

Agenda Item Report



Winnebago County
The Wave of the Future

DATE: *May 31, 2022*

FROM: *Jerry Bougie, Director of Planning and Zoning*

RE: *Discussion on Sawyer Creek Flood Storage Zoning proposal.*

General Description:

The County has an open Floodplain Zoning amendment application to adopt proposed mapped Flood Storage Areas related to Sawyer Creek. The Flood Storage areas are naturally occurring lower areas that periodically flood and temporarily store water during heavy rain and snow melt events in which the City of Oshkosh, DNR and FEMA have requested the County adopt and zone these mapped flood storage areas to permanently protect them.

Action Requested:

No action to be taken by the Committee. This item is an update and for discussion purposes only.

Procedural Steps:

(Show each level of committee and board approval needed, with meeting dates.)

Committee of Jurisdiction: Planning and Zoning Meeting date: June 10, 2022

Action taken: No action to be taken Vote: N/A

Other Committee: _____ Meeting date: _____

Action taken: _____ Vote: _____

County Board N/A (TBD) Meeting date: _____

Background:

The County is mandated by the state to administer and enforce Floodplain Zoning within the unincorporated areas of the County pursuant to Wisconsin NR 116 and Chapter 26 of the Winnebago County General Code.

The City of Oshkosh conducted a study with an engineering firm regarding the Sawyer Creek Floodplain which was subsequently submitted to the Wisconsin DNR and FEMA. As a result of the Study, on November 6, 2018, FEMA submitted a Letter of Map Revision (LOMR) to the County with an effective date of March 27, 2019. The LOMR required the County to amend its floodplain ordinance to include mapped Flood Storage areas.

On March 26, 2019 the County Planning and Zoning Committee (P&Z) conducted a Public Hearing on the amendment and on April 5, 2019, the P&Z Committee deliberated on the matter and voted to deny the amendment. The denial was submitted to County Board on April 16, 2019 whereby the Board also denied the floodplain storage amendment. Following that, FEMA and DNR notified the County in writing that the County is at risk of being suspended from the National Flood Insurance Program whereby all floodplain landowners in the unincorporated areas of the County would lose flood insurance if the County doesn't approve the amendments. As a result, P&Z decided to conduct another Public Hearing on the matter on July 30, 2019, and on August 23, 2019 P&Z deliberated and approved the flood storage

zoning amendments to ensure the County wouldn't be suspended from the NFIP and rural property owners didn't lose their flood insurance. On September 17, 2019 the County Board reviewed the matter and decided to postpone the vote to its October 15, 2019 meeting. At the October 15, 2019 meeting, the County Board voted to refer the floodplain storage zoning amendments back to Committee for reconsideration.

On January 23, 2020 the P&Z Committee and City of Oshkosh Plan Commission held a joint public informational meeting to gather additional public input. The P&Z committee scheduled another Public Hearing on the matter in late March 2020, however the hearing was cancelled due to the pandemic. Subsequent to that, County staff has conducted a number of meetings with City of Oshkosh staff and the affected landowners to further gain input and provide information on the issue. In addition, on March 21, 2022 the Planning and Zoning Committee held an informational meeting with the affected property owners and the City of Oshkosh Staff regarding the issue.

The Committee will address the issue to further strategize on potential direction regarding the issue at its June 10, 2022 meeting.

Fiscal Impact: This item does not have any discernable fiscal impact.

Policy Discussion:

These mapped Flood Storage areas are new areas that the County would need to enforce as part of its state mandated floodplain enforcement. These mapped areas would place additional zoning restrictions on the landowners that currently do not exist. These mapped areas are all located in the unincorporated areas in the vicinity of Sawyer Creek but are not directly connected to the existing Sawyer Creek floodplain but they store enough water to minimize the geographic extent (area) of the floodplain that is directly connected to Sawyer Creek. Due to the additional restrictions placed on the landowners within the Flood Storage Zoning areas, many of the affected landowners have been very concerned about having the additional zoning restrictions placed on their properties and have resisted the proposed floodplain storage zoning.

Attachments: Various email and letter correspondences from DNR and FEMA notifying the County regarding the potential of suspending the County from the National Flood Insurance Program if the County doesn't adopt the Letter of Map Amendment (LOMR) and the corresponding flood storage mapping. A generalized map of the flood storage areas is also attached.

Rowe, Cary

From: Staff, Michelle J - DNR <Michelle.Staff@wisconsin.gov>
Sent: Thursday, April 26, 2018 12:12 PM
To: Rowe, Cary
Cc: Hase, Michelle M - DNR; Olds, Christopher J - DNR
Subject: RE: Sawyer Creek Letter of Map Revision -- Winnebago County

Cary,

I left you a message. If the County does not want to adopt the storage maps, the modeling will change. In addition, DNR review and approval letter was based on the storage areas. If the storage areas are removed, DNR would need to review and approve the study again. I believe there were meetings in the past regarding this issue as stated below by Mike Williams from Strand Associates with the County.

When talking to FEMA, if the LOMR is approved by FEMA, the County should adopt and regulate the LOMR by the effective date. If the County does not adopt the LOMR and does not regulate to the new maps after the effective date, that is grounds for probation/suspension from FEMA. Since these are the Communities FIRM maps, this is why FEMA is asking the Community to sign the forms with the submittal, as the Community should be in agreement with the proposed LOMR.

If you have any further questions, please let me know.

We are committed to service excellence.

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Michelle J. Staff, CFM
Floodplain Management Policy Coordinator State NFIP Coordinator
Phone: 608-266-3093
Cell: 608-220-5633
Michelle.Staff@Wisconsin.gov

-----Original Message-----

From: Staff, Michelle J - DNR
Sent: Wednesday, April 25, 2018 12:34 PM
To: 'Rowe, Cary' <CRowe@co.winnebago.wi.us>
Cc: Hase, Michelle M - DNR <Michelle.Hase@wisconsin.gov>
Subject: RE: Sawyer Creek Letter of Map Revision -- Winnebago County

Cary,

I left you a message. It is the Communities decision to sign the LOMR as it is the Counties FIRM maps that are being amended and the Community has to agree to it. As Michelle Hase stated, DNR has reviewed and approved the proposed LOMR in regards to NR116 but again, the Community will be the ones to adopt the new maps with flood storage area.

Per FEMA " All requests for changes to effective maps, other than those initiated by FEMA, must be made in writing by the Chief Executive Officer (CEO) of the community or an official designated by the CEO."

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Federal Emergency Management Agency

Washington, D.C. 20472

April 15, 2019

APR 23 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:

Case No.: 18-05-2015P

Mr. Mark Harris
Executive, Winnebago County
County Courthouse
415 Jackson Street
Oshkosh, WI 54901

Community Name: Winnebago County, WI
Community No.: 550537
FIRM Panel Affected: 55139C0215E,
55139C0310E,
55139C0330E

116

Dear Mr. Harris:

In a Letter of Map Revision (LOMR) dated November 6, 2018 you were notified of proposed flood hazard determinations affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for the **Unincorporated Areas of Winnebago County, Wisconsin**. These determinations were for Sawyer Creek - from the confluence with Fox River to approximately 6,700 feet upstream of Clairville Road. The 90-day appeal period that was initiated on November 27, 2018 when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed Flood Hazard Determinations in *The Oshkosh Northwestern* has elapsed.

FEMA received no valid requests for changes to the modified flood hazard information. Therefore, the modified flood hazard information for your community that became effective on March 27, 2019, remains valid and revises the FIRM and FIS report that was in effect prior to that date.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Public Law 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65. The community number(s) and suffix code(s) are unaffected by this revision. The community number and appropriate suffix code as shown above will be used by the National Flood Insurance Program (NFIP) for all flood insurance policies and renewals issued for your community.

FEMA has developed criteria for floodplain management as required under the above-mentioned Acts of 1968 and 1973. **To continue participation in the NFIP, your community must use the modified flood hazard information to carry out the floodplain management regulations for the NFIP.** The modified flood hazard information will also be used to calculate the appropriate flood insurance premium rates for all new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

If you have any questions regarding the necessary floodplain management measures for your community or the NFIP in general, please contact the Mitigation Division Director, FEMA Region V, in Chicago, Illinois, either by telephone at (312) 408-5500, or in writing at 536 South Clark Street, Sixth Floor, Chicago, Illinois 60605.

If you have any questions regarding the LOMR, the proposed flood hazard determinations, or mapping issues in general, please call the FEMA Map Information eXchange, toll free, at (877) 336-2627 (877-FEMA MAP).

Sincerely,



Patrick "Rick" F. Sacbibit, P.E., Branch Chief
Engineering Services Branch
Federal Insurance and Mitigation Administration

cc: The Honorable Steve Cummings
Mayor
City of Oshkosh

Ms. Cary Rowe
Zoning Administrator
Winnebago County

Mr. Jeffrey Nau
Associate Planner
City of Oshkosh

Ms. Michelle Staff, CFM
State NFIP Coordinator
Wisconsin Department of Natural Resources

Mr. Michael Williams, P.E.
Project Manager
Strand Associates, Inc.

Rowe, Cary

From: Staff, Michelle J - DNR <Michelle.Staff@wisconsin.gov>
Sent: Friday, April 19, 2019 2:54 PM
To: Rowe, Cary
Cc: Galloway, Meg M - DNR; Hase, Michelle M - DNR; McCarthy, Julia - FEMA; McGee, Tylon; Olds, Christopher J - DNR
Subject: RE: LOMR -- 18-05-2015P

Cary,

I apologize for not being able to touch base with you on this issue over the phone. I was conducting an 4 day workshop with FEMA.

I did talk to FEMA Region V regarding this situation. Since the County did not appeal the LOMR within 90 days of the second publication in the local newspaper (attached the section from LOMR paperwork) and the effective date has past, March 27, 2019, the LOMR is in effect. If the County does not adopt the LOMR and legally enforce the LOMR, which included the storage maps, FEMA can immediately suspend Winnebago County from the National Flood Insurance Program (NFIP). In order for the County not to be suspended from the NFIP, they need to adopt the LOMR 18-05-2015P and storage maps as soon as possible.

Unfortunately, the issues with the storage maps was not addressed back in 2017/2018. In April of 2018, the County was asked to sign the LOMR submittal forms to FEMA. At that time, it was pointed out that this was an communities decision to change the maps and sign the forms for the map change submittal.

Sincerely,

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Michelle J. Staff, CFM
Floodplain Management Policy Coordinator
State National Flood Insurance Program Coordinator
Bureau of Watershed Management
Division of External Services
Wisconsin Department of Natural Resources
Phone: 608-220-5633
Michelle.Staff@Wisconsin.gov



Rowe, Cary

From: Kuklewski, Eric <Eric.Kuklewski@fema.dhs.gov>
Sent: Friday, August 16, 2019 3:47 PM
To: Rowe, Cary
Cc: Bougie, Jerry; Mueller, Mary Anne; McGee, Tylon; Staff, Michelle J - DNR; Killen, Brian
Subject: RE: LOMR -- 18-05-2015P

Cary:

Thank you for your email that Julia forwarded to myself and Tylon.

Unfortunately we will not be able to attend a meeting on August 23rd due to prior commitments however, I will try to clarify the obligations the county has under the National Flood Insurance Program (NFIP) related to the use of the Flood Insurance Rate Maps (FIRMs)/Flood Insurance Studies (FISs), including any revisions or amendments made to them.

All participating communities in the NFIP are required to adopt and enforce certain floodplain management regulations as a condition of participation. In Title 44 of the Code of Federal Regulations in part 60.2 (44 CFR 60.2), the minimum compliance criteria are established. Among the criteria is 44 CFR 60.2(h) which states: ***"The community shall adopt and enforce flood plain management regulations based on data provided by the Federal Insurance Administrator."*** The data provided to communities comes in the form of the Flood Insurance Rate Maps (FIRMs), Flood Insurance Studies (FISs) and any Letters of Map Change (LOMCs) which are issued. A LOMC can take two main forms either a Letter of Map Amendment (LOMA) or a Letter of Map Revision (LOMR). Once effective the LOMA or LOMR officially revise the FIRM and/or the FIS and are then considered part of the data the community shall use for enforcement of floodplain management regulations. In this case, it is my understanding, that a Letter of Map Revision (LOMR) was sent to the county in November 2018 which had an effective date of March 27, 2019 (see attached). This LOMR officially revises the March 2003 FIRM/FIS adopted by the county.

What FEMA delineates on the FIRM and is documented in the FIS, is information on various frequency flood events. Generally speaking, the FIRM will show areas of the 1% annual chance flood event (100 year floodplain/SFHA), the .02% annual chance flood event (500 year floodplain) and floodways (areas reserved to assure the conveyance of the 1% annual chance flood without increases to the base flood elevation). The delineation of the 1% and .02% chance floods is based on a hydrologic and hydraulic (H&H) analysis and then plotted with topographic information to show which land will be inundated should a flood of that frequency occur. The FIS contains a more technical explanation of the study work done and additional data tables which corresponds to the FIRM delineations. FEMA does not delineate "flood storage areas" on the FIRM for minimum regulatory or insurance purchase requirements of the NFIP. FEMA may consider detention or other flood storage/control type systems in the H&H analysis of the flood risk reflected on the FIRM (I believe this may have been the case in the March LOMR). However, any construction, operation, maintenance or reimbursement to property owners of such areas would need to be addressed by the entity who established those areas or the owner/operator of the facilities/systems. In addition, if conditions change or additional data becomes available on any storage or flood control systems previously used in the H&H analysis, this would require a LOMR be submitted by the participating community to FEMA so that the new data be re-evaluated to assure the FIRM and FIS reflect as current a flood risk condition as possible.

In order to remain compliant with minimum NFIP participation criteria, the county needs to be using the revised flood delineation and data shown on the LOMR (or something more restrictive if they choose to) for the enforcement of its floodplain management ordinance requirements within the revised 1% annual chance flood areas. Since the administrative processes vary on how communities adopt or otherwise assure that the LOMR is used for enforcement, it would be best to consult with Michelle Staff of the Wisconsin DNR, to determine the appropriate process for the county to use. **Communities that fail to appropriately enforce the minimum floodplain management requirements established by the NFIP with the data shown on the FIRM/FIS (including data provided via a LOMC) are subject to enforcement action up to and including suspension from the NFIP.** It should be noted that FEMA establishes the minimum standards

for participation in the NFIP and that communities and states can establish standards that go beyond the NFIP minimums. These standards could include the enforcement of the floodplain management requirements beyond the limits of the 1% annual chance flood shown on the FIRM and areas of revision. I would again refer the county to Michelle Staff of the Wisconsin DNR to determine if additional considerations need to be incorporated/adopted due to state higher standards.

I will be out of the office next week however, if you have any additional questions feel free to contact me at 312-408-5230 or by email at eric.kuklewski@fema.dhs.gov and I will get back to you as soon as I can.

Regards,

Eric W. Kuklewski, Chief
Floodplain Management and Insurance Branch

FEMA Region V
536 S. Clark Street, 6th Floor
Chicago, Illinois 60606

PH: 312-408-5230
eric.kuklewski@fema.dhs.gov

From: McCarthy, Julia
Sent: Monday, August 12, 2019 3:19 PM
To: Rowe, Cary <CRowe@co.winnebago.wi.us>
Cc: Bougie, Jerry <JBougie@co.winnebago.wi.us>; Tom Egan (wisconsinauctionservice@gmail.com) <wisconsinauctionservice@gmail.com>; Mueller, Mary Anne <MMueller@co.winnebago.wi.us>; Kuklewski, Eric <Eric.Kuklewski@fema.dhs.gov>; McGee, Tylon <tylon.mcgee@fema.dhs.gov>
Subject: RE: LOMR -- 18-05-2015P

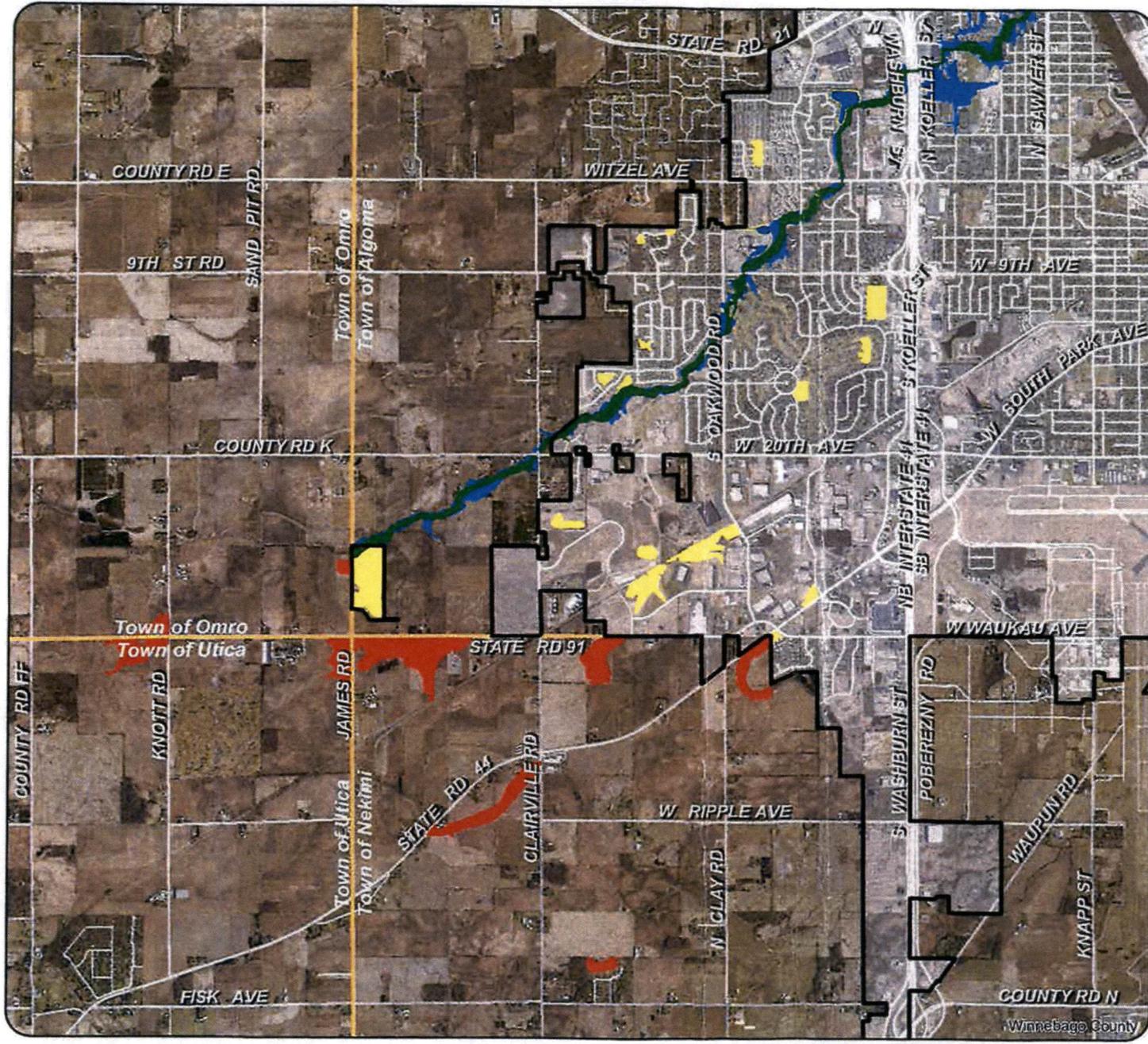
Cary:

Thank you for the email – I have forwarded this on to Tylon McGee and Eric Kuklewski as I am no longer a part of the floodplain management team.

Julia

Julia McCarthy
Risk Analysis Branch Chief
U.S. Department of Homeland Security
FEMA Region V

536 South Clark Street, 6th Floor
Chicago, IL 60605
O: 312-408-5518
C: 312-806-6854
E: julia.mccarthy@fema.dhs.gov



Flood Storage District Impacts

2019 Sawyer Creek Floodplain Update



- Winnebago County, Wisconsin
- City of Oshkosh
 - Town Boundaries
 - Floodway
 - Floodplain 100 Year
- Flood Storage District
- City Jurisdiction
 - Town Jurisdiction

1 inch = 4,000 feet



W.I.N.G.S. Project Disclaimer
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Floodplain Data Source: City of Oshkosh GIS Website

Agenda Item Report



Winnebago County
The Wave of the Future

DATE: June 2, 2022

FROM: Jerry Bougie – Planning Director, Brian O'Rourke – Land Use Planner

RE: Discussion of Planned Development Districts located in Chapter 23 of the Winnebago County General Code

General Description:

Planned Development Districts (PDD) is a zoning classification that allows for unique development situations, development along private roads, or development where the property may not be adjacent to public road rights-of-way, but does meet the minimum lot size requirement.

Action Requested:

None.

Procedural Steps:

(Show each level of committee and board approval needed, with meeting dates.)

Committee of Jurisdiction: Planning and Zoning Meeting date: June 10, 2022

Action taken: No action required

Vote: N/A

Other Committee: N/A

Meeting date: N/A

Action taken: N/A

Vote: N/A

County Board N/A

Meeting date: N/A

Background:

In a previous version of Chapter 23 there was a zoning classification of R-5 (Condominium) that allowed for unique development, development along private roads, or development not adjacent to a public road right-of way. This zoning district also required a Conditional Use Permit (C.U.P.) in order for the development to be allowed. When Chapter 23 was re-written in 2010 the R-5 section was deleted, as well as the requirement for a C.U.P. in order to develop, and was replaced with a zoning district titled "Planned Development District". This district was then placed in all areas of the previous zoning map where there was any existing R-5, allowing those parcels to remain in compliance with the then newly adopted Zoning Ordinance and Zoning Map. PDD areas are given a unique number as well as each PDD is unique unto itself. The definition of a PDD, as located in Division 4, Article 7, of Chapter 23 of Winnebago County's General Code, is "A Planned Development District is a special zoning district that allows for more flexibility in the development of land while ensuring substantial compliance with the basic intent of this chapter and the County's Comprehensive Plan". Any newly proposed PDD'S go through a public hearing process with the County Planning and Zoning Committee, a post public hearing deliberative, then with a recommendation of approval, approval with conditions, or denial, to the County Board.

Due to the uniqueness of PDD's the Committee Chairman requested that a discussion of this district be placed on the June 10th, 2022 Planning Meeting, which will give Planning and Zoning Staff an

opportunity to provide a brief presentation of examples of existing PDD's, as well as answer any questions of the Committee.

Policy Discussion:

No policy discussions will be needed for the above referenced agenda item.

Attachments:

A zoning map showing all existing PDD's will be provided to the Committee for discussion.

23.7-45 Basis of decision

The adoption of an ordinance establishing zoning on county-owned lands or the rezoning of the same is considered a legislative decision. As such, there are no specific criteria the Board of County Supervisors should consider in making its decision. The board may consider the current and anticipated use of surrounding properties.

23.7-46 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

23.7-47 to 23.7-60 Reserved

DIVISION 4

PLANNED DEVELOPMENT OVERLAY DISTRICT

Sections

23.7-61	Generally	23.7-72	Effect of approval
23.7-62	Initiation	23.7-73	Effect of approved planned development overlay district on land division standards
23.7-63	Where allowed	23.7-74	Review of actual development within an approved planned development district
23.7-64	Ownership	23.7-75	Amendment of an approved planned development overlay district
23.7-65	Minimum project size	23.7-76	Revocation or modification of an approval
23.7-66	Development agreement	23.7-77	Expiration of approval
23.7-67	Application and review procedure	23.7-78	Appeal
23.7-68	Basis of decision	23.7-79	Development within a pre-existing Planned Development District
23.7-69	Imposition of conditions		
23.7-70	Application form and content		
23.7-71	Staff report content		

23.7-61 Generally

A planned development overlay district is a special zoning district that allows for more flexibility in the development of land while ensuring substantial compliance with the basic intent of this chapter and the county’s comprehensive plan.

23.7-62 Initiation

The owner of the subject property may submit an application for the establishment of a planned development overlay district.

23.7-63 Where allowed

A planned development overlay district shall only be established in the following zoning districts: R-1, R-2, R-3, R-4, B-1, B-2, B-3, and M-1.

23.7-64 Ownership

At the time of establishment, all land within a planned development overlay district shall be under single ownership or control.

23.7-65 Minimum project size

Lot sizes within a planned development overlay district shall be in accordance with the most restrictive zoning district where the proposed use is allowed.

23.7-66 Development agreement

Depending on the nature of the planned development overlay district, the developer and county may enter into a development agreement that specifies the duties and obligations of both parties with respect to development in the district.

23.7-67 Application and review procedure

The general steps outlined below shall be used in the review of an application for the establishment of a planned development overlay district.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (1) applicable regulations and procedures, (2) applicable sections of the county's comprehensive plan, and (3) the proposal. The administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the administrator along with the application fee as may be established by the Board of County Supervisors.
- (3) **Staff review.** Within 30 days of submittal, the administrator shall either schedule a date for the public hearing allowing for proper public notice or make a determination that the application is incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 3 months after the date of such determination to resubmit the application or forfeit the application fee. The administrator shall take no further steps to process the application until the deficiencies are remedied. The incomplete application shall be retained as a public record.
- (4) **General notice.** Consistent with division 2 of article 6, the administrator shall provide for class 2 public notice, an on-site sign, town notice, property owner notice, agency notice, and meeting agenda notice.
- (5) **Town review.** The town board and town plan commission may review the application at a regular or special meeting.
- (6) **Town decision.** The plan commission may render a recommendation to the town board and the board may render a recommendation to the committee based on the decision criteria contained in this division to (1) approve the creation of the district, (2) approve the creation of the district with conditions, or (3) deny the creation of the district. Such decision shall be supported by written findings. If the decision is to approve the creation of the district with conditions, the town board may also submit conditions of approval. If the town board does not submit a decision supported by written findings to the committee prior to or at the public hearing, it shall be deemed to have consented to whatever action the committee may take.
- (7) **Public hearing.** Allowing for proper notice, the committee shall conduct a public hearing to review the application consistent with division 3 of article 6. Prior to the close of the public hearing, the applicant or the committee may request a continuance consistent with division 3 of article 6. The Planning and Zoning Committee shall not render its decision at this meeting.
- (8) **Staff report preparation and distribution.** The administrator shall prepare a written staff report as described in this division and provide a copy of it to each member of the Planning and Zoning Committee, the applicant, and to the clerk of each town in which the proposed district is located. The administrator shall also provide a copy to interested people upon request.
- (9) **Decision.** At a subsequent meeting of the committee, but no more than 60 days after the public hearing, the committee after considering the comments and the staff report shall make a decision based on the decision criteria contained in this division to (1) approve the creation of the district, (2) approve the creation of the district with conditions, or (3) deny the creation of the district.
- (10) **Applicant notification.** Within a reasonable time following the committee's decision, the administrator shall mail the decision notice to the applicant by regular mail.
- (11) **Acceptance by property owner required.** If an approval includes one or more condition of approval, the property owner shall sign the decision notice to acknowledge the imposition of such condition or conditions and return the same to the administrator. Failure to sign and return the decision notice within 45 days of the

committee’s decision shall void the approval. The decision notice shall become effective upon the property owner’s signature.

- (12) **Preparation of new zoning map.** If the district is approved, the administrator shall within 60 days of the date of adoption cause a new zoning map to be prepared consistent with division 2 of article 8.
- (13) **Public records.** If the district is approved, the administrator shall keep a duplicate copy of the approved project plan and development agreement, if any, as a permanent record.

23.7-68 Basis of decision

The Planning and Zoning Committee in making its decision shall consider the following factors:

- (1) whether development in the proposed district is in keeping with the spirit and intent of this chapter;
- (2) whether development in the proposed district is consistent with the county’s comprehensive plan;
- (3) the effects of development in the proposed district on traffic safety and efficiency and pedestrian circulation, both within and outside of the district;
- (4) whether the proposed plan for development in the district is properly planned and is properly coordinated with the existing and anticipated land uses on properties in the immediate and surrounding area;
- (5) the effects of development within the proposed district on the natural environment;
- (6) whether development in the proposed district complies with provisions of this chapter and other chapters of the general code of Winnebago County that may apply;
- (7) the effects of development in the proposed district on public services and facilities;
- (8) whether adequate water and sanitary sewer facilities can be provided to development in the proposed district;
- (9) the proposed means of maintaining the undeveloped area of the district for the purpose for which it was set aside;
- (10) whether the plan for development in the proposed district is clearly superior to development that is permitted based on the design and development standards of the underlying zoning district; and
- (11) any other factor that relates to the purposes of this chapter as set forth in s. 23.1-5 and other sections as may apply.

23.7-69 Imposition of conditions

(a) **Generally.** The Planning and Zoning Committee may impose conditions as may be necessary to grant approval. Such conditions may relate to any of the factors it considered in reaching its decision. In addition, the committee may require the provision of off-site exactions that may be necessary to approve the establishment of the planned development overlay district.

(b) **Effect on contracts with another party.** The Planning and Zoning Committee shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract with a third party under which the third party is engaging in a lawful use of the property.⁸⁷

23.7-70 Application form and content

The application submittal shall include the following:

- (1) an application form as may be used by the county;
- (2) a master development plan prepared at an appropriate scale depicting the information listed in appendix A;
- (3) a preliminary draft of covenants if any are to be imposed; and
- (4) a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

⁸⁷ Commentary: See s. 59.6 9(2)(g), Wis. Stats. The county, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

23.7-71 Staff report content

The staff report shall contain the following:

- (1) a summary of the comments received from the interdepartmental/agency review;
- (2) preliminary findings based upon the decision criteria listed in this division;
- (3) a recommendation to approve the application, approve the application with conditions, or deny the application;
- (4) a preliminary list of conditions of approval regardless of whether the staff recommendation is for approval or denial; and
- (5) other information deemed necessary by the staff.

23.7-72 Effect of approval

If the planned development overlay district is established, the approval shall run with the land and be binding on all subsequent property owners.

23.7-73 Effect of approved planned development overlay district on land division standards

Development in a planned development overlay district shall be subject to the land division regulations in chapter 18 of the general code of Winnebago County to the extent applicable, except that the Planning and Zoning Committee may waive a development standard in the land division regulations as provided therein.

23.7-74 Review of actual development within an approved planned development overlay district

Once a planned development overlay district is established, proposed development in the district shall be reviewed consistent with the requirements of this article as may apply.

23.7-75 Amendment of an approved planned development overlay district

Following establishment of a planned unit development overlay district, the Planning and Zoning Committee shall review all proposed changes to the project plan that were approved at the time of approval of the district. If in the opinion of the committee, the proposed change constitutes a minor alteration, the committee may approve the requested change at a regular or special meeting of the committee. If the proposed change constitutes a major alteration, the application and review procedure in this division shall be followed.

23.7-76 Revocation or modification of an approval

Following a public hearing, the Planning and Zoning Committee may revoke or modify an approval if it determines that information in the application or otherwise provided by the applicant or the applicant's agent was incomplete, false, misleading, or inaccurate and such information would have altered its decision to approve the application or the conditions of approval which were or were not imposed.

23.7-77 Expiration of approval

If any area of a planned development overlay district that can be developed remains substantially undeveloped 3 years after the creation of the district, the Planning and Zoning Committee shall have the authority to unilaterally rezone such area to a suitable classification. Upon written petition and with good cause, the committee may grant a one-time extension not to exceed 3 years.

23.7-78 Appeal

(a) **Appeal relating to procedural requirements.** An aggrieved person who claims the required procedural requirements were not followed, in whole or in part, may file a written appeal with the Board of Adjustment prior to issuance of a final decision or within 30 days of issuance of a final decision. If an appeal is filed with the board prior to issuance of a final decision, the zoning administrator at his or her discretion, with concurrence of the applicant, if not the appellant, may suspend the review process until such time as the deficiency is remedied. The board shall only consider the procedural requirements and may not alter the decision of the Planning and Zoning Committee. If the board determines that a procedure, in whole or in part, was not followed as required, the review process shall not progress until such time as the deficiency has been remedied or the decision shall be stayed until such time as the deficiency and subsequent steps have been completed.

(b) **Appeal relating to Board of Adjustment decision or relating to the substantive decision.** An aggrieved person may appeal the final decision of the Board of Adjustment to a court of competent jurisdiction within 30 days of the final decision or the final decision of the Planning and Zoning Committee to a court of competent jurisdiction within 30 days of the final decision.

23.7-79 Development within a pre-existing Planned Development District

Development in a Planned Development District which existed prior to the adoption of this ordinance shall be held to the standards approved by the Conditional Use Permit. For developments where no conditional use has been approved or the conditional use did not specify development standards, R-1 zoning district standards shall apply.

23.7-80 to 23.7-90 Reserved

**DIVISION 5
RESERVED**

23.7-91 TO 23.7-110 Reserved

**DIVISION 6
CONDITIONAL USE**

Sections

23.7-111	Generally	23.7-118	Staff report content
23.7-112	Initiation	23.7-119	Content of decision notice
23.7-113	Application and review procedure	23.7-120	Effect of approval
23.7-114	Basis of decision	23.7-121	Revocation or modification of an approval
23.7-115	Special requirements for certain land uses in a A-1 district	23.7-122	Expiration of approval
23.7-116	Imposition of conditions	23.7-123	Amendment of an approved conditional use
23.7-117	Application form and content	23.7-124	Violation of a condition of approval
		23.7-125	Appeal

23.7-111 Generally

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as “conditional uses” and are listed in division 3 of article 8. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

23.7-112 Initiation

The owner of the subject property may submit an application for the establishment of a conditional use.

23.7-113 Application and review procedure

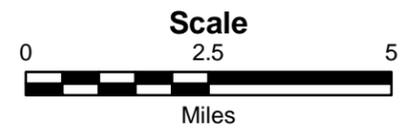
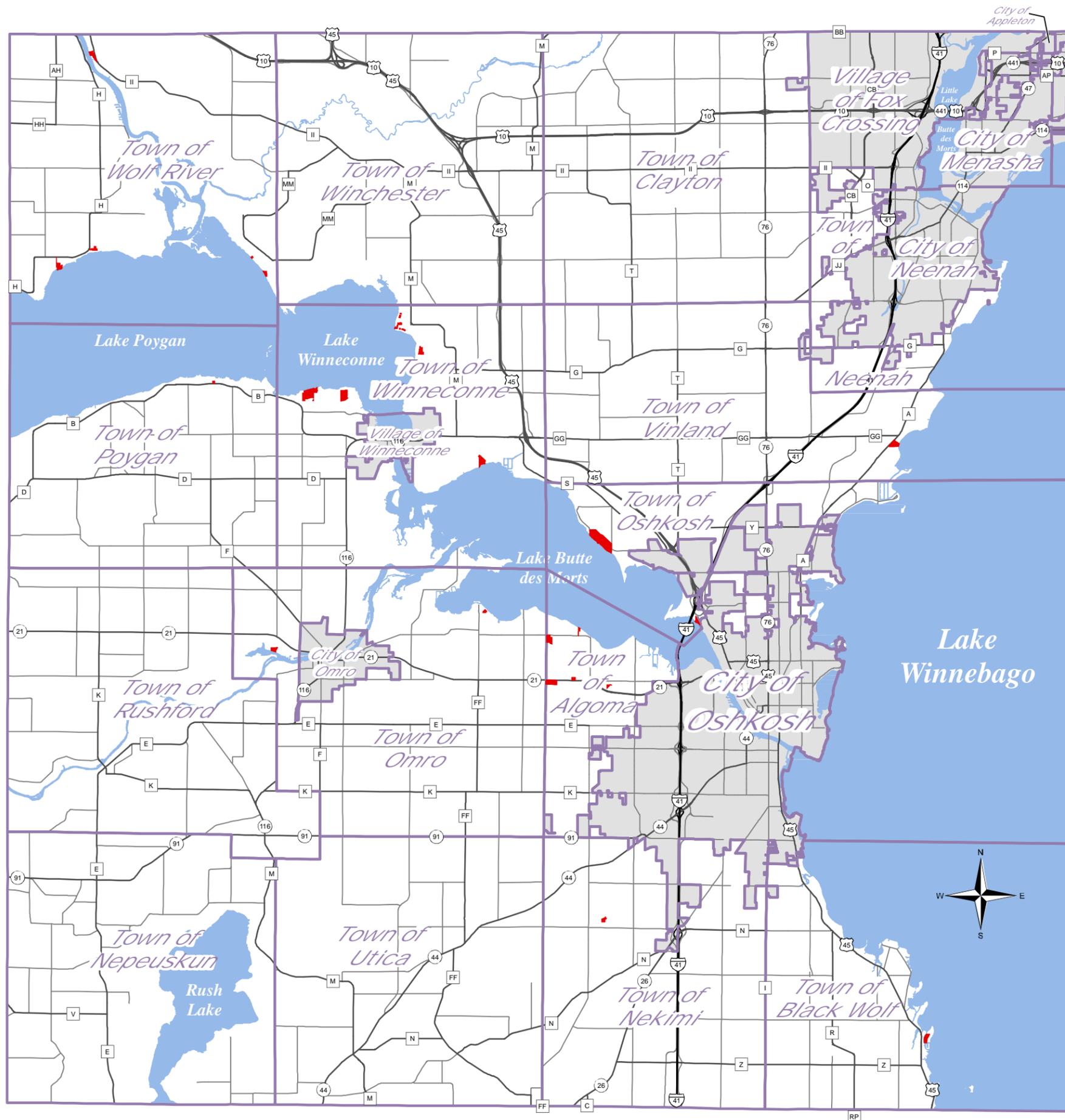
The general steps outlined below shall be used in the review of an application for a conditional use.

- (1) **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (1) applicable regulations and procedures, (2) applicable sections of the county’s comprehensive plan, and (3) the proposal. The administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary.
- (2) **Submittal of application materials.** The applicant shall submit a completed application and other required materials to the administrator along with the application fee as may be established by the Board of County Supervisors.

Planned Development Districts in Winnebago County

Map Legend

-  Planned Development District
-  Municipal Boundary
-  Incorporated Area
-  Roadway
-  Water



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