

ENROLLED ORDINANCE 173-049

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION  
ORDINANCE DISTRICT ZONING MAP OF THE TOWN OF VERNON TO ESTABLISH  
COUNTY SHORELAND ZONING DESIGNATION FOR AN AREA WITHIN 1,000 FT.  
OF A SERIES OF PONDS ASSOCIATED WITH MILL BROOK (RZ10)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Vernon Town Board on September 12, 2018; 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 Town of Vernon, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors on June 23, 1970, is hereby amended to establish County Shoreland Zoning designation for an area within 1,000 ft. of a series of ponds associated with Mill Brook, 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 RZ10, is hereby approved.

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

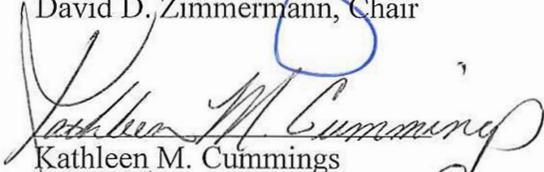
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

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COUNTY SHORELAND ZONING DESIGNATION FOR AN AREA WITHIN 1,000 FT.  
OF A SERIES OF PONDS ASSOCIATED WITH MILL BROOK (RZ10)

Presented by:  
Land Use, Parks, and Environment Committee



David D. Zimmermann, Chair



Kathleen M. Cummings



Keith Hammitt



William A. Mitchell

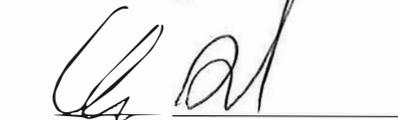


Thomas J. Schellinger

*absent*

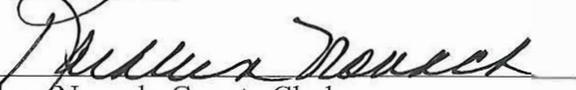


Steve Whittow



Chuck Wood

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

Date: 10/30/18,   
Kathleen Novack, County Clerk

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

Approved: X

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

Date: 10/29/18,   
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 District Zoning Map for the Town of Vernon, hereby recommends **approval** of **(RZ10 Waukesha County Department of Parks and Land Use)** in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

September 20, 2018

  
Robert Peregrine, Chairperson

  
William Mitchell, Vice Chairperson

  
James Siepmann, Secretary

  
Richard Morris

  
William Maslowski

  
Thomas Michalski

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

**FILE NO.:** RZ10

**TAX KEY NO's.:** Multiple (see attached Zoning Map)

**DATE:** September 20, 2018

**PETITIONER:** Waukesha County Department of Parks and Land Use  
515 W. Moreland Blvd., Room AC230  
Waukesha, WI 53188

**LOCATION:**  
Part of the SW ¼ of the NE ¼, and part of the W ½ of Section 1, and part of the E ½ of Section 2, T5N, R19E, Town of Vernon, Waukesha County. More specifically, the subject area is located north of C.T.H. "ES," west of C.T.H. "U" and east of Big Bend Drive.

**PROPOSED REQUEST:**  
Establish County Shoreland zoning designations for an area within 1,000 ft. of a series of ponds associated with Mill Brook.

**EXISTING ZONING:**  
RRD-5 Rural Residential Density, R-1 Residential, A-3 Suburban Estate, A-5 Mini-Farm and B-3 General Business Districts of the Town of Vernon Zoning Code.

**EXISTING LAND USE:**  
Predominantly single-family residential use and open space. Commercial/mixed use on a single parcel in the subject area.

**PROPOSED ZONING:**  
RRD-5 Rural Residential Density, R-1 Residential, A-3 Suburban Estate, A-5 Mini-Farm and B-3 General Business Districts of the Waukesha County Shoreland and Floodland Protection Ordinance.

**PROPOSED LAND USE:**  
No proposed land use changes.

**PUBLIC HEARING DATE:**  
July 11, 2018.

**PUBLIC REACTION:**  
Keith Phillip, resident at S89 W22930 National Avenue: He is very concerned about the value of his property, and that his property will be split by County and Town zoning. He asked to see where the line was drawn on his property and indicated he is not happy with the location of the line. He felt that it does not make any sense to have the property split into two separate zoning codes.

Daryl Hooker, resident at S68W22700 National Avenue: He spoke on behalf of his mother, who also attended the meeting. He said the map currently shows that the line runs alongside his mother's home. He stated that the map is done very poorly, and he would like to see a clearer map. He has concerns about his mother's possibility of dividing her property in the future.

Cynthia Rux, resident at S65 W22855 Garrett Drive: She is part of the Rolling Meadow Subdivision. Her property is split in half according to the map. She asked to see where the floodplain is and how does this zoning change affect her property rights?

Peter Olson, resident at W232 S6790 Millbrook Circle: He stated that he has the same concerns as his neighbors and questioned why there are three different zoning categories. He would like more detailed information on how the maps were created.

Jerry Campbell, resident at W232 S6875 Millbrook Circle: He agreed with his neighbor's comments and has questioned the information on the maps as well.

#### **TOWN PLAN COMMISSION AND TOWN BOARD ACTIONS:**

At their meeting on July 11, 2018, the Town of Vernon Plan Commission unanimously recommended to the Town of Vernon Town Board approval of the request with the contingency that the DNR produce a map and report of determination.

On September 12, 2018, the Town of Vernon Board approved the rezoning request.

#### **COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWN OF VERNON LAND USE PLAN:**

The lands are in the Mixed Use, Environmental Corridor, Suburban Density I as well as the Rural Density and Other Agricultural Lands Plan Categories in the County Development Plan; the Town Land Use Plan has the lands in the Residential-Business Transition Area, Environmentally Sensitive Area, Low Density Residential and Rural Density categories.

As recommended by the County Development Plan, the lands are proposed to be zoned as used.

#### **STAFF ANALYSIS:**

In June 2016, the Wisconsin Department of Natural Resources conducted a navigability determination of a pond at the request of a business owner that was proposing to locate a business operation on property located at S68 W22850 National Avenue (C.T.H. "ES") in the Town of Vernon. Mill Brook runs through the north portion of the property and is connected to said pond. No formal write-up was received by the DNR outside of an email indicating the pond was navigable and the Ordinary High Water Mark had been staked. However, as the proposed business operation was withdrawn, no updated survey was provided to the County with the identified (OHWM) and nothing further was received by the DNR.

Subsequently, on February 1, 2018, the Water Management Specialist for the DNR had been asked by County Staff to determine if a pond located west of the above noted pond was also navigable. This pond is also connected to Mill Brook. The DNR verbally responded that both ponds were navigable. On February 2, 2018, County staff emailed the DNR requesting written confirmation that both ponds were in fact determined to be navigable.

A July 31, 2018 e-mail correspondence from the same DNR staff to the Town Clerk provided additional information regarding the agency's determination. DNR staff indicated the following:

- The two ponds in question have defined bed, bank and the capability to float a craft on a recurring basis.
- The ponds are connected enlargements of Mill Brook, which is a navigable stream.
- The ponds appeared to be connected enlargements of Mill Brook and near the headwaters.

Consistent with State Shoreland Zoning requirements, the Waukesha County Shoreland and Floodland Protection Ordinance jurisdictional boundary will now extend 1,000 ft. from both ponds rather than 300 ft. from Mill Brook. This navigability determination will affect the zoning jurisdiction of 31 properties in the Town of Vernon. The jurisdictional change results in little change for property owners in that the proposed County zoning categories match the pre-existing Town categories.

**STAFF RECOMMENDATION:**

It is the opinion of the Planning and Zoning Division Staff that this request **be approved.** The amendments update County shoreland mapping consistent with state law requirements. The proposed rezoning is in conformance with the Comprehensive Development Plan for Waukesha County and the Town of Vernon Land Use Plan. Both the County and Town codes prescribe methods for administration of zoning on split jurisdictional parcels.

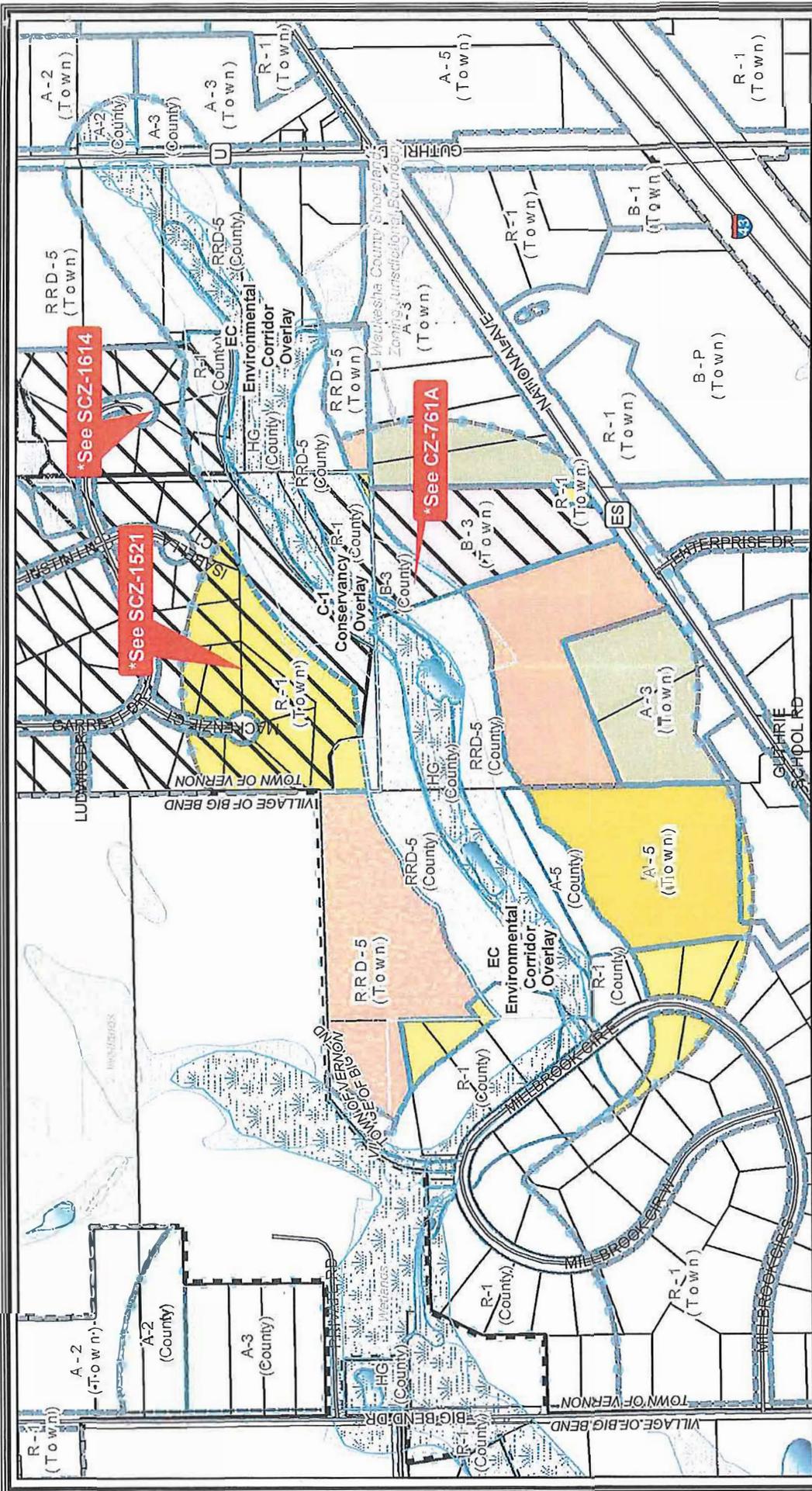
Respectfully submitted,

*Benjamin Greenberg*

Benjamin Greenberg  
Senior Land Use Specialist

Attachments: Map

N:\PRKANDLU\Planning And Zoning\Rezoning\Staff Reports\RZ10 WC PLU Vnt.Docx



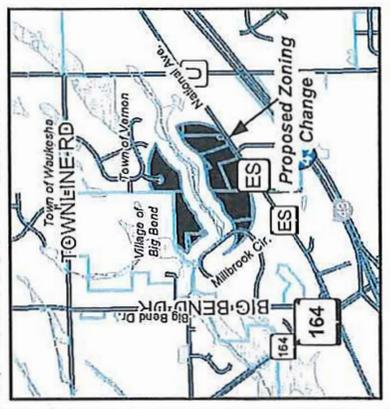
# ZONING MAP AMENDMENT

PART OF THE  
W 1/2 OF SECTION 1 & E 1/2 OF SECTION 2  
TOWN OF VERNON

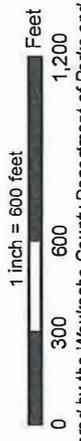
**County Zoning Districts to be Established & Replace Existing Town Zoning Districts of Same Designations**

EC Overlay (13.1 ac)	B-3 (6.9 ac)
RRD-5 (23.7 ac)	A-5 (10.9 ac)
R-1 (17.9 ac)	A-3 (12 ac)

FILE.....	RZ10
DATE.....	09/20/18
AREA OF CHANGE.....	84.6 ACRES
TAX KEY NUMBERS.....	MULTIPLE



- Conditional Rezone
- Wetland
- County Shoreland Zoning Jurisdiction Boundary
- Environmental Corridor



D1 - Foti	AYE	D14 - Wood	AYE
D2 - Zimmermann	(M) AYE	D15 - Mitchell	AYE
D3 - Morris	Absent	D16 - Crowley	AYE
D4 - Batzko	AYE	D17 - Paulson	AYE
D5 - Dondlinger	AYE	D18 - Nelson	AYE
D6 - Walz	AYE	D19 - Cummings	AYE
D7 - Grant	AYE	D20 - Schellinger	AYE
D8 - Michalski	AYE	D21 - Gaughan	AYE
D9 - Heinrich	AYE	D22 - Wysocki	AYE
D10 - Swan	AYE	D23 - Hammitt	(2) AYE
D11 - Howard	AYE	D24 - Whittow	AYE
D12 - Wolff	AYE	D25 - Johnson	AYE
D13 - Decker	AYE		

173-0-049

Passed (24 Y - 0 N - 1 Absent)

Majority Vote

