

Enrolled 158-153
PROPOSED ORDINANCE 158-157

1
2
3 AMEND THE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND
4 AND FLOODLAND PROTECTION ORDINANCE, FOR THE TOWNS OF EAGLE AND
5 MUKWONAGO, BY REZONING CERTAIN LANDS LOCATED IN SECTIONS 25, 26, 35
6 AND 36, TOWN OF EAGLE AND SECTIONS 29, 30, 31 AND 32, TOWN OF
7 MUKWONAGO, FROM THE A-1 AGRICULTURAL, A-E EXCLUSIVE
8 AGRICULTURAL CONSERVANCY AND C-1 CONSERVANCY DISTRICTS
9 TO THE A-1 AGRICULTURAL, C-1 CONSERVANCY AND EC
10 ENVIRONMENTAL CORRIDOR DISTRICTS (SZ-1514)
11
12

13 WHEREAS the subject matter of this Ordinance having been duly referred to and considered by
14 the Waukesha County Park and Planning Commission after Public Hearing and the giving of
15 requisite notice of said hearing and the recommendation thereon reported to the Land Use, Parks
16 and Environment Committee and the Waukesha County Board of Supervisors, Waukesha
17 County, Wisconsin, as required by Section 59.692 of the Wisconsin State Statutes.
18

19 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES
20 ORDAIN that the Waukesha County Shoreland and Floodland Protection Ordinance adopted on
21 June 23, 1970, for the Towns of Eagle and Mukwonago, Waukesha County, is hereby amended
22 to rezone from the A-1 Agricultural, A-E Exclusive Agricultural Conservancy and C-1
23 Conservancy Districts to the A-1 Agricultural, C-1 Conservancy and EC Environmental Corridor
24 Districts, certain lands located in Sections 25, 26, 35 and 36, Town of Eagle and Sections 29, 30,
25 31 and 32, Town of Mukwonago, and more specifically described in the "Staff Report and
26 Recommendation" and map on file in the office of the Waukesha County Department of Parks
27 and Land Use and made a part of this Ordinance by reference (SZ-1514).
28

29 BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of
30 this Ordinance with the Town Clerks of Eagle and Mukwonago.
31

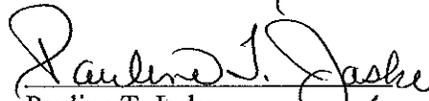
32 BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage,
33 approval and publication.
34

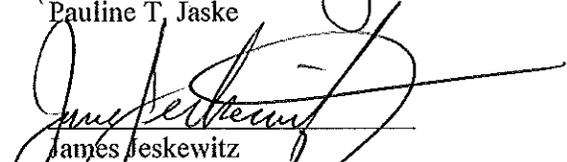
35 BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of
36 provisions of this Ordinance are hereby repealed.

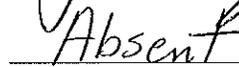
AMEND THE DISTRICT ZONING MAP OF THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE, FOR THE TOWNS OF EAGLE AND MUKWONAGO, BY REZONING CERTAIN LANDS LOCATED IN SECTIONS 25, 26, 35 AND 36, TOWN OF EAGLE AND SECTIONS 29, 30, 31 AND 32, TOWN OF MUKWONAGO, FROM THE A-1 AGRICULTURAL, A-E EXCLUSIVE AGRICULTURAL CONSERVANCY AND C-1 CONSERVANCY DISTRICTS TO THE A-1 AGRICULTURAL, C-1 CONSERVANCY AND EC ENVIRONMENTAL CORRIDOR DISTRICTS (SZ-1514)

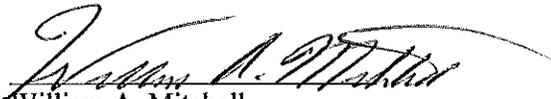
Presented by:
Land Use, Parks, and Environment Committee


Walter L. Kolb, Chair


Pauline T. Jaske


James Jeskewitz


Absent
Scott J. Klein


William A. Mitchell

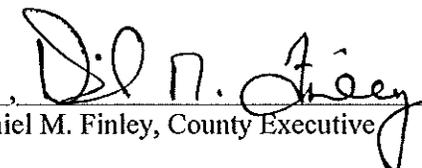

Daniel Pavelko


Vera Stroud

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

Date: 2-16-04, 
Kathy Nikolaus, County Clerk

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

Approved:
Vetoed:
Date: 4-19-04, 
Daniel M. Finley, County Executive

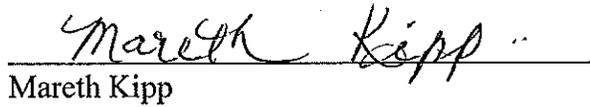
COMMISSION ACTION

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 SZ-1514 (Waukesha County Department of Parks and Land Use) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION March 18, 2004

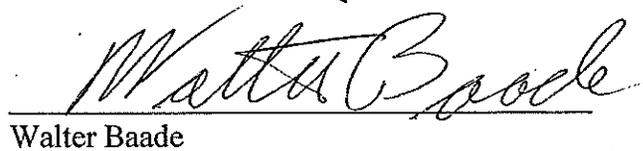
Absent
Betty Willert, Chairperson


Vy Janusonis, Acting Chairperson

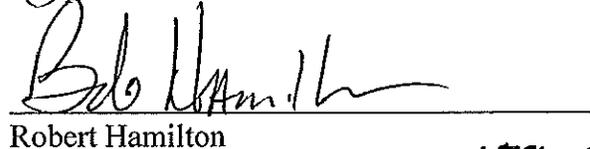

Mareth Kipp

Absent
Ellen Gennrich


Walter Kolb


Walter Baade


Joseph La Porte


Robert Hamilton

158-0-154

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

FILE NO.: SZ-1514

DATE: March 18, 2004

PETITIONER: Waukesha County Department of Parks and Land Use
Planning and Zoning Division
1320 Pewaukee Road
Room 230
Waukesha, WI 53188

LOCATION:

Sections 25, 26, 35 and 36, T5N, R17E, Town of Eagle and Sections 29, 30, 31 and 32, T5N, R18E, Town of Mukwonago. More specifically, the proposed amendments to the jurisdictional maps of the Waukesha County Shoreland and Floodland Protection Ordinance are in the area of Eagle Spring Lake in the Town of Eagle, running easterly along the Mukwonago River to one-quarter (1/4) mile east of Beulah Road.

PROPOSED ZONING:

To update certain sections of the Towns of Eagle and Mukwonago Zoning District Maps under the jurisdiction of the Waukesha County Shoreland and Floodland Protection Ordinance in order to implement the Dam Failure Analysis for the Wambold and Kroll Dams on Eagle Spring Lake in accordance with NR-116.09 of the Wisconsin Administrative Code. The areas to be rezoned consist of C-1 (Conservancy Wetland/ Floodplains), EC (Upland and Environmental Primary Corridors), and A-1 (Agricultural) Districts and recognition of new floodplain boundaries on lands throughout this reach of the stream.

PUBLIC HEARING DATE:

February 4, 2004.

PUBLIC REACTION:

Representatives from the Eagle Spring Lake Management District indicated why the Dam Failure Analysis had been done and encouraged the County and the Towns to adopt the new zoning maps. A representative for the Rainbow Springs property questioned SEWRPC's (Southeastern WI Regional Plan Commission) staking of the Primary Environmental Corridors and stated they were in the process of having the area re-evaluated; however, in further discussions with them it appears this is not the case. Also, the attorney for Rainbow Springs questioned whether this would be considered a takings if jurisdictional areas were changing.

TOWN PLAN COMMISSION FOR TOWNS OF EAGLE AND MUKWONAGO:

The Town of Eagle Plan Commission voted to recommend approval of the new zoning maps on March 1, 2004. The Town of Mukwonago Plan Commission, on February 4, 2004, recommended to the Town Board that they take no action regarding the floodplain of the Waukesha County Shoreland and Floodland Protection Ordinance amendment because of the litigation which is on going with Rainbow Springs.

158-0-154

TOWN BOARD ACTION FOR TOWNS OF EAGLE AND MUKWONAGO:

On March 1, 2004, the Town of Eagle Board recommended to the Waukesha County Board approval of the new zoning district maps. The Town of Mukwonago Board concurred with their Town Plan Commission recommendation taking no action because of the ongoing litigation action by Town Boards is advisory only in shoreland areas.

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN AND THE TOWNS OF EAGLE AND MUKWONAGO LAND USE PLANS:

Both the Town of Eagle and Mukwonago Land Use Plans designate the Upland Primary Environmental Corridor in Upland Conservancy and Environmental Corridor and the lowland areas in a Conservancy category. The Waukesha County Development Plan indicates the majority of the area that has been changed to the Environmental Corridor District represents both upland and lowland corridors, wetlands and floodplains. The proposal to update the zoning district maps is consistent with the above-cited plans.

OTHER CONSIDERATIONS:

The proposed amendments to the jurisdictional maps of the Waukesha County Shoreland and Floodland Protection Ordinance for this portion of the Towns of Eagle and Mukwonago are a result of the change in flood elevations, as they relate to the Dam Failure Analysis and Emergency Action Plan for the Wambold and a Kroll Dams on Eagle Spring Lake conducted by Graft, Anhalt & Schloemer consulting firm. All Upland Primary Environmental Corridors are now proposed to be placed. According to NR-116.09 of the Wisconsin Administrative Code, municipalities shall delineate the entire floodplain on their Floodplain Zoning Maps assuming the failure of a dam during a 100-year regional flood. The Wisconsin Department of Natural Resources (DNR) has the responsibility to assume a dam hazard rating according to Wisconsin Administrative Code NR-333.04. In order to assign a hazard rating, a Dam Failure Analysis must be performed to identify the hydraulic shadow for the failure of the dam. The Wisconsin Administrative Code NR-116.09 then requires the results of the Dam Failure Analysis to be delineated on the floodplain zoning maps. In 1998, a Dam Failure Analysis was performed on the Wambold and Kroll Dams. The final report was submitted to and approved by the DNR in April 2002. As a condition of that approval, the DNR required that the Dam Failure Analysis be incorporated into the floodplain zoning maps of the Waukesha County Shoreland and Floodland Protection Ordinance. When the County was notified of the Dam Hazard Analysis and approval by the Department, we were required to amend our maps within six (6) months of the date of that approval. However, the County had a number of questions and asked the Southeastern Wisconsin Regional Planning Commission (SEWRPC) to review the proposed maps and answer a number of questions. In July 2003, we received correspondence from SEWRPC commenting on the Flood Hazard Analysis. As part of their review, they suggested we correspond with the Federal Emergency Management Administration (FEMA) to determine if they needed to adopt the new Floodplain Analysis prior to the local adoption. In discussing this issue with FEMA, the DNR, SEWRPC, and the engineer who prepared the maps, it was determined that the FEMA floodplain will not be the same as the Dam Failure Analysis Flood Profile for Flood Insurance Purposes and that the County in responding to lending institutions relating to the floodplain, must use the FEMA maps. In a Comparison Analysis completed by the Department of Parks and Land Use, it appears there will be approximately 75.2 acres added to the 100-Year Floodplain, which is currently outside the FEMA floodplain boundary, and 160.6 acres removed from the floodplain boundary, which is currently included in the FEMA floodplain. The new study area showing the area within FEMA jurisdiction is 590.6 acres.

As part of this proposed amendment, the County has also chosen to implement the EC Upland Environmental Corridor District for these portions of the Towns of Eagle and Mukwonago. It is the County's normal policy to try to make a zoning district as consistent as possible with the Town's local

158-0-154

4.

zoning. The Town of Mukwonago currently has the Upland Primary Environmental Corridors in the EC District and the Town of Eagle has these areas in the UC District; therefore, the County has mapped those areas within these sections in the Environmental Corridor category consistent with any field delineations which were made of the corridor or as delineated on the Waukesha County Development Plan.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff this request be **approved** for the eight (8) sections contained in the Towns of Eagle and Mukwonago. Since all these changes are required under NR-116.09 of the Wisconsin Administrative Code and Section 4.02(B) of the Waukesha County Shoreland and Floodland Protection Ordinance, it is felt these mappings will incorporate the Dam Failure Analysis Study, as required by law, and update the jurisdictional zoning maps in accordance with the most current information with regards to elevations in the form of a 2 ft. contour map along with detailed any mapping of the Primary Environmental Corridor, which will be consistent with the maps in the two subject townships. This serves to implement the goal of the Waukesha County Development Plan in preserving floodplains and environmental corridors.

Respectfully submitted,



Kathy Moore
Senior Planner

KM:smv

N:\PLU FILES\PLANNING & ZONING\REZONES (RZ)\STAFF REPORTS\1514(DEPT OF PARKS & LAND USE)_ELT & _MKT.DOC

158-0-154

5.

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-04/13/04

(ORD) NUMBER-1580154

- 1 K. HERRO.....AYE
- 3 D. STAMSTA.....AYE
- 5 J. MARCHESE.....AYE
- 7 J. JESKEWITZ.....AYE
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....AYE
- 13 J. MORRIS.....AYE
- 15 D. SWAN.....AYE
- 17 J. BEHREND.....
- 19 W. MITCHELL.....AYE
- 21 W. KOLB.....AYE
- 23 P. PRONOLD.....AYE
- 25 K. CUMMINGS.....AYE
- 27 D. PAULSON.....AYE
- 29 M. THOMAS.....AYE
- 31 V. STROUD.....AYE
- 33 D. PAVELKO.....AYE
- 35 C. SEITZ.....AYE

- 2 R. THELEN.....AYE
- 4 H. CARLSON.....AYE
- 6 D. BROESCH.....AYE
- 8 J. DWYER.....AYE
- 10 S. WOLFF.....AYE
- 12 J. GRIFFIN.....AYE
- 14 J. LA PORTE.....AYE
- 16 R. MANKE.....AYE
- 18 B. MORRIS.....AYE
- 20 M. KIPP.....AYE
- 22 G. BRUCE.....AYE
- 24 A. SILVA.....AYE
- 26 S. KLEIN.....AYE
- 28 P. JASKE.....AYE
- 30 K. NILSON.....AYE
- 32 P. GUNDRUM.....AYE
- 34 R. SINGERT.....AYE

TOTAL AYES-34

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-34