

ENROLLED ORDINANCE 166-108

REPEAL AND RECREATE SECTION 6(b)1.B OF THE WAUKESHA COUNTY
SHORELAND AND FLOODLAND PROTECTION ORDINANCE TO
INCORPORATE THE MONCHES MILLPOND DAM
FAILURE STUDY (SZ-1729)

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

WHEREAS, the Waukesha County Board of Supervisors may make amendments to such Ordinance pursuant to Section 59.692, Wisconsin Statutes; and

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

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA
ORDAINS:

SECTION 1. Section 6(b)1.B of the Waukesha County Shoreland and Floodland Protection Ordinance is repealed and recreated to read as follows:

(b) **Zoning map**

1. Districts mapped: The boundaries of zoning districts are shown upon maps as referred to in Section 3 of this Ordinance for all of the unincorporated towns of Waukesha County, and entitled Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps which are made a part of this Ordinance and adopted by reference.

A. Wetlands: The Final Wisconsin Wetlands Inventory Maps for Waukesha County, dated September 6, 1984 and subsequently amended, were utilized to assist in the preparation and identification of wetlands identified on the aerial photographs and accordingly are made a part of this Ordinance and are adopted by reference. All the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said maps were all fully described herein. Said maps shall be kept on file in the offices of the county zoning agency and are periodically updated as amendments are made, and are for general informational purposes only. For the purpose of local administration, a copy of the appropriate maps shall also be kept on file in the office of each town.

All other wetlands subsequently identified by the Zoning Administrator, Zoning Agency, SEWRPC, ACOE or the WDNR within the shoreland boundaries but not noted on the Wisconsin Wetland Inventory Maps, are subject to regulations contained in the C-1 Conservancy District. Said newly determined areas shall be noted on the Shoreland and Floodland Protection Ordinance Zoning Maps as a C-1 designated area within six (6) months of said determination.

B. Floodplains: The boundaries of the floodplains shall be those areas designated as such on the FEMA Flood Insurance Rate Maps, including all areas covered by

the regional or base flood and those floodplains identified in the Floodplain Appendix or as depicted as C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and A-E Exclusive Agricultural Conservancy District on the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps referenced in Section 3(a) of this Ordinance, whichever boundary designates a greater floodplain area. Base flood elevations are derived from the corresponding flood profiles published by FEMA, Flood Insurance Study, effective date, November 19, 2008, or as amended or updated thereafter. Areas covered by the base flood are identified as numbered A-Zones on the Flood Insurance Rate Map. The Flood Insurance Study constitutes the basis for which the official floodplains and appropriate zoning categories for which unincorporated areas of Waukesha County have been mapped. This study has been approved by the WDNR and FEMA, and is on file in the office of the County Zoning Administrator. Regional flood elevations have been derived from other studies and are approved by WDNR. A list of the official floodplain maps to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is listed as follows. These maps and revisions are on file in the office of the Waukesha County Zoning Administrator, in Waukesha County. If more than one map or revision is referenced, the most restrictive information shall apply.

Any change to the base flood elevations (BFE) in the Flood Insurance Study or on the Flood Insurance Rate Map must be reviewed and approved by the WDNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the WDNR.

OFFICIAL MAPS : Based on the Flood Insurance Study

Waukesha County Flood Insurance Rate Map (FIRM), panel numbers
55133C0016F, 55133C0017F, 55133C0018F, 55133C0019F, 55133C0029F,
55133C0033F, 55133C0034F, 55133C0036F, 55133C0037F, 55133C0038F,
55133C0039F, 55133C0041F, 55133C0042F, 55133C0043F, 55133C0044F,
55133C0053F, 55133C0054F, 55133C0059F, 55133C0061F, 55133C0062F,
55133C0063F, 55133C0064F, 55133C0066F, 55133C0067F, 55133C0068F,
55133C0069F, 55133C0078F, 55133C0079F, 55133C0083F, 55133C0086F,
55133C0087F, 55133C0088F, 55133C0089F, 55133C0091F, 55133C0093F,
55133C0131F, 55133C0132F, 55133C0133F, 55133C0134F, 55133C0141F,
55133C0142F, 55133C0143F, 55133C0144F, 55133C0151F, 55133C0152F,
55133C0153F, 55133C0154F, 55133C0156F, 55133C0157F, 55133C0158F,
55133C0161F, 55133C0162F, 55133C0163F, 55133C0164F, 55133C0166F,
55133C0167F, 55133C0168F, 55133C0169F, 55133C0176F, 55133C0177F,
55133C0178F, 55133C0179F, 55133C0181F, 55133C0182F, 55133C0183F,
55133C0186F, 55133C0187F, 55133C0188F, 55133C0189F, 55133C0191F,
55133C0193F, 55133C0194F, 55133C0201F, 55133C0202F, 55133C0206F,
55133C0207F, 55133C0208F, 55133C0214F, 55133C0216F, 55133C0217F,
55133C0218F, 55133C0219F, 55133C0256F, 55133C0257F, 55133C0259F,
55133C0270F, 55133C0280F, 55133C0285F, 55133C0290F, 55133C0291F,
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55133C0309F, 55133C0311F, 55133C0312F, 55133C0314F, 55133C0316F,
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55133C0328F, 55133C0329F, 55133C0331F, 55133C0336F, 55133C0338F,
55133C0339F, 55133C0385F, 55133C0405F, 55133C0406F, 55133C0407F,
55133C0408F, 55133C0409F, 55133C0426F, 55133C0427F, 55133C0431F,
55133C0432F, 55133C0451F, 55133C0452F, 55133C0453F, 55133C0454F,

dated November 19, 2008; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated November 19, 2008, volume numbers 55133CV001A-003A;

Approved by: The WDNR and FEMA

OFFICIAL MAPS: Based on other studies

Official maps approved by the WDNR and FEMA, including flood profiles, floodway data tables, regional or base flood elevations and other information shall become official maps of this Ordinance and shall be specifically listed herein as adopted by the Waukesha County Board.

The County shall provide the list of the official maps to the WDNR and FEMA regional offices for unincorporated areas of Waukesha County. Approved studies shall not be considered official maps herein until the land is rezoned according to Section 39 of this Ordinance. Said areas must be rezoned and identified on the official zoning maps within 6 months of WDNR and FEMA approval. The 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:

- 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.

- C. The A-O agricultural overlay district is a special kind of zoning district established to provide for superimposing upon basic districts additional permissive uses and regulatory standards without disturbing the basic underlying district regulations. As a special district, the applicable procedures for mapping amendments are those found in Section 39, changes and amendments.
- D. The existing floodplain development overlay district (EFD) is an overlay zoning district established to superimpose upon the conservancy zoning district regulatory standards or special regulations which will apply to the underlying zoning district where it is found that such land areas do contain existing development and are located within the floodplain as herein defined. The mapping of this district shall be established pursuant to the procedures set forth in Section 39, changes and amendments, of this Ordinance.

2. Determination of boundaries: District boundaries shall be determined by measurement from and as shown on the official zoning maps and in case of any questions as to the interpretation of such boundary lines, the Zoning Administrator shall interpret the map according to the reasonable intent of this Ordinance.

Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerline of streets, highways, railways or alleys.

3. Determination of boundaries for C-1 Conservancy District, EFD Existing Floodplain Development Overlay District, and A-E Exclusive Agricultural Conservancy District:

The boundaries of the C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and A-E Exclusive Agricultural Conservancy District as drawn are intended to represent the edge of marsh lands, swamps, floodlands, wetlands or the ordinary high water mark along streams or other watercourses. Where a question arises as to the exact location of those boundaries, they shall be determined by the Zoning Administrator or the County Zoning Agency through the utilization of the best available information such as topographic maps, soil maps, aerial photographs, infield botanical inventories, floodplain studies or other sources of information available which would lend assistance to such a determination and may be finally determined by actual conditions in each specific situation. An appeal to this determination may be made in conformance with Section 38 of this Ordinance. It is generally the intent of this Ordinance to place all wetlands and lands subject to inundation by the regional flood in either the C-1 district, A-E district, or EFD district if the areas are previously developed. Where land may be subject to inundation by the regional flood and a hydraulic and hydrologic analysis has not been prepared and/or the area is not indicated or mapped as floodplain, a detailed hydraulic and hydrologic analysis shall be prepared and reviewed and found to be adequate by the WDNR or its designated agency, in which case the new floodplain data will be used in the administration of this Ordinance. The Zoning Administrator shall map these floodplain areas in appropriate zoning districts within six (6) months of the time the WDNR has determined the acceptability of the data and said mapping shall be done pursuant to Section 39 of this Ordinance. Any changes or amendments in the mapped floodplains and made a part of this Ordinance shall be approved by the WDNR in accordance with the procedure set forth in Section 39 of this Ordinance.

If an area is found that has not been previously identified or mapped as a floodplain or a wetland and not zoned as C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy, or a determination of navigability is made and a stream is subsequently found to be navigable, said stream and any shoreland, wetland or floodplains as defined herein, shall immediately become subject to the provisions of this Ordinance. If the floodplain has not been determined, said area of approximate floodplain and wetlands shall be considered to be subject to the C-1, EFD and/or A-E regulations of this Ordinance. Appropriate procedures to establish Shoreland Zoning districts beyond that which is considered C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy shall be initiated under the mapping amendment procedure pursuant to Section 39 of this Ordinance and as set forth above. Water quality related standards of the Shoreland and Floodland Protection Ordinance are in effect immediately upon a determination of navigability or identification of a shoreland/wetland or floodplain (i.e., setback, grading, and land altering activities, vegetation removal).

4. Discrepancy of wetland boundaries: In the case of any discrepancy regarding a boundary between any mapped or newly determined wetland, the Zoning Administrator may make a determination or consult with the WDNR and coordinate the appropriate onsite investigation to determine the exact boundary. If the WDNR staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland or vice versa, the Zoning Administrator shall have the authority to immediately deny or grant a zoning permit in accordance with the regulations applicable to the correct zoning district designation as it may be modified by such field determination. A notation shall be made on the map indicating that such a change has been made for future reference purposes. Utilizing the procedures above, if an area is found to be inappropriately mapped in a C-1 Conservancy, EFD Existing Floodplain Development Overlay or A-E Exclusive Agricultural Conservancy District category, the Zoning Administrator shall have the authority to designate a district for the subject area consistent with the upland category

which may exist adjacent to the site without necessity of a formal amendment process and shall note said changes on the zoning map within 6 months of said determination.

5. Dispute or discrepancy of floodplain boundaries: In the case of any dispute or discrepancy regarding a boundary between an official zoning map and actual field conditions locating the floodplain boundary, the criteria in paragraphs (a) or (b) below shall be used. If a significant difference exists, the map shall be amended according to Section 39 of this Ordinance. Where the flood profiles are based on established base flood elevations from a Flood Insurance Rate Map, FEMA must also approve any map amendment. The Zoning Administrator can rely on a boundary derived from a flood profile elevation to grant or deny a permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to Section 38 of this Ordinance and the criteria in (a) and (b) below.
 - a. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - b. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the WDNR, and/or FEMA.

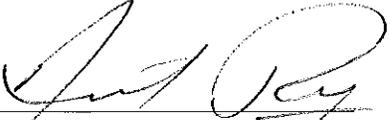
SECTION 2. This ordinance shall be effective upon approval and publication.

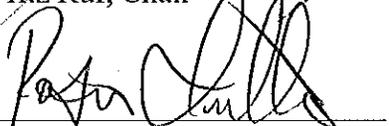
SECTION 3. The provisions of this ordinance shall be included and incorporated in the the County of Waukesha, Wisconsin, as an addition or amendment thereto and shall be appropriately renumbered to conform to the numbering system contained therein.

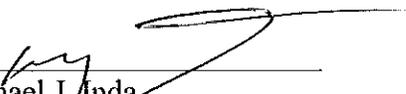
SECTION 4. Any code section or part of a section in conflict with this ordinance is hereby repealed and declared null and void and of no effect.

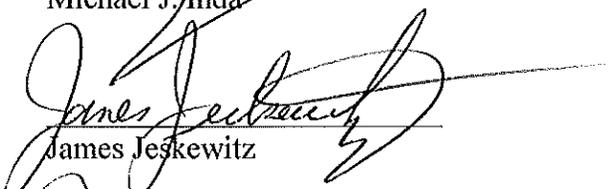
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INCORPORATE THE MONCHES MILLPOND DAM
FAILURE STUDY (SZ-1729)

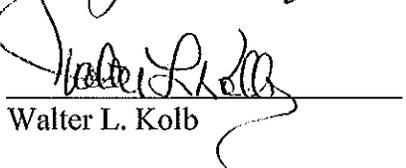
Presented by:
Land Use, Parks, and Environment Committee


Fritz Ruf, Chair

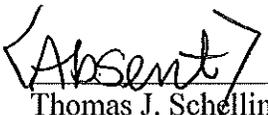

Robert Hutton


Michael J. Anda

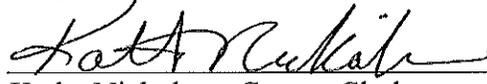

James Jeskewitz


Walter L. Kolb

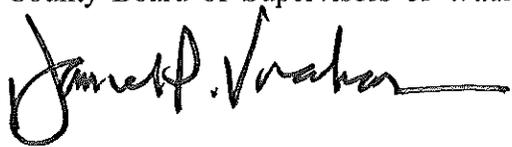

Ted Rolfs


Thomas J. Schellinger

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

Date: 4/3/12, 
Kathy Nickolaus, County Clerk

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

Approved: X
Vetoed: _____
Date: 4-5-12, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-03/27/12

(ORD) NUMBER-1660108

1 D. FALSTAD.....AYE
 3 R. HUTTON.....
 5 J. JESKEWITZ.....AYE
 7 P. HAUKOHL.....
 9 J. HEINRICH.....AYE
 11 F. RUF.....AYE
 13 P. DECKER.....AYE
 15 P. MEYERS.....AYE
 17 J. TORTOMASI.....AYE
 19 S. WIMMER.....AYE
 21 W. ZABOROWSKI.....AYE
 23 D. DRAEGER.....AYE
 25 G. YERKE.....AYE

2 T. ROLFS.....
 4 J. DWYER.....AYE
 6 J. BRANDTJEN.....
 8 T. SCHELLINGER....AYE
 10 D. SWAN.....AYE
 12 P. WOLFF.....AYE
 14 M. INDA.....AYE
 16 D. PAULSON.....
 18 K. CUMMINGS.....AYE
 20 P. JASKE.....AYE
 22 P. GUNDRUM.....AYE
 24 W. KOLB.....AYE

TOTAL AYES-20

TOTAL NAYS-00

CARRIED X

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-20

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

FILE NO.: SZT-1729 and SZ-1729

DATE: March 1, 2012

PETITIONER: Waukesha County Department of Public Works
515 W. Moreland Blvd., AC Room 220
Waukesha, WI 53188

LOCATION: Parts of Sections 3, 10, and 15, T8N, R18E, Town of Merton. More specifically, the new C-1 Conservancy boundary will be modified along the Oconomowoc River between C.T.H. "E" and Funks Dam.

PROPOSED ZONING:

Amend the text and maps of the Waukesha County Shoreland and Floodland Protection Ordinance in order to adopt the Dam Failure Analysis for the Monches Dam in accordance with NR 116 of the Wisconsin Administrative Code. The Dam Failure Analysis results in a new floodplain boundary along the Oconomowoc River between C.T.H. "E" and Funks Dam. Lands will be rezoned from the A-2 Rural Home, A-E Exclusive Agricultural Conservancy, and P-I Public and Institutional Districts to the C-1 Conservancy District on the Waukesha County zoning maps. Since the County's Shoreland jurisdictional limits extend to the full extent of the floodplain limits, if further than 300 ft. from a stream or 1,000 ft. from a lake, additional shoreland jurisdiction will be created. Lands will be rezoned from the A-1 Agricultural, A-2 Rural Home, and the P-1 Public Districts to the C-1 Conservancy District and from the C-1 Conservancy District to the A-1 Agricultural, R-1 Residential and P-1 Public Districts on the Town of Merton zoning maps in order to incorporate the new flood study.

PUBLIC HEARING DATE:

February 14, 2012.

PUBLIC REACTION:

One neighbor thought that the new floodplain boundary would affect his recent Letter of Map Amendment received by FEMA, which removed his structures from the floodplain for insurance purposes (*FEMA does not acknowledge dam failure study boundaries. Therefore, the existing FEMA boundary and associated elevations will remain in effect for flood insurance purposes*). He was also concerned that his septic system is located within the new floodplain boundary. Another neighbor asked if insurance is required for a dam (*It is not required by the Wisconsin Department of Natural Resources (WDNR), but some dam owners find it desirable*). Another neighbor stated that it has flooded beyond the boundaries shown on the dam failure maps in the past (*Michelle Hase with the WDNR stated that the existing dam does not have the capacity to carry a large flood event and the new dam will have a lot more capacity to carry a flood downstream. She also stated that a flood event can take place that exceeds regulatory boundaries*).

TOWN OF MERTON PLAN COMMISSION ACTION:

On February 14, 2012, the Town of Merton Plan Commission recommended approval to the Town Board and Waukesha County to amend the text and zoning maps of the Waukesha County Shoreland and Floodland Protection Ordinance to adopt the Dam Failure Analysis for the Monches Dam and create a new

C-1 Conservancy District boundary along the banks of the Oconomowoc River downstream of C.T.H. "E". On February 14, 2012, the Town Plan Commission also recommended approval to the Town Board that the Town adopt the Dam Failure Analysis for the Monches Dam and amend the Town's zoning maps to create a new C-1 Conservancy District boundary along the banks of the Oconomowoc River downstream of C.T.H. "E".

TOWN OF MERTON BOARD ACTION:

On February 14, 2012, The Town of Merton Board adopted a resolution recommending that Waukesha County amend the text and zoning maps of the Waukesha County Shoreland and Floodland Protection Ordinance to adopt the Dam Failure Analysis for the Monches Dam and create a new C-1 Conservancy District boundary along the banks of the Oconomowoc River downstream of C.T.H. "E" (Exhibit "A").

On February 14, 2012, the Town of Merton Board also adopted an Ordinance amending the Town's C-1 Conservancy District boundary along the banks of the Oconomowoc River downstream of C.T.H. "E" (Exhibit "B").

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY AND THE TOWN OF MERTON LAND USE PLAN:

Prevention of flooding is a key natural resource protection recommendation of both land use plans, and the proposed rezoning will protect the newly studied floodplain from fill and prevent future property damage.

OTHER CONSIDERATIONS:

The WDNR inspected the Monches Dam several years ago and required that the County prepare a dam failure analysis so that the WDNR could assume a dam hazard rating according to Wisconsin Administrative Code NR 333. In response, the Waukesha County Department of Public Works retained Hey and Associates to prepare a Dam Failure Analysis for the Monches Dam in 2006. The dam is located within the road right-of-way of C.T.H. "E". The purpose of NR 333 is to ensure that dams are designed, constructed and reconstructed so as to minimize the danger to life, health and property. The Dam Failure Analysis more specifically determines the hydraulic shadow for the failure of the dam, i.e. the area that would flood during a regional flood if the dam failed. A "regional flood" is defined as a flood with a one (1) percent chance of being equaled or exceeded in any given year. In accordance with Wisconsin Administrative Code NR 116, the hydraulic shadow is then required to be regulated as floodway and be placed in the appropriate zoning category as part of the County's floodplain zoning maps. Once the Dam Failure Analysis is approved by the WDNR and floodplain zoning is established, the dam hazard rating can be lowered, if appropriate. There are three (3) dam hazard ratings established by Wisconsin Administrative Code: high hazard, which indicates a potential loss of life if the dam fails; significant hazard, which indicates a potential for structural loss if the dam fails; and low hazard, which indicates that there would only be environmental impacts if the dam fails. Insurance costs are higher and design and maintenance requirements are greater with higher hazard ratings.

As explained in the related Conditional Use Staff Report (SCU-1557), the Waukesha County Department of Public Works is proposing to reconstruct the Monches Dam. The new structure has no effect on the existing Dam Failure Analysis that was approved in 2006 and has since been further amended. However, it is important that the Dam Failure Analysis be adopted and the floodplain maps be amended accordingly because the North Lake Management District would like to take ownership of the dam and they are not

willing to accept ownership until the hazard rating is lowered. The WDNR has agreed that the hazard rating of the dam will be reduced to low hazard provided Waukesha County adopts the analysis and zones the dam failure shadow as floodway.

Several amendments were made to the original Dam Failure Analysis for the Monches Dam. The most recent amendment was prepared in January 2012 and received approval from the WDNR on January 24, 2012. As a result of the analysis and its amendments, the floodplain boundary will be modified along the banks of the Oconomowoc River downstream of the Monches Mill Pond, between C.T.H. "E" and the Funks Dam. The new boundary does not impact any residential structures. However, there is a barn and shed downstream of the dam that will be located within the new floodplain boundary. Otherwise, the area added to the floodplain is largely open land that is otherwise wetland, upland environmental corridor, or used for open space purposes. Waukesha County owns a significant amount of the land affected, as much of the lands constitute Oconomowoc River Greenway Corridor holdings. A map depicting the lands affected is on file in the Department of Parks and Land Use -- Planning and Zoning Division office.

Lands will be rezoned from the A-2 Rural Home, A-E Exclusive Agricultural Conservancy District, and P-I Public Institutional Districts to the C-1 Conservancy District on the Waukesha County zoning maps (Exhibit "C"). Since the County's Shoreland jurisdictional limits extend to the floodplain, if further than 300 ft. from a stream or 1,000 ft. from a lake, additional shoreland jurisdiction will be created. The areas that would be inundated with dam failure are required to be regulated as floodway, since flowing floodwater will be discharged downstream as part of a dam failure. Therefore, remodeling and reconstruction to the two (2) accessory structures that will be included in the new boundary will be prohibited in accordance with the C-1 Conservancy District standards of the Waukesha County Shoreland and Floodland Protection Ordinance unless variances are obtained. Lands will be rezoned from the A-1 Agricultural, A-2 Rural Home, and P-1 Public Districts to the C-1 Conservancy District on the Town of Merton zoning maps. Since the Town of Merton's floodplain zoning maps did not previously incorporate the 2008 FEMA floodplain maps, lands will also be removed from the C-1 Conservancy District and match the adjoining upland zoning district categories (Exhibit "D").

It should be noted that the dam failure floodplain boundary will replace the existing FEMA floodplain boundary downstream of the dam, where the dam failure floodplain boundary extends beyond the limits of the FEMA floodplain boundary, in accordance with Wisconsin Administrative Code standards. However, FEMA does not acknowledge the dam failure floodplain boundary. Therefore, the existing FEMA floodplain boundary and associated elevations are still valid for flood insurance purposes.

As required per Wisconsin Administrative Code NR 116, Waukesha County must also add the Dam Failure Analysis to the list of Official Studies identified in Section 6(b)1.B of the Waukesha County Shoreland and Floodland Protection Ordinance. The text on Page 99 of the Ordinance must be revised to read:

OFFICIAL MAPS: Based on other studies

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.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be approved. Because adoption of the dam failure study is required by the WDNR under NR 116 of the Wisconsin Administrative Code, adoption of the flood study by text reference and incorporation of the floodplain boundaries into the Waukesha County Shoreland and Floodland Protection Ordinance brings the proposed County project into compliance with state standards and provides the public with the most current and accurate information. Amending the Town of Merton zoning boundaries accordingly allows the Town and County to remain consistent with regards to mapped floodplain boundaries. Rezoning the dam failure shadow as floodplain on the Town and County zoning maps prevents development within said areas, which ultimately protects the downstream property owners and their improvements.

Respectfully submitted,

Amy Barrows

Amy Barrows
Senior Land Use Specialist

Enclosures: Exhibit "A" through "D" – SZT-1729 Only

N:\PRKANDLU\Planning and Zoning\Rezoning\Staff Reports\1729 and 1729 Text Waukesha Co Dept of Public Works mrt.doc

RESOLUTION NO. 021412 A

RESOLUTION RECOMMENDING AMENDMENT OF
WAUKESHA COUNTY C-1 CONSERVANCY DISTRICT

WHEREAS, the Waukesha County Department of Public Works has received a conditional use permit from the Town of Merton to reconstruct the bridge on CTH "E" over the Oconomowoc River and to have installed a dam spillway; and

WHEREAS, the Town Plan Commission and Town Board adopted the Dam Failure Analysis Study prepared for the project by Hey and Associates, Inc.; and

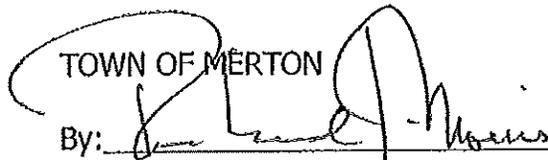
WHEREAS, the Town Plan Commission recommended that the C-1 Conservancy District below the Monches Dam be amended, and the Town Board adopted an ordinance amending the C-1 Conservancy District along the banks of the Oconomowoc River so as to create a new floodway/C-1 Conservancy District boundary downstream from CTH "E"; and

WHEREAS, it is the recommendation of the Waukesha County Department of Parks and Land Use (Planning and Zoning Division) that Waukesha County likewise amend its C-1 Conservancy District along the banks of the Oconomowoc River downstream from CTH "E".

NOW THEREFORE, BE IT HEREBY RESOLVED that the Town Board of the Town of Merton hereby recommends that Waukesha County adopt a zoning ordinance amending the C-1 Conservancy District along the banks of the Oconomowoc River so as to create a new floodway/C-1 Conservancy District downstream from CTH "E" and amend the text of the shoreland ordinance as necessary.

BE IT FURTHER RESOLVED that the Town Clerk forward a copy of this resolution to the Waukesha County Department of Parks and Land Use (Planning and Zoning Division).

DATED: February 14, 2012

TOWN OF MERTON
By: 
Richard Morris, Chairman

ATTEST:


Susan J. Oman, Clerk

EXHIBIT "B"

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE BOUNDARIES OF THE
C-1 CONSERVANCY DISTRICT AS SHOWN ON THE DISTRICT
MAP, ALONG THE OCONOMOWOC RIVER, TOWN OF MERTON, WAUKESHA COUNTY,
WISCONSIN

The Town Board of Supervisors of the Town of Merton, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1. SECTION 1. The District Zoning Map of the Town of Merton, Wisconsin, dated April 9, 1974, as revised, and notations and references thereon, is hereby amended to amend the current C-1 Conservancy District along the banks of the Oconomowoc River so as to create a new floodway/C-1 Conservancy District boundary downstream from CTH "E", all as described and shown on the attached exhibits.

The modification of the C-1 Conservancy District as shown on the attached exhibits will change the floodplain between CTH "E" and Funk's Dam.

SECTION 2. This ordinance shall take effect upon approval by the Waukesha County Board and passage, posting and publication as required by law.

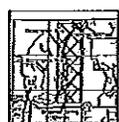
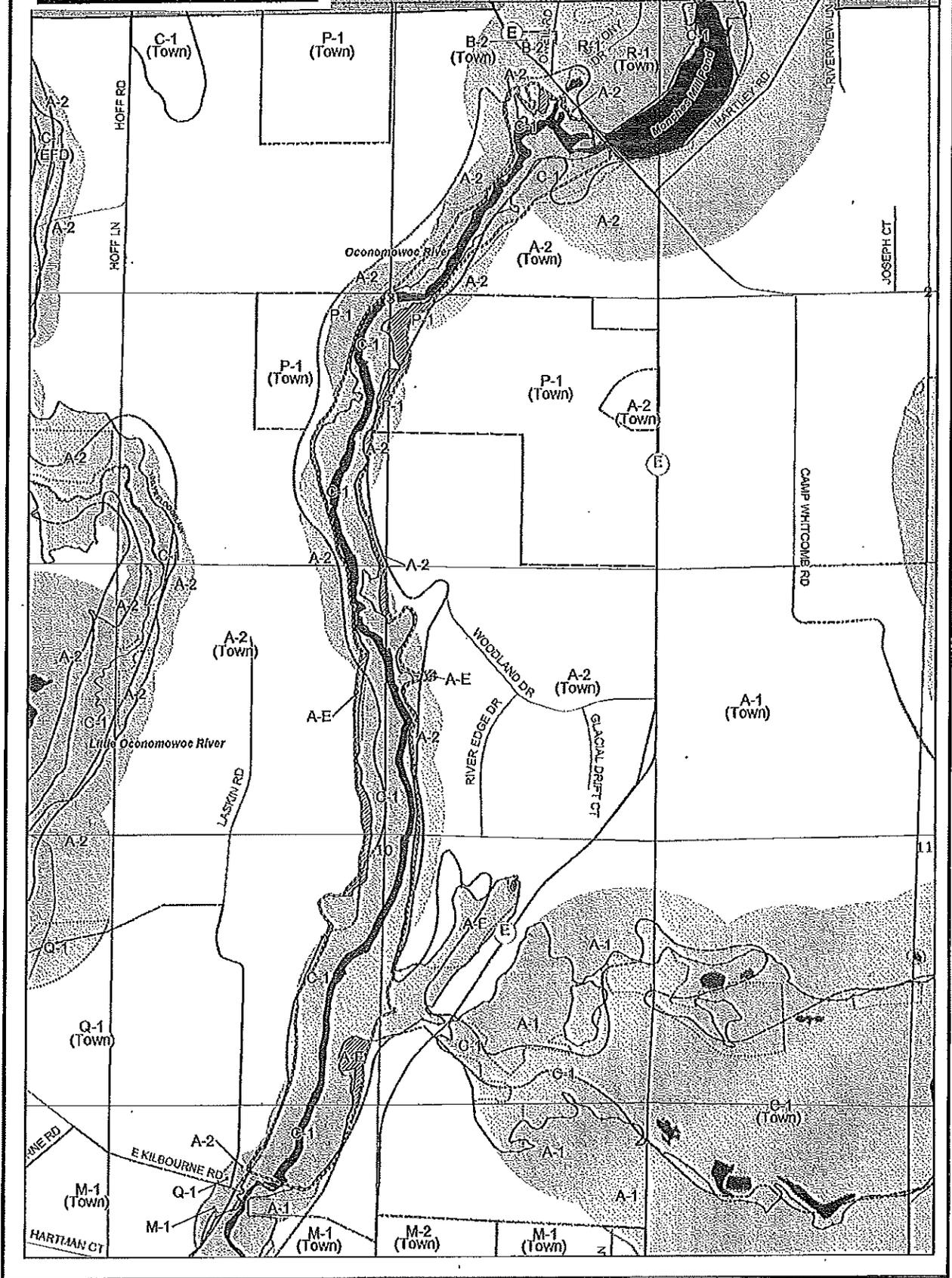
DATED: February 14, 2012

TOWN OF MERTON
By: [Signature]
Richard Morris, Chairman

ATTEST:
[Signature]
Susan J. Oman, Clerk

Date Adopted: 2-14-2012
Date Published: 2-24-2012
Effective Date: _____

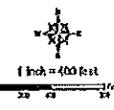
EXHIBIT "C"



- OCONOMOWOC COUNTY & TOWNSHIP RES. CHANGE TO C-1 CONSERVANCY DISTRICT
- Hydrologic Flood Shadow (Proposed Floodway)
- 100-Yr. Floodplains from 2008 FEMA DESIGN Maps

ZONING MAP AMENDMENT SECTIONS 3, 10, & 15 TOWN OF MERTON

FILE: _____ 627-1779
 DATE: _____ 02/15/12
 AREA OF CHANGE: _____ 14.03 ACRES
 TAX KEY TAP/SEPS: _____ 36A/TAPLE



Prepared by the Lincoln County Department of Planning and Development

166-0-108

12.

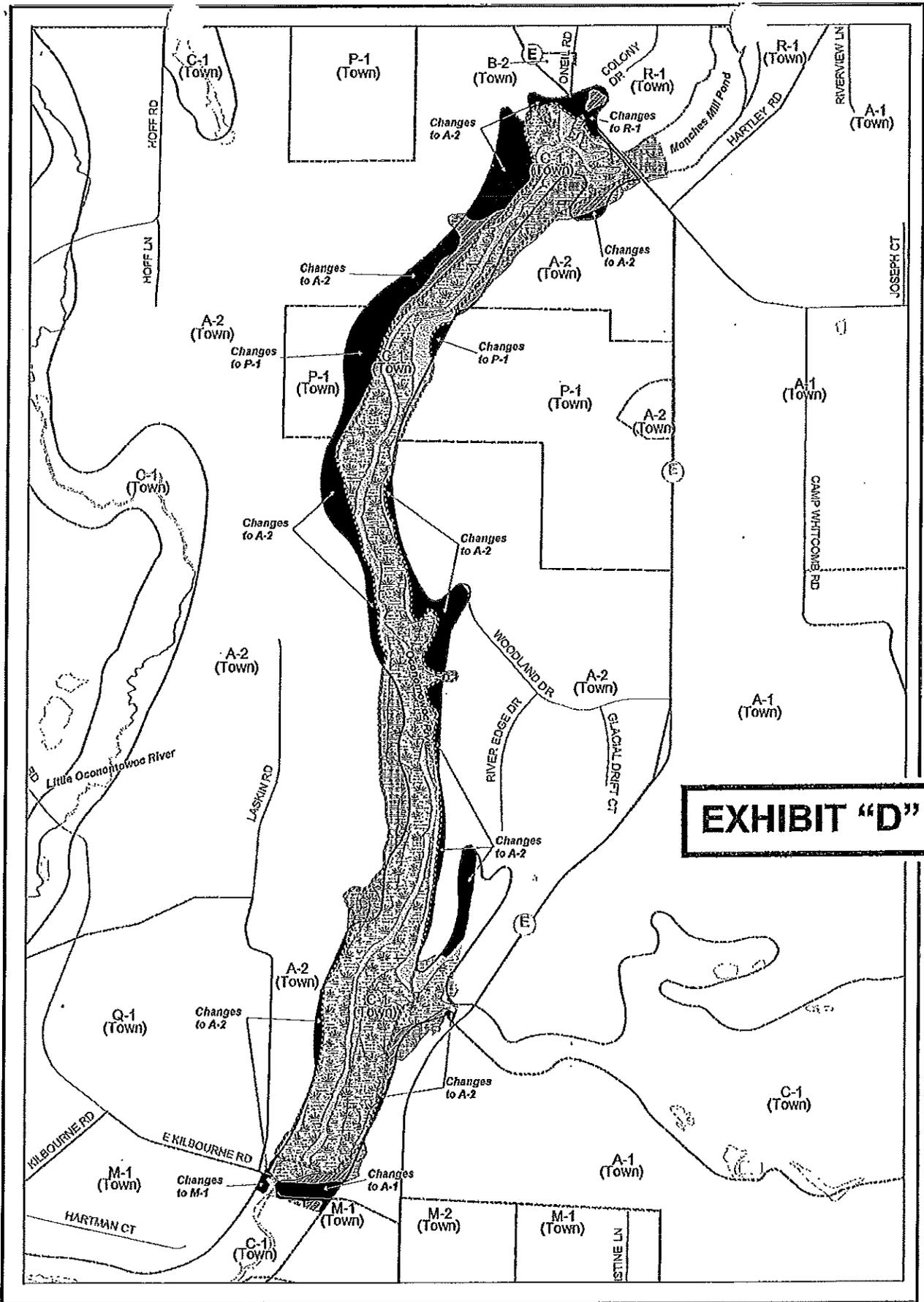


EXHIBIT "D"

		<p>TOWN ZONING MAP AMENDMENT</p> <p>SECTIONS 3, 10, & 15</p> <p>TOWN OF MERTON</p>		<p>FILE: 221-1729</p> <p>DATE: 07/15/12</p> <p>TAX KEY HARRIS: MAUNPLE</p>	<p>1 Inch = 400 Feet</p>
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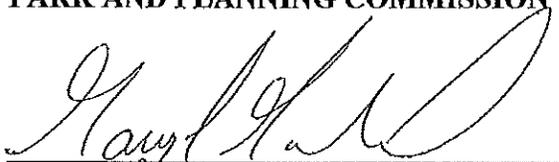
166-0-108

COMMISSION ACTION

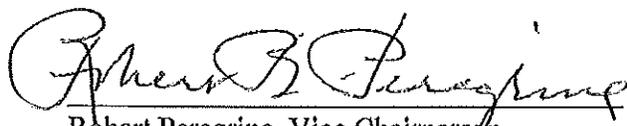
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance and the Town of Merton Zoning Code hereby recommends approval of (SZT-1729 - Waukesha County Dept. of Public Works) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

March 1, 2012



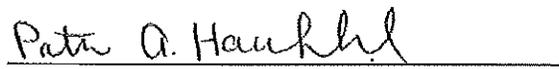
Gary Goodchild, Chairperson



Robert Peregrine, Vice Chairperson

ABSENT

Walter Kolb



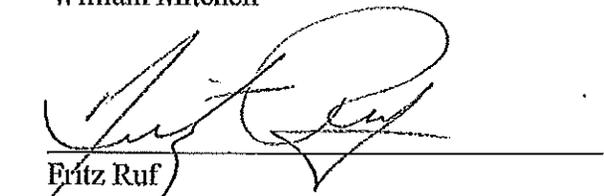
Patricia Haukohl

(Absent)

James Siepmann



William Mitchell



Fritz Ruf