

ENROLLED ORDINANCE 178-37

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION  
ORDINANCE DISTRICT ZONING MAP OF THE TOWNS OF GENESEE AND  
MUKWONAGO BY REZONING CERTAIN LANDS LOCATED IN SECTIONS 27 AND 34,  
T6N, R18E, TOWN OF GENESEE AND SECTIONS 3 AND 4, T5N, R18E, TOWN OF  
MUKWONAGO, WAUKESHA COUNTY, WISCONSIN TO APPLY A C-1  
CONSERVANCY OVERLAY DISTRICT ON THE SUBJECT LANDS  
(RZ119)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Town of Genesee Board on May 27, 2023 and approved by the Town of Mukwonago Board on June 7, 2023; and

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

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Towns of Genesee and Mukwonago, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors on June 23, 1970, is hereby amended to rezone certain lands located in Sections 27 and 34, T6N, R18E, Town of Genesee and Sections 3 and 4, T5N, R18E, Town of Mukwonago, Waukesha County, Wisconsin to apply a C-1 Conservancy Overlay District on the subject lands, and more specifically described in the "Staff Report and Recommendation" and map on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference RZ119, is hereby approved.

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

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

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE DISTRICT ZONING MAP OF THE TOWNS OF GENESEE AND MUKWONAGO BY REZONING CERTAIN LANDS LOCATED IN SECTIONS 27 AND 34, T6N, R18E, TOWN OF GENESEE AND SECTIONS 3 AND 4, T5N, R18E, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN TO APPLY A C-1 CONSERVANCY OVERLAY DISTRICT ON THE SUBJECT LANDS (RZ119)

Presented by:

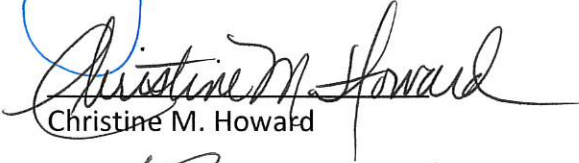
Land Use, Parks, and Environment Committee



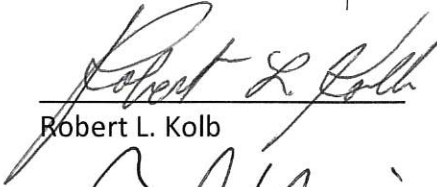
Tyler J. Foti, Chair



Jennifer Grant



Christine M. Howard



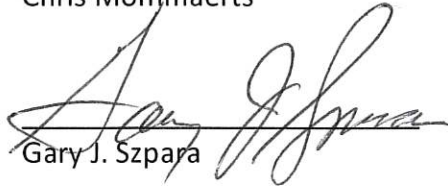
Robert L. Kolb



Brian Meier



Chris Mommaerts



Gary J. Szpara

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

Date: 8/28/2023, Margaret Wartman  
Margaret Wartman, County Clerk

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

Approved: X

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


Date: 8/28/2023, Paul Farrow  
Paul Farrow, County Executive

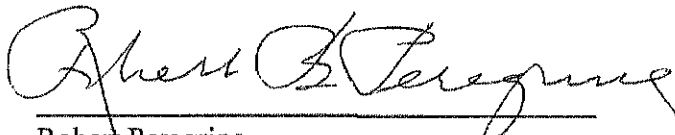
COMMISSION ACTION

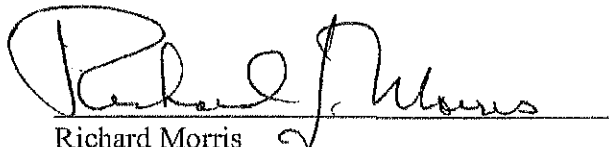
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends approval of RZ119 (Map Amendments/Laitsch Dam, Towns of Genesee and Mukwonago) in accordance with the attached "Staff Report and Recommendation".

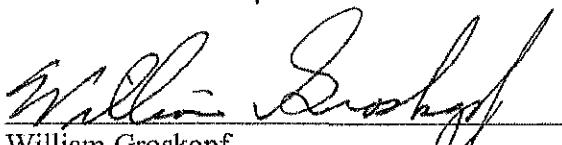
PARK AND PLANNING COMMISSION

July 20, 2023

  
James Siepmann, Chairperson

  
Robert Peregrine

  
Richard Morris

  
William Groskopf

  
Gary Szpara

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

**FILE NO's:** RZ118 (text) and RZ119 (map)

**DATE:** July 20, 2023

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

**LOCATION:**

The properties affected by the rezone amendment are located in Section 34 and the S ½ of Section 27 in the Town of Genesee (T6N, R18E) as well as the NW ¼ of Section 3 and the NE ¼ of Section 4 in the Town of Mukwonago (T5N, R18E). Maps of the area and an informational letter were provided with the notices sent to the individual property owners affected. Exhibit A specifically identifies the proposed C-1 Conservancy Overlay District boundary based on the Dam Failure Zone. The information can also be viewed on the Waukesha County GIS website at: <https://www.waukeshacounty.gov/interactivemap/>. The dam failure layer is noted as "Draft dam failure (Willow Springs Dam) and is located within the "Floodplains FEMA and Other Sources" layer group on GIS.

**EXISTING ZONING:**

The dam failure study area extends across roughly 135 acres of land. Except for approximately 3,000 sq. ft. of land currently subject to Town of Genesee zoning, all lands are currently zoned C-1 Conservancy Overlay District. With respect to base zoning, most of lands are zoned HG High Groundwater District, with the remainder of lands in the A-1 Agricultural District. It should be noted that there is no proposal to amend base zoning designations, just the overlay zoning district boundaries.

**PROPOSED ZONING:**

The proposal would amend the text and map of the Waukesha County Shoreland and Floodland Protection Ordinance (SFPO) in order to adopt the dam failure analysis (study) for the Laitsch Dam. The hydraulic shadow of the dam failure analysis is proposed to be mapped as an additional floodplain boundary along Spring Brook from the Laitsch Dam to approximately 8,500 feet downstream of the dam. Only one (1) lot within the entire study area contains lands within the dam failure shadow that are not already zoned C-1 Conservancy (Floodplain) Overlay District due to the existing 100-year floodplain. The single lot impacted is an outlot in the Fields Crossing subdivision which currently has a substantial area of C-1 Conservancy Overlay District zoning due to an area of mapped floodplain. The outlot, which is fractionally owned by all subdivision lot owners, is used for stormwater purposes and is not buildable. That outlot would see roughly 2,800 sq. ft. of additional lands become subject to C-1 Conservancy (Floodplain) Overlay District due to the rezone action. In addition, because the County's shoreland jurisdictional limits extend to the full extent of the floodplain limits, the small area of the above noted outlot would become subject to shoreland jurisdiction since the floodplain in this section extends further than 300 feet from Spring Brook. Lastly, the table of official floodplain maps and studies in Section 6(b)1.B.ii of the SFPO will be repealed and re-created in its entirety (see Exhibit B).

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 zoning 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.

**PUBLIC HEARING DATES:**

Town of Genesee: May 27, 2023  
Town of Mukwonago: June 7, 2023

**PUBLIC REACTION:**

- Town of Genesee: None
- Town of Mukwonago: A question was asked at the hearing regarding any impacts to flood insurance requirements due to the zoning change. County staff noted that this change would not impact National Flood Insurance Program (NFIP) requirements since the dam failure rezone is not based on a hazard zone established from a Federal Insurance Rate Map (FIRM).

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

On May 27, 2023, the Town of Genesee Plan Commission recommended approval of the request to the Town Board.

On May 27, 2023, the Town of Genesee Plan Board recommended approval of the text and map amendment to Waukesha County.

**TOWN OF MUKWONAGO**

On June 7, 2023, the Town of Mukwonago Plan Commission unanimously recommended approval of the request to the Town Board.

On June 7, 2023, the Town of Mukwonago Plan Board unanimously recommended approval of the text and map amendment to Waukesha County.

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

A dam failure study has recently been completed by Stormwater Solutions Engineering for the Laitsch Dam, which is located on Willow Spring Lake and is managed by the Spring Brook Watershed Lake Management District. The dam, located in the Town of Mukwonago, defines the upstream extent of the study area with the downstream extent in the Town of Genesee where a bridge serving State Highway 83 crosses over Spring Brook.

NR116 of the Wisconsin Administrative Code requires areas downstream of dams be zoned and regulated to reduce potential loss of life and property. The WDNR has recently advised Waukesha

County that the study must be adopted on zoning maps and be referenced in the official maps section of the Waukesha County Shoreland and Floodland Protection Ordinance. As a result, the C-1 Conservancy (Floodway) Overlay District must be expanded to match the boundaries of the dam failure shadow.

**STAFF RECOMMENDATION:**

Based on the above analysis, the Planning and Zoning Division staff recommend **approval** of the request.

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.

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 danger. Over 99.9% of the lands with the dam failure study are already under a C-1 Conservancy Overlay zoning designation and the remaining affected lands are located in an undevelopable outlot. Approval of the request is consistent with the purpose and intent of the ordinance and follows CDP recommendations.

Respectfully submitted,

*Jason Fruth*

Jason Fruth  
Planning & Zoning Manager

*Benjamin Greenberg*

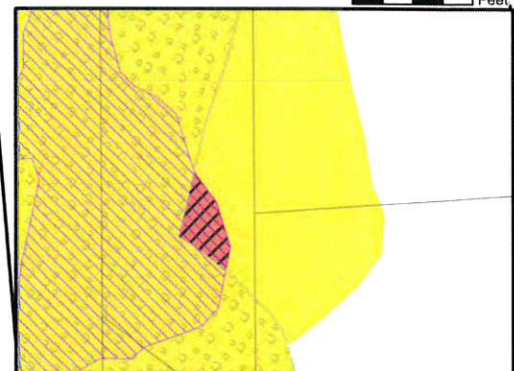
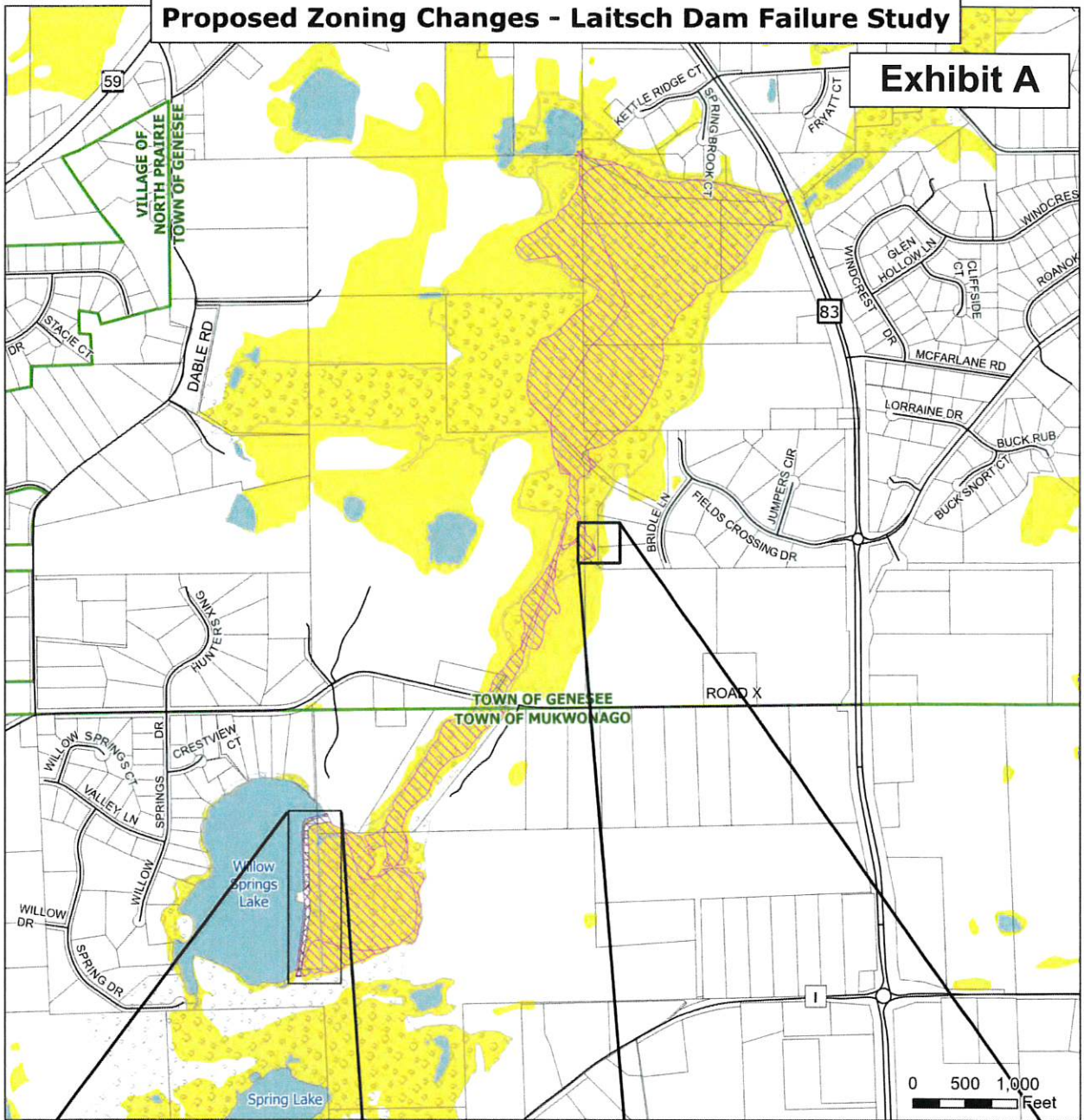
Ben Greenberg  
Senior Planner

Enclosures: Exhibit A (floodplain map)  
Exhibit B (draft table of official maps and studies)

N:\PRKANDLU\Planning and Zoning\Rezoning\Staff Reports\RZ118 Text and RZ119 Map Laitsch Dam gnt\_mkt.doc

# Proposed Zoning Changes - Laitsch Dam Failure Study

## Exhibit A



Parcel affected: GNT 1576022; 0.04 Acres - Existing Town Zoning: C-1 District

- Legend**
- Proposed Dam Failure Zone (C-1 Floodway)
  - Existing C-1 Conservancy Overlay (DNR Wetlands and FEMA Floodplain)
  - C-1 Floodway Overlay (Existing HG District Remains)
  - C-1 Floodway Overlay (Existing P-I District Remains)
  - Establish HG Zoning District with C-1 Floodway Overlay
  - Water
  - Civil Division
  - Environmental Cooridor Overlay

Parcels affected: MUKT1882999002, MUKT1882992001 1.6 Acres  
Existing County Zoning: HG District with EC Overlay, P-1 District  
Referred on: 07/27/23

Prepared by Waukesha County Parks and Land Use - April 20, 2023

**Table 6(6)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 is 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. 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 February 23, 2021.
9. Willow Springs Lake (Laitsch) Dam Failure Analysis, prepared by Stormwater Solutions Engineering, LLC on September 9, 2022, approved by the WDNR on October 18, 2022 and adopted by the Waukesha County Board on \_\_\_\_\_. The adopted dam failure analysis includes the following:
  - a. Map dated October 7, 2022 and titled "Laitsch Dam Failure Analysis, Dam Breach".
  - b. Floodway data table dated October 7, 2022, and titled "Floodway Data Laitsch Dam Breach Hydraulic Shadow".
  - c. Flood profiles dated September 9, 2022, and titled "Laitsch Dam Failure Analysis-Breach".



VOTE RESULTS >

24 YES 0 NO 0 ABSTAIN 1 ABSENT

**Ordinance 178-O-037**

 **Passed By Majority Vote**

Ordinance 178-O-037: Amend the Waukesha County Shoreland and Floodland Protection Ordinance District 2 Mukwonago by Rezoning Certain Lands Located in Sections 27 and 34, T6N, R18E, Town of Genesee and Sections 3 and 4, 15N, R18E, Town of Mukwonago, Waukesha County, Wisconsin to Apply A C-1 Conservancy Overlap District on the Subject Lands (RZ119)

D1 - Foti	AYE	D10 - Thieme	AYE	D19 - Enriquez	AYE
D2 - Weil	AYE	D11 - Howard	AYE	D20 - Schellinger	AYE
D3 - Morris	AYE	D12 - Wolf	AYE	D21 - Gaughan	AYE
D4 - Batzko	AYE	D13 - Decker	AYE	D22 - Szpara	AYE
D5 - Grant	AYE	D14 - Mommaerts	AYE	D23 - Hammitt	AYE
D6 - Walz	AYE	D15 - Kolb	AYE	D24 - Bangs	AYE
D7 - LaFontain	AYE	D16 - Crowley	AYE	D25 - Johnson	AYE
D8 - Koremenos	ABSENT	D17 - Meier	AYE		
D9 - Heinrich	AYE	D18 - Nelson	AYE		