

ORDINANCE NO. 2024-01

AN ORDINANCE TO AMEND THE ZONING MAP OF THE TOWN OF DELAFIELD FROM A-1 TO PLANNED DEVELOPMENT DISTRICT #1 ON LANDS KNOWN AS THE THOMAS FARM, TOWN OF DELAFIELD, WAUKESHA COUNTY WISCONSIN

WHEREAS, a petition has been filed by Neumann Development, Inc. by Bryan Lindgren (“Petitioners”), seeking to rezone certain lands owned by numerous members of the Thomas family (“Owners”), located North of Golf Road, west of Elmhurst Road, south of Lake Country Bike Trail and High Ridge East Add’n No. 1 subdivision and east of Glen Cove Road (the “Subject Property”), in the Town of Delafield; and

WHEREAS, upon publication of a Class 2 Notice per Chapter 985 Wisconsin Statutes once each week for two consecutive weeks prior to the hearing, and notice to the clerk of every contiguous municipality as required by Wisconsin Statutes Section 62.23(7)(d), the Town Board and Town Plan Commission held a joint public hearing to consider input regarding the proposed rezoning on December 5, 2023; and

WHEREAS, by his Plan Commission Report for January 16, 2024, the Town Engineer reported his conclusion that all procedural requirements of the General Development Plan and Planned Development District #1 rezoning have been met; and

WHEREAS, on January 16, 2024, the Town Plan Commission recommended to the Town Board that the ordinance be adopted; and

WHEREAS, the Town Board hereby adopts the findings of the Town Engineer as stated in his Plan Commission Report for January 16, 2024, and finds that all requirements for the General Development Plan and rezoning the Subject Property to Planned Development District #1 have been met; and

WHEREAS, the Town Board finds that the proposed rezoning to planned development district no. 1 in the Town Zoning Code is not a down zoning ordinance because it is supported by the Owners of the property, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, while a protest petition was filed pursuant to 17.04(5)(R) of the Town Code, the Town Board finds the protest petition is inadequate to impose a super-majority voting requirement for this ordinance, because the protest petition does not include the required number of signatures, and the petition was not directed toward the adoption of this ordinance; and

WHEREAS, 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 adopting the such zoning amendment 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 noise, dust, smoke and odor, and others, hereby determine that the zoning amendments will not violate the spirit or intent of the Zoning Code for the Town of Delafield, will not be contrary to the public health, safety or general welfare of the Town of Delafield, will not be hazardous, harmful, noxious, offensive and

will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhoods within the Town, and will be consistent with the Town of Delafield Comprehensive Plan. The Town Board of Delafield, Waukesha County, Wisconsin, does hereby ordain as follows:

SECTION 1: The General Development Plan for the Subject Property is hereby approved, and the Town of Delafield Zoning Map is hereby amended to change the zoning classification from A-1 to Planned Development District #1 on the following described parcel of land, except those in Waukesha County Shoreland Zoning:

All that part of the Northeast 1/4 of the Southwest 1/4, and the Northwest 1/4, Northeast 1/4 of the Southeast 1/4, and the Southwest 1/4, Southeast 1/4 of the Northeast 1/4 all in Section 23, Township 7 North, Range 18 East, in the Town of Delafield, Waukesha County, Wisconsin, now being more particularly bounded and described as follows:

Commencing at the Northwest corner of said Southwest 1/4 Section, Thence North 88°51'15" East along the North line of Said Southwest 1/4, 1345.64 feet to a point on the East Right-of-Way of "Glen Cove Road" and the place of beginning of the lands hereinafter described.

Thence continuing North 88°51'15" East along said North line, 1335.76 feet to the Northeast corner of Said Southwest 1/4 Section; Thence North 00°19'12" East along the West line of Said Northeast 1/4 Section, 1208.72 feet to a point on the South line of a 75' wide "W.E.P.C.O." Right-of-Way; Thence North 88°50'36" East along said South line, 2005.82 feet to a point on the West Right-of-Way line of "Elmhurst Road"; Thence South 00°34'32" West along said West line, 1226.97 feet to a point; Thence South 89°21'41" West along said West line, 25.26 feet to a point; Thence South 00°33'48" West along said West line, 116.67 feet to a point; Thence Southerly 446.63 feet along the arc of a curve whose center lies to the East, whose radius is 1196.28 feet, whose central angle is 21°23'29" and whose chord bears South 10°07'56" East 444.04 feet to a point; Thence South 13°45'04" East along said West line, 451.55 feet to a point on the Northerly Right-of-Way line of "Interstate "94"; Thence South 73°59'23" West along said Northerly line, 846.37 feet to a point; Thence South 87°20'08" West along said Northerly line, 889.36 feet to a point; Thence Westerly 168.94 feet along the arc of a curve whose center lies to the North, whose radius is 23,123.33 feet, whose central angle is 00°25'07" and whose chord bears South 87°07'34" West 168.94 feet to a point; Thence North 87°44'18" West along said Northerly line, 253.63 feet to a point; Thence Southwesterly 1214.05 feet along the arc of a curve whose center lies to the South, whose radius is 23,148.33 feet, whose central angle is 03°00'18" and whose chord bears South 84°47'22" West 1213.91 feet to a point; Thence North 48°47'43" West along said Northerly line, 166.11 feet to a point on the East Right-of-Way of "Glen Cove Road"; Thence North 00°03'57" West along said East line, 60.72 feet to a point; Thence South 89°56'03" West along said East line, 35.00 feet to a point; Thence North 00°03'57" West along said East line, 1157.05 feet to the point of beginning.

SECTION 2: The above zoning amendment is conditioned upon the following conditions, which must be met or this ordinance is null and void:

1. **Subject to Acceptance.** Subject to all of the Owners of the Subject Property acknowledging in writing that they have received a copy of this ordinance, that they understand and accept this zoning amendment as described, and further accept for themselves and their successors and assigns the impact this ordinance may have on their property.
2. **90 Days to Satisfy Condition.** Subject to the Petitioner satisfying the aforementioned acceptance condition within 90 days of the Town Board adopting this ordinance, unless extended by the Town Board.

3. Waukesha County Approval. Subject to this ordinance being approved by the Waukesha County Board, as required by Section 60.62(3)(b), Wisconsin Statutes.

SECTION 3. The Town Administrator is hereby authorized and directed to note this zoning change on the zoning map of the Town of Delafield upon satisfaction of the conditions described in Section 2.

SECTION 4: Severability.

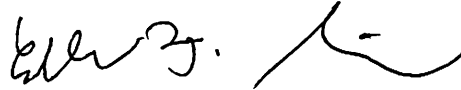
The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the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

SECTION 5: Effective Date.

This ordinance shall be in full force and effect from and after its passage and publication following satisfaction of the conditions stated in Section 2, and this ordinance is null and void if said conditions are not complied with on the terms and conditions stated herein.

This ordinance passed this 23th day of January 2024.

BY THE TOWN BOARD OF THE
TOWN OF DELAFIELD:



Edward Kranick, Town Chairman

ATTEST:



Dan Green
Town Administrator/Clerk/Treasurer