

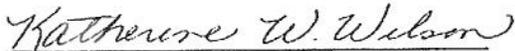
Approved this 16th day of December, 2009

TOWN OF MUKWONAGO



Dave Dubey, Town Chairman

ATTEST:



Katherine W. Wilson, Town Clerk

Published and posted this 30th day of December, 2009

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-04/13/10

(ORD) NUMBER-1640106

1 D. FALSTAD.....AYE
3 R. HUTTON.....AYE
5 J. JESKEWITZ.....AYE
7 P. HAUKOHL.....
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.....
25 G. YERKE.....AYE

2 T. ROLFS.....AYE
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-23

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-23