

175th BOARD YEAR

LEGISLATIVE ITEMS RECEIVED FOR COMMITTEE REFERRAL

File No.	Rec/Ref:	To:	Title
175-O-067	01/06/21 01/07/21	LU FI	ORD: Amend The 2021 Budget And Authorize Acceptance And Appropriation Of Statewide Employment Recovery Dislocated Worker Grant Funds For Workforce Development Services In Waukesha, Ozaukee, And Washington Counties
175-A-032	12/09/20 01/07/21	EX	APPT: Jean Yeomans to the Bridges Library Board
175-A-033	12/09/20 01/07/21	EX	APPT: Nancy Wilhelm to the Bridges Library Board
175-A-034	12/09/20 01/07/21	EX	APPT: Amy Reichert to the Bridges Library Board
175-A-035	12/09/20 01/07/21	EX	APPT: Richard Nawrocki to the Board of Adjustment
175-A-036	12/09/20 01/07/21	EX	APPT: Tom Day to the Board of Adjustment
175-A-037	01/06/21 01/07/21	EX	APPT: Elizabeth Aldred as Health and Human Services Director
175-O-068	01/06/21 01/07/21	HS FI	ORD: Amend The 2021 Budget Of The Department Of Health And Human Services To Accept The Injection Drug Use Prevention Grant Funding And Appropriate Additional Expenditures
175-O-069	01/06/21 01/07/21	HS FI	ORD: Amend The 2021 Budget Of The Department Of Health And Human Services To Accept The Injection Drug Use Treatment Grant Funding And Appropriate Additional Expenditures
175-O-070	01/06/21 01/07/21	HR HS FI	ORD: Create 1.00 FTE Clinical Therapist Position And Abolish 1.00 FTE Senior Substance Abuse Counselor Position In The Department Of Health And Human Services And Create Future Clinical Therapist Position After Remaining Senior Substance Abuse Counselor Position Is Vacant
175-O-071	01/06/21 01/07/21	HR FI	ORD: Approve Extension Of COVID-19 Sick Time Benefit
175-O-072	02/01/21 02/04/21	LU	ORD: Amend The District Zoning Map Of The Town Of Mukwonago Zoning Code By Applying A Planned Development District Overlay For Heritage Hill Estates PDD-17, For Certain Lands Located In Part Of The SE ¼ Of Section 19, T5N, R18E, Town Of Mukwonago, Waukesha County, Wisconsin (RZ74)
175-O-073	02/01/21 02/04/21	LU	ORD: Amend The Waukesha County Shoreland And Floodland Protection Ordinance District Zoning Map Of The Town Of Ottawa By Conditionally Rezoning Certain Lands Located In Part Of Sections 7, 8, 17 And 18, Town Of Ottawa, Waukesha County, Wisconsin To Apply A C-1 Conservancy Overlay District Designation To Lands Within The School Section Lake Dam Failure Floodplain (RZ64)
175-O-074	02/01/21 02/04/21	LU	ORD: Repeal And Recreate Table 6(b)1.B.ii. Of The Waukesha County Shoreland And Floodland Protection Ordinance To Incorporate The School Section Lake Dam Failure Study (RZ65)
175-O-075	02/03/21 02/04/21	LU	ORD: Text Amendment To The Recycling Ordinance Found In Chapter 14, Article IV Of The Code Of Ordinances And Forfeiture Schedule

175th BOARD YEAR

LEGISLATIVE ITEMS RECEIVED FOR COMMITTEE REFERRAL

File No.	Rec/Ref:	To:	Title
175-O-076	02/03/21 02/04/21	LU FI	ORD: Modify The Community Development Block Grant (CDBG) 2021 Budget To Accept Us Treasury Department Emergency Rental Assistance Program Grant Funds And Appropriate Additional Expenditures
175-O-077	02/03/21 02/04/21	LU FI	ORD: Authorize Department Of Parks And Land Use To Commence The Process To Acquire Real Estate Interests To Complete The Pewaukee To Brookfield Trail Project Waukesha County Project I.D. #2718-14-01
175-O-078	02/03/21 02/04/21	PW FI	ORD: Jurisdictional Transfer Agreement Between Waukesha County And The Village Of Waukesha
175-A-038	02/03/21 02/04/21	EX	APPT: Marj Kozlowski to the Aging and Disability Resource Center Advisory Board
175-R-005	02/03/21 02/04/21	EX	RES: Establish Size Of County Board To Facilitate County Supervisory District Plan
175-O-079	02/03/21 02/04/21	EX FI	ORD: Modify The 2021 Budget Of The Waukesha County UW-Extension To Accept The Expanding Access Grant Funding From UW-Madison Extension And To Authorize Grant Expenditures
175-O-080	02/03/21 02/04/21	EX PW FI	ORD: Modify The 2021-2025 Capital Plan For The Creation Of Capital Project #202106 – CTH VV, CTH YY Intersection And Modify 2021 Capital Project Budget
175-O-081	02/03/21 02/04/21	HS FI	ORD: To Accept Federal Centers For Disease Control And Prevention Epidemiology And Laboratory Capacity Grant Funds Provided By The Wisconsin Department Of Health Services And Modify The Non-Departmental General Fund 2021 Budget Through A Contingency Fund Transfer For Expenses Related To The Community Vaccine Program And Continued Pandemic Response
175-O-082	02/01/21 02/04/21	FI	ORD: Authorize The Issuance Of Not To Exceed \$12,000,000 General Obligation Promissory Notes For Capital Projects
175-O-083	02/02/21 02/04/21	FI	ORD: Reauthorization Of Worker's Compensation Self-Insurance
175-O-084	02/03/21 02/04/21	FI	ORD: Modify The 2021 Budget By Transferring Carryover Funds From 2020 Unexpended Appropriations To 2021 Budgeted Appropriations

1 AMEND THE DISTRICT ZONING MAP OF THE TOWN OF MUKWONAGO ZONING CODE BY
2 APPLYING A PLANNED DEVELOPMENT DISTRICT OVERLAY FOR HERITAGE HILL ESTATES
3 PDD-17, FOR CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 19, T5N, R18E,
4 TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN (RZ74)
5
6

7 WHEREAS, after proper notice was given, a public hearing was held and the subject matter of
8 this Ordinance was approved by the Mukwonago Town Board on December 16, 2020; and
9

10 WHEREAS, the matter was referred to and considered by the Waukesha County Park and
11 Planning Commission, which recommended approval and reported that recommendation to the
12 Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors,
13 as required by Section (60.62), Wis. Stats.
14

15 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the
16 District Zoning Map for the Town of Mukwonago Zoning Code, adopted by the Town of
17 Mukwonago on November 24, 2020, is hereby amended to apply a Planned Development
18 District Overlay, Heritage Hill Estates PDD-17, for certain lands located in part of the SE ¼ of
19 Section 19, T5N, R18E, Town of Mukwonago, Waukesha County, Wisconsin, and more
20 specifically described in the "Staff Report and Recommendation" and map on file in the office
21 of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance
22 by reference RZ74, is hereby approved, as set forth in the Town of Mukwonago Ordinance No
23 2020-O-51.
24

25 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this
26 Ordinance with the Town Clerk of Mukwonago.
27

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

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 Ordinance hereby recommends **approval** of **RZ74 (Relentless Properties, LLC_Koch)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

January 21, 2021

William Mitchell (via Microsoft Teams)

William Mitchell, Chairperson

James Siepmann (via Microsoft Teams)

James Siepmann, Vice Chairperson

Robert Peregrine (via Microsoft Teams)

Robert Peregrine

Richard Morris (via Microsoft Teams)

Richard Morris

Thomas Michalski (via Microsoft Teams)

Thomas Michalski

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

DATE: January 21, 2021

FILE NO.: RZ74

OWNER: Relentless Properties LLC.
5200 Deer Road
East Troy, WI 53120-9645

APPLICANT: Ryan Koch
Relentless Properties LLC.
5200 Deer Road
East Troy, WI 53120-9645

TAX KEY NO.: MUKT 1948.999.001

LOCATION:

Part of the SE ¼ of Section 19, T5N, R18E, Town of Mukwonago. More specifically, the property is located at S92 W33360 CTH NN, containing approximately 56 acres. The westerly proposed outlet (see Exhibit "A" is excluded from this rezoning).

EXISTING ZONING:

A-1 Agricultural with EC Environmental Corridor Overlay District.

PROPOSED ZONING:

A-1 Agricultural District and EC Environmental Corridor Overlay District with a Planned Development District (Heritage Hill Estates, PDD-17).

EXISTING USE(S):

Farm and single-family residence.

REQUESTED USE(S):

Eleven (11) lot Planned Unit Development subdivision.

PUBLIC HEARING DATE:

December 2, 2020.

PUBLIC COMMENT:

None.

TOWN PLAN COMMISSION ACTION:

On December 2, 2020, the Town of Mukwonago Plan Commission unanimously recommended approval of the rezone request, to the Town Board.

TOWN BOARD ACTION:

On December 16, 2020, the Mukwonago Town Board unanimously adopted the rezone ordinance.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF MUKWONAGO CDP:

The Comprehensive Development Plan for Waukesha County designates the property as Rural Density and Other Agricultural Lands and Primary Environmental Corridor and defers to the Town of Mukwonago Land Use Plan for rural density requirements. The Town of Mukwonago Land Use Plan designates the property as Agricultural Residential (3.2 acres/dwelling unit) and Primary Environmental Corridor. The proposed rezone will comply with both plans.

STAFF ANALYSIS:

The subject property is located on CTH NN, just north of the Agape Agrihood subdivision, and is approximately 55.59 acres, excluding the road right-of-way. The property is bordered to the north and west by agricultural parcels and to the east by large residential parcels. The existing farm residence, (proposed Lot 11) is served by a private sewage system and private well. The lot contains several agricultural buildings including a barn and chicken coop.

The property, which is fully within the jurisdiction of the Town of Mukwonago, is currently zoned A-1 Agricultural District, which requires a minimum three (3) acre lot size and 200' of average width. Portions of the property are also designated as EC Environmental Corridor, the boundaries of which were delineated by SEH in June 2020.

The petitioner is proposing an 11-lot subdivision, with two Outlots, known as Heritage Hill Estates (Exhibit A). The development will be served by private sewage (mound) systems and private wells. The development complies with the 3.2 acres/dwelling unit density requirement of the town plan. The developer has proposed to rezone the property to allow for a Planned Development District designation to be applied to the lands that allows for flexibility in the lot area regulations. The proposed minimum lot size is 1.5-acres, whereas the typical A-1 District lot minimum is three acres.

The development is subject to the Waukesha County Stormwater Management and Erosion Control Ordinance. The proposed stormwater basin along CTH NN and Heritage Hill Court will be reviewed and approved by Waukesha County Land Resources.

One access point will serve the development, the location of which is directly across from Red Brae Drive. The existing farm residence will continue to have access from the existing gravel drive. If access is ever proposed to Outlot 2, Waukesha County Department of Public Works (DPW) will have to further evaluate access to the lot. The county has reviewed a preliminary plat for the development. The county review letter notes that, while the vast majority of the environmental corridor is conserved within an outlot, several lots do encroach into the environmental corridor. The town plan recommends that environmental corridors be preserved in their entirety in conservation design projects. The county review letter recommended some lot line adjustments to better comply with plan recommendations. The town and county will have an opportunity to comment further on this matter at time of final plat review.

STAFF RECOMMENDATION:

Based on the above analysis, the Planning and Zoning Division Staff recommends **approval** of the request subject to the conditions of Town of Mukwonago Ordinance 2020-0-51.

The rezone will allow for a conservation design development. The reduction of lot sizes minimizes impacts to the environmental corridor.

Respectfully submitted,

Jacob Heermans

Jacob Heermans
Senior Land Use Specialist

Attachments: Town Ordinance (2020-O-051)
Exhibit A
Map

N:\PRKANDLU\Planning and Zoning\Rezones\Staff Reports\RZ74 Relentless Properties LLC_Koch mkt.doc

ORDINANCE 2020-O-51

**AN ORDINANCE TO ESTABLISH A PLANNED DEVELOPMENT
DISTRICT PURSUANT TO CHAPTER 36 OF THE MUNICIPAL CODE**

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

WHEREAS, that zoning code is codified as Chapter 36 of the Town of Mukwonago Municipal Code, titled "Town Zoning;" and

WHEREAS, No Limit Excavating LLC owns the property at S92W33360 CTH NN (MUKT1948999001) and has submitted a petition to the town to establish a planned development district pursuant to the standards and requirements in the zoning code for a development project consisting of 11 residential lots and 1 outlot; and

WHEREAS, allowing for proper notice, the Plan Commission and Town Board conducted a joint public hearing on December 2, 2020 to consider the petitioner's application and to accept public comment; and

WHEREAS, the Plan Commission and Town Board considered the following factors in making their decisions as set forth in Article 8 of Chapter 36:

- (1) whether development in the proposed project is in keeping with the spirit and intent of this chapter;
- (2) whether development in the proposed project is consistent with the town's comprehensive plan;
- (3) the effects of development in the proposed project on traffic safety and efficiency, both within and outside of the district;
- (4) whether the proposed plan for development in the proposed project is properly planned and is properly coordinated with the existing and anticipated land uses on properties in the immediate and surrounding area;
- (5) the extent to which the natural features, open space, and/or farmland on the site are preserved;
- (6) the extent to which the rural character of the area is preserved;
- (7) whether development in the proposed project complies with provisions of this chapter and other land development regulations of the town that may apply;
- (8) the effects of development in the proposed project on public services and facilities;
- (9) whether adequate water and sanitary sewer facilities can be provided to development in the proposed project;
- (10) the proposed means of maintaining any undeveloped areas of the proposed project for the purpose for which it was set aside;
- (11) effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
- (12) effects of the proposed use on the normal and orderly development and improvement of the surrounding properties for uses permitted in the zoning district and adjoining districts;

-
- (13) whether the proposed open space in the project, in terms of quality, size, location, and aesthetic value, justify the approval of the project;
 - (14) whether the size, quality, and architectural design of all buildings in the project will have an adverse effect upon the general character of the town and surrounding neighborhood;
 - (15) whether the proposed development is consistent with the general character of the town and the immediate neighborhood;
 - (16) whether the plan for development is superior to development that is permitted based on the design and development standards of the underlying zoning district; and
 - (17) any other factor that relates to the purposes of this chapter as set forth in s. 36-5 or as allowed by state law.

WHEREAS, the Plan Commission recommended approval at their meeting on December 2, 2020; and

WHEREAS, the Town Board considered the Plan Commission's recommendation at their meeting on December 16, 2020; and

WHEREAS, the Town Board for the Town of Mukwonago, after carefully reviewing the recommendation of the Plan Commission for the Town of Mukwonago 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 Mukwonago, 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 Mukwonago, Waukesha County, does hereby ordain as follows:

Section 1. Amend the zoning map established in s. 36-666 to show the planned development district consisting of the area of the preliminary plat as depicted in Attachment A, excluding Outlot 2. The extent of the Environmental Corridor (EC) district shall remain unchanged.

Section 2. Amend Appendix D, titled "Dimensional Standards in Planned Development Districts," by adding the following content to the end of that part:

Heritage Hill Estates (PDD-17)

Lot density, maximum: 11 residential lots and 1 outlot

Lot size, minimum: 1.5 acres

Lot width, minimum: 120 feet, except 80 feet for lots on the cul-de-sac bulb

Setback, minimum: 35 feet

Offset, minimum: 20 feet

Maximum floor area of accessory buildings: 1,000 square feet (special exceptions for floor area are not allowed)

The design and exterior building materials for accessory buildings must match the principal building.

Unspecified standards: per Suburban Estates (SE) zoning district

Section 3. If the Town Board has not approved a final development plan for the proposed development project by June 1, 2022, the zoning of the subject property as set forth herein shall lapse and automatically revert to the previous zoning classifications without any further action by the Town.

Section 4. 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 5. 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 6. 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 this 16th day of December 2020

TOWN OF MUKWONAGO

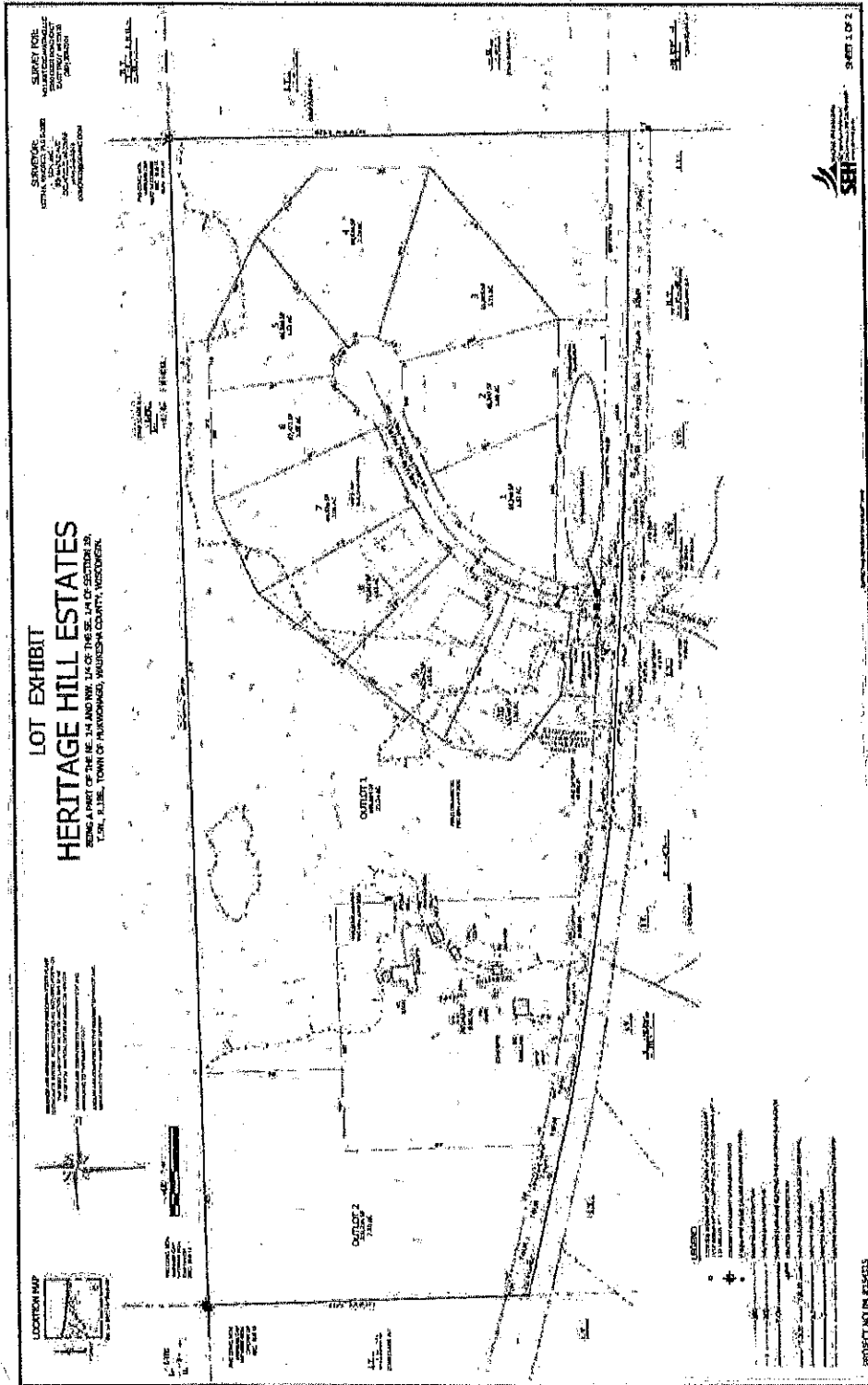

Peter Topczewski, Town Chair

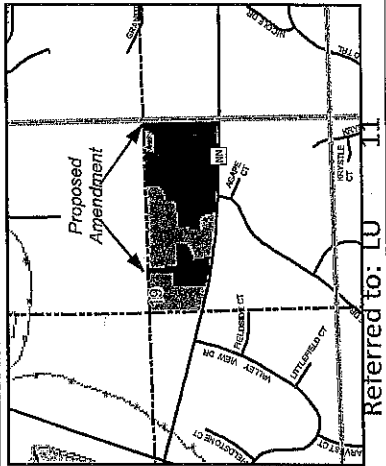
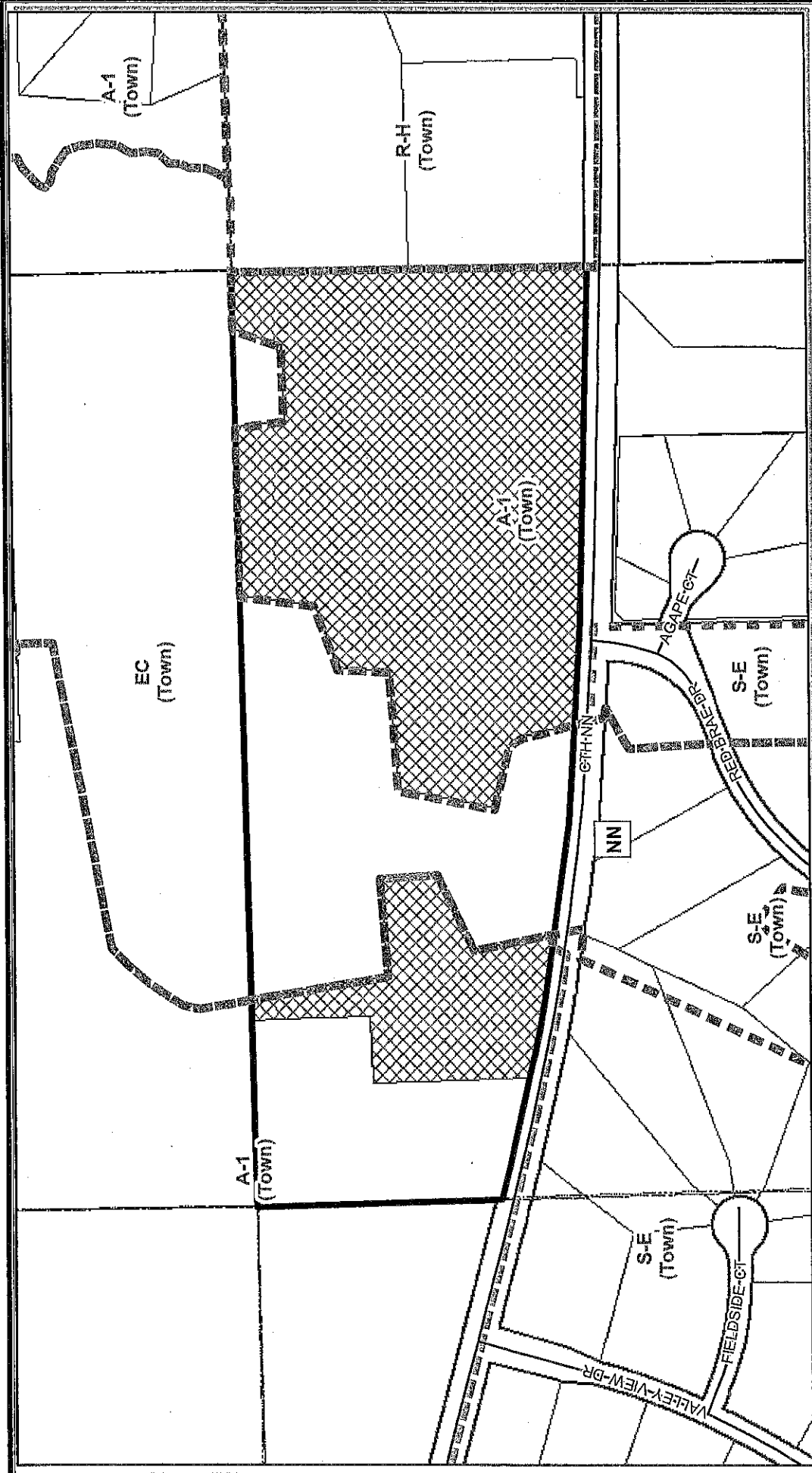
ATTEST:


Kathy Karalewitz, Town Administrator

Published and/or posted this 12 day of January, 2020

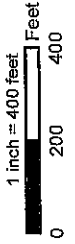
Attachment A. Preliminary Plat of Heritage Hill Estates Subdivision





TOWN ZONING CHANGE TO ADD PLANNED DISTRICT DEVELOPMENT DISTRICT DESIGNATION TO LANDS ZONED A-1 AGRICULTURAL DISTRICT WITH AN EC ENVIRONMENTAL CORRIDOR OVERLAY

FILE.....RZ74
 DATE OF PLAN COMMISSION.....1/21/21
 AREA OF CHANGE.....34.1 ACRES
 TAX KEY NUMBER.....MUKT 1948.999.001



ZONING AMENDMENT

PART OF THE SE 1/4 OF SECTION 19,
 TOWN OF MUKWONAGO

Referred to: LU

Prepared by the Waukesha County Department of Parks and Land Use
 File Number: 175-0-07Z

Referred on: 02/04/21

1 AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE
2 DISTRICT ZONING MAP OF THE TOWN OF OTTAWA BY CONDITIONALLY REZONING CERTAIN
3 LANDS LOCATED IN PART OF SECTIONS 7, 8, 17 AND 18, TOWN OF OTTAWA, WAUKESHA
4 COUNTY, WISCONSIN TO APPLY A C-1 CONSERVANCY OVERLAY DISTRICT DESIGNATION TO
5 LANDS WITHIN THE SCHOOL SECTION LAKE DAM FAILURE FLOODPLAIN (RZ64)
6
7

8 WHEREAS, after proper notice was given, a public hearing was held and the subject matter of
9 this Ordinance was denied by the Ottawa Town Board on December 14, 2020; and
10

11 WHEREAS, the matter was referred to and considered by the Waukesha County Park and
12 Planning Commission, which recommended approval and reported that recommendation to the
13 Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors,
14 as required by Section 59.692, Wis. Stats.
15

16 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the
17 Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the
18 Town of Ottawa, Waukesha County, Wisconsin, adopted by the Waukesha County Board of
19 Supervisors on June 23, 1970, is hereby amended to conditionally rezone certain lands located
20 in part of Sections 7, 8, 17 and 18, Town of Ottawa, to apply a C-1 Conservancy Overlay District
21 designation to lands within the School Section Lake Dam Failure floodplain, and more
22 specifically described in the "Staff Report and Recommendation" and map on file in the office
23 of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance
24 by reference RZ64, is hereby approved, subject to the following conditions:
25

- 26 1. All existing agricultural uses are permitted to remain within areas designated to be
27 within the C-1 Conservancy Overlay District boundaries. There shall be no limitations
28 with regards to the types of crops or animals that may be rotated on the existing farmed
29 floodplain areas.
30
- 31 2. The maintenance and repair of existing agricultural drainage systems, including flooding,
32 draining, ditching, tiling, dredging, excavating and filling necessary to maintain the level
33 of drainage required to continue any existing Agricultural Use is permitted. The disposal
34 of dredged spoils can occur within the dam failure floodway or floodplain, however,
35 spreading of spoils within the floodway would require an analysis be completed and
36 reviewed and approved by DNR to demonstrate that fill will not obstruct flows. If
37 dredging is proposed within a navigable stream, dredging permits would be needed
38 from the DNR and U.S. Army Corps of Engineers.
39

40 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this
41 Ordinance with the Town of Ottawa Clerk.
42

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

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends **approval** of **RZ64 (Map Amendments/School Section Lake Dam, Town of Ottawa)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

January 21, 2021

William Mitchell (via Microsoft Teams)

William Mitchell, Chairperson

James Siepmann (via Microsoft Teams)

James Siepmann, Vice Chairperson

Robert Peregrine (via Microsoft Teams)

Robert Peregrine

Richard Morris (via Microsoft Teams)

Richard Morris

Thomas Michalski (via Microsoft Teams)

Thomas Michalski

COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends approval of **RZ65 (Text Amendment/School Section Lake Dam, Town of Ottawa)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

January 21, 2021

William Mitchell (via Microsoft Teams)

William Mitchell, Chairperson

James Siepmann (via Microsoft Teams)

James Siepmann, Vice Chairperson

Robert Peregrine (via Microsoft Teams)

Robert Peregrine

Richard Morris (via Microsoft Teams)

Richard Morris

Thomas Michalski (via Microsoft Teams)

Thomas Michalski

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

FILE NO's.: RZ64 (map) and RZ65 (text)

DATE: January 21, 2021

PETITIONER: Waukesha County Park and Planning Commission
 515 W. Moreland Blvd. Room AC230
 Waukesha, WI 53188

AGENT: Waukesha County Land Resources Division, Perry Lindquist, lead staff

LOCATION:

The properties affected by the rezone amendment are located in part of Section 17, part of the NE and NW ¼ of Section 18, part of the SE and SW ¼ of Section 7, and part of the SE ¼ of Section 8, T6N, R17E, Town of Ottawa. Maps of the area and a fact sheet (See Exhibit G) were provided with the notices sent to the individual property owners affected and are posted on the Ottawa Town website at: <http://www.tn.ottawa.wi.gov/> and the Waukesha County Department of Parks and Land Use-Planning and Zoning Division website at: <https://www.waukeshacounty.gov/landandparks/planning-and-zoning/>. The maps that specifically identify the proposed C-1 Conservancy Overlay District boundary based on the Dam Failure Zone (refer to Exhibit A and Rezone Map). In addition, these maps were added as layers to the Waukesha County IMS located at: https://prd1.waukcogeo.com/HTML5Viewer/?viewer=html_viewer_ext.

EXISTING ZONING:

The table below depicts the zoning classification of lands within the proposed dam failure floodplain that are not already zoned C-1 Conservancy District.

<u>Zoning Category</u>	<u>Acres</u>
HG High Groundwater District	20.7
A-5 Mini Farm District	4.1
AT Agricultural Transition District	2.6
AD-10 Agricultural Density-10 District	0.8
RRD-5 Rural Residential Density District-5	0.03

PROPOSED ZONING:

The proposal is to amend the text and map of the Waukesha County Shoreland and Floodland Protection Ordinance (SFPO) in order to adopt a new Dam Failure Analysis for the School Section Lake Dam. The hydraulic shadow of the Dam Failure Analysis is proposed to be mapped as a new floodplain boundary along School Section Creek from the School Section Lake Dam to approximately 6,800 feet downstream of the dam. Lands within the dam failure shadow that are not already zoned C-1 Conservancy Overlay District would be rezoned to add the C-1 Overlay (See Table A and Rezone Map). The table of official floodplain maps in Section 6(b)1.B.ii of the SFPO will be repealed and re-created in its entirety (see Exhibit B).

Because the County's shoreland jurisdictional limits extend to the full extent of the floodplain limits, there are small areas of additional shoreland jurisdiction proposed to be created where the floodplain extends further than 300 feet from a stream or 1,000 feet from School Section Lake.

The attached Table A quantifies and describes the existing zoning designations relative to the affected lands.

PUBLIC HEARING DATES:

August 24, 2020, continued October 5, 2020, November 2, 2020, and December 7, 2020

The County Land Resources and Planning and Zoning Divisions and State DNR floodplain program staff provided an informational session prior to the August 24, 2020 public hearing. The presentation included a 51 slide PowerPoint presentation.

PUBLIC REACTION:

Eight residents and/or their representative initially submitted emails or written comments for the August 24, 2020 public hearing and separate responses have been provided by the applicant (See Exhibit C). Other zoning comments are addressed by staff in the staff analysis section of this ordinance. One resident also contacted staff by phone and asked general questions about the rezone and if the regulations would change on his property. The town planner advised him that maintenance of drainage ditches would continue to be allowed pursuant to the use provisions of the C-1 Conservancy Overlay District.

Eleven signatures of protest were received from owners of land that are affected by the proposed rezoning. One additional protest was received from a property owner within 500' of the rezone area. The protest materials are attached as Exhibit F. Planning staff has referred this matter to the Waukesha County Corporation Counsel seeking their review and determination regarding the protest materials to be able to advise the County Board on this matter prior to County Board committees taking action.

At the November 2, 2020, Town Plan Commission meeting, the Plan Commission tabled a decision on the matter and requested the DNR and County staff meet with Attorney Terry Booth who represents a number of the affected owners to attempt to identify an alternative to rezoning the land. That meeting was held on November 23, 2020. During the meeting, the owner's attorney asked if existing zoning could simply be relied upon to protect the properties. County staff responded that there are several conventional zoning districts that apply to the lands in question and that those conventional districts contain no floodplain protection standards, and accordingly, do not satisfy state requirements. There was also discussion of floodplain protection standards being introduced into a new zoning district with a different name. County staff expressed concern that such a district would bring forward duplication of regulations and may cause confusion for readers of the code and administrators, alike.

At the December 7, 2020 town meeting, the attorney representing several the property owners suggested that the county zoning ordinance does not differentiate floodplains from floodways. However, this is not accurate. Unique rules for floodways and floodplains are established throughout the ordinance and cross references to various relevant provisions are provided within the C-1 Overlay District text. Protective provisions for mobile homes, fuel pumps at marinas, sewage systems and improvements to existing structures within the floodplain are less restrictive in

floodplain (flood fringe) as compared to floodway areas. The ordinance contains no fewer than 45 references to floodways and more than 300 references to floodplains. Both terms are also uniquely identified in the definitions of the ordinance. In addition, the official zoning maps depict floodplain and floodway areas with a unique designation for each resource, with the map legend also identifying both designations.

TOWN OF OTTAWA PLAN COMMISSION ACTION:

On December 7, 2020, the Town of Ottawa Plan Commission recommended denial of the request to the Town Board. No reasons were provided with the recommendation for denial.

TOWN OF OTTAWA BOARD ACTION:

On December 14, 2020, the Town of Ottawa Board recommended denial of the text and map amendment to Waukesha County. No reasons were provided with the recommendation for denial and such recommendation is not required by the zoning ordinance.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF OTTAWA CDP:

Prevention of flooding is a key natural resource protection recommendation of both the Town and County CDPs, and the proposed rezoning will protect the newly studied floodplain from fill and prevent future property damage and personal injury for the portion of the properties to be rezoned and on the properties upstream and downstream of the subject area.

STAFF ANALYSIS:

The proposal is to zone lands within the recently approved School Section Lake dam failure shadow to the C-1 Conservancy Overlay District (see Rezone Map and Exhibit A) and add the subject floodplain study to the official list of floodplain maps based upon studies (Table 6(b)1(B)(ii)) within the Shoreland and Floodland Protection Ordinance. The proposal is to add the subject dam failure study to this list, which currently lists five other local dam failure studies that have previously been adopted into the ordinance.

All undeveloped floodplains within the county's zoning jurisdictional area are zoned C-1 Conservancy District Overlay. The C-1 Conservancy Overlay District of the Waukesha County SFPO contains unique standards for wetlands, floodplains and floodways. These standards are described within the C-1 District text and are further identified throughout the other general sections of the ordinance. Properties with overlays maintain their base zoning districts, while natural resources are mapped within layers on top of the base zoning districts. As noted above, wetlands, floodplains and floodways are uniquely identified on the official county zoning maps. The county's floodplain zoning standards have been approved by both the Federal Emergency Management Agency (FEMA) and the DNR.

School Section Lake (SSL) Dam is located in the Town of Ottawa along the northwest and west shores of School Section Lake on the south side of School Section Lake Road between CTH D to the east and CTH Z to the west. The dam and associated spillway are owned by Waukesha County and maintained and operated the Waukesha County Department of Parks and Land Use - Parks System Division. The lake is a 122-acre impoundment built in 1938 by damming a small stream. The

county also owns and operates a boat launch on the lake. The lake is supported by a 3,000-foot long earthen berm approximately eight feet in height. There is also a 22-foot wide concrete outlet structure with wood stop logs (a/k/a "spillway") to control the lake water level and outflow. The dam creates an open water lake condition for 95 properties. As of 2018, those properties had a value of approximately 21 million dollars.

On January 25, 2018, while inspecting the berm, a 20-foot wide breach was discovered on the earthen berm about 400 feet north of the outlet structure, believed to be started/caused by muskrat burrows. Emergency measures were taken to immediately draw the lake down while repair options were studied. Repairs were completed and the lake level was restored by late spring of 2019.

Because of the partial dam failure and the dam repair orders, the DNR, pursuant to state floodplain rules, required, Waukesha County, as owner of the dam, to complete a dam failure analysis in accordance with Wisconsin Administrative Code NR 116 (Floodplain Management) and NR333 (Dam Design and Construction). The county obtained a grant to help fund the expense of the study and repairs.

NR 116.08 states, *Areas downstream of dams shall be zoned and regulated by municipalities with floodplain zoning ordinances in compliance with the standards in this section, to reduce potential loss of life and property located downstream of the dams. Except as provided in sub. (2), areas downstream of all dams shall be delineated on floodplain maps in accordance with s. NR116.09(1)(b)5.* Some of the downstream affected owners asked DNR to examine whether other land use controls, such as restrictive covenants, easements or other legal arrangements could be made between the dam owner and the owners of lands within the hydraulic shadow. DNR staff consulted with the department's legal counsel who confirmed that the zoning requirements of NR116.08 stand alone and protective zoning of the floodplain is required. The following is the full response of Michelle Haze, Water Management Engineer with the DNR:

"The DNR attended the Town of Ottawa Plan Commission meeting on October 5, 2020 to help answer any questions regarding the proposed adoption of the dam failure shadow of the School Section Lake Dam into the County's floodplain zoning ordinance. The Plan Commission asked the DNR to investigate whether any options other than adoption of zoning into the floodplain zoning ordinance were possible, specifically regarding NR333.03 (9) "Land use controls in place" means future development within the hydraulic shadow is required to conform to the criteria specified in a zoning ordinance adopted and approved pursuant to s. 87.30, Stats., and also consistent with land use plans developed under s. 66.1001, Stats., or through restrictive covenants, easements, or other appropriate legal arrangements between the owner of the dam and the owners of all property within the hydraulic shadow.

The term "land use controls" as used in NR333 applies to the development of the dam hazard rating (NR333.06). The DNR may make a determination that other appropriate land use controls are in place in order to set the hazard rating at the appropriate level, regardless of whether the dam failure shadow map, profile, and data tables are adopted into the local floodplain zoning ordinance. However, NR116.08 stands alone and

specifically requires zoning to be adopted downstream of dams within the floodplain zoning ordinance, and clearly outlines which dams are exempt from this requirement in NR116.08(2). School Section Lake Dam is not exempt from the NR 116.08 zoning requirement, therefore the adoption of the dam failure flood profiles into the zoning ordinance is required.”

In accordance with DNR requirements, Waukesha County prepared a dam failure analysis to determine the hydraulic shadow for the failure of the dam, which is the area that would flood during a regional flood if the dam (completely) failed. A “regional flood” is defined as a flood with a one (1) percent chance of being equaled or exceeded in any given year. The required dam failure analysis was completed by Leif Hauge, Senior Civil Engineer with Waukesha County, a Professional Hydrologist and Engineer, with assistance from RA Smith and Associates, Inc. on April 20, 2020. The study was approved by DNR with a letter acknowledging approval on April 23, 2020 (See Exhibit D). The approval letter advised that Waukesha County must adopt hydraulic shadow zoning downstream of the dam. Because it was determined by the DNR that there are no residences within the newly determined dam failure floodplain, the DNR determined that the dam, as improved, could be rated as a low-hazard dam. Without an amendment to the zoning designation, the dam would need to be rated as high-hazard and insurance and maintenance costs would be increased. **Regardless of dam hazard rating, state rules require the adoption of the dam failure analysis and protection of the floodplain through zoning.**

Eighteen parcels owned by sixteen property owners are affected by the proposed dam failure floodplain shadow. These properties are located within the area that is approximately 6,800 ft. downstream of the dam. Much of the affected land is currently regulated as wetland and floodplain pursuant to the DNR wetland inventory and the effective FEMA floodplain maps. There are a total of 28.3 acres proposed to be rezoned to the C-1 Conservancy Overlay District, but 20.7 acres of those 28.3 acres are already zoned to a restricted zoning category (the HG High Groundwater District) because of high groundwater (hydric) soil characteristics (refer to Table A). However, the HG District does not provide floodplain protection standards.

The attached Exhibit E depicts existing land use within the School Section Lake dam failure floodplain. The new floodplain area created by the mapping of the dam failure encompasses 163 acres. One hundred and eight (108) of those acres are either wetlands or woodlands. Forty nine (49) acres are in agricultural use, with much of that acreage being farmed hydric soil. Approximately six acres include parts of yards or unused areas. There are no homes within those six acres, nor is any of the area in close proximity to a residence.

The C-1 Conservancy Overlay District designation allows for existing agricultural uses to continue as legal non-conforming uses, pursuant to Section 3(o) of the ordinance. In addition, the C-1 Overlay District allows *for the maintenance and repair of existing agricultural drainage systems, including flooding, draining, ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue any existing Agricultural Use.* The DNR has clarified that existing ordinance language that suggests that spoils cannot be disposed of within floodplains is not required by state code and that DNR can administratively approve such activities. DNR has advised that disposal of dredged spoils can occur within a dam failure floodway or floodplain, however, spreading of spoils within the floodway would require an analysis be completed to demonstrate that fill would not obstruct flows. If dredging is proposed within a navigable stream, dredging permits would be needed from the DNR and U.S. Army Corps of Engineers. To clarify the agricultural use

rights of properties affected by this rezoning, the staff recommendation at the conclusion of this report includes two recommended conditions that clarify the rights of agricultural users to continue farming and maintaining ditches within the affected area.

STAFF RECOMMENDATION:

Based on the above analysis, the Planning and Zoning Division staff recommend **conditional approval** of the request of the request subject to the following conditions:

1. All existing agricultural uses are permitted to remain within areas designated to be within the C-1 Conservancy Overlay District boundaries. There shall be no limitations with regards to the types of crops or animals that may be rotated on the existing farmed floodplain areas.

2. The maintenance and repair of existing agricultural drainage systems, including flooding, draining, ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue any existing Agricultural Use is permitted. The disposal of dredged spoils can occur within the dam failure floodway or floodplain, however, spreading of spoils within the floodway would require an analysis be completed and reviewed and approved by DNR to demonstrate that fill will not obstruct flows. If dredging is proposed within a navigable stream, dredging permits would be needed from the DNR and U.S. Army Corps of Engineers.

As noted above, NR116 of the Wisconsin Administrative Code requires that areas downstream of dams shall be zoned and regulated by municipalities with floodplain zoning ordinances to reduce potential loss of life and property located downstream of dams. As conditioned, the above staff recommendation provides assurances that re-state and enhance existing ordinance protections to make it clear that existing agricultural use can continue and that the continued maintenance of agricultural drainage systems is permitted within the affected area. There were many comments raised during the public hearing and information session, and detailed responses were provided by the petitioner and DNR to be responsive to concerns raised.

Rezoning the dam failure shadow as floodplain or floodway within the C-1 Conservancy Overlay District on the County zoning map prevents development within said areas, which ultimately protects the subject landowners and downstream property owners and their improvements from flooding and

danger. The acreage proposed to be rezoned with a C-1 Conservancy Overlay is primarily unbuildable because of hydric soil conditions. All of the affected lands that are currently being used for agricultural purposes or open space uses can continue to be used for the same purposes going forward.

Respectfully submitted,

Sandra L. Scherer

Sandy Scherer
Senior Planner

Jason Fruth

Jason Fruth
Planning & Zoning Manager

Enclosures: Exhibit A (floodplain map)
Exhibit B (text amendment exhibit)
Exhibit C (Petitioner Responses to Public Comments)
Exhibit D (DNR letter dated 4/23/20)
Exhibit E (Existing Land Use Map)
Exhibit F (Protest petition materials)
Exhibit G (Floodplain Fact Sheet)
Table A (Overlay Designations and Acreages)
Rezone Map (RZ64)

N:\PRKANDLU\Planning and Zoning\Rezones\Staff Reports\RZ64 School Section Lake Dam owt.doc

School Section Creek

EXHIBIT A

School Section Lake

School Section Lake Dam Failure Hydraulic Shadow




John J. ...
4-16-2016

0 350 700 1,050 1,400 feet

Legend

- Model Cross Sections
- ▨ Floodway
- Floodplain
- Structures

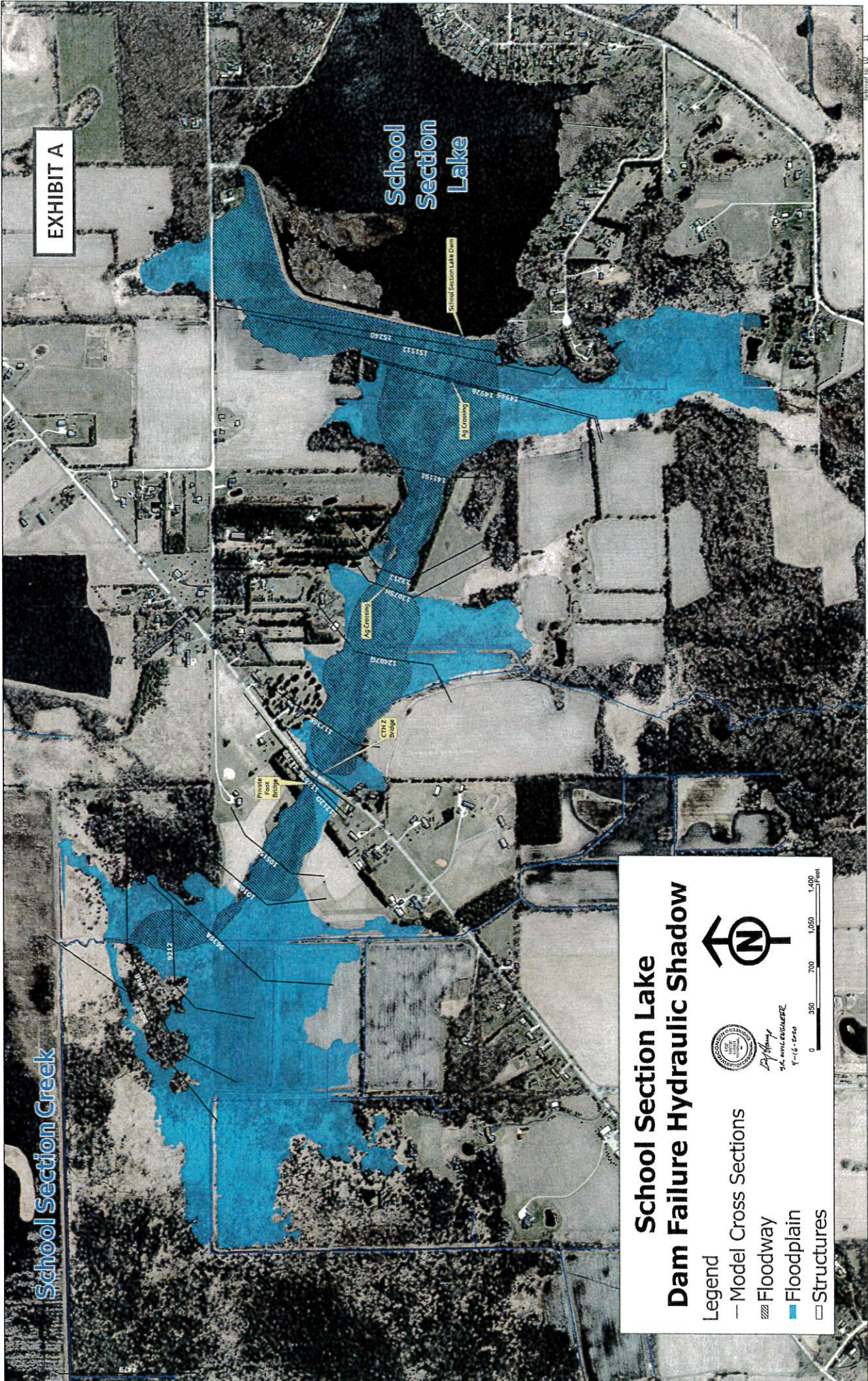


EXHIBIT B
PROPOSED TEXT AMENDMENT TO THE WAUKESHA COUNTY
SHORELAND AND FLOODLAND PROTECTION ORDINANCE

Notes: *Text to be added appears in italics. Some formatting may change as the Editor incorporates the proposed amendments into the existing code.*

Table 6(b)1-B:ii	
List of Official Maps Based Upon Other Studies to be Used in Conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps as follows:	
1.	Dam Failure Analysis and Emergency Action Plan for Wambold and Kroll Dams on Eagle Spring Lake, prepared by Graef, Anhalt, Schloemer & Associates, Inc., revised April 2002. Approved by the WDNR in April of 2002 and adopted by the Waukesha County Board on April 13, 2004.
2.	Dam Failure Analysis and Proposed Dam Capacity Analysis-Monches Dam, Hey and Associates, Inc., April 17, 2006; amended on October 13, 2006 by Hey and Associates, Inc.; further amended on May 17, 2011 by the Waukesha County Department of Public Works; and further amended by R.A. Smith National on January 19, 2012. Approved by the WDNR on January 24, 2012 and adopted by the Waukesha County Board on March 27, 2012.
3.	Dam Failure Analysis – Monterey Dam, prepared by Kunkel Engineering Group, LLC on September 2, 2011. Approved by the WDNR and adopted by the Waukesha County Board on December 18, 2012.
4.	Dam Failure Analysis – Mukwonago Dam, prepared by Mead & Hunt, June 2012. Approved by the WDNR on July 11, 2012 and adopted by the Waukesha County Board on November, 26, 2013.
5.	Waukesha County Flood Storage District Maps, Panels 1, 2, 3, 4, 5, 6, 7, 8, 11, 12. Dated November 05, 2014. Prepared by the WDNR. Approved by the WDNR.
6.	Revised Waukesha County Flood Storage District Map Panel 3 and 3A. Prepared by SEH on December 22, 2015. Approved by the WDNR and adopted by the Waukesha County Board on June 28, 2016.
7.	Saylesville Dam Failure Analysis and Assessment, prepared by Bloom Companies, Inc. on July 9, 2014. Approved by the WDNR on July 14, 2014 and adopted by the Waukesha County Board on July 28, 2015.
8.	<i>School Section Lake Dam Failure Analysis and Assessment, prepared by Leif Hauge, PE, Professional Hydrologist, Sr. Civil Engineer, Waukesha County Land Resources Division, on April 20, 2020. Approved by the WDNR on April 23, 2020, and adopted by the Waukesha County Board on _____.</i>

\\filecluster.wcg.waukeshacounty.gov\depts\PRKANDLU\Planning and Zoning\Rezones\Staff Reports\RZ65 School Section Lake Dam text exhibit owt.doc

EXHIBIT C

School Section Lake Dam Failure Analysis and Floodplain Rezoning

Response to Public Comments

Perry Lindquist, Land Resources Manager – Waukesha County Dept. of Parks & Land Use

Please accept this memo in support of Waukesha County's application for rezoning the floodplain downstream of the School Section Lake dam. The zoning request is based on a recent dam failure analysis completed to comply with NR 333 and NR 116 Wisconsin Administrative Code. Listed below are responses to some of the key comments and questions that were raised during the 8/24/2020 informational meeting and public hearing.

1. **Comment: This is a low hazard dam and therefore a dam failure analysis is not required.**

Response: Under NR 333 Wisconsin Administrative Code, all large dams (≥ 6 feet high/ ≥ 50 acre-foot storage) must complete a dam failure analysis, regardless of hazard class or dam repair grants. While the School Section Lake dam may meet the low hazard criteria, by code it remains classified as a high hazard dam until a dam failure analysis and downstream floodplain zoning (based on the analysis) has been approved by WDNR and incorporated into county zoning.

2. **Comment: The dam failure analysis is based on flawed data/modeling/maps.**

Response: All rainfall data has been recorded by local municipalities for over 100 years and is generally compiled, analyzed and published by federal agencies. The stream cross-sections and bridges were surveyed by licensed surveyors. The data inputs and modeling software state-of-the-art, based on empirical formulas, and follow WDNR standards. The presentation provided during the informational meeting explained how the data is compiled, what inputs are involved, and how the model works.

As for the maps, Waukesha County has some of the most detailed and accurate aerial photography (6-inch pixels), water resource delineations, and topographic maps (1-foot contours) available in the state. Yes, there are small drainage ditches that may not have been updated recently or displayed accurately on the County GIS system, but that does not mean the dam failure/floodplain modeling is flawed or inaccurate in any way. All critical stream reaches (main stems) are properly represented and connected in the hydrologic model, which is what drives the peak flow calculations and the floodway delineations. On the other hand, the drainage ditches are mostly located in the lower tributary reaches, which will be inundated under flood conditions (> 6 feet deep). Because of this, their specific location and connections are less important and their contribution to peak flows are negligible.

3. **Comment: Has a 10-day, 100-year rain event (9.76 inches) ever occurred in this area?**

Response: The short answer is yes. For example, from June 5-13, 2008 (9 days), the School Section Lake area received over 12 inches of rain, as shown in the map in Exhibit 1 (below). However, it is difficult to say how many times a 10-day, 100-year event has occurred because it is not common to report rainfall in this manner. Parts of Waukesha County have received several 100-year, 24-hour rain events since the late 1990s, which is a more common reporting unit. The 10-day, 100-year rainfall, as well as all other rain events published by NOAA are based on a

statistical analysis of all actual rainfall records from thousands of recording stations for more than 100 years. This data is then used to calculate the various recurrence intervals (i.e. 1-year, 10-year, 100-year) and durations (i.e. 2-hr. 24-hour, 10-day).

Per WDNR standards, the 10-day, 100-year event is used to create the starting point in the dam failure analysis. For School Section Lake, based on the capacity of the spillway, this design event causes the lake level to rise to the top of the earthen berm.

4. **Comment:** Our family has lived here for over 100 years and have never seen the water as high as the proposed floodplain zoning.

Response: The return frequency of the design storm in the analysis is 100 years, which fills the lake within a few inches of the top of the berm due to backwater from the spillway. While the lake is at this highest level, the analysis assumes a complete failure of the earthen berm, which has never occurred in the 82 years that it has existed. The analysis also assumes the Bark River watershed downstream is also experiencing a 100-year flood at the same time. No one has ever seen flooding at this level in short, because it has never happened. This analysis simply shows how bad the flooding would be if this combination of rare events were to ever occur.

5. **Comment:** Why was groundwater not studied as part of the dam failure analysis?

Response: While groundwater and surface water are certainly connected, a dam failure analysis does not require groundwater data. A dam failure is a short-term surface water event based on peak flows. There is no time for surface and groundwater interaction to occur, so groundwater elevation does not matter. The analysis is also based on a 10-day, 100-year rain event, so the ground is assumed to be saturated. High groundwater is well known in the floodplain zone in this area. The 98% correlation between the floodplain and high groundwater was discussed during the informational meeting. Because of the risk for basement flooding from high groundwater, most of these areas are already zoned with certain building restrictions. However, these restrictions are not comprehensive enough to meet the floodplain zoning standards mandated by state law through this zoning process.

6. **Comment:** The proposed floodplain zoning will contribute to the long-term degradation of the local drainage system, similar to the Kincaid wetland restoration downstream.

Response: Farming that relies on artificially lowering the water table through tile drains, ditches and sump pumps is high maintenance, and usually relies on downstream cooperation to make it work. School Section Creek ultimately flows into a large wetland complex bordering the Bark River, including the former Kincaid property. The main channel of the Bark River and School Section Creek have been heavily ditched in this area and are part of an old network of agricultural ditches and subsurface drainage systems. These systems are based on having adequate tile outfalls and positive drainage toward the Bark River (by gravity). Any downstream log jam, beaver dam, or other blockage will cause water to back-up in the ditches, possibly to a level that prevents discharge of water in the drain tiles – and ultimately creating poor growing conditions for most agricultural crops.

The Kincaid property was returned to its natural wetland condition by removing these drainage systems. However, as required under drainage law, the large ditch that carries water in School Section Creek to the Bark River remains along the south border of the property. But maintenance responsibilities for that ditch and others is unclear, as the local Drainage District has been inactive for many years. The general public is not obligated to maintain the drainage system. Comments at public hearing and in written testimony imply that the ditches are currently in disrepair. The dam failure analysis or the proposed rezoning do not mandate any changes to this drainage system. They simply show the distribution of surface water that would occur during a complete dam failure, as prescribed in state code. This risk zone has existed since the dam was constructed in 1938, but would now be recognized. The floodplain map revisions do not require changes to current land use (i.e. agriculture) in those areas. They also have no impact on future maintenance of the drainage systems as long as the floodplain is preserved.

7. **Comment: If the CTH Z bridge is confining flood flows in a dam failure scenario, and thus increasing the floodplain upstream, the bridge should be redesigned and replaced.**

Response: County highway bridges/stream crossings are usually designed to pass the peak flows involved in the 1% chance (100-year) flood without overtopping or having significant impact on flows. Review of the existing floodplain and flood profile maps at the CTH Z bridge shows the existing bridge has minimal impact on 1% chance peak flows (0.8 feet deep backwater on upstream side). Under the dam failure scenario, the bridge's impact on peak flows increases to approximately 2 feet backwater, but the bridge is able to pass the flows without overtopping. This demonstrates some restriction of the peak flows, and a limited expansion of the floodplain on the upstream side of the bridge. However, the bridge was designed and built more than 50 years before the dam failure analysis was completed. When the bridge needs to be replaced, the current floodplain and 1% chance peak flows will be considered in the design.

8. **Comment: School Section Lake property owners were given priority over downstream property owners. There should have been a public hearing before the dam was repaired.**

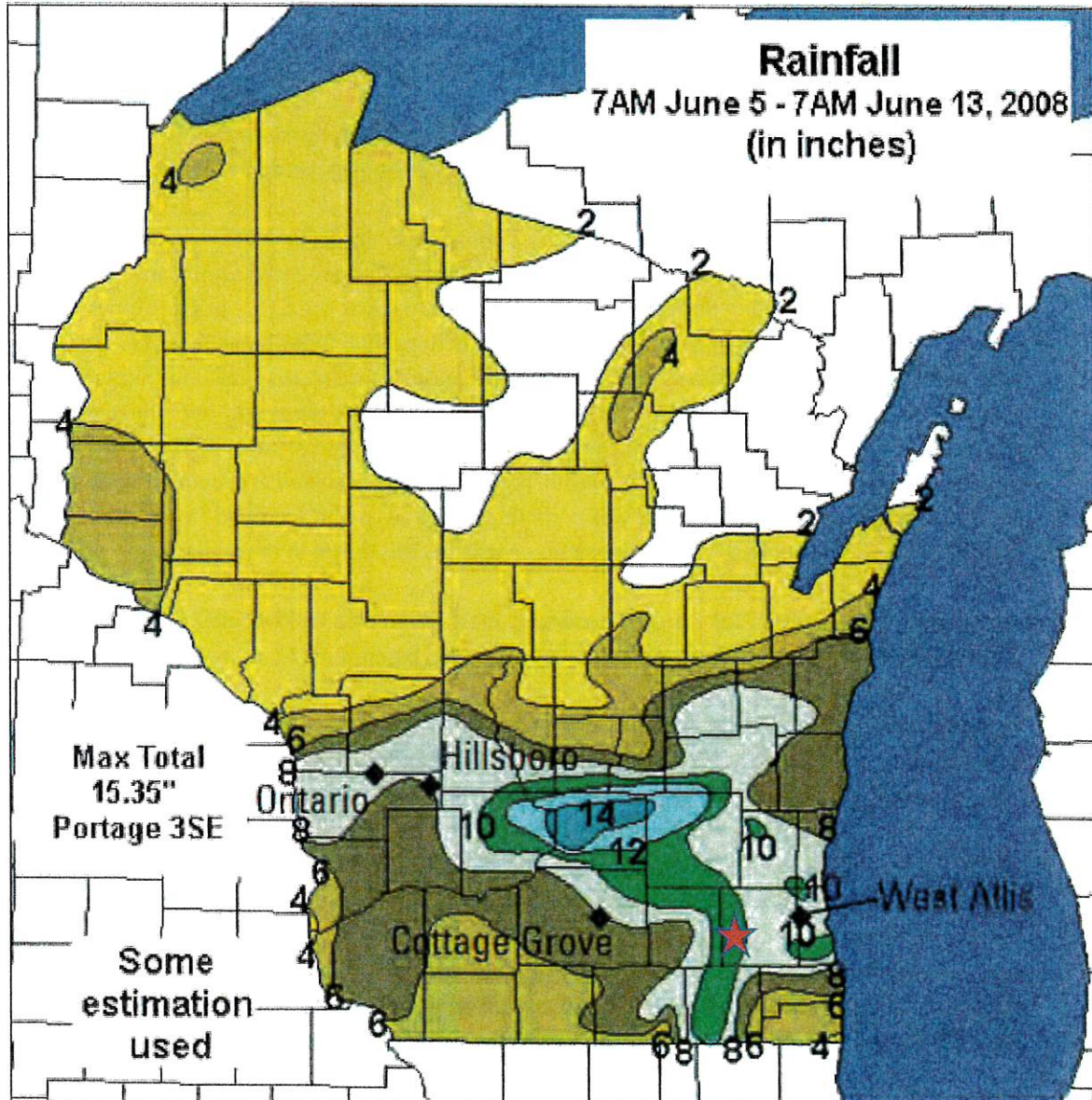
Response: When the partial dam failure occurred in January 2018, the County immediately completed an internal analysis on the pros and cons of dam repair. The analysis included the impacts on property values. There are currently 95 residential properties located within the School Section Lake District, all of which have direct or indirect private access to the lake. Together these properties had a total value over \$21 million in 2018. In addition, the County owns and maintains a boat launch on the north shore which is open to the general public. A primary reason the lake was built in the first place was to provide recreational opportunities to the general public. Plans to replace the launch were already underway when the dam failure occurred. The existing floodplain analysis also showed that, absent a dam failure, the lake provides some limited flood control protection for downstream properties (reduces peak flows from the upstream watershed during a 100-year event).

Not repairing the dam would have significant negative impact on the above noted property values and other uses of the lake. Downstream landowners would also be negatively affected by the increased flood flows. Conversely, as explained above, the impacts of repairing the dam and updating the floodplain should be negligible on the affected downstream properties. Most

of the affected lands are already in restricted zoning districts such as environmental corridor or high groundwater and no major structures are affected. As for a public hearing, current law does not require a public hearing to repair an existing dam. If a public hearing was held, it may have brought many of these facts to light, but would not have changed them.

Exhibit 1

Total 9-Day Rainfall Depths in Wisconsin: June 5-13, 2008



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S Webster Street
Madison WI 53703

Tony Evers, Governor
Preston D. Cole, Secretary
Telephone 608-286-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



Thursday, April 23, 2020

Mr. Chris Fandre, Parks Supervisor
Department of Parks and Land Use
515 W MORELAND BLVD STE 260
WAUKESHA WI 53188-2428

EXHIBIT "D"

Expedited delivery via email: parksinfo@waukeshacounty.gov

Subject: Dam failure analysis approval and hazard rating assignment for the School Section Lake Dam, Field File #: 67.40, Key Sequence #: 1027, Waukesha County.

Dear Mr. Fandre,

We are sending you this approval of the dam failure analysis and setting the hazard rating for the School Section Lake Dam. The hazard rating is being set as High Hazard due to the lack of adequate floodplain zoning within the dam failure floodplain (hydraulic shadow) downstream of the dam.

As a dam having an assigned High Hazard rating, the School Section Lake Dam must be capable of passing the 1000-year flood without overtopping.

Design flood routing was not provided by your consultant as part of the dam failure analysis, thus it is unclear if the dam is able to safely pass the required 1000-year flood without overtopping through its spillway as defined by NR 333, for a High hazard dam.

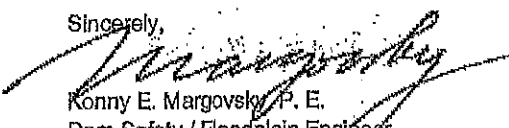
As a result of the study Waukesha County will have to adopt hydraulic shadow zoning downstream of the dam. The hydraulic shadow inundation area identified in the study must also be used in the development of the Emergency Action Plan (EAP) for your dam. Michelle M. Hase, P. E. in our Waukesha office will be assisting you in the adoption process and the development of the EAP.

Please note that currently there are no dwellings or critical infrastructure within the dam failure floodplain and once the required hydraulic shadow zoning has been adopted, you can request (in writing) that we lower the hazard rating to Low Hazard. If at the time of your request there is still no development in the hydraulic shadow, we will assign a new hazard rating of Low Hazard. The School Section Lake Dam as currently redesigned is able to safely pass the 100-year flood without overtopping.

If you have questions about this approval, please give me a call at 608-266-1925. If you have other questions pertaining to the operation and maintenance of your dam please contact Michelle M. Hase, P. E. at 262-282-0447, or via email at michelle.hase@wisconsin.gov.

Thank you for your continued cooperation.

Sincerely,


Konny E. Margovsky, P. E.
Dam Safety / Floodplain Engineer
Wisconsin Department of Natural Resources
Bureau of Watershed Management

Copy to: Michelle M. Hase, P. E. - Waukesha office, via email
Lef Hauge, P. E. - Waukesha County Land Resources Division, via email

**BEFORE THE
DEPARTMENT OF NATURAL RESOURCES**

IN THE MATTER of the approval of dam failure analysis and the assignment of the Hazard Rating for the School Section Lake Dam, located across the U/N Tributary to Bark River, in Waukesha County. Field File #: 67.40

FINDINGS OF FACT

1. The Department of Natural Resources (Department) has examined the dam failure analysis, for the School Section Lake Dam, across the U/N Tributary to Bark River, in the SW 1/4 of the NE 1/4 of Section 17, Township 06N, Range 17E, Waukesha County, Wisconsin.
2. The School Section Lake Dam is owned and operated by Waukesha County.
3. The dam failure analysis was performed by the Waukesha County Land Resources Division and the final version submitted to the Department on April 21, 2020.
4. Your consultant has determined that a rating of High Hazard would be appropriate for the dam and the area downstream of the dam.
5. Your consultant has further determined that there are no dwellings or other critical infrastructure within the dam failure floodplain (hydraulic shadow) downstream of the dam that would be inundated should the dam fail.
6. The current Flood Insurance Study (FIS) zoning in place downstream from the School Section Lake Dam is not adequate in providing sufficient protection of life, health and property.
7. Design flood routing was not provided by your consultant as part of the dam failure analysis, thus it is unclear if the dam can safely pass the required 1000-year flood without overtopping through its spillway as defined by NR 333, for a High hazard dam.
8. The analysis was performed in compliance with Wisconsin Administrative Codes NR 333, and NR 116.
9. The hazard rating meets the standards of Section NR 333.06, Wisconsin Administrative Code.

CONCLUSIONS OF LAW

1. The review has been conducted in accordance with Chapter 31, Wisconsin Statutes, and Chapters NR 333 and NR 116, Wisconsin Administrative Codes.
2. The Department has authority under Chapter 31, Wisconsin Statutes, and Chapter NR 333, Wisconsin Administrative Code, to assign a hazard rating.

ASSIGNMENT OF THE HAZARD RATING

1. The hazard rating of High Hazard is hereby assigned to the dam.
2. Your consultant has provided the hereby approved study narrative report in electronic format to Michelle M. Hase, P. E. in our Waukesha office. Relevant information of the approved analysis including: a) hydraulic shadow profile, b) dam failure floodway data table, and c) hydraulic shadow map will be sent to the Waukesha County by Michelle M. Hase, P. E. with the official letter requesting to adopt the study into the floodplain zoning ordinance.
4. An Emergency Action Plan (EAP) based on the approved dam failure analysis is required for your dam. Please submit an EAP to Michelle M. Hase, P. E. for review and approval by 10/23/2020.

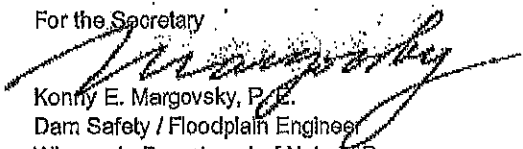
NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

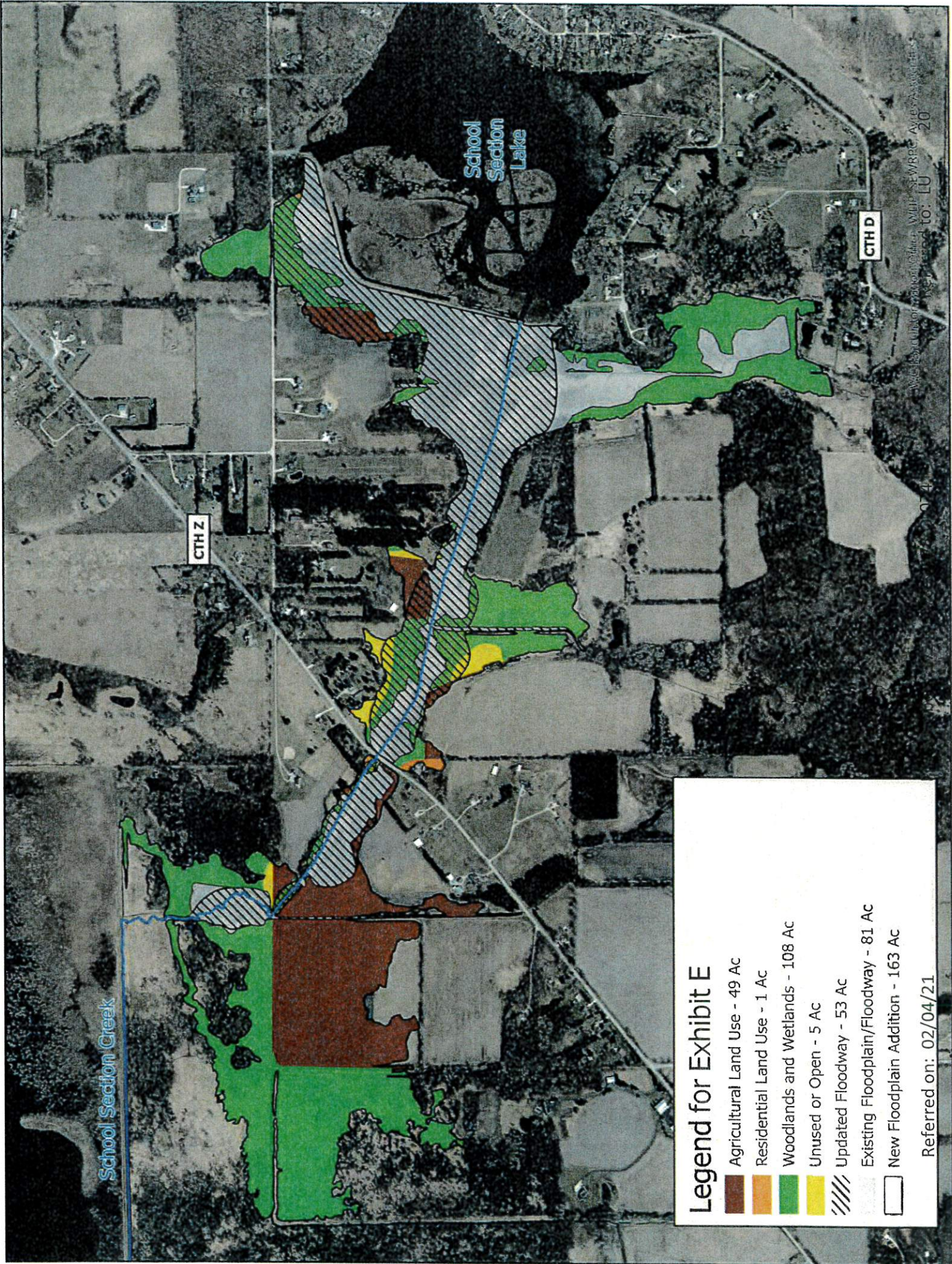
To request a contested case hearing pursuant to section 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. All requests for contested case hearings must be made in accordance with section NR 2.05(6), Wis. Adm. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing does not extend the 30-day period for filing a petition for judicial review.

This Decision was emailed on April 23, 2020

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Konny E. Margovsky, P.E.
Dam Safety / Floodplain Engineer
Wisconsin Department of Natural Resources
Bureau of Watershed Management



School Section Creek

School Section Lake

CTHZ

CTHD

Legend for Exhibit E

- Agricultural Land Use - 49 Ac
- Residential Land Use - 1 Ac
- Woodlands and Wetlands - 108 Ac
- Unused or Open - 5 Ac
- Updated Floodway - 53 Ac
- Existing Floodplain/Floodway - 81 Ac
- New Floodplain Addition - 163 Ac

Referred on: 02/04/21

www.tyler-tx.gov/tyler-wildlife-wetlands
 Prepared by: Tyler Wildlife Wetlands
 Date: 02/04/21

ROGAHN JONES

EXHIBIT "F"

December 6, 2020

Town of Ottawa Plan Commission
Ottawa Town Hall
W360 S3337 State Road 67
Dousman, WI 53118

Re: Plan Commission Meeting: 12/7/20
Proposed rezoning (RZ64)
Proposed ordinance amendment (RZ65)

Dear Commissioners:

We represent landowners (hereinafter Landowners) impacted by the proposed rezoning (RZ64) and the proposed ordinance amendment (RZ65) (hereinafter collectively referred to as the rezoning). The consideration of those matters was tabled at the November 2, 2020, meeting in order to allow the Landowners and the County additional time to reach an amicable resolution. Unfortunately, such a resolution has not been achieved to date.

The Landowners' position is, and has been:

- Many of the Landowners' families have invested in, improved and used for generations the lands that the County now seeks to rezone C-1.
- Applicable statutes and regulations DO NOT require the dam failure shadow to be zoned C-1; instead, they require only that appropriate "land use controls" be in place *"to reduce potential loss of life and property."*
- The Wisconsin Supreme Court has stated that Wisconsin public policy favors the free and unrestricted use of property and that zoning restrictions should be limited accordingly.
- The C-1 zoning would unnecessarily and excessively restrict Landowners' ability to use their land in the rezoned area. Indeed, Landowners have provided evidence that a rezoning to C-1 would likely cause damage to their properties that would render the properties unsuitable for their current uses.
- The unnecessarily restrictive zoning, and the damage that would be likely to occur as a result, would constitute a taking of land without fair compensation.

Rogahn Jones LLC N16W23233 Stone Ridge Drive, Suite 270, Waukesha, WI 53188
www.rogahnjones.com 262.347.4444

Ms. Hase of the WDNR is clear on two points. First, there are certain "land use controls" that must be in place in the dam failure hydraulic shadow; those controls are specified in applicable Wisconsin statutes and regulations. Second, it IS NOT necessary that the C-1 zoning district be adopted to satisfy those applicable Wisconsin statutes and regulations.

Thus, the issue for the Plan Commission should be: What "land use controls" should be adopted to best protect against potential loss of life or property downstream in the event of a dam failure? It is the downstream Landowners' position that the adoption of C-1 zoning is not the best choice of "land use controls" to accomplish the objectives of the controlling law.

In determining the appropriate "land use controls" to adopt, public policy of the State of Wisconsin must be considered. The Wisconsin Supreme Court has stated that Wisconsin public policy favors the free and unrestricted use of property and that zoning restrictions should be limited accordingly. The Court expressed this principle in *Forshee v. Neuschwander*, 2018 WI 62, ¶16, 381 Wis. 2d 757, 914 N.W.2d 643 (citations omitted) as follows:

Public policy of the State of Wisconsin "favors the free and unrestricted use of property." "Accordingly, restrictions contained in deeds and in zoning ordinances must be strictly construed to favor unencumbered and free use of property."

In view of the foregoing public policy, it is incumbent upon the Plan Commission to adopt *the least restrictive* "land use controls" that will accomplish the requirement: "*to reduce potential loss of life and property.*"

Ms. Hase has provided a copy of the WDNR's model floodplain ordinance. A copy is submitted herewith. According to Ms. Hase, that model ordinance includes all of the restrictions required by applicable Wisconsin and FEMA statutes and regulations.

Comparing the WDNR model floodplain ordinance with the C-1 zoning that the County seeks to impose, discloses that the C-1 zoning is significantly more restrictive. As such, the imposition of the C-1 zoning would violate Wisconsin public policy of favoring the free and unrestricted use of property. It would also run the risk of constituting a taking of private property without reasonable compensation.

As examples, and without limitation, the WDNR ordinance specifies significantly different restrictions for floodway areas (Section 3.0, et seq.) and floodfringe areas (Section 4.0, et seq.). The floodway standards and uses are significantly more restrictive than the floodfringe standards and uses. A floodway area is defined as "the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters. . . ." A floodfringe area is defined as that area "between the regional flood limits and the floodway. . . ." As disclosed by the County's submitted map of the hydraulic shadow, much of the land sought to be rezoned is floodfringe land.

The County's C-1 zoning does not make any distinctions between the restrictions in floodway and floodfringe areas. It applies the same restrictions to both floodway and floodfringe

areas. Therefore, the C-1 zoning is significantly more restrictive in floodfringe areas than it needs to be under controlling Wisconsin statutes and regulations.

As another example, the WDNR ordinance allows agricultural uses such as farming in both the floodway and floodfringe areas. The C-1 zoning is more restrictive in that it only allows "harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, etc." (Existing agricultural uses can be continued as legal non-conforming uses.)

Another example involves restrictions on maintaining existing drainage ditches and drain tiles. As conveyed in the Landowners' first letter to the Plan Commission, for over 100 years, an intricate system of drainage ditches, drain tiles and other water control measures has been developed and maintained in Ottawa Township to facilitate agricultural and other land uses. The proposed rezoning makes the continued maintenance of that system more difficult and possibly even economically unfeasible for the individual landowner. In particular, the C-1 zoning imposes restrictions on the disposition of spoils from the maintenance of drainage ditches, drain tiles and other water control measures. The WDNR ordinance does not include such restrictions.

If existing drainage flows cannot be maintained, land areas that are currently used for agricultural and other purposes will become saturated and will no longer be suitable for their current agricultural or other uses. By altering and inhibiting drainage in the area proposed to be rezoned, land areas adjacent to the rezoned areas will, as a result, have their drainage inhibited, resulting in a likely rise in water levels and potential damage to both land and structures.

The proposed rezoning is likely to result in increased water levels in the rezoned area and in adjacent areas, rendering the continued current use of those properties impossible. That circumstance would arguably constitute a taking of property for which the affected landowners would be entitled to compensation.

The Landowners appreciated the opportunity to meet with County staff in an effort to resolve their differences amicably. Unfortunately, it appeared to Landowners' counsel that the County staff was more interested in trying to convince him that the C-1 zoning was the only option, than in trying to explore compromise options involving other "land use controls" that would satisfy applicable statutes and regulations.

In his letter of December 3, 2020, Mr. Fruth suggests that the creation of a new zoning district would be duplicative, cumbersome and possibly confusing. The WDNR ordinance demonstrates the fallacy of Mr. Fruth's suggestion. The WDNR recognizes that the floodway and floodfringe areas are different and that differing zoning restrictions should be applied to those areas. The WDNR ordinance has created distinct zoning districts, with distinct and differing restrictions, which are not duplicative, cumbersome or confusing.

The County is the petitioner seeking a zoning change. The requested zoning change to C-1 has been shown to be a zoning change that is significantly more restrictive than the applicable statutes and regulations require for a dam failure shadow. As such, the requested zoning change

violates Wisconsin public policy favoring the free and unrestricted use of property and limiting zoning restrictions accordingly.

Moreover, the additional restrictions of the C-1 classification would, without limitation, make it harder for landowners to maintain their properties, would likely lead to permanent flooding of the properties and be an effective taking of the properties without compensation. Thus, the additional restrictions of the C-1 classification do not "*reduce potential loss of life and property*." Instead, those additional restrictions increase the likelihood of damage to landowners.

For the foregoing reasons, it should be incumbent on the County, the petitioner, to submit a proposal for "land use controls" that are limited to those required by applicable statutes and regulations. The County's current request to change the zoning to C-1 does not satisfy that standard for the foregoing reasons. Therefore, the County's request should be denied. It is respectfully requested that the Plan Commission so declare.

Landowners remain available and willing to discuss agreeable land use controls that would satisfy applicable statutes and regulations, while preserving the existing rights of Landowners in their properties to the greatest extent within the law.

Thank you for your consideration.

Respectfully submitted,

Rod Rogahn

Rod Rogahn

Landowners represented:

Kim and Mark Ridgman
Bill Zach
Jason Bennett
Warren Mundschau
Bill Mundschau
George Mundschau
Ralph and Janet Foltz
Marcia Herr
Denise Foltz
Jerome Foltz
Gary Kincaid
Dan Pape

RECEIVED

DEC 22 2020

County Clerk's Office
Waukesha, WI 53188

PETITION

The Waukesha County Parks and Planning Commission, 515 W. Moreland Blvd, Waukesha, WI 53188, has asked to rezone certain property in the Town of Ottawa (RZ64), and to amend the text of the Waukesha County Shoreland and Flood Land Protection Ordinance in conformance with said rezoning request (RZ65).

Please be advised that I object to, and oppose, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 be denied, and not adopted, by, without limitation, the Town of Ottawa Plan Commission, the Ottawa Town Board, the County Zoning Agency and the Waukesha County Board. I further respectfully request that the Ottawa Town Board pass a resolution disapproving requests RZ64 and RZ65.

Name	Address	Signature	Date
Marcia Herr	W908 Herr Rd. Sullivan, WI 53198	Marcia Herr	Oct. 4, 2020
Mark Ridgman	542 W 395th Hwy Dodgeville, WI 53530	<i>[Handwritten Signature]</i>	10-4-2021

PETITION

The Waukesha County Parks and Planning Commission, 515 W. Moreland Blvd, Waukesha, WI 53188, has asked to rezone certain property in the Town of Ottawa (RZ64), and to amend the text of the Waukesha County Shoreland and Flood Land Protection Ordinance in conformance with said rezoning request (RZ65).

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Name	Address	Signature	Date
Mark Foltz	Madison, WI	Mark Foltz	10/1/2020
MARTIN FOLTZ	N3468 HANCOCK RD Dousman, WI	Mark Foltz	10/1/2020
MAESHA PONCZ	KOWSKI SPRING COUNTRY	Maesha Poncz	10/2/2020
Jane Foltz	Dousman, WI	Jane Foltz	10/2/2020
Ralph Foltz	Dousman	Ralph Foltz	10/24/2020
MARTIN FOLTZ	Dousman	Martin Foltz	10/23/20
Shen Foltz	Dousman	Shen Foltz	10/3/20
Rachelle Bennett	W389 S3183 HWY 2 Dousman, WI	Rachelle Bennett	10/3/20
Jason Bennett	W389 S3183 HWY 2 Dousman, WI 53118	Jason Bennett	10-3-20
Scott Lindsay	236 E Ottawa Ave Dousman WI 53118	Scott Lindsay	10-03-2020
Kim Lindsay	236 E OTTAWA AVE Dousman, WI 53118	Kim Lindsay	10-3-2020
Rhonda Shavstir	Dousman	Rhonda Shavstir	10-3-2020
Debra Behm	Dousman, WI	Debra Behm	10-3-2020

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DEC 22 2020

County Clerk's Office
Waukesha, WI 53188

School Section Lake rezone update 12-4-20

I am submitting this as a response to the letter that I received from Mr Booth that he received from the county on Thursday or Friday. I would add that I was not contacted or invited to participate in the meeting and nor was anyone in our group. To get this in the last hour and expect to respond before the meeting is a little concerning in itself. Either way my/our opinion has not really changed that much from my 11-16-20 letter.

If you read the letter submitted by the county and their interpretation of what they are saying Ms. Hase said is still distorted. Of course the counties zoning is in compliance. It's totally over the top. She is again specifically saying or using the words "dam failure shadow". Her email correspondence says flood fringe and the area is called "dam failure floodplain" All going back to what I have been saying all along. Not c-1, not just blanketed flood plain. An area not to be developed as it will flood if there is a dam failure. I get we have to recognize an area in the event of a dam failure and all I want is something specific to that.

The counties reluctance to cooperate in this and saying it would be confusing, cumbersome, duplicative to have an ordinance for people downstream is bologna. The mapping is done, change the color, take out the unrequired the c-1 and permanence of blanketed flood plain restriction/verbage, let the underling zoning in place remain and tada. . I do not want to allow permission for my property to be permanently flooded and will fight for it. I do not know why this has to be so difficult unless of course there are ulterior motives like a Pleasant Valley master plan at play here

I hope you consider this and deny the request. As the voice for the people you represent and I being the voice for our group, it is only right and or fair. We didn't ask for all this, been here 100 years and haven't had a problem. Dam has broke twice and no one's house got washed away. There's more than enough current protective covenants in place already. You all know this. There is no way the town or county would ever allow a building permit to be pulled in any of these areas already. It is our land and should have a say in how it is treated, especially when there is a common goal in mind. If some blanketed overreaching zoning ordinance needs to be changed some it should be. So other than needing to do this supposedly required study/mapping and pay for the grant that for some reason the lake association is totally absolved from but gets all the benefit is

Respectfully Bill Zach

RECEIVED

DEC 22 2020

County Clerk's Office
Waukesha, WI 53188

PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

This Protest relates to the request (RZ64) of the Waukesha County Parks and Planning Commission, 515 W. Moreland Blvd, Waukesha, WI 53188, to rezone certain property in the Town of Ottawa, and to amend the text of the Waukesha County Shoreland and Flood Land Protection Ordinance in conformance with said rezoning request (RZ65).

Please be advised that I object to, and Protest, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 not be adopted.

I am the owner of property, having the following tax identification number: ; said property consists of 200 acres. The area of my said property within the area proposed to be altered by RZ64 is 5 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is 500 feet.

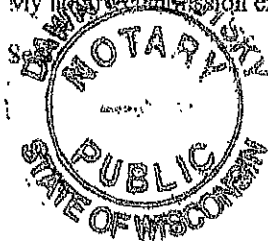
Dated this 8 day of Oct, 2020.

Gary Kincaid
Printed Name: GARY KINCAID

This document was acknowledged before me by

Gary D. Kincaid
on this 8th day of October, 2020.

Dawn M. Karty
My notary commission expires 1-26-21



PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

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Please be advised that I object to, and Protest, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 not be adopted.

I am the owner of property, having the following tax identification number:

OTWT 1653995 ; said property consists of 40 acres. The area of my said property within the area proposed to be altered by RZ64 is 13.36 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 3rd day of oct 2020.

Mark Ridgman

Printed Name: Mark Ridgman

This document was acknowledged before me by

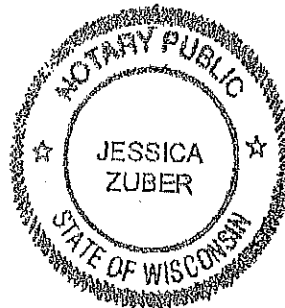
Mark Ridgman

on this 3 day of Oct 2020.

Jessica Zuber

My notary commission expires: 10-9-23

Seal.



PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

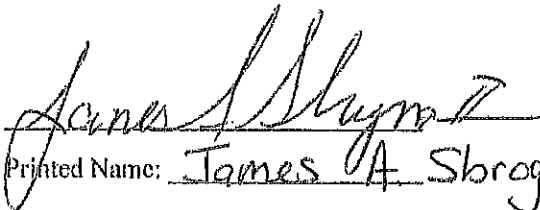
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Please be advised that I object to, and Protest, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 not be adopted.

I am the owner of property, having the following tax identification number:

87601164994; said property consists of 4.95 acres. The area of my said property within the area proposed to be altered by RZ64 is 0.17 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 3 day of Oct. 2020.


Printed Name: James A. Sbrogna II

This document was acknowledged before me by

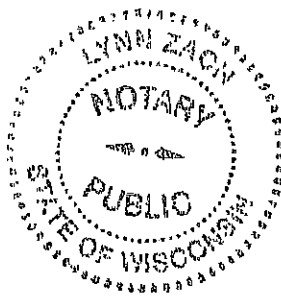
James Sbrogna

on this 3 day of October 2020.

Lynn Zach

My notary commission expires: 2/5/24

Seal.



PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

This Protest relates to the request (RZ64) of the Waukesha County Parks and Planning Commission, 515 W. Moreland Blvd, Waukesha, WI 53188, to rezone certain property in the Town of Ottawa, and to amend the text of the Waukesha County Shoreland and Flood Land Protection Ordinance in conformance with said rezoning request (RZ65).

Please be advised that I object to, and Protest, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 not be adopted.

I am the owner of property, having the following tax identification number:

OTW 1650999001; said property consists of _____ acres. The area of my said property within the area proposed to be altered by RZ64 is 0.32 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 3 day of OCT 2020.

Mat Yunk
Printed Name: Mat Yunk

This document was acknowledged before me by

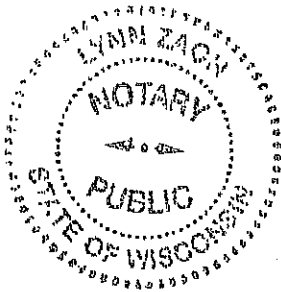
Mat Yunk

on this 3 day of October 2020.

Lynn Zagon

My notary commission expires: 7/5/24

Seal.



PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

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Please be advised that I object to, and Protest, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 not be adopted.

I am the owner of property, having the following tax identification number:

61671653990; said property consists of 14.728 acres. The area of my said property within the area proposed to be altered by RZ64 is 0.83/039 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 3 day of October 2020.

Dennis L Foltz
Printed Name: Dennis Foltz

This document was acknowledged before me by

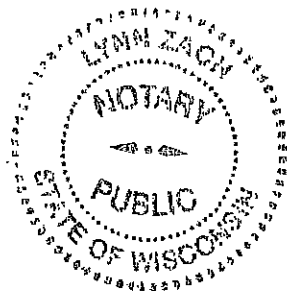
Dennis Foltz

on this 3 day of October 2020.

Lynn Zach

My notary commission expires: 7/5/24

Seal.



PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

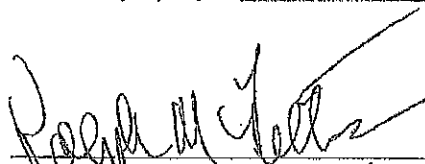
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Please be advised that I object to, and Protest, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 not be adopted.

I am the owner of property, having the following tax identification number:

01011650994; said property consists of 2.5 acres. The area of my said property within the area proposed to be altered by RZ64 is 2.24/100 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is TBD feet.

Dated this 3 day of October 2020.


Printed Name: RALPH FOLTZ

This document was acknowledged before me by

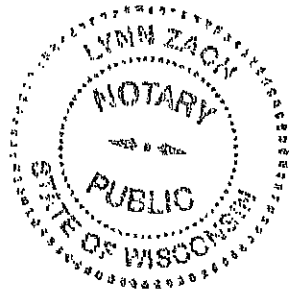
Ralph Foltz

on this 3 day of October 2020.

Lynn Zack

My notary commission expires: 7/5/24

Seal.



PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

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COUNTY OF WAUKESHA)

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Please be advised that I object to, and Protest, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 not be adopted.

I am the owner of property, having the following tax identification number:

OTLWT 1653994001; said property consists of 2.5 acres. The area of my said property within the area proposed to be altered by RZ64 is .39 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 03 day of October 2020.



Printed Name: WARREN MUNDSHAW

This document was acknowledged before me by

Warren Mundshaw

on this 3 day of October, 2020.

Lynn Zacc

My notary commission expires: 7/5/24

Seal.



PROTEST

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I am the owner of property, having the following tax identification number:

OTWT 1653997001 ; said property consists of 10 acres. The area of my said property within the area proposed to be altered by RZ64 is .52 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 04 day of OCTOBER 2020.

William Mundschaun

Printed Name: WILLIAM MUNDSCHAUN

This document was acknowledged before me by

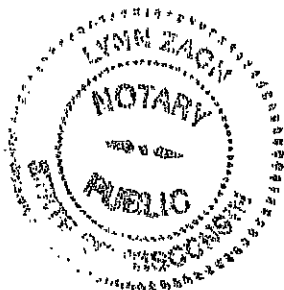
William Mundschaun

on this 4 day of October 2020.

Lynn Jacob

My notary commission expires: 7/5/24

Seal.



PROTEST

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)
COUNTY OF WAUKESHA)

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I am the owner of property, having the following tax identification number:

OTWT 1653P97; said property consists of 15 acres. The area of my said property within the area proposed to be altered by RZ64 is .36 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 04 day of OCTOBER 2020.

George Mundschau
Printed Name: GEORGE MUNDSCHAU

This document was acknowledged before me by

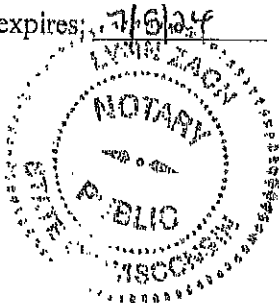
George Mundschau

on this 4 day of October 2020.

[Signature]

My notary commission expires; 7/9/24

Seal.



PROTEST

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COUNTY OF WAUKESHA)

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I am the owner of property, having the following tax identification number:

OTWT 1650995 ; said property consists of 5.263 acres. The area of my said property within the area proposed to be altered by RZ64 is .799 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 4th day of Oct. 2020.

Marcia Herr
Printed Name: Marcia Herr

This document was acknowledged before me by

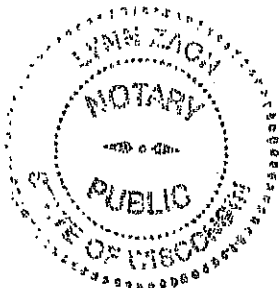
Marcia Herr

on this 4th day of October 2020.

[Signature]

My notary commission expires: 7/5/24

Seal.



PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)

This Protest relates to the request (RZ64) of the Waukesha County Parks and Planning Commission, 515 W. Moreland Blvd, Waukesha, WI 53188, to rezone certain property in the Town of Ottawa, and to amend the text of the Waukesha County Shoreland and Flood Land Protection Ordinance in conformance with said rezoning request (RZ65).

Please be advised that I object to, and Protest, the foregoing requests, RZ64 and RZ65. I respectfully request that RZ64 and RZ65 not be adopted.

I am the owner of property, having the following tax identification number:

OTWT 1651999 ; said property consists of 140,000 acres. The area of my said property within the area proposed to be altered by RZ64 is 3.13 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 4th day of Oct. 2020.

Marcia Herr
Printed Name: Marcia Herr

This document was acknowledged before me by

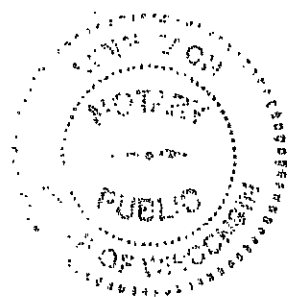
Marcia Herr

on this 4 day of October 2020.

Gina Jack

My notary commission expires: 7/6/24

Seal.



PROTEST

Pursuant to Waukesha County Basic Zoning Ordinance Section 20.02(8)

STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA)


This Protest relates to the request (RZ64) of the Waukesha County Parks and Planning Commission, 515 W. Moreland Blvd, Waukesha, WI 53188, to rezone certain property in the Town of Ottawa, and to amend the text of the Waukesha County Shoreland and Flood Land Protection Ordinance in conformance with said rezoning request (RZ65).

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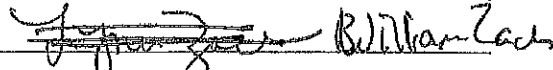
I am the owner of property, having the following tax identification number:


~~1649997~~ 1649997002; said property consists of 79 acres. The area of my said property within the area proposed to be altered by RZ64 is 3.13 acres. The length of the frontage of the area that is proposed to be altered by RZ64 that lies immediately adjacent to (i.e., immediately in the rear or along the side boundaries thereof within three hundred feet (300) of the area proposed to be altered) my said property is _____ feet.

Dated this 4 day of October 2020.


Printed Name: William Zach

This document was acknowledged before me by


on this 4 day of October 2020.


My notary commission expires: 7/5/24

Seal.



EXHIBIT "G"

Fact Sheet School Section Lake Dam Repair & Floodplain Rezone

Background on the Lake and Dam:

School Section Lake is located in Sections 16 and 17, Town of Ottawa, Waukesha County, WI. It is a 122-acre impoundment of School Section Creek (locally known as School Section Ditch), which drains to the Bark River. The lake was created in 1938 as a Works Progress Administration (WPA) project to provide public recreation opportunities. A 3,000-foot long earthen berm was constructed on the west side of the lake, and a 22-foot wide concrete outlet structure was built with wood stop logs ("spillway") to control the lake's water level and the outflow to the creek. The total height of the stop logs is 41.3 inches, while the earthen berm ranges from 0-10 feet high (measured from the bottom of the back slope to the top of the berm). The site became the first Waukesha County Park in 1939, and the County has maintained the earthen berm, spillway and adjacent boat launch on the north end of the lake ever since.



Dam Breach

On January 25, 2018, a 20-foot wide gully formed on the earthen berm about 400 feet north of the spillway, believed to be caused by muskrat burrows from both sides of the berm. As the flow through the gully was not more than 1-foot deep, it is considered a partial dam failure.

To prevent further damage to the berm from the breach, the County immediately started to remove stop logs from the spillway to draw down the lake level. The boat launch was closed to public access until the dam could be repaired. A

technical advisory team was assembled in February 2018 to ensure good communication among conservation agencies, lake residents, and local elected officials. The team also coordinated the dam repair project with other related activities, such as: replacing the boat launch, managing lake access and fish populations, and controlling aquatic invasive species.

Dam Repairs

In January of 2019, vinyl sheet piling was installed to a 12-foot depth on the earthen berm from the spillway to 525 feet to the north, near the small peninsula/vehicle turn-around area. The water tight sheet piling is also designed to repel muskrats. In spring 2019, the concrete on the upstream face of the spillway was also repaired, all the wood stop logs were replaced, and the water surface elevation of the lake was brought back to the regulated elevation of 852.85 feet NAVD88. Total cost of repairs were \$135,881. The County was awarded a 50% state grant (DNR) to help cover the costs of repairs.

DNR Dam Regulations

Because dam failure can represent a significant danger to the public, the regulation of dams in Wisconsin has a rich history dating back to 1917. To prevent failure, new dams are required to meet certain state design and construction standards. State permits are required for all dam construction or repairs,

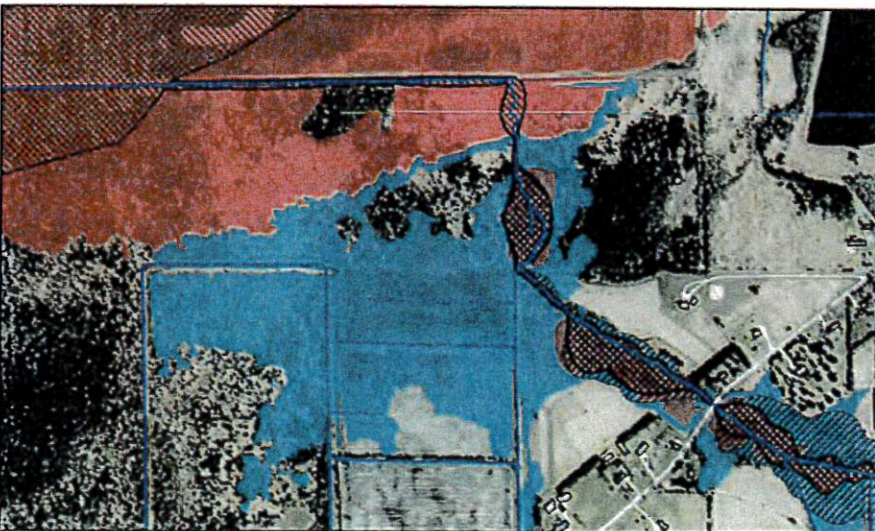
including this repair to the School Section Lake dam. All dam permits and grants must comply with DNR dam regulations, as described in more detail below.

Dam Failure Analysis

A "dam failure analysis" (DFA) is prescribed in Chapter NR 333 Wisconsin Administrative Code, and must be conducted for all large dams, including School Section Lake. The primary purpose is to identify the potentially affected areas downstream in case a complete dam failure were to occur. A DFA uses local rainfall records and upstream watershed and stream characteristics to calculate peak flows involved in the 10-day, 100-year flood event (1% chance of occurring in any given year). These flows are then routed through the existing lake with the assumption that a complete failure of the dam occurs while the lake level is at its highest elevation (near the top of the berm). The resulting peak flood flows are then matched to actual downstream channel cross-section dimensions and stream gradient to produce a floodplain map, referred to in state code as the "hydraulic shadow" of the dam.

Floodplain Zoning

To minimize potential loss of life and property damage downstream of dams, Chapter NR 116 Wisconsin Administrative Code requires the floodplain/hydraulic shadow of a dam to be zoned and regulated by municipalities with floodplain zoning ordinances. This type of zoning prevents residences and other structures from being built within this risk area, and provides standards for other development in order to preserve the flood storage and prevent downstream impacts. It does not prevent the floodplain area from being used for other purposes such as agriculture, parks or recreation. However, filling is restricted and maintenance of ditches will require spoils to be graded out to prevent loss of floodplain storage.



For School Section Lake, the hydraulic shadow adds 163 acres to the existing floodplain (light blue) and 54 acres to the existing floodway (diagonal hatching only).

"Floodplain" means these areas will likely contain standing water during a total dam failure. "Floodway" means the floodwater will likely have a current

in these areas during a total dam failure. Land use in the 163 acres (see attached map) includes 108 acres woodland/wetland (66%), 49 acres agricultural (30%) agricultural, 5 acres unused/open space (3%), and 1 acre residential (0.6%). No structures currently exist in either the proposed floodplain or floodway areas.

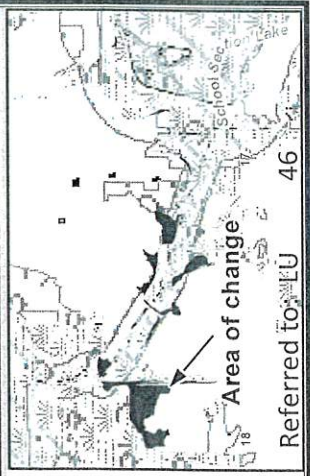
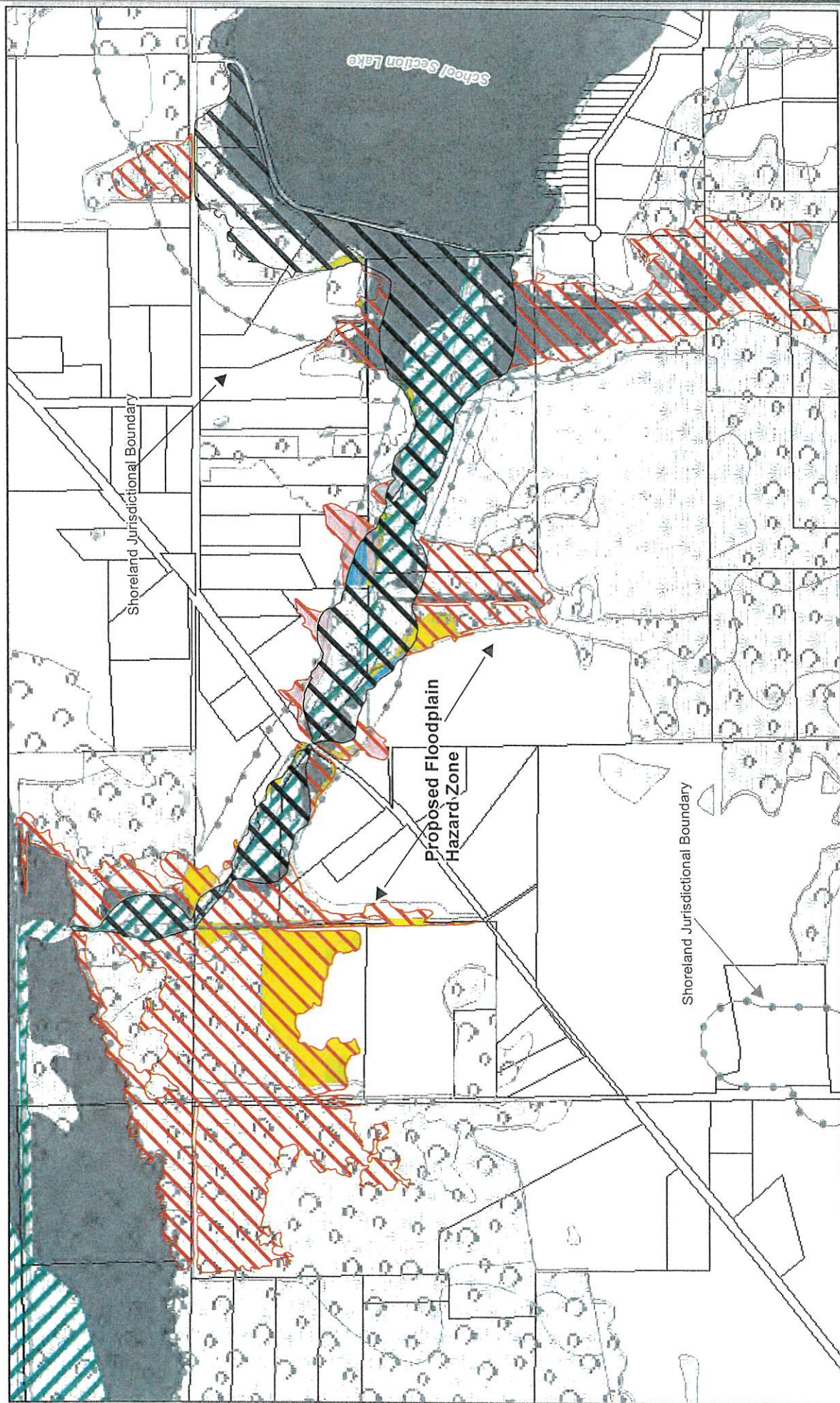
The updated floodplain map is recognizing what already exists. If the School Section Lake dam were to completely fail, best available science shows this is the area that would be affected. Since the dam has never experienced a complete failure in its 82 year history, local residents may not have seen flood waters to this level before. On a related note, for any structure built in the mapped floodplain, basement flooding is a threat regardless of a dam failure because 98% of the area is made up of seasonal high groundwater soils.

TABLE A - OVERLAY DESIGNATIONS AND ACREAGES

TAX KEY	SITE ADDRESS	OWNER NAME	POSTAL ADDRESS	ZONING OF LANDS AFFECTED BY DAM FAILURE SHADOW	TYPE OF PROPOSED C-1 OVERLAY DESIGNATION	ACREAGE OF EACH ZONING DISTRICT OR OVERLAY DESIGNATION AFFECTED BY DAM FAILURE SHADOW
OTWT164999001	DEAN KINCAID INC	DEAN KINCAID INC	N2028 HWY 106, PALMYRA, WI 53156	HG	Floodplain	0.55
OTWT164999002	THE ROUGHRIDERS REVOCABLE TRUST	THE ROUGHRIDERS REVOCABLE TRUST	S30W38010 SCHOOL SECTION LAKE RD, DOUSMAN, WI 531189616	HG/ROW	Floodplain	.01(HG); .19(ROW)
OTWT164999003	DANIEL W HICKS	DANIEL W HICKS	S31W38099 SCHOOL SECTION LAKE RD, DOUSMAN, WI 531189550	AD-10/ROW	Floodway	.14(AD-10); .03(ROW)
OTWT164999004	JARED S WARTINBEE	JARED S WARTINBEE	S41W35751 COUNTY ROAD C, DOUSMAN, WI 531189529	HG/RRD-5	Floodplain	.03(HG); .01(RRD-5)
OTWT164999005	BILL J SWARTWOUT AND LISA J SWARTWOUT	BILL J SWARTWOUT AND LISA J SWARTWOUT	S31W38449 SCHOOL SECTION LAKE RD, DOUSMAN, WI 531189550	HG/RRD-5	Both	.3(HG, Floodway); .02(RRD-5, Floodway)
OTWT164999006	WAUKESHA COUNTY AND COUNTY TREASURER	WAUKESHA COUNTY AND COUNTY TREASURER	515 W MORELAND BLVD STE 148, WAUKESHA, WI 531882428	HG	Floodway	.07(HG, Floodplain); .019(RRD-5, Floodplain)
OTWT164999007	WILLIAM A ZACH	WILLIAM A ZACH	S31W38775 SCHOOL SECTION LAKE RD, DOUSMAN, WI 531189549	HG/A-5	Both	0.09
OTWT164999008	WILLIAM A ZACH	WILLIAM A ZACH	S31W38775 SCHOOL SECTION RD, DOUSMAN, WI 531189549	HG/A-5	Both	1.66(A-1, Floodplain); .73(HG, Floodway)
OTWT1650994	RALPH M FOLTZ	RALPH M FOLTZ	W38853180 CTH Z, DOUSMAN, WI 53118	HG/A-T	Both	2.24(A-5, Floodplain); .016(HG, Floodway)
OTWT1650995	JOHN C HERR AND MARCIA HERR REVOCABLE TRUST	JOHN C HERR AND MARCIA HERR REVOCABLE TRUST	W709 HERR RD, SULLIVAN, WI 531789643	HG/A-5	Both	.02(ROW, Floodway)
OTWT1650996	MATT J YUNK AND SHARON A YUNK LIVING TRUST	MATT J YUNK AND SHARON A YUNK LIVING TRUST	S31W38655 SCHOOL SECTION LAKE RD, DOUSMAN, WI 531189549	HG/A-5/AD-10	Both	.22(HG, Floodplain); .15(A-5, Floodplain); .41(AD-10, Floodplain)
OTWT1651999	JOHN C & MARCIA HERR REVOCABLE TRUST EST 1-12-05	JOHN C & MARCIA HERR REVOCABLE TRUST EST 1-12-05	W295 HERR RD, DOUSMAN, WI 53118	A-5	Floodplain	.019(ROW, Floodway)
OTWT1653285	FOLTZ FARM FAMILY (REVOCABLE TRUST)	FOLTZ FARM FAMILY (REVOCABLE TRUST)	W38953199 CTH Z, DOUSMAN, WI 53118	HG/A-5/AD-10	Both	.15(AD-10, Floodplain); .24(A-5, Floodplain); 1.64(HG, Floodplain)
OTWT1653990	DENNIS FOLTZ AND CAROL FOLTZ	DENNIS FOLTZ AND CAROL FOLTZ	PO BOX 74, DOUSMAN, WI 53118	HG/ROW	Both	.67(HG, Floodway); .26(A-5, Floodway); .17(AD-10, Floodway)
OTWT1653991	WARREN W MUNDSCHAU	WARREN W MUNDSCHAU	W39853835 HARDSCARABLE RD, DOUSMAN, WI 53118	HG	Both	.19(HG, Floodway)
OTWT1653992	MARK RIDGMAN	MARK RIDGMAN	S47W39551 CTH Z, DOUSMAN, WI 53118	HG	Floodplain	.83(HG Floodplain); .034(HG, Floodway)
OTWT1653993	GEORGE MUNDSCHAU	GEORGE MUNDSCHAU	W39153285 CTH Z, DOUSMAN, WI 53118	HG/A-5	Floodplain	13.36
OTWT1653994	WILLIAM MUNDSCHAU	WILLIAM MUNDSCHAU	W39053231 COUNTY ROAD Z, DOUSMAN, WI 531189548	HG/A-5	Floodplain	.33(HG); .086(A-5)

FROM CATEGORY	TO C-1 OVERLAY CATEGORY	ACRES	COMMENTS
A-T	C-1 OVERLAY	1.66997431	non C-1 to C-1 Overlay/floodplain
HG	C-1 OVERLAY	18.40684011	non C-1 to C-1 Overlay/floodplain
AD-10	C-1 OVERLAY	0.52697928	non C-1 to C-1 Overlay/floodplain
A-5	C-1 OVERLAY	3.72891377	non C-1 to C-1 Overlay/floodplain
RRD-5	C-1 OVERLAY	0.03067812	non C-1 to C-1 Overlay/floodplain
HG	C-1 OVERLAY	2.33034301	non C-1 to C-1 Overlay/floodway
A-T	C-1 OVERLAY	0.91342952	non C-1 to C-1 Overlay/floodway
A-5	C-1 OVERLAY	0.37726926	non C-1 to C-1 Overlay/floodway
AD-10	C-1 OVERLAY	0.3172467	non C-1 to C-1 Overlay/floodway

ACRES	
Total in floodplain:	24.36338559
Total in floodway:	3.93328849
Grand Total:	28.29667408
Non HG:	7.55945096
HG:	20.73718312



Prepared by the *Waukesha County Department of Parks and Land Use* File Number: **175-O-073 & 175-O-074**

	Proposed Floodway		Wetland Overlay District
	Proposed Floodplain		Environmental Corridor Overlay District
	HG remains with C-1 overlay applied		Existing Floodplain
	Non C-1 to become C-1 Overlay/Floodplain		Existing Floodway
			Non C-1 to become C-1 Overlay/Floodway

Scale: 0, 500, 1,000 Feet

Zoning Amendment

RZ64

Part of Section 7, 17, and 18
Town of Ottawa
Referred on: 02/04/21

Referred to LU 46

1 REPEAL AND RECREATE TABLE 6(b)1.B.ii. OF THE WAUKESHA COUNTY SHORELAND
2 AND FLOODLAND PROTECTION ORDINANCE TO INCORPORATE THE
3 SCHOOL SECTION LAKE DAM FAILURE STUDY (RZ65)
4
5

6 WHEREAS, the Waukesha County Board of Supervisors enacted the Waukesha County
7 Shoreland and Floodland Protection Ordinance on January 23, 1970; and
8

9 WHEREAS, the Waukesha County Board of Supervisors may make amendments to such
10 Ordinance pursuant to Section 59.692; and
11

12 WHEREAS, the matter of this Ordinance having been duly referred to and considered by the
13 Waukesha County Park and Planning Commission, after Public Hearing and the giving of
14 requisite notice of said hearing and the recommendation thereon reported to the Land Use,
15 Parks and Environment Committee and the Waukesha County Board of Supervisors, as required
16 by Section 59.692, Wis. Stats.
17

18 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Table
19 6(b)1.B.ii. of the Waukesha County Shoreland and Floodland Protection Ordinance is repealed
20 and recreated to read as follows:
21

22 **Table 6(b)1.B.ii.**
23

24 **List of Official Maps Based Upon Other Studies to be Used in Conjunction with the Waukesha**
25 **County Shoreland and Floodland Protection Ordinance Zoning Maps is as follows:**
26

- 27 1. Dam Failure Analysis and Emergency Action Plan for Wambold and Kroll Dams on Eagle
28 Spring Lake, prepared by Graef, Anhalt, Schloemer & Associates, Inc., revised April 2002.
29 Approved by the WDNR in April of 2002 and adopted by the Waukesha County Board on
30 April 13, 2004.
31
- 32 2. Dam Failure Analysis and Proposed Dam Capacity Analysis-Monches Dam, Hey and
33 Associates, Inc., April 17, 2006; amended on October 13, 2006 by Hey and Associates,
34 Inc.; further amended on May 17, 2011 by the Waukesha County Department of Public
35 Works; and further amended by R.A. Smith National on January 19, 2012. Approved by
36 the WDNR on January 24, 2012 and adopted by the Waukesha County Board on March
37 27, 2012.
38
- 39 3. Dam Failure Analysis – Monterey Dam, prepared by Kunkel Engineering Group, LLC on
40 September 2, 2011. Approved by the WDNR and adopted by the Waukesha County
41 Board on December 18, 2012.
42
- 43 4. Dam Failure Analysis – Mukwonago Dam, prepared by Mead & Hunt, June 2012.
44 Approved by the WDNR on July 11, 2012 and adopted by the Waukesha County Board
45 on November, 26, 2013.

- 46
47 5. Waukesha County Flood Storage District Maps, Panels 1, 2, 3, 4, 5, 6, 7, 8, 11, 12. Dated
48 November 05, 2014. Prepared by the WDNR. Approved by the WDNR.
49
50 6. Revised Waukesha County Flood Storage District Map Panel 3 and 3A. Prepared by SEH
51 on December 22, 2015. Approved by the WDNR and adopted by the Waukesha County
52 Board on June 28, 2016.
53
54 7. Saylesville Dam Failure Analysis and Assessment, prepared by Bloom Companies, Inc. on
55 July 9, 2014. Approved by the WDNR on July 14, 2014 and adopted by the Waukesha
56 County Board on July 28, 2015.
57
58 8. School Section Lake Dam Failure Analysis and Assessment, prepared by Leif Hauge, PE,
59 Professional Hydrologist, Sr. Civil Engineer, Waukesha County Land Resources Division,
60 on April 20, 2020. Approved by the WDNR on April 23, 2020, and adopted by the
61 Waukesha County Board on February 23, 2021.
62
63 BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage,
64 approval and publication.

1 TEXT AMENDMENT TO THE RECYCLING ORDINANCE FOUND IN CHAPTER 14,
2 ARTICLE IV OF THE CODE OF ORDINANCES AND FORFEITURE SCHEDULE
3
4

5 WHEREAS, since 1990, Waukesha County has served as a Responsible Unit ("RU") for recycling
6 under Chapter 287 Wisconsin Statutes and Chapter NR 544 Wisconsin Administrative Code for
7 twenty-five (25) participating municipalities, with two (2) additional municipalities joining the
8 County program in 2015; and
9

10 WHEREAS, the Waukesha County Board of Supervisors enacted the Waukesha County Recycling
11 Ordinance on December 13, 1994 and it currently is found in Chapter 14, Article IV of the
12 Waukesha County Code of Ordinances; and
13

14 WHEREAS, state law requires a Responsible Unit to maintain a recycling ordinance as part of
15 the requirements for an "effective recycling program"; and
16

17 WHEREAS, state law requires a Responsible Unit to complete various reports for compliance
18 and grant funding; and
19

20 WHEREAS, enforcement of the Waukesha County recycling ordinance necessitates
21 amendments to the corresponding Forfeiture Schedule for violations; and
22

23 WHEREAS, the City of Muskego requested the termination of the Intergovernmental Agreement
24 that governs their participation in Waukesha County's Recycling Responsible Unit per the terms
25 of that agreement, which necessitates removing the reference to the City from this chapter of
26 the County Code; and
27

28 WHEREAS, the Wisconsin Department of Natural Resources will grant the City of Muskego
29 Responsible Unit status effective January 1, 2021.
30

31 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the text
32 of the Recycling Ordinance found in Chapter 14, Article IV, Sections 257, 259 (22a), 264(c), and
33 269 (c) of the Waukesha County Code of Ordinances is hereby amended in accordance with the
34 proposed amendments on file with the Department of Parks and Land Use and as set forth in
35 the attached Exhibit A to this ordinance, effective as of February 23, 2021.
36

37 BE IT FURTHER ORDAINED that the Forfeiture Schedule for violations of Chapter 12, Article IV is
38 hereby amended in accordance with the proposed amendments on file with the Department of
39 Parks and Land Use and as set forth in the attached Exhibit B to this ordinance, effective as of
40 February 23, 2021.

Exhibit A to Ordinance to Amend Chapter 14 – Article IV Recycling and Solid Waste

Purpose of this 2020 amendment: To incorporate all long standing municipal reporting requirements, which are required by the State, and used to calculate annual state recycling grants to the County.

Division 1. Recycling

Sec. 14-251. Purpose.

The purpose of this article is to promote recycling, composting, and resource recovery through the administration of an effective recycling program for the Waukesha County Responsible Unit areas. The administration of an effective recycling program will extend the useful life of landfills, conserve natural resources, salvage materials for reprocessing, conserve energy, and improve the environment by lessening landfill deposits, as recognized in Chapter 287, Wisconsin Statutes, and Chapter NR 544, Wisconsin Administrative Code.
(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-252. Statutory authority.

This article is adopted as authorized and required by section 287.09 and section 287.11, Wisconsin Statutes and Chapter NR 544, Wisconsin Administrative Code.
(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-253. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, articles or permits previously adopted or issued pursuant to law. However, whenever this article is more restrictive or imposes higher standards or requirements, this article shall govern.
(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-254. Interpretation.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this article may be inconsistent or may conflict with one another, the more restrictive terms or requirements shall apply. Where a provision of this article is required by state statute or by a state administrative regulation, and where the article provision is unclear, the provision shall be interpreted in light of the state statute or state administrative regulation in effect on the date of the adoption of this article [Ord. No. 149-91, adopted December 13, 1994], or in effect on the date of the most recent text amendment to this article.
(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-256. Severability.

Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.
(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-257. Applicability.

(a) This article shall be in effect and enforced in those towns, villages and cities in Waukesha County for which Waukesha County is the Responsible Unit pursuant to section 287.09(1), Wisconsin Statutes as listed below:

1. City of Brookfield
2. City of Delafield
3. City of New Berlin
4. City of Oconomowoc
5. City of Pewaukee
6. City of Waukesha
7. Town of Brookfield
8. Town of Delafield
9. Town of Lisbon
10. Town of Merton
11. Town of Oconomowoc
12. Town of Vernon
13. Town of Waukesha
14. Village of Big Bend
15. Village of Chenequa
16. Village of Dousman
17. Village of Eagle
18. Village of Elm Grove
19. Village of Hartland
20. Village of Lac La Belle
21. Village of Merton
22. Village of Nashotah
23. Village of Oconomowoc Lake
24. Village of Pewaukee
25. Village of Summit
26. Village of Wales

(b) This article shall not apply to or be enforced in those towns, villages and cities in Waukesha County which retain their own Responsible Unit status pursuant to section 287.09(1), Wisconsin Statutes.

(c) Nothing in this article shall prohibit a Member Municipality from adopting this article as its own and enforcing that adopted article.
(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-258. Administration.

This article shall be administered and enforced by Waukesha County through the Department of Parks and Land Use.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-259. Definitions.

For the purposes of this article, the following words, terms and phrases have the following meanings, except as otherwise specially provided elsewhere in this article:

1. *Bi-metal Container* means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
2. *Container Board* means corrugated paperboard used in the manufacture of shipping containers and related products.
- 2a. *Electronics* means any device that requires electric current to function and contains a circuit board such as computers, monitors, laptops, tablets, cellphones, facsimile machines, copiers, televisions, video cassette recorders, digital versatile disc players and recorders, radios, telephones, printers and other related peripheral devices.
3. *Foam Polystyrene Packaging* means packaging made primarily from foam polystyrene that satisfies one (1) of the following criteria:
 - A. Is designed for serving food or beverages.
 - B. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
 - C. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- 3a. *Glass Container* means a glass bottle, jar or other packaging used to contain a product that is the subject of a retail sale and does not include ceramic cups, dishes, oven ware, plate glass, safety and window glass, heat resistant glass such as Pyrex, lead based glass such as crystal, or television tubes.
4. *Hauler* means a Person who is authorized to remove Solid Waste or Recyclable Materials from the generating source.
5. *HDPE* means high density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. code as #2, or as amended by future federal or state rules or regulations.
6. *LDPE* means low density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. code as #4, or as amended by future federal or state rules or regulations.
7. *Magazine* means magazines and other materials printed on similar paper.
8. *Major Appliance* means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, oven, refrigerator, stove, furnace, boiler, dehumidifier or water heater.
9. *Member Municipality* means any town, village or city listed at section 14-257(a) for which Waukesha County is the "Responsible Unit" under section 287.09(1), Wisconsin Statutes.
10. *Multiple-family Dwelling* means a structure containing five (5) or more residential units, including those which are occupied seasonally.
11. *Newspaper* means a newspaper and other materials printed on newsprint.

12. *Non-residential Facilities* and properties means commercial, retail, industrial, institutional and governmental facilities and properties which are not used for residential purposes. This term does not include Multiple-family Dwellings.
13. *Office Paper* means high grade printing and writing paper from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste.
14. *Other Resins or Multiple Resins* means plastic resins currently labeled by the Society of the Plastics industry, Inc. code as #7, or as amended by future federal or state rules or regulations.
15. *Person* includes any individual, corporation, partnership, association, local governmental unit as defined in section 66.0131(1)(a), Wisconsin Statutes, state agency or authority, or federal agency.
16. *PETE* means polyethylene terephthalate, currently labeled by the Society of the Plastics Industry, Inc. code as #1, or as amended by future federal or state rules or regulations.
17. *Plastic Container* means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.
18. *Postconsumer Waste* means Solid Waste other than Solid Waste generated in the production of goods, hazardous waste as defined in section 291.01, Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste.
19. *PP* means polypropylene, currently labeled by the Society of the Plastics Industry, Inc. code as #5, or as amended by future federal or state rules or regulations.
20. *PS* means polystyrene, currently labeled by the Society of the Plastics Industry, Inc. code as #6, or as amended by future federal or state rules or regulations.
21. *PVC* means polyvinyl chloride, currently labeled by the Society of the Plastics Industry, Inc. code as #3, or as amended by future federal or state rules or regulations.
22. *Recyclable Material* includes lead acid batteries, Major Appliances, Waste Oil, Yard Waste, aluminum containers, corrugated paper or other Container Board, Foam Polystyrene Packaging, Glass Containers, Magazines, Newspaper, Office Paper, Plastic Containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and Other Resins or Multiple Resins, steel containers, Waste Tires, and Bi-metal Containers.
- 22a. *Responsible Party* means the landowner, or any Person, firm, corporation, contractor, subcontractor or other entity obligated by other agreement or this article to perform services related to the separation, collection, transportation, delivery or reporting of materials or services subject to this ordinance.
23. *Responsible Unit* has the meaning specified in section 287.01(9), Wisconsin Statutes
24. *Solid Waste* has the meaning specified in section 289.01(33), Wisconsin Statutes.
25. *Solid Waste Facility* has the meaning specified in section 289.01(35), Wisconsin Statutes.
26. *Solid Waste Treatment* means any method, technique or process which is designed to change the physical, chemical or biological character or composition of Solid Waste, including incineration.
- 26a. *Waste Oil* means any oil that, after use, is contaminated by physical or chemical impurities, including oil used in mechanical equipment as a lubricant, hydraulic fluid or heat transfer fluid.

27. *Waste Tire* means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
28. *Yard Waste* means leaves, grass clippings, yard and garden debris and brush, including clean, woody vegetative material no greater than six (6) inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-260. Separation of Recyclable Materials.

Separation requirements. Occupants of single-family residences, two (2) to four (4) unit residences, Multiple-family Dwellings and Non-residential Facilities and properties shall separate the following materials from Postconsumer Waste for recycling, unless exempted under section 14-261 below, or otherwise approved by Waukesha County:

1. Lead acid batteries;
2. Major Appliances;
3. Waste Oil, used oil filters and oil absorbent materials;
4. Yard Waste;
5. Aluminum containers;
6. Bi-metal Containers;
7. Corrugated paper or other Container Board;
- 7a. Electronics
8. Foam Polystyrene Packaging;
9. Glass Containers;
10. Magazines;
11. Newspaper;
12. Office Paper;
13. Plastic Containers made of PETE, HDPE, PVC, LDPE, PP, PS, and Other Resins or Multiple Resins;
14. Steel containers;
15. Waste Tires.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-261. Separation requirements exempted.

The separation requirements of section 14-260 do not apply to the following:

1. Occupants of single-family residences, two to four-unit residences, Multiple-family Dwellings and Non-residential Facilities and properties that send their Postconsumer Waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in section 14-260 from Solid Waste in as pure a form as is technically feasible.
2. Solid Waste which is burned as a supplemental fuel at a facility if less than thirty (30) percent of the heat input to the facility is derived from the Solid Waste burned as supplemental fuel.
3. A Recyclable Material specified in section 14-260(5) through (14) for which a variance has been granted by the Department of Natural Resources under section 287.11(2m), Wisconsin Statutes, or section NR 544.14, Wisconsin Administration

Code.
(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-262. Care of separated Recyclable Materials.

To the greatest extent practicable, the Recyclable Materials separated for collection in accordance with section 14-260 shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste and agricultural chemical containers. Recyclable Materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions.

Separated Recyclable Materials shall be handled in accordance with section NR 544.05, Wisconsin Administrative Code.
(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-263. Management of lead acid batteries, Major Appliances, Waste Oil materials Yard Waste, Waste Tires and Electronics.

Occupants of single-family residences, two (2) to four (4) unit residences, Multiple-family Dwellings and Non-residential Facilities and properties shall manage lead acid batteries, Major Appliances, Waste Oil, Yard Waste, Waste Tires and Electronics as follows:

1. *Lead acid batteries* shall not be landfilled or incinerated, in accordance with section 287.07(1m), Wisconsin Statutes. Lead acid batteries may be managed through battery retailers and may also be collected for recycling by local municipal drop-off sites, private Haulers, scrap dealers or landfill operators.
2. *Major Appliances* shall not be landfilled or incinerated, in accordance with section 287.07(1m), Wisconsin Statutes. Major Appliances may be delivered to a scrap dealer/recycler for proper processing.
3. *Waste Oil* shall not be landfilled nor burned without energy recovery, in accordance with section 287.07(1m), Wisconsin Statutes. Waste Oil shall be delivered to a municipal or private Waste Oil collection site and shall be free of materials which would cause the Waste Oil to be non-recyclable.
- 3a. *Used oil filters and oil absorbent materials* shall not be landfilled nor burned, except as defined and authorized under section 287.07(4m), Wisconsin Statutes.
4. *Yard Waste* shall not be landfilled or burned without energy recovery in a Solid Waste Facility, in accordance with section 287.07(2), Wisconsin Statutes except as authorized by the Wisconsin Department of Natural Resources at a licensed wood-burning facility. Yard Waste may be delivered to a compost facility or municipal collection site, or managed through home composting, source reduction or other methods as permitted by state statutes or local ordinance.
5. *Electronics* shall not be landfilled nor burned in a Solid Waste Treatment Facility, in accordance with section 287.07(5), Wisconsin Statutes. Electronics shall be donated to a willing party, or recycled at a registered electronics collector/recycler or other municipal/retail electronics collection site.
6. *Waste Tires*, shall not be landfilled or burned without energy recovery, in accordance with section 287.07(3), Wisconsin Statutes.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-264. Collection, delivery and reporting of Recyclable Materials.

(a) Collection.

1. Unless otherwise directed in writing by Waukesha County, or unless granted a variance by the Wisconsin Department of Natural Resources, a Member Municipality shall:
 - A. Collect materials listed in section 14-260(5) through (14) from single-family residences and two (2) to four (4) unit residences, and do so in a manner consistent with this article; or
 - B. Contract for the collection of materials listed in section 14-260(5) through (14) from single family residences and two (2) to four (4) unit residences, and to do so in a manner consistent with this article.
2. Haulers providing private Solid Waste collection service directly to residents, multiple-family dwellings and Non-residential Facilities and properties shall provide for the collection of materials listed under section 14-260(5) through (14), unless otherwise directed in writing by Waukesha County or granted a variance by the Wisconsin Department of Natural Resources.
 - A. At the time of contract execution, Haulers shall notify owners of Multiple-family Dwellings and Non-residential Facilities and properties in writing about their recycling obligations under section 14-265.
3. Unless prior written authorization is provided by Waukesha County or the Department of Natural Resources, Recyclable Materials that are separated for collection under 1. and 2. above shall not be:
 - A. Mixed with, or otherwise come into contact with Solid Waste during or after the collection process;
 - B. Be disposed of in a Solid Waste Facility;
 - C. Be burned, subject to the exemption under section 14-261(2) above; or
 - D. Be scavenged by any Person, or otherwise removed from designated containers.

(b) Delivery. Unless approved in writing by Waukesha County, Recyclable Materials collected in Member Municipalities under subsection (a) above shall be delivered to a facility designated by Waukesha County.

(c) Reporting. Member Municipalities shall report, or require that contracted Haulers report, all Solid Waste and Recyclable Material collected and associated program costs. Reports shall be rectified and submitted to Waukesha County in accordance with County standards, including the following minimum requirements:

1. Daily. For each vehicle entering the facility designated under subsection (b) above, report the vehicle number, route number, time delivered, tons delivered, Hauler name, and source municipality. For any vehicle containing Recyclable Material from more than one municipality, the Hauler shall prorate the load according to percentage of households

served, up to a maximum of two (2) municipalities. All reports shall be rectified with the facility and Waukesha County daily; and

2. Monthly. Report monthly tonnage delivered to a Solid Waste Facility and to the facility under subsection (b) above by municipality, (including prorated amounts by route number), and the number of non-compliance notices delivered to residents. Rectify reports with the facility under subsection (b) above and Waukesha County by the 10th of the following month using the daily reports under subsection 1 above by source municipality; and
3. Annually.
 - A. Report by January 15th of each year, Member Municipalities to be served the current year, service type, total households, vehicle numbers used, route numbers, number of households served per route, proposed shared routes and prorated amounts per Member Municipality, and other items as may be required by Waukesha County or municipal collection contracts.
 - B. Report by February 15th each year, Member Municipalities served the previous year, service type, total households, vehicle numbers used, route numbers, number of households served per route, total tons Solid Waste delivered to a Solid Waste Facility, total tons Recyclable Material delivered under subsection (b) above, including prorated amounts, non-compliant notices to households delivered, educational materials delivered, and other items as may be required by Waukesha County or municipal collection contracts.
 - C. Report by March 15th each year, Member Municipalities' solid waste and recycling program costs and data for the preceding year, in accordance with state grant criteria and county reporting protocol.
 - D. Report by August 15th each year, Member Municipalities' solid waste and recycling projected program costs for the next calendar year, in accordance with state grant criteria and county reporting protocol.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-265. Responsibilities of owners of Multiple-family Dwellings, Non-residential Facilities and properties.

(a) Owners of Multiple-family Dwellings and Non-residential Facilities and properties shall do all of the following to cause the Recyclable Materials specified in section 14-260(5) through (14) to be recycled:

1. Provide adequate, separate containers for the Recyclable Materials.
2. Provide for the collection of the separated Recyclable Materials and the delivery of the separated Recyclable Materials to a recycling facility.
3. At the time of renting or leasing the unit, and at least twice each year thereafter, notify tenants and occupants in writing about the established recycling program, reasons to reduce and recycle Solid Waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

(b) The requirements specified in subsection (a) do not apply to the owners of Multiple-family Dwellings, or designated agents of nonresidential facilities and properties, if the Postconsumer Waste generated within the dwelling, facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the Recyclable Materials specified in section 14-260(5) through (14) from Solid Waste in as pure a form as is technically feasible.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-267. Prohibitions on disposal or burning of Recyclable Materials. No Person may dispose of in a Solid Waste Disposal Facility or burn in a Solid Waste Treatment Facility without energy recovery any of the materials specified in section 14-260(1) through (15), unless otherwise approved by Waukesha County or the Department of Natural Resources.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-268. Miscellaneous provisions.

(a) *Waukesha County purchasing of recycled content, multiple-use, durable materials, equipment and supplies.* Waukesha County shall, to the extent financially practicable, make purchasing decisions to maximize the purchasing of products made from recycled and recovered materials.

Waukesha County shall, to the extent financially practicable, consider recyclability and recycled content when awarding contracts for equipment, construction materials and supplies. The county wishes to discourage the purchase of single-use disposable products and to encourage the purchase of multiple-use, durable products which meet specifications.

(b) *Dumping provisions.* It shall be unlawful for any Person to dispose of or dump Solid Waste in any street, alley or other place, or to place it in any receptacle, without the owner's consent.

(Ord. No. 149-91, § 1, 12-13-94)

Sec. 14-269. Enforcement.

(a) **Inspections.** For the purpose of ascertaining and ensuring compliance with the provisions of this article but for no other purpose, any authorized officer, employee or representative of Waukesha County may inspect materials separated for recycling, Postconsumer Waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection operations, collection areas of Multiple-family Dwellings and nonresidential facilities and properties, and any records relating to recycling activities, which shall be kept confidential to the extent permitted by law. No Person may refuse access to any authorized officer, employee or authorized representative of Waukesha County who requests access for purposes of inspection, and who presents appropriate credentials. No Person may obstruct, hamper, or interfere with such an inspection.

(b) **Prohibited Practices.** Failure to comply with any requirement of this ordinance shall be deemed a violation, and shall subject the Responsible Party to enforcement action. Prohibited practices shall include, but not be limited to the following:

1. Failing to manage Recyclable Materials at Multiple-family Dwellings, Non-residential Facilities and properties, in accordance with section 14-265;
2. Failing to care for separated Recyclable Materials in accordance with section 14-262;
3. Mixing separated Recyclable Material with Solid Waste, as prohibited under section 14-264(a)3.A;
4. Failing to deliver Recyclable Materials collected under section 14-264 to a facility approved by Waukesha County under section 14-264(b);
5. Scavenging of Recyclable Materials, as prohibited under section 14-264(a)3.D.
6. Burning Recyclable Materials, as prohibited under section 14-267;
7. Failing to meet reporting requirements under section 14-264(c);
8. Unlawful dumping, as prohibited under section 14-268(b).

(c) **Violations.** Waukesha County shall notify the Responsible Party of any violation, in writing, and copy any other known Responsible Party involved in the violation, and any Member Municipality that may be in contract with the Responsible Party. The written notice shall be hand delivered to the Responsible Party or sent to the last known street or email address, with a reasonable attempt to verify that the Responsible Party received the notice. The notice shall describe the violation and may require specific remedial action(s) and a schedule for all remedial action to be completed. Any enforcement measures shall continue until compliance is achieved or as ordered by the court. Waukesha County is authorized to use the following methods of enforcement in any combination thereof against a Responsible Party that is found to be in violation of any provision of this ordinance:

1. **Forfeiture.** Any violator shall be subject to a forfeiture of not less than \$50 or more than \$3,000 plus damages, applicable fees and prosecution costs for each violation. Each day that a violation exists shall constitute a separate offense.

2. **Corrective Action Plan.** Any violator may be required to prepare a corrective action plan, which shall be approved by Waukesha County. At a minimum, the corrective action plan shall include the following:

A. Measures to be taken to correct the violation, including any technical specifications involved;

B. Assignment of responsibilities for plan implementation, including names, titles and contact information;

C. Timeline for plan implementation.

3. **Damages.** For any violation that results in the loss of Recyclable Material or other County revenue, or increased County costs, the Responsible Party shall be subject to damages for the value of the lost revenue or increased costs based on the most recent records for collection, Recycle Material markets, state grants or other applicable data.

4. **Stop Work Order.** Any violator is subject to an order to stop all work except that which is needed as a corrective action to obtain compliance.

5. **Injunction.** The County, or any Person affected by activities regulated under this ordinance, may enforce the provisions of this ordinance by a temporary restraining order, injunction and other such relief as a court may order.

6. **Declared nuisances.** Any violation is hereby declared to be a nuisance *per se*, and the County may apply to any court of competent jurisdiction to restrain or abate such nuisance.

7. **Emergency Action.** Waukesha County may enter upon the property and take any necessary emergency action if the County determines that the violation is an immediate threat to public health, safety, welfare, or the environment, or if the violator refuses to take the corrective action as ordered by the County. Any cost incurred by the County as a result of this action shall be billed to the Responsible Party. The County shall provide reasonable notice to the

Responsible Party after exercising this authority.

8. Citation. The County elects to also use the citation method of enforcement under section 66.0113 of the Wisconsin Statutes for violations of this ordinance, including those for which a statutory counterpart exists. The procedures contained in section 66.0113(3) of the Wisconsin Statutes, relating to the options of an alleged violator and default are adopted and incorporated herein by reference.

A. Authority to issue a citation under this ordinance shall be limited to the Land Resources Division Manager or his/her designee. This subsection does not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance regulation or order.

B. The schedule of cash deposits including penalty assessment, jail assessment, crime lab assessment, drug/law enforcement assessment, any applicable domestic abuse or consumer information assessments or any other assessment applicable by law for use with citations issued under this section shall be as adopted by the County Board from time to time and such schedule shall be on file in the Offices of the Sheriff, Land Resources Division of the Department of Parks and Land Use, County Clerk and Clerk of Court. Receipts shall be given for cash deposits. The citation shall contain the following information:

- (i) The name and address of the alleged violator.
- (ii) The factual allegations describing the alleged violation.
- (iii) The time and place of the offense.
- (iv) The section of the ordinance violated.
- (v) A designation of the offense in such a manner as can be reasonably understood by a Person making a reasonable effort to do so.
- (vi) The time at which the alleged violator may appear in court.
- (vii) A statement which, in essence, informs the alleged violator:
 - That a cash deposit based on the schedule established by the County Board, from time to time, be made to and deposited with the Clerk of the Waukesha County Circuit Court or the Sheriff's Department prior to the time of the scheduled court appearance.
 - That if a deposit is made, no appearance in court is necessary unless the violator is subsequently summoned or the citation requests a court appearance.
 - That if a cash deposit is made and the alleged violator does not appear in court, the violator will be deemed to have entered a plea of no contest and submitted to a forfeiture, a penalty assessment, a jail assessment, crime lab assessment, drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments or, if the court does not accept the plea of no contest, a summons will be issued commanding him or her to appear in court to answer the complaint.
 - That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, penalty assessment, jail assessment, crime lab assessment, drug/law enforcement assessment and any applicable domestic abuse or consumer information assessments.
 - That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a Person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.

(viii) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subsection (vii) above has been read. Such statement shall be sent or brought with the cash deposit.

(ix) Such other information as the County deems necessary.

C. Payment of the forfeiture does not relieve the violator from the obligation to remedy the ordinance violation.

(Ord. No. 149-91, § 1, 12-13-94)

1 MODIFY THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) 2021 BUDGET TO
2 ACCEPT US TREASURY DEPARTMENT EMERGENCY RENTAL ASSISTANCE PROGRAM
3 GRANT FUNDS AND APPROPRIATE ADDITIONAL EXPENDITURES
4
5

6 WHEREAS, the United States Treasury Department has provided \$25 billion of federal funding
7 to local governments through the December 27, 2020 Consolidated Appropriations Act, 2021
8 for an Emergency Rental Assistance program to assist households that are unable to pay rent
9 and utilities due to the COVID-19 pandemic; and

10
11 WHEREAS, Waukesha County is an eligible grantee for this program, based on population
12 criteria set forth in the grant; and

13
14 WHEREAS, Waukesha County's allocation of these funds is \$12,082,684; and

15
16 WHEREAS, permissible uses of the grant funding to income-eligible households may be used for
17 rent and rental arrears, as well as utilities and utility arrears; and

18
19 WHEREAS, WE Energies estimates that Waukesha County rental residents with income levels at
20 60% of the median income or less have accrued nearly \$2 million in utility arrears within the
21 last year; and

22
23 WHEREAS, discussions with several landlord associations, nonprofit housing providers and
24 individual landlords in the county note anecdotally that as many as 20% of renters have missed
25 rental payments within the last year.

26
27 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS
28 that Community Development program administration is authorized to accept the 2021 US
29 Treasury Department Emergency Rental Assistance grant funding of \$12,082,684.

30
31 BE IT FURTHER ORDAINED that the 2021 Community Development program budget be modified
32 by increasing general government appropriations by \$12,082,684 and increasing the program's
33 operating expense appropriations by the same amount to fund contracted services.

34
35 BE IT FURTHER ORDAINED that the Community Development program is authorized to enter
36 into a purchased services agreement with a third-party provider to operate this grant program
37 in 2021.

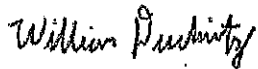
FISCAL NOTE

MODIFY THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) 2021 BUDGET TO ACCEPT US
TREASURY DEPARTMENT EMERGENCY RENTAL ASSISTANCE PROGRAM GRANT FUNDS AND
APPROPRIATE ADDITIONAL EXPENDITURES

This ordinance authorizes Parks and Land Use – Community Development Fund – Community Development Block Grant (CDBG) program to accept and appropriate an additional \$12,082,684 of United States Treasury Department funding to be used for an Emergency Rental Assistance program to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic. Up to 10% of the total allocation may be used for direct administrative costs incurred by Waukesha County and the third-party provider. The distribution of funding will be made by a contracted third-party provider. The grant funding period is currently set to end on December 31, 2021.

The 2021 Parks and Land Use Department adopted budget includes HUD funding of \$1,464,022 for the CDBG program. The 2020 budget was modified twice (175-09 and 175-47) to accept CARES Act allocations of \$861,236 and \$1,335,096 to respond to the pandemic (some of which could also be used for rental assistance). A portion of these unspent funds will be requested for carryover into the 2021 budget.

This ordinance results in no direct levy impact.



William Duckwitz

Budget Manager

02/02/2021

CLD JE 2021-00000637

1 AUTHORIZE DEPARTMENT OF PARKS AND LAND USE TO COMMENCE THE PROCESS TO
2 ACQUIRE REAL ESTATE INTERESTS TO COMPLETE THE PEWAUKEE TO BROOKFIELD
3 TRAIL PROJECT WAUKESHA COUNTY PROJECT I.D. #2718-14-01
4
5

6 WHEREAS, Waukesha County is interested in developing lands for public outdoor recreation
7 purposes as described in Appendix A of the Comprehensive Development Plan of Waukesha
8 County; and
9

10 WHEREAS, the Waukesha County Board has approved the Pewaukee to Brookfield trail as a
11 Capital Project (#201807) within the adopted Five-Year Capital Project Plan (hereinafter
12 referred to as "Project"); and
13

14 WHEREAS, during the design phase of the Project, it was determined that additional real estate
15 interests were necessary to complete the Project; and
16

17 WHEREAS, proposed trail development and construction will impact the property owned by
18 Kevin Leitermann Properties, LLC and require land interests; and
19

20 WHEREAS, adjacent property owners, the City of Brookfield and Kevin Leitermann Properties,
21 LLC, have indicated support for the Project,
22

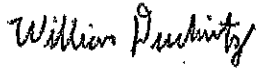
23 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the
24 Department of Parks and Land Use, through its Director or his designee, is authorized to
25 commence the process to acquire real estate interests proposed on the attached Preliminary
26 Transportation Project Plat, pending approval by the Wisconsin Department of Transportation
27 (WisDOT), for purposes of the Project.
28

29 BE IT FURTHER ORDAINED that the Director of the Department of Parks and Land Use or his
30 designee is authorized to execute the approved Transportation Project Plat and any other
31 documents necessary to commence the process to acquire the real estate interests identified in
32 the Transportation Project Plat to complete the Project.

FISCAL NOTE

AUTHORIZE DEPARTMENT OF PARKS AND LAND USE TO COMMENCE THE PROCESS TO ACQUIRE
REAL ESTATE INTERESTS TO COMPLETE THE PEWAUKEE TO BROOKFIELD TRAIL PROJECT
WAUKESHA COUNTY PROJECT I.D. #2718-14-01

This ordinance authorizes the department of Parks and Land Use to begin the process (e.g., entering into negotiations) of acquiring land needed for capital project #201807 Pewaukee to Brookfield Trail. According to department management, in consultation with the Corporation Counsel Office, this ordinance does not permit the department to purchase the land, but only to begin the process. A separate ordinance would need to be considered by the County Board for the actual land sale. At that time, department management will be in a better position to determine whether requested budget modification for the project will be necessary.



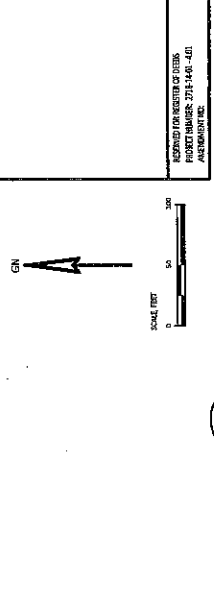
William Duckwitz
Budget Manager
02/02/2021

TRANSPORTATION PROJECT PLAT NO: 2718-14-01 - 4.01

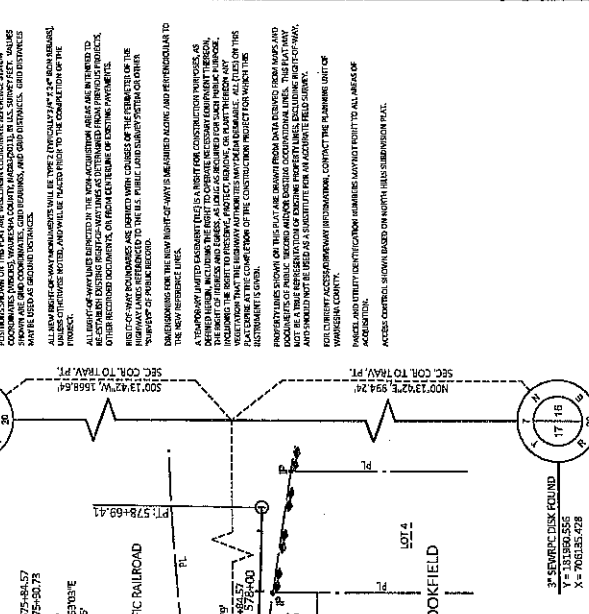
THAT PART OF LOT 1, NORTH HILLS, RECORDED IN BOOK 55, PAGES 22-23, AS DOCUMENT NUMBER 4419489, LOCATED IN THE SE 1/4 OF SECTION 17, T7N, R8E, CITY OF BROOKFIELD, WAUKESHA COUNTY, WISCONSIN.

RELOCATION ORDER: PENNACKE TO BROOKFIELD MULTIPLE-USE PATH, RIVER RD. TO S. WATERCLOTH RD., WAUKESHA COUNTY.
TO PERFORM ESTABLISH, LAY OUT, WIDEN, ENLARGE, EXTEND, CONSTRUCT, RECONSTRUCT, IMPROVE OR MAINTAIN A PORTION OF THE HIGHWAY (MULTI-LANE PATH) DESCRIBED ABOVE, IT IS NECESSARY TO RELOCATE OR CHANGE AND ACQUIRE CERTAIN LANDS OR INTERESTS IN LANDS FOR THE ABOVE PROJECT.

TO EFFECT THIS CHANGE, WAUKESHA COUNTY ORDERS THIS:
1. THE SAID ROAD LAY OUT TO BE RECORDED AS SHOWN BY THIS PLAT AND NOTWITHSTANDING AS SHOWN.
2. THE SAID ROAD LAY OUT TO BE RECORDED AS SHOWN BY THIS PLAT AND NOTWITHSTANDING AS SHOWN.
3. THIS ORDER SUPERSEDES AND AMENDS ANY PREVIOUS ORDER ISSUED BY WAUKESHA COUNTY.



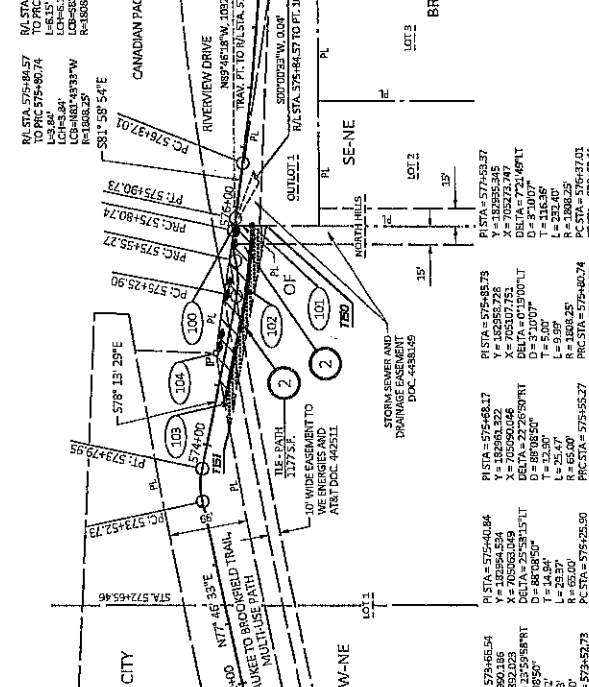
NOTES:
1. THE NEW ROAD LAY OUT IS SHOWN BY THIS PLAT AND NOTWITHSTANDING AS SHOWN.
2. THE SAID ROAD LAY OUT TO BE RECORDED AS SHOWN BY THIS PLAT AND NOTWITHSTANDING AS SHOWN.
3. THIS ORDER SUPERSEDES AND AMENDS ANY PREVIOUS ORDER ISSUED BY WAUKESHA COUNTY.



Engineering
Professional Engineer
Timothy H. Field

PROJECT NAME: TRANSPORTATION PROJECT PLAT NO. 2718-14-01
REGISTRATION NUMBER: 5-7831
DATE: 06/04/21

THIS PLAN AND RELOCATION ORDER ARE APPROVED FOR WAUKESHA COUNTY.
SIGNATURE: _____ DATE: _____
PRINT NAME: _____



Point No.	Station	Offset	City of Brookfield	City of Brookfield
101	575+84.57	0.00'	0.00'	0.00'
102	575+84.57	0.00'	0.00'	0.00'
103	575+84.57	0.00'	0.00'	0.00'
104	575+84.57	0.00'	0.00'	0.00'

CONVENTIONAL SYMBOLS

SECTION LINE	CONTRACT	PROPERTY LINE	TO BE REMOVED
QUARTER LINE	CONTRACT	PROPERTY LINE	TO BE REMOVED
SIXTEENTH LINE	CONTRACT	PROPERTY LINE	TO BE REMOVED
NEW INFERENCE LINE	CONTRACT	PROPERTY LINE	TO BE REMOVED
NEW R/W LINE	CONTRACT	PROPERTY LINE	TO BE REMOVED
EXISTING R/W OR VE LINE	CONTRACT	PROPERTY LINE	TO BE REMOVED
LOT, TR, & OTHER LINES	CONTRACT	PROPERTY LINE	TO BE REMOVED

CONVENTIONAL ABBREVIATIONS

AR	ACCESS RIGHTS	AL	ALUMINUM
AC	ALUMINUM	AL	ALUMINUM
AL	ALUMINUM	AL	ALUMINUM
ALUM	ALUMINUM	AL	ALUMINUM
ALUM	ALUMINUM	AL	ALUMINUM

UTILITY INTERESTS REQUIRED

UTILITY INTEREST	UTILITY OWNER	INTEREST REQUIRED	RELEASE OF RIGHTS
101	WE FERRELLS	RELEASE OF RIGHTS	RELEASE OF RIGHTS
102	AT&T	RELEASE OF RIGHTS	RELEASE OF RIGHTS
103	CITY OF BROOKFIELD	RELEASE OF RIGHTS	RELEASE OF RIGHTS

SCHEDULE OF LANDS & INTERESTS REQUIRED

PARCEL NUMBER	OWNER	INTEREST REQUIRED	NEW EXISTING	TOTAL S.F.
1	WALLETMAN PROPERTIES, LLC	2365	2177	4542

FILE NAME: S:\WORK\PROJECTS\2718-14-01-01_PENNACKE-BROOKFIELD MULTIPLE-USE PATH.DWG
APPNO: 2718-14-01-01-01

Referred to: LU - FI

PLAT NO: 2718-14-01-01

FILE NUMBER: 175-C-077

JURISDICTIONAL TRANSFER AGREEMENT BETWEEN WAUKESHA
COUNTY AND THE VILLAGE OF WAUKESHA

WHEREAS the State of Wisconsin Department of Transportation completed the Waukesha West Bypass in 2020 resulting in a dead end segment of CTH TT to remain under the jurisdiction of Waukesha County; and

WHEREAS the County Trunk Highway System has been designed and constructed to serve trips of longer distance and large traffic volumes; and

WHEREAS Section 83.025(1), Wisconsin Statutes, permits a County Board to make deletions from the County Trunk Highway System with the approval of the Wisconsin Department of Transportation ("WDOT") and the governing body of the city, village or town in which the proposed deletion is located; and

WHEREAS the County and the Village of Waukesha ("Village") desire to delete a portion of County Trunk Highway TT ("CTH TT") within the Village, as more specifically described below, from the County Trunk Highway System and transfer jurisdiction over it to the Village; and

WHEREAS said deleted roadway is described as follows: CTH TT from the intersection with Merrill Hills Court southerly 1,300 feet to a dead end located in Section 6 of Township 6 North, Range 19 East, Village of Waukesha, Waukesha County.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Executive is authorized to execute the Jurisdictional Transfer Agreement deleting the portion of CTH TT from the intersection with Merrill Hills Court southerly 1,300 feet to a dead end located in Section 6 of Township 6 North, Range 19 East, Village of Waukesha, Waukesha County from the County Trunk Highway System and transferring jurisdiction thereof from Waukesha County to the Village of Waukesha, a copy of which is on file in the office of the County Clerk.

BE IT FURTHER ORDAINED that the County Department of Public Works is directed to take all necessary actions to implement the terms and conditions of the Jurisdictional Transfer Agreement.

FISCAL NOTE

JURISDICTIONAL TRANSFER AGREEMENT BETWEEN WAUKESHA
COUNTY AND THE VILLAGE OF WAUKESHA

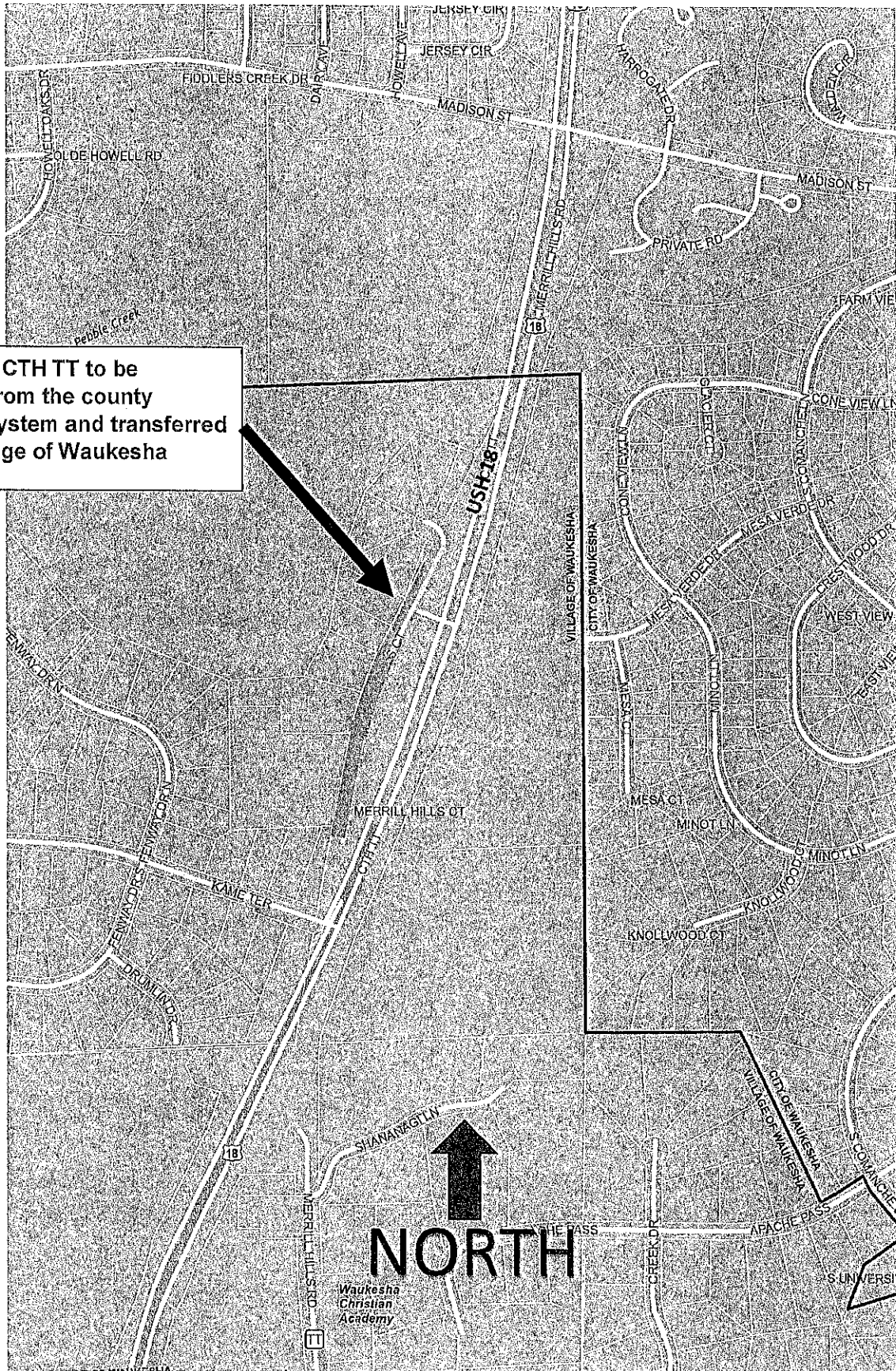
This ordinance authorizes a jurisdictional transfer of about 1,300 feet of county trunk highway (CTH) TT from Waukesha County to the Village of Waukesha. Currently, the county is responsible for maintaining that stretch of roadway, which includes snow plowing and road repairs. Transferring responsibility of this road segment to the village will marginally save the county on staff time, material, and equipment costs. While the action is favorable from a county cost and tax levy standpoint, the entire CTH system is approximately 400 centerline miles long, and this transfer is unlikely to have a noticeable effect on county costs overall.

William Duckwitz

William Duckwitz
Budget Manager
2/01/2021

JURISDICTIONAL TRANSFER AGREEMENT BETWEEN THE VILLAGE OF WAUKESHA AND WAUKESHA COUNTY FOR CTH TT AT MERRILL HILLS COURT

Section of CTH TT to be removed from the county highway system and transferred to the Village of Waukesha





WAUKESHA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

MEMO:

DATE: February 3, 2021
TO: Chairman Paul Decker
FROM: Paul Farrow
RE: Appointment of County Representative to the Waukesha County Aging and Disability Resource Center Advisory Board

I am pleased to submit to the County Board for your consideration, the appointment of Ms. Marj Kozlowski to the Waukesha County Aging and Disability Resource Center Advisory Board. Ms. Kozlowski is a resident of Brookfield, Wisconsin. Since 2017 Ms. Kozlowski has given of her time by serving with Brookfield Senior Taxi, first as a volunteer, then as a board member and finally as president of the board president, a position she currently maintains. Ms. Kozlowski has a long history in executive management for technology firms and has received two glowing letters of recommendation by local nonprofit participants and leaders. If appointed, Ms. Kozlowski term will expire in August of 2022.

Thank you for your swift consideration.

PF:kb

cc: Meg Wartman
Mary Smith

1 ESTABLISH SIZE OF COUNTY BOARD TO FACILITATE
2 COUNTY SUPERVISORY DISTRICT PLAN
3
4

5 WHEREAS Wisconsin Statutes Section 59.10(3)(b) requires county boards to propose a tentative
6 supervisory district plan which sets forth the number of supervisory districts and tentative
7 boundaries within 60 days after receipt of the federal decennial census count; and
8

9 WHEREAS it is efficient and advisable for the Waukesha County Board of Supervisors to declare
10 intent on the number of supervisory districts in order to expedite work on drafting tentative
11 supervisory district boundaries; and
12

13 WHEREAS Waukesha County Board of Supervisors reduced its size to twenty-five in 2008 and
14 has the second highest constituent-to-supervisor ratio in the state.
15

16 NOW THEREFORE BE IT HEREBY RESOLVED by the Waukesha County Board of Supervisors that
17 for the purpose of the 2021 tentative supervisory district plan the Waukesha County board size
18 be established at twenty-five supervisory districts.

1 MODIFY THE 2021 BUDGET OF THE WAUKESHA COUNTY UW-EXTENSION TO
2 ACCEPT THE EXPANDING ACCESS GRANT FUNDING FROM UW-MADISON
3 EXTENSION AND TO AUTHORIZE GRANT EXPENDITURES
4
5

6 WHEREAS, the UW Madison Extension 4-H Youth Development program, has made available
7 Expanding Access grant funds of \$3,000 in 2021 to the UW Extension Waukesha County 4-H and
8 Youth Development program; and
9

10 WHEREAS, available revenues were not anticipated nor included in the 2021 budget; and
11

12 WHEREAS, the Expanding Access grant seeks to expand membership opportunities to
13 underserved youth in 6th through 12th grades by focusing on new and expanding after-school 4-
14 H educational programming opportunities for those programming models which deliver
15 maximum benefit to youth and families.
16

17 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the
18 Waukesha County UW Extension department be authorized to accept the Expanding Access
19 grant funds of \$3,000 from the UW Madison Extension 4-H Youth Development program.
20

21 BE IT FURTHER ORDAINED that the Waukesha County UW Extension 2021 Budget be modified
22 by increasing the department's operating expenditure appropriation unit by \$2,528,
23 interdepartmental charges appropriation unit by \$472, and general government revenues by
24 \$3,000.

FISCAL NOTE

MODIFY THE 2021 BUDGET OF THE WAUKESHA COUNTY UW-EXTENSION TO ACCEPT THE EXPANDING ACCESS GRANT FUNDING FROM UW-MADISON EXTENSION AND TO AUTHORIZE GRANT EXPENDITURES

This ordinance modifies the 2021 Waukesha County UW Extension's Department budget by increasing operating expenditure appropriations by \$2,528, interdepartmental charge appropriations by \$472, and general government revenue by \$3,000 for the UW Madison Extension 4-H Youth Development's Expanding Access Grant. The funds will provide an additional \$1,685 in contracted services, \$843 in supplies, and \$472 in interdepartmental charges (for indirect cost recovery and technology charges).

This ordinance results in no direct additional tax levy impact.

William Duckwitz

William Duckwitz
Budget Manager
2/01/2021
SMK
JE# 2021-00000464

1 MODIFY THE 2021-2025 CAPITAL PLAN FOR THE CREATION OF CAPITAL
2 PROJECT #202106 – CTH V V, CTH Y Y INTERSECTION AND
3 MODIFY 2021 CAPITAL PROJECT BUDGET
4
5

6 WHEREAS, federal Highway Safety Improvement Program (HSIP) funding is made
7 available through the State of Wisconsin Department of Transportation to support highway
8 safety projects at sites that have experienced a high crash history; and
9

10 WHEREAS, Waukesha County has identified the intersection of CTH V V (Silver Spring
11 Drive) and CTH Y Y (Pilgrim Road) as a location which is eligible for improvements under
12 this program; and
13

14 WHEREAS, the Waukesha County Department of Public Works applied for and received
15 approval for about \$992,000 of HSIP funding for the CTH V V at CTH Y Y Intersection
16 project; and
17

18 WHEREAS, department management did not include this project in the 2021-2025 capital
19 plan due to uncertainty of being awarded funding, with the funding announcement being
20 made after the County Board approved the capital plan; and
21

22 WHEREAS, the Waukesha County Department of Public Works estimates total project costs
23 to be \$1,103,000, with the county's contribution being \$111,000 after the state applies
24 \$992,000 of HSIP funding; and
25

26 WHEREAS, the county's share of design and engineering costs in 2021 is estimated at
27 \$18,000, which requires a budget modification in the current year; and
28

29 WHEREAS, the remaining county share of costs of \$93,000 for construction in 2023 will be
30 incorporated and managed into the department's 2022-2026 capital plan request.
31

32 THE COUNTY BOARD OF SUPERVISORS OF WAUKESHA COUNTY ORDAINS that the
33 Waukesha County Adopted 2021-2025 Capital Plan be modified by creating capital project
34 #202106 – CTH V V, CTH Y Y Intersection.
35

36 BE IT FURTHER ORDAINED that the 2021 Capital Project budget be modified to
37 appropriate additional expenditures of \$18,000 and increase Capital Project Fund balance
38 usage of \$18,000 for capital project #202106 – CTH V V, CTH Y Y Intersection.

Project Title:	CTH VV Intersection with CTH YY	Project #:	202106
Department:	Public Works - Hwy Ops	Project Type:	Spot Improvement
Phase:	Preliminary Design	Road Name:	Silver Spring Dr / Pilgrim Rd
Budget Action:	New	Manager:	Allison Bussler, DPW Director
Date:	January 28, 2021		

CAPITAL BUDGET SUMMARY					
Year	2020	2021	2022	2023	Total
Project Phase	Design	Design	Design/Land	Const	Project
Expenditure Budget	\$0	\$18,000	\$0	\$93,000	\$111,000
Revenue Budget	\$0	\$0	\$0	\$0	\$0
Net Costs After Revenues Applied	\$0	\$18,000	\$0	\$93,000	\$111,000
COST DOCUMENTATION			REVENUE		
Design		\$156,800		Federal Highway Safety	\$992,000
WisDOT Design Review		\$22,200		Improvement Program (HSIP)	
Land Acquisition		\$0			
Construction		\$683,700			
Construction Management		\$165,300			
Contingency		\$75,000			
Total Project Cost		\$1,103,000		Total Revenue	\$992,000
EXPENDITURE BUDGET		\$111,000		REVENUE BUDGET	\$0

Project Scope & Description

The purpose of this project is to improve safety and the intersection of CTH V V (Silver Spring Drive) and CTH Y Y (Pilgrim Road). Changes to the existing CTH V V and CTH Y Y intersection will provide safer traffic signal control, improve visibility for turning vehicles, reduce collisions and provide safer pedestrian crossings. Improvements include:

- Realign the CTH V V left turn lanes to improve visibility of opposing traffic. Change the existing protected/permitted left turns to protected-only left turn operation.
- Replace all existing traffic signal equipment. Provide highway lighting at each corner of intersection area.
- Replace intersection detectors with new video detection.
- Reconfigure corner islands for improving CTH V V right turn views of cross-traffic along CTH Y Y.
- Provide pedestrian countdown lights, pedestrian push buttons (PPB), new concrete curb ramps, non-elevated pedestrian median crossings and marked crosswalks for all intersection area existing sidewalks.

The Wisconsin Department of Transportation (WisDOT) awarded Waukesha County the Highway Safety Improvement Program (HSIP) funding for this intersection improvement.

Location

Village of Menomonee Falls

Analysis of Need

This intersection has one of the highest collision rates at signalized intersections along Waukesha County Trunk Highways. Visibility of oncoming traffic is somewhat restricted by the existing alignments of CTH V V's turn lanes for safely completing left turns and right turns from CTH V V onto CTH Y Y. The marked crosswalks, ramps, crosswalk lights and push buttons are incomplete and not positioned appropriately for pedestrians.

Alternatives

This project has been approved by the WisDOT and state funding is available. If Waukesha County does not approve this project, the funding will be rejected and the improvements will not be completed to address the safety issues.

Ongoing Operating Costs

There is a minor operational cost increase anticipated due to increased signal equipment.

Previous Action

None

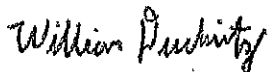
FISCAL NOTE

MODIFY THE 2021-2025 CAPITAL PLAN FOR THE CREATION OF CAPITAL
PROJECT #202106 – CTH V V, CTH Y Y INTERSECTION AND
MODIFY 2021 CAPITAL PROJECT BUDGET

This ordinance modifies the 2021-2025 capital plan to create capital project #202106 – CTH V V, CTH Y Y Intersection. Department management indicates that this project was not included in the proposed 2021-2025 capital plan due to the uncertainty that the Wisconsin Department of Transportation (WisDOT) would approve federal Highway Safety Improvement Program (HSIP) funding for the program. WisDOT approved funding on November 20, 2020 after the County Board adopted the 2021-2025 capital plan. In contrast, other projects that were approved in the capital plan ended up being denied funding by the state (see below).

Department management estimates total project costs at \$1,103,000. WisDOT will manage the project through the state's financial books and apply \$992,000 of HSIP funding (90%) before billing the county an estimated \$111,000 for its share. This ordinance modifies the 2021 capital project budget by increasing expenditures by \$18,000 to cover the county's estimated share of the design and engineering phase. The county's remaining \$93,000 of its cost share is for the construction phase, planned in 2023, and department management plans to manage these additional costs within the proposed 2022-2026 capital plan. In particular, WisDOT has denied HSIP funding for capital project #201804 CTH DE, Wild Rose Lane to Oak Court and capital project #202010 – CTH D, CTH E Intersection (total county share of estimated project costs of about \$262,000), which can be used to offset the costs of the new project.

There is no direct tax levy impact related to this ordinance.



William Duckwitz
Budget Manager
02/03/2021
MYB
JE-2021-00000545

1 MODIFY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES – PUBLIC HEALTH 2021 BUDGET
2 TO ACCEPT FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION EPIDEMIOLOGY AND
3 LABORATORY CAPACITY GRANT FUNDS PROVIDED BY THE WISCONSIN DEPARTMENT OF
4 HEALTH SERVICES AND MODIFY THE NON-DEPARTMENTAL GENERAL FUND 2021 BUDGET
5 THROUGH A CONTINGENCY FUND TRANSFER FOR EXPENSES RELATED TO THE COMMUNITY
6 VACCINE PROGRAM AND CONTINUED PANDEMIC RESPONSE
7
8

9 WHEREAS, in December 2019, a novel strain of the coronavirus, now named Coronavirus
10 Disease 2019 (COVID-19), was detected and has spread throughout many countries, including
11 the United States; and
12

13 WHEREAS, the World Health Organization has declared a Public Health Emergency of
14 International Concern and the United States Department of Health and Human Services has
15 declared a Public Health Emergency; and
16

17 WHEREAS, on March 12, 2020, the Governor of the State of Wisconsin declared the existence of
18 a public health emergency, as defined in Section 323.02(16), Wisconsin Statutes, and has
19 declared subsequent public health emergencies related to COVID-19; and
20

21 WHEREAS, on March 13, 2020, the Waukesha County Executive, by proclamation pursuant to
22 authority under Sections 323.11 and 323.14(4)(b), Wisconsin Statutes, declared a state of
23 emergency in Waukesha County in light of the public health threat posed by COVID-19, and said
24 proclamation has been ratified and extended by the Waukesha County Board by Enrolled
25 Resolution 174-3 adopted March 24, 2020; and
26

27 WHEREAS, being necessary for the health, safety, protection, and welfare of the citizens of the
28 county, it is necessary for Waukesha County to continue efforts to contain the spread of the
29 disease through contact tracing and disease investigation and to establish a community COVID-
30 19 vaccination program; and
31

32 WHEREAS, the Wisconsin Department of Health Services (DHS) has allocated an additional
33 \$2,868,600 of federal Centers for Disease Control and Prevention (CDC) Epidemiology and
34 Laboratory Capacity (ELC) grant funding, which can be used for the public health pandemic
35 response, including contact tracing, disease investigation, and vaccine administration; and
36

37 WHEREAS, the Waukesha County Executive issued Executive Order #4 on January 20, 2021 to
38 initiate spending for a community vaccine program due to the urgency of the current public
39 health emergency, with the understanding that outside funding, such as the ELC grant, would
40 be available to cover many of the costs; and
41

42 WHEREAS, implementing a community vaccination program will require additional supplies and
43 equipment, such as personal protective equipment, disinfectant supplies, and clinical supplies;
44 and
45

46 WHEREAS, a community vaccination program will also require additional staffing, including
47 contracted and limited-term employee positions, such as registered nurses, emergency medical
48 supervision, security, supervision, and clerical support; and

49
50 WHEREAS, in order to limit the need for hiring additional LTE and contracted staff and to
51 quickly establish clinic operations, county administration has asked departments to identify
52 county employees for redeployment as support at the clinics; and

53
54 WHEREAS, at this time, it is uncertain whether outside funding sources will be available to
55 cover the time of redeployed staff; and

56
57 WHEREAS, it is expected that in many cases, these position costs are already included in the
58 base 2021 budget, and being redeployed to the clinics will not result in additional expenditures,
59 but there will be instances when non-salaried redeployed staff work additional hours and
60 generate additional overtime costs not already included in the 2021 budget; and

61
62 WHEREAS, there may also be other supplies, equipment, and purchased services necessary to
63 implement the community vaccination clinic and to continue responding to the pandemic that
64 do not have identifiable funding sources at the time; and

65
66 WHEREAS, these instances of overtime, supplies, equipment, and purchased services that do
67 not have known funding sources can be difficult to predict, and should be accounted for in the
68 Non-Departmental General Fund budget to minimize the impact to departmental budgets and
69 allow flexibility in efficiently meeting pandemic response needs; and

70
71 WHEREAS, these expenses were not anticipated in the 2021 adopted Non-Departmental
72 General Fund budget, and will require a Contingency Fund transfer; and

73
74 WHEREAS, the county will track all costs related to the community vaccination clinics and
75 continue to review potential funding sources as they become available, in order to minimize the
76 need for actual Contingency Funds and any other net costs to the county.

77
78 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the
79 Waukesha County Department of Health and Human Services – Public Health program be
80 authorized to accept additional federal Centers for Disease Control and Prevention (CDC)
81 Epidemiology and Laboratory Capacity (ELC) grant funding provided through the Wisconsin
82 Department of Health Services.

83
84 BE IT FURTHER ORDAINED that the Waukesha County Department of Health and Human
85 Services – Public Health program budget be modified to increase personnel cost appropriations
86 by \$868,600, operating expense appropriations by \$2,000,000, and general government
87 revenues by \$2,868,600 to fund the public health pandemic response, including contact tracing,
88 disease investigation, and implementation of a community vaccination program.

89

90 BE IT FURTHER ORDAINED that the 2021 Non-Departmental General Fund budget be modified
91 to appropriate up to \$300,000 of additional expenditure authority across appropriations
92 through a transfer from the Non-Departmental Contingency Fund budget for potential
93 overtime, supply, equipment, purchased services, and other expenses related to the
94 community vaccination program and continued response to the pandemic.

FISCAL NOTE

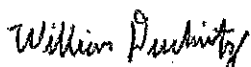
MODIFY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES – PUBLIC HEALTH 2021 BUDGET TO ACCEPT FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION EPIDEMIOLOGY AND LABORATORY CAPACITY GRANT FUNDS PROVIDED BY THE WISCONSIN DEPARTMENT OF HEALTH SERVICES AND MODIFY THE NON-DEPARTMENTAL GENERAL FUND 2021 BUDGET THROUGH A CONTINGENCY FUND TRANSFER FOR EXPENSES RELATED TO THE COMMUNITY VACCINE PROGRAM AND CONTINUED PANDEMIC RESPONSE

This ordinance authorizes the Waukesha Department of Health and Human Services (HHS) – Public Health program to accept additional federal Centers for Disease Control and Prevention (CDC) Epidemiology and Laboratory Capacity (ELC) grant funding, provided through the Wisconsin Department of Health Services (DHS) of \$2,868,600. (This grant award is in addition to the \$1,324,900 of ELC grant funding that was included in the 2021 adopted budget and was intended largely for contact tracing and disease investigation.) These funds can be used for the public health COVID-19 pandemic response, including the continuation of contact tracing/disease investigation and the implementation of a community vaccination program. The degree to which these CDC funds are applied to either operation will depend on the level of future costs incurred and the availability of other grant funds. County administration will continue review and apply for state and federal resources. Currently the Federal Emergency Management Administration (FEMA) has been identified as a funding source to reimburse for the cost of community vaccination clinics and above-budget expenses incurred related to the pandemic response that are not otherwise eligible for federal funding or where other federal funding sources are insufficient.

This ordinance also modifies the 2021 HHS – Public Health budget, by increasing personnel costs by \$868,600 and operating expenses by \$2,000,000, and general government revenue by \$2,868,600. Implementing a community vaccination program will require additional operating expenses for supplies and equipment, such as personal protective equipment, disinfectant supplies, and clinical supplies. The community vaccination program will also require significant additions of staff, such as registered nurses, emergency medical supervision, security, supervision, and clerical support. Additional limited-term employees (LTE's – county-employed temporary extra help without benefits) will be accounted for as personnel costs. Additional contracted support, provided through third-party agencies, will be accounted for as operating expenses. Continuing contact tracing and disease investigation will also require significant LTE and contracted staff. The exact combination of LTE's and contracted positions needed remains uncertain, and future funds transfers may be requested.

The county has also requested that departments redeploy regular staff, where appropriate, to quickly establish vaccine clinic operations and to help offset the need of hiring LTE and contracted positions. This is similar to the approach taken during the previous H1N1 pandemic. County employees will be carrying out support tasks, including data entry, observation, registration, and communication. It is expected that much of the staff time incurred by redeployed employees is already in the base 2021 budget and will not result in additional expenses. However, there will be instances where non-salaried employees work additional hours and incur overtime expenses that are not in the base 2021 budget. County administration will review other grant funding to cover these overtime costs, but it is difficult to predict where expenses will occur. The same may be the case for certain supplies, pieces of equipment, and purchased services—which may be necessary to carry out the community vaccination program—that do not have identifiable funding sources at this time. For this reason, this ordinance also authorizes a Contingency Fund transfer to the Non-Departmental General Fund of up to \$300,000 across appropriations (e.g., personnel costs, operating expenses, interdepartmental charges, fixed assets) to allow flexibility in efficiently meeting these needs. The county will track all costs related to the pandemic response and continue to review potential funding sources as they become available, in order to minimize the need for actual Contingency Fund use and any other net costs to the county.

This ordinance does not result in any additional direct tax levy impact.



William Duckwitz

Referred on: 02/04/21

File Number: 175-O-081

Referred to: HS – FI

1 REAUTHORIZATION OF WORKER'S COMPENSATION SELF-INSURANCE
2
3

4 WHEREAS, Waukesha County is a qualified political subdivision of the State of Wisconsin; and
5

6 WHEREAS, the Wisconsin Worker's Compensation Act (Act) provides that employers covered by
7 the Act either insure their liability with worker's compensation insurance carriers authorized to
8 do business in Wisconsin, or be exempted (self-insured) from insuring liability with a carrier and
9 thereby assuming the responsibility for its own worker's compensation risk and payment; and
10

11 WHEREAS, the State and its political subdivisions may self-insure worker's compensation
12 without a special order from the Department of Workforce Development (department) if they
13 agree to report faithfully all compensable injuries and agree to comply with the Act and rules of
14 the Department.
15

16 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the
17 County's self-insured worker's compensation program that is currently in effect shall be
18 continued.
19

20 BE IT FURTHER ORDAINED that the County Executive is authorized to forward certified copies of
21 this ordinance to the Worker's Compensation Division, Wisconsin Department of Workforce
22 Development.
23

24 BE IT FURTHER ORDAINED that this action by the County Board of Supervisors is taken in
25 accordance with Wisconsin Statutes, Section 102.28(2)(b), and is intended to constitute a
26 "resolution" as designated by that section.

1 MODIFY THE 2021 BUDGET BY TRANSFERING CARRYOVER FUNDS FROM 2020
2 UNEXPENDED APPROPRIATIONS TO 2021 BUDGETED APPROPRIATIONS
3
4

5 WHEREAS, funds were appropriated in the 2020 budget for certain items or services which, for
6 various reasons, were deferred to 2021; and
7

8 WHEREAS, requests of the departments for carrying other unspent funds and related revenues
9 from the 2020 budget are recommended for carryover after review by the County Executive.
10

11 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that a total of
12 \$464,931 be carried forward from 2020 accounts into the 2021 budgets, to enable the purchase
13 of goods and services, as indicated on the carryover schedule on file with the County Clerk and
14 made part this ordinance by reference.
15

16 BE IT FURTHER ORDAINED that the funding necessary to cover the carryover expenditures be
17 provided by appropriating the related revenues in the amount of \$241,676 and related 2020
18 fund balance in the amount of \$223,255 for a total of \$464,931.