

ENROLLED ORDINANCE 176-76

COMPREHENSIVE TEXT AMENDMENTS TO THE  
TOWN OF EAGLE ZONING CODE (RZ89)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Eagle Town Board on July 21, 2021; and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section (60.62), Wis. Stats.

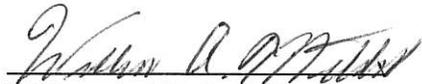
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text of the Town of Eagle Zoning Code, adopted by the Town of Eagle on March 31, 2017, is hereby amended, more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference RZ89, is hereby approved, as set forth in the Town of Eagle Ordinance No. 2021-03.

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

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

COMPREHENSIVE TEXT AMENDMENTS TO THE  
TOWN OF EAGLE ZONING CODE (RZ89)

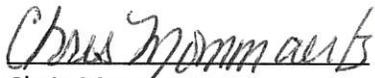
Presented by:  
Land Use, Parks, and Environment Committee

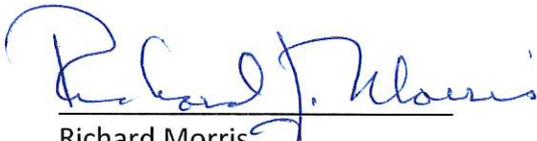
  
William A. Mitchell, Chair

**Absent**

Keith Hammitt

  
Thomas A. Michalski

  
Chris Mommaerts

  
Richard Morris

**Absent**

Thomas J. Schellinger

**Absent**

Steve Whittow

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

Date: 11/29/2021,   
Margaret Waitman, County Clerk

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

Approved: X

Vetoed: \_\_\_\_\_

Date: 11/30/2021,   
Paul Farrow, County Executive

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Text of the Town of Eagle Zoning Code hereby recommends approval of **RZ89 (Comprehensive Text Amendment/Town of Eagle Board)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

October 21, 2021

  
\_\_\_\_\_  
William Mitchell, Chairperson

  
\_\_\_\_\_  
James Siepmann, Vice Chairperson

  
\_\_\_\_\_  
Robert Peregrine

  
\_\_\_\_\_  
Richard Morris

  
\_\_\_\_\_  
Thomas Michalski

Absent  
\_\_\_\_\_  
William Groskopf

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

**FILE NO:** RZ89  
**TAX KEY NUMBER:** N/A  
**DATE:** August 19, 2021  
**NAME OF PETITIONER:** Town Board of Eagle  
Eagle Town Hall  
P.O. Box 327  
820 East Main Street  
Eagle, WI 53119

**NATURE OF REQUEST:**  
Amend various sections of the Town of Eagle Zoning Code.

**PUBLIC HEARING DATE:**  
March 24, 2021, continued to March 31, 2021.

**PUBLIC REACTION:**  
A number of residents spoke at the public hearings regarding a wide variety of topics and code sections:

- Several expressed concerns regarding removing agri-tourism type uses from the list of conditional use types in different rural districts.
- One individual asked what impact the changes would have on animal keeping rules. The Town Chair noted that the rules would not change.
- A few commented regarding the phrasing of “shall” vs. “should” language in various sections.
- One person spoke against removing commercial truck parking and any other conditional uses from the RR district.
- A person spoke in favor of allowing cars with logos parked in buildings.
- The Eagle Spring Lake Management District Chair asked for various changes to language regarding dams, flooding and reservoirs.

**TOWN PLAN COMMISSION ACTION:**  
At their meeting of June 17, 2021, the Town of Eagle Plan Commission recommended approval of the proposed text amendments with minor amendments to the Town Board.

**TOWN BOARD ACTION:**  
At their meeting of July 21, 2021, the Town of Eagle Board unanimously approved the proposed text amendments to Town of Eagle Zoning Code.

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (WCCDP) AND THE TOWN OF EAGLE COMPREHENSIVE PLAN:**

The proposed changes are primarily administrative or policy related in nature. The amendments appear to be consistent with both plans.

**STAFF ANALYSIS:**

The Town of Eagle is proposing a number of changes to its zoning ordinance (see Exhibit A, B). Exhibit A shows most of the proposed amendments in track changes; note that the land use matrix is not displayed in that format. Exhibit B is the final proposed ordinance. The town's minutes describe that the town assembled a workgroup to review and update the zoning ordinance in light of recent conditional use legislation. Much of the town's work was related to analyzing various land uses and making updates to the land use matrix that identifies whether uses are permitted, conditional or prohibited by zoning district category.

- Several changes to definitions are proposed to either add or delete terms. A few of the revised terms are related to Conditional Use functions and the changes are intended to clarify newer statutory provisions.
- Minor changes are being made to clarify that Planned Unit Developments (PUDs) are unique zoning districts rather than Conditional Uses.
- A number of revisions are proposed to the land use matrix (Appendix A). Various use types, including uses such as agri-tourism, bed and breakfasts and commercial truck parking are proposed to be available in fewer districts, while other uses become more available, such as in law units that will become permitted by right rather than conditional. Any existing businesses or uses that currently exist would be afforded legal non-conforming use status providing the ability to continue such uses.
- The minimum lot size in PUDs is proposed to be increased from 1.5 acres to 2 acres in Zoning Districts where the minimum lot size is currently 3 acres.
- A number of sections of the Conditional Use section of the ordinance are being modified slightly relative to procedural matters such as a statement that staff may conduct a site visit for certain applications, statements that the petitioner and interested parties may present substantial evidence regarding whether proposals comply with the standards of the code and that the town shall render its decision within 40 days of the close of the public hearing.
- Language has been added to state that Conditional Use permits are valid for three years and generally auto renew unless the town takes specific action to rescind renewal. A number of considerations are being provided for the town to consider in their decision making regarding Conditional Use requests.
- A clarifying statement is being added to multiple code sections clarifying that a determination of application completeness does not preclude the reviewing authority from requesting additional information.
- The section pertaining to conversion of a legal nonconforming use is being revised to require a public hearing for consideration of a change of one legal nonconforming use to another.
- For several application types, the final approving entity is being changed to the town board rather than the plan commission.
- The change in topography approval threshold is being reduced from 1,000 cubic yards to 250 cubic yards.

There were comments regarding dams and floodplain rules/language from the local lake district. The town's code does not apply within shoreland and floodplain areas. Accordingly, the town did not make changes to the proposed language in that regard.

**STAFF RECOMMENDATION:**

The Planning and Zoning Division Staff recommends **approval** of the Town of Eagle's request. The request makes various topical and administrative changes to the town's code. The town has engaged in a lengthy process to bring these amendments forward. Staff does intend to recommend to the town planner that the town consider a lesser minimum lot size than 2 acres for PUDs at some point in the future. With smaller lots, additional conserved open space might be achieved. In addition, we recommend that the town monitor inquiries regarding some of the use types that are being made available in fewer districts to ensure that the code is not overly restrictive for those wanting to engage in limited business activities in residential or rural zoning districts.

Respectfully submitted,

*Jason Fruth*

Jason Fruth  
Planning and Zoning Manager

Attachments: Town Ordinance No. 2021-03

Exhibit A, track changes version of T/Eagle Ordinance considered at public hearing.

- See: <https://www.waukeshacounty.gov/globalassets/parks--land-use/planning-zoning/draft-town-zoning-ordinances/exhibit-a-track-changes-version-of-draft-ordinance.pdf>

Exhibit B, full proposed Town of Eagle Zoning Ordinance

- See: <https://www.waukeshacounty.gov/globalassets/parks--land-use/planning-zoning/draft-town-zoning-ordinances/exhibit-b-final-adopted-ordinance.pdf>

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STATE OF WISCONSIN

TOWN OF EAGLE

WAUKESHA COUNTY

ORDINANCE 2021-03

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE ZONING REGULATIONS

WHEREAS, the Town Board for the Town of Eagle adopted zoning code for the Town of Eagle in 1990 and has amended it from time to time since then; and

WHEREAS, the Plan Commission for the Town of Eagle prepared a recommended ordinance to revise various sections of the adopted zoning code; and

WHEREAS, the Town Clerk for the Town of Eagle has (1) referred the matter to the Plan Commission, (2) notified the Waukesha County Park and Planning Commission of the proposed amendment, and (3) published a class II public hearing notice; and

WHEREAS, the Plan Commission has conducted the necessary investigation, and scheduled a joint public hearing for the Plan Commission and the Town Board; and

WHEREAS, upon due notice the Town Board and the Plan Commission conducted a joint public hearing on March 24 and 31, 2021; 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 concurs with the Plan Commission's recommendation, except that the recommended revisions to 18.15 in Appendix B are not to be included; and

WHEREAS, the Town Board finds that the recommended revisions to the Town's zoning regulations can be interpreted to be a down zoning ordinance because it may decrease the development density of land or reduce the permitted uses of land, and therefore the super majority requirement in s. 66.10015, Wis. Stats, applies to this ordinance, requiring a vote in favor by two-thirds of the members-elect of the Town Board for passage and adoption; and

WHEREAS, the Town Board for the Town of Eagle, after carefully reviewing the recommendation of the Plan Commission and having given the matter due consideration, having determined that all procedural requirements and notice requirements have been satisfied, and having based its determination on the effect of the adoption of the ordinance on the health, safety and welfare of the community and the preservation and enhancement of property values in the community, and having given due consideration to the municipal problems involved hereby determine that the ordinance amendment will serve the public health, safety and general welfare of the Town of Eagle, will enhance property values in the Town and will not be hazardous, harmful, noxious, offensive or a nuisance, and will not unduly limit or restrict the use of property in the Town or for any other reason cause a substantial adverse effect on the property values and general desirability of the Town.

NOW, THEREFORE, the Town Board for the Town of Eagle, Waukesha County, does hereby ordain as follows:

**Section 1.** Repeal and recreate s. 500.10 to read as revised in Exhibit 1.

**Section 2.** Repeal and recreate s. 500.12 to read as revised in Exhibit 1.

**Section 3.** Create s. 500.16 as set forth in Exhibit 1.

**Section 4.** Create s. 500.17 as set forth in Exhibit 1.

**Section 5.** Create s. 500.18 as set forth in Exhibit 1.

**Section 6.** Amend s. 500.41 by revising the terms as indicated in Exhibit 1.

**Section 7.** Repeal s. 500.42, titled "Land Use Definitions," and recreate the content in Appendix B.

**Section 8.** Repeal and recreate s. 500.93 to read as revised in Exhibit 1.

**Section 9.** Repeal and recreate s. 500.101 to read as revised in Exhibit 1.

**Section 10.** Repeal and recreate s. 500.163 to read as revised in Exhibit 1.

**Section 11.** Repeal and recreate s. 500.167 to read as revised in Exhibit 1.

**Section 12.** Repeal and recreate s. 500.168 to read as revised in Exhibit 1.

**Section 13.** Repeal and recreate s. 500.183 to read as revised in Exhibit 1.

**Section 14.** Repeal and recreate s. 500.191 to read as revised in Exhibit 1.

**Section 15.** Repeal and recreate s. 500.192 to read as revised in Exhibit 1.

**Section 16.** Repeal and recreate s. 500.198 to read as revised in Exhibit 1.

**Section 17.** Repeal and recreate s. 500.199 to read as revised in Exhibit 1.

**Section 18.** Repeal and recreate s. 500.201 to read as revised in Exhibit 1.

**Section 19.** Repeal and recreate s. 500.204 to read as revised in Exhibit 1.

**Section 20.** Repeal and recreate s. 500.205 to read as revised in Exhibit 1.

**Section 21.** Repeal and recreate Division 4 of Article 6 to read as revised in Exhibit 1.

**Section 22.** Repeal and recreate s. 500.243 to read as revised in Exhibit 1.

**Section 23.** Repeal and recreate s. 500.247 to read as revised in Exhibit 1.

**Section 24.** Repeal and recreate s. 500.248 to read as revised in Exhibit 1.

**Section 25.** Repeal and recreate s. 500.252 to read as revised in Exhibit 1.

**Section 26.** Repeal and recreate s. 500.263 to read as revised in Exhibit 1.

**Section 27.** Repeal and recreate s. 500.265 to read as revised in Exhibit 1.

**Section 28.** Repeal and recreate s. 500.266 to read as revised in Exhibit 1.

- Section 29.** Repeal and recreate s. 500.283 to read as revised in Exhibit 1.
- Section 30.** Repeal and recreate s. 500.286 to read as revised in Exhibit 1.
- Section 31.** Repeal and recreate s. 500.293 to read as revised in Exhibit 1.
- Section 32.** Repeal and recreate s. 500.296 to read as revised in Exhibit 1.
- Section 33.** Repeal and recreate s. 500.297 to read as revised in Exhibit 1.
- Section 34.** Repeal and recreate s. 500.298 to read as revised in Exhibit 1.
- Section 35.** Repeal and recreate s. 500.299 to read as revised in Exhibit 1.
- Section 36.** Repeal and recreate s. 500.313 to read as revised in Exhibit 1.
- Section 37.** Repeal and recreate s. 500.314 to read as revised in Exhibit 1.
- Section 38.** Repeal and recreate s. 500.317 to read as revised in Exhibit 1.
- Section 39.** Repeal and recreate s. 500.318 to read as revised in Exhibit 1.
- Section 40.** Repeal and recreate s. 500.319 to read as revised in Exhibit 1.
- Section 41.** Repeal and recreate s. 500.331 to read as revised in Exhibit 1.
- Section 42.** Repeal and recreate s. 500.332 to read as revised in Exhibit 1.
- Section 43.** Repeal and recreate s. 500.353 to read as revised in Exhibit 1.
- Section 44.** Repeal and recreate s. 500.355 to read as revised in Exhibit 1.
- Section 45.** Repeal and recreate s. 500.357 to read as revised in Exhibit 1.
- Section 46.** Repeal and recreate s. 500.358 to read as revised in Exhibit 1.
- Section 47.** Repeal and recreate s. 500.359 to read as revised in Exhibit 1.
- Section 48.** Repeal and recreate s. 500.373 to read as revised in Exhibit 1.
- Section 49.** Repeal and recreate s. 500.383 to read as revised in Exhibit 1.
- Section 50.** Repeal and recreate s. 500.392 to read as revised in Exhibit 1.
- Section 51.** Repeal and recreate s. 500.394 to read as revised in Exhibit 1.
- Section 52.** Repeal and recreate s. 500.395 to read as revised in Exhibit 1.
- Section 53.** Repeal and recreate s. 500.396 to read as revised in Exhibit 1.
- Section 54.** Repeal and recreate s. 500.397 to read as revised in Exhibit 1.
- Section 55.** Repeal and recreate s. 500.398 to read as revised in Exhibit 1.

- Section 56.** Repeal and recreate s. 500.399 to read as revised in Exhibit 1.
- Section 57.** Repeal and recreate s. 500.400 to read as revised in Exhibit 1.
- Section 58.** Repeal and recreate s. 500.411 to read as revised in Exhibit 1.
- Section 59.** Repeal and recreate s. 500.413 to read as revised in Exhibit 1.
- Section 60.** Repeal and recreate s. 500.414 to read as revised in Exhibit 1.
- Section 61.** Repeal and recreate s. 500.415 to read as revised in Exhibit 1.
- Section 62.** Repeal and recreate s. 500.416 to read as revised in Exhibit 1.
- Section 63.** Repeal and recreate s. 500.417 to read as revised in Exhibit 1.
- Section 64.** Repeal and recreate s. 500.418 to read as revised in Exhibit 1.
- Section 65.** Repeal and recreate s. 500.419 to read as revised in Exhibit 1.
- Section 66.** Repeal and recreate s. 500.420 to read as revised in Exhibit 1.
- Section 67.** Repeal and recreate s. 500.433 to read as revised in Exhibit 1.
- Section 68.** Repeal and recreate s. 500.434 to read as revised in Exhibit 1.
- Section 69.** Repeal and recreate s. 500.436 to read as revised in Exhibit 1.
- Section 70.** Repeal and recreate s. 500.437 to read as revised in Exhibit 1.
- Section 71.** Repeal and recreate s. 500.438 to read as revised in Exhibit 1.
- Section 72.** Repeal and recreate s. 500.439 to read as revised in Exhibit 1.
- Section 73.** Repeal and recreate s. 500.443 to read as revised in Exhibit 1.
- Section 74.** Repeal and recreate s. 500.445 to read as revised in Exhibit 1.
- Section 75.** Repeal and recreate s. 500.446 to read as revised in Exhibit 1.
- Section 76.** Repeal and recreate s. 500.447 to read as revised in Exhibit 1.
- Section 77.** Repeal and recreate s. 500.448 to read as revised in Exhibit 1.
- Section 78.** Repeal and recreate s. 500.449 to read as revised in Exhibit 1.
- Section 79.** Repeal and recreate s. 500.463 to read as revised in Exhibit 1.
- Section 80.** Repeal and recreate s. 500.464 to read as revised in Exhibit 1.
- Section 81.** Repeal and recreate s. 500.465 to read as revised in Exhibit 1.
- Section 82.** Repeal and recreate s. 500.466 to read as revised in Exhibit 1.

- Section 83.** Repeal and recreate s. 500.467 to read as revised in Exhibit 1.
- Section 84.** Repeal and recreate s. 500.468 to read as revised in Exhibit 1.
- Section 85.** Repeal and recreate s. 500.469 to read as revised in Exhibit 1.
- Section 86.** Repeal and recreate s. 500.482 to read as revised in Exhibit 1.
- Section 87.** Repeal and recreate s. 500.484 to read as revised in Exhibit 1.
- Section 88.** Repeal and recreate s. 500.485 to read as revised in Exhibit 1.
- Section 89.** Repeal and recreate s. 500.486 to read as revised in Exhibit 1.
- Section 90.** Repeal and recreate s. 500.487 to read as revised in Exhibit 1.
- Section 91.** Repeal and recreate s. 500.488 to read as revised in Exhibit 1.
- Section 92.** Repeal and recreate s. 500.489 to read as revised in Exhibit 1.
- Section 93.** Repeal and recreate s. 500.490 to read as revised in Exhibit 1.
- Section 94.** Repeal and recreate s. 500.522 to read as revised in Exhibit 1.
- Section 95.** Appendix A, titled "Map Requirements," is now referred to as Appendix E (Exhibit 6). All such references are hereby revised.
- Section 96.** Appendix B, titled "Dimensional standards for lots," is now referred to as Appendix C. All such references are hereby revised.
- Section 97.** Repeal and recreate s. 500.531(A) to read as revised in Exhibit 1 with the removal of Exhibit 7-1.
- Section 98.** Repeal and recreate S. 500.536 to read as revised in Exhibit 1.
- Section 99.** Repeal and recreate s. 500.551 to read as revised in Exhibit 1.
- Section 100.** Repeal and recreate s. 500.552 to read as revised in Exhibit 1.
- Section 101.** Repeal and recreate s. 500.553 to read as revised in Exhibit 1.
- Section 102.** Repeal and recreate s. 500.555 to read as revised in Exhibit 1.
- Section 103.** Repeal and recreate s. 500.556 to read as revised in Exhibit 1.
- Section 104.** Repeal and recreate s. 500.557 to read as revised in Exhibit 1.
- Section 105.** Repeal and recreate s. 500.558 to read as revised in Exhibit 1.
- Section 106.** Repeal and recreate S. 500.559 to read as revised in Exhibit 1.
- Section 107.** Repeal and recreate s. 500.560 to read as revised in Exhibit 1.

- Section 108.** Repeal and recreate s. 500.561 to read as revised in Exhibit 1.
- Section 109.** Repeal and recreate s. 500.565 to read as revised in Exhibit 1.
- Section 110.** Repeal and recreate s. 500.566 to read as revised in Exhibit 1.
- Section 111.** Repeal and recreate s. 500.567 to read as revised in Exhibit 1.
- Section 112.** Repeal and recreate s. 500.583 to read as revised in Exhibit 1.
- Section 113.** Repeal and recreate s. 500.605 to read as revised in Exhibit 1.
- Section 114.** Repeal and recreate s. 500.623 to read as revised in Exhibit 1.
- Section 115.** Repeal and recreate s. 500.624 to read as revised in Exhibit 1.
- Section 116.** Repeal and recreate s. 500.943 to read as revised in Exhibit 1.
- Section 117.** Repeal and recreate s. 500.962 to read as revised in Exhibit 1.
- Section 118.** Repeal and recreate s. 500.969 to read as revised in Exhibit 1.
- Section 119.** Repeal and recreate s. 500.1002 to read as revised in Exhibit 1.
- Section 120.** Repeal and recreate s. 500.1003 to read as revised in Exhibit 1.
- Section 121.** Repeal and recreate s. 500.1035 to read as revised in Exhibit 1.
- Section 122.** Repeal and recreate s. 500.1037 to read as revised in Exhibit 1.
- Section 123.** Insert Appendix A, titled Land-Use Matrix, attached as Exhibit 2.
- Section 124.** Insert Appendix B, titled “Land Use Summary,” attached as Exhibit 3.
- Section 125.** Repeal and recreate Appendix C, titled “Dimensional Standards for lots” attached as Exhibit 4.
- Section 126.** Insert Appendix D, titled “Dimensional Standards in Planned Development Districts,” attached as Exhibit 5.
- Section 127.** 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 as to those terms that conflict.
- Section 128.** The Town of Eagle 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 129.** This ordinance shall take effect immediately upon passage and posting or publication as provided by law following approval by the Waukesha County Board of Supervisors.

Adopted by a vote in favor by two-thirds of the members-elect of the Town Board, or more, this 21st day of July 2021

TOWN OF EAGLE



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Don Malek, Town Chairman

ATTEST:



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Lynn Pepper, Town Clerk

Published and posted this \_\_\_ day of \_\_\_\_\_ 2021

VOTING RESULTS

AYE 22

NAY 0

ABSTAIN

ABSENT 3

# Ordinance 176-O-080

Ordinance 176-O-080: Comprehensive Text Amendme...

 **Passed By Majority Vote**

D1 - Foti	AYE	D14 - Mommaerts	AYE
D2 - Zimmermann	AYE	D15 - Mitchell	ABSENT
D3 - Morris	AYE	D16 - Crowlev	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Vacant	ABSENT
D7 - LaFontain	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	AYE
D11 - Howard	AYE	D24 - Whitrow	ABSENT
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

November 23 2021 - November 23 2021 07:13:11 PM



