

### REPORT TO CITY PLAN COMMISSION

Plan Commission Informal Public Hearing Date: December 14, 2022

Common Council Public Hearing Date: January 18, 2023

**Item:** Floodplain Zoning Amendment - Article X. Floodplain Zoning Division 1. Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions. Sec. 23-205 (b) (2) f. thru i. Official maps based on other studies related to LOMR – Case No. 21-05-2374P

**Staff Contact:** Peter Neuberger, P.E., Department of Public Works, Engineering Division

Report Prepared by: Don Harp, Principal Planner

### **GENERAL INFORMATION**

Staff Contact/Petitioner: Peter Neuberger, P.E., Department of Public Works, Engineering Division

**LOMR Case No.** 21-05-2374P

**Affected Parcels:** 31-1-7608-00, 31-1-7608-37 thru 45, 31-1-7608-47, 31-1-7610-01, 31-1-7610-02, 31-1-7610-24, 31-1-7610-30, 31-1-7610-31, and 31-1-7612-20 thru 27.

**Petitioner's Request:** Floodplain Zoning Amendment - Article X. Floodplain Zoning Division 1. Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions. Sec. 23-205 (b) (2) f. thru i. Official maps based on other studies related to LOMR – Case No. 21-05-2374P

### **BACKGROUND/ANALYSIS**

On July 13, 2022, the Department of Public Works, Engineering Division sent letters to the property owners who own property within the subject area pursuant to Letter of Map Revision (LOMR) Case No. 21-05-2374P.

On September 16, 2022, the City received notification from the Federal Emergency Management Agency (FEMA) that Flood Insurance Rate Map (FIRM) Panel No. 55087C0328D for Outagamie County (see attached) was revised and will go into effect January 27, 2023 by Letter of Map Revision (LOMR). The revisions to this panel were based on additional study performed by Davel Engineering and Environmental, Inc. "Davel" for the incorporated areas in the City of Appleton along Apple Creek Northeast. Davel's Letter of Map Revision (LOMR) revises the FIRM to reflect North Edgewood Estates, a residential subdivision consisting of approximately 45 single-family home sites and accessory structures along Apple Creek Northeast.

### Floodplain Zoning Amendment Chapter 23 Zoning Ordinance December 14, 2022 Page 2

The LOMR area is located from a point approximately 330 feet downstream (southeast) of French Road to a point approximately 3,140 feet downstream (southeast) of French Road. As a result of the LOMR, the regulatory floodway will widen and narrow at various locations within the area of revision.

The LOMR will also result in:

- 1. Increases and decreases in the 1-percent-annual-chance water-surface elevations, with increases ranging from 0 feet to 0.35 feet, and decreases ranging from 0 feet to 0.20 feet, and
- 2. Widening and narrowing of the 1-percent-annual-chance floodplain.

**Technical Review Group (TRG) Report:** This item appeared on the October 18, 2022 TRG agenda. No negative comments were received from participating departments.

### RECOMMENDATION

Pending public comments, staff recommends the proposed amendments to Article X Floodplain Zoning of Chapter 23 of the Municipal Code, Section 23-205 (b) (2) f. thru i. Official maps based on other studies, as attached, **BE APPROVED**.

### PROPOSED ZONING ORDINANCE TEXT AMENDMENTS

The text recommended to be added is <u>underlined</u>. The text recommended to be deleted is <del>strikethrough.</del>

### ARTICLE X. FLOODPLAIN ZONING

# DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS.

#### Sec. 23-205. General provisions.

- (b) *Official maps and revisions*. The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see Division 8 *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Department of Public Works, City of Appleton. If more than one map or revision is referenced, the most restrictive information shall apply.
  - (2) *Official maps based on other studies.* Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.
    - a. LOMR Case #11-05-7670P, Floodway and Floodplain revisions between Flood Insurance Study (FIS) Cross Section AW to BA, Outagamie County Flood Insurance Rate Map (FIRM) panels 55087C0318D and 55087C0319D, dated July 22, 2010. This reflects changes on the Fox River from just downstream of the Private Middle Dam to approximately 250 feet upstream of the Appleton Upper Dam.
    - b. LOMR Case #13-05-7920P, Floodplain revisions between Flood Insurance Study (FIS) Cross Section AN to AM, Outagamie County Flood Insurance Rate panels 55087C0319D, dated July 22, 2010. This reflects changes along the south side of the Fox River from the College Avenue Bridge to approximately 850 feet downstream.
    - c. LOMR Case #17-05-1963P. Floodplain revisions on Outagamie County Flood Insurance Study (FIS) AAL Tributary Cross Section C, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0336D, effective September 29, 2017. This reflects changes along the AAL Tributary from just downstream of Lightning Drive to approximately 200 feet upstream of East Glenhurst Lane.
    - d. LOMR Case #17-05-3854P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Fox River Cross Section AS through AW, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0319D, effective February 16, 2018. This reflects changes along the Fox River from just upstream of railroad to just downstream of South Oneida Street.
    - e. LOMR Case #20-05-2300P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek North Cross Section H through J, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0328D, effective July 22, 2010. This reflects changes along Apple Creek North from approximately 1,440 feet downstream of Harrier Lance to approximately 160 feet downstream of Ballard Road.

- f. LOMR Case #21-05-2374P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek Northeast Cross Section H through I, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0328D, effective January 27, 2023. This reflects changes along Apple Creek Northeast from approximately 700 feet downstream of Rubyred Drive to approximately 350 feet downstream of French Road.
- £ g. CLOMR Case #21-05-3029R. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) AAL Tributary from just upstream of East Glenhurst Lane to approximately 500 feet upstream of Everbreeze Circle, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0336D, effective November 1, 2021.
- g. h. Kensington Pond Dam Failure analysis approved by the Department of Natural Resources on January 7, 2008, including:
  - 1. Map dated July 2007 and titled "Figure 2, City of Appleton, Kensington Pond Dam Break Analysis, Hydraulic Shadow" (Hydraulic Shadow boundary from Cross Section 0.001 to 4.84).
  - 2. Floodway data table dated 8/28/2007 and titled "Table F-10, Maximum Water Surface Elevations, Kensington Pond Dam Break Analysis, City of Appleton".
  - 3. Flood profiles dated 7/10/2007 and titled "Figure 3, Maximum Water Surface Profiles" (Hydraulic Shadow profile from Garners Creek Sta 0 to Sta 25000). Revisions made as a result of DNR review and received from Pete Neuberger via email 2/23/2021.
- g. i. Outagamie County Flood Storage District Map Panel 1 of 2 approved by Wisconsin Department of Natural Resources and dated January 20, 2016. Prepared by DNR, approved by DNR.



Washington, D.C. 20472

### **September 16, 2022**

**CERTIFIED MAIL** RETURN RECEIPT REQUESTED

The Honorable Jake Woodford Mayor, City of Appleton 100 North Appleton Street Appleton, WI 54911

IN REPLY REFER TO:

Case No.:

21-05-2374P

Follows Conditional

Case No.:

19-05-10161R

Community Name: City of Appleton, WI

Community No.:

555542

Effective Date of

This Revision:

**January 27, 2023** 

Dear Mayor Woodford:

The Flood Insurance Study Report and Flood Insurance Rate Map for your community have been revised by this Letter of Map Revision (LOMR). Please use the enclosed annotated map panels revised by this LOMR for floodplain management purposes and for all flood insurance policies and renewals issued in your community.

Additional documents are enclosed which provide information regarding this LOMR. Please see the List of Enclosures below to determine which documents are included. Other attachments specific to this request may be included as referenced in the Determination Document. If you have any questions regarding floodplain management regulations for your community or the National Flood Insurance Program (NFIP) in general, please contact the Consultation Coordination Officer for your community. If you have any technical questions regarding this LOMR, please contact the Director, Mitigation Division of the Department of Homeland Security's Federal Emergency Management Agency (FEMA) in Chicago, Illinois, at (312) 408-5500, or the FEMA Mapping and Insurance eXchange toll free at 1-877-336-2627 (1-877-FEMA MAP). Additional information about the NFIP is available on our website at https://www.fema.gov/flood-insurance.

Sincerely,

Patrick "Rick" F. Sacbibit, P.E., Branch Chief

**Engineering Services Branch** 

Federal Insurance and Mitigation Administration

List of Enclosures:

Letter of Map Revision Determination Document Annotated Flood Insurance Rate Map Annotated Flood Insurance Study Report

Executive Thomas M. Nelson

Outagamie County, County Administration Building

Paula Vandehey Director of Public Works City of Appleton

Steve Swanson Zoning Administrator **Outagamie County** 

**Brian Cunningham** 

Wisconsin Department of Natural Resources

State NFIP Coordinator

Mitchell D. Bauer, P.E. **Project Engineer** 

Davel Engineering & Environmental, Inc.

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Issue Date: September 16, 2022

Effective Date: January 27, 2023

Case No.: 21-05-2374P

LOMR-APP

Follows Conditional Case No.: 19-05-0161R



## Federal Emergency Management Agency

Washington, D.C. 20472

# LETTER OF MAP REVISION DETERMINATION DOCUMENT

	COMMUNITY AND REVISION	INFORMATION	PROJECT DESCRIPTION	BASIS OF REQUEST							
COMMUNITY	Outagai	Appleton nie County consin	BRIDGE FILL	FLOODWAY 1D HYDRAULIC ANALYSIS UPDATED TOPOGRAPHIC DATA							
	COMMUNITY NO.: 555542										
IDENTIFIER	North Edgewood Estates		APPROXIMATE LATITUDE & LONGITUDE: 44.321, -88.349 SOURCE: Other DATUM: NAD 83								
	ANNOTATED MAPPING EN	CLOSURES	ANNOTATED STUDY ENCLOSURES								
TYPE: FIRM*	NO.: 55087C0328D	DATE: July 22, 2010	DATE OF EFFECTIVE FLOOD INSURA PROFILE: 14P FLOODWAY DATA TABLE: 11	ANCE STUDY: January 20, 2016							

Enclosures reflect changes to flooding sources affected by this revision.

\* FIRM - Flood Insurance Rate Map

#### FLOODING SOURCE(S) & REVISED REACH(ES)

Apple Creek Northeast - From approximately 700 feet downstream of Rubyred Drive to approximately 350 feet downstream of N. French Road.

SUMMARY OF REVISIONS										
Flooding Source	Effective Flooding	Revised Flooding	Increases	Decreases						
Apple Creek Northeast	BFEs* Zone AE Zone X (shaded) Floodway	BFEs Zone AE Zone X (shaded) FLoodway	YES YES YES YES	YES YES YES YES						

\* BFEs - Base (1-percent-annual-chance) Flood Elevations

### **DETERMINATION**

This document provides the determination from the Department of Homeland Security's Federal Emergency Management Agency (FEMA) regarding a request for a Letter of Map Revision (LOMR) for the area described above. Using the information submitted, we have determined that a revision to the flood hazards depicted in the Flood Insurance Study (FIS) report and/or National Flood Insurance Program (NFIP) map is warranted. This document revises the effective NFIP map, as indicated in the attached documentation. Please use the enclosed annotated map panels revised by this LOMR for floodplain management purposes and for all flood insurance policies and renewals in your community.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Mapping and Insurance eXchange toll free at 1-877-336-2627 (1-877-FEMA MAP) or by letter addressed to the LOMC Clearinghouse, 3601 Eisenhower Avenue, Suite 500, Alexandria, VA 22304-6426. Additional Information about the NFIP is available on our website at https://www.fema.gov/flood-insurance.

Patrick "Rick" F. Sacbibit, P.E., Branch Chief

Engineering Services Branch Federal Insurance and Mitigation Administration

21-05-2374P



Washington, D.C. 20472

### LETTER OF MAP REVISION **DETERMINATION DOCUMENT (CONTINUED)**

### OTHER COMMUNITIES AFFECTED BY THIS REVISION

**CID Number: 550302** 

TYPE: FIRM\*

Name: Unincorporated Areas of Outagamie County, Wisconsin

AFFECTED MAP PANELS

AFFECTED PORTIONS OF THE FLOOD INSURANCE STUDY REPORT

NO.: 55087C0328D DATE: July 22, 2010 DATE OF EFFECTIVE FLOOD INSURANCE STUDY: January 20, 2016 PROFILE(S): 14P

FLOODWAY DATA TABLE: 11

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Mapping and Insurance eXchange toll free at 1-877-336-2627 (1-877-FEMA MAP) or by letter addressed to the LOMC Clearinghouse, 3601 Eisenhower Avenue, Suite 500, Alexandria, VA 22304-6426. Additional Information about the NFIP is available on our website at https://www.fema.gov/flood-insurance.

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

21-05-2374P



Washington, D.C. 20472

# LETTER OF MAP REVISION DETERMINATION DOCUMENT (CONTINUED)

#### **COMMUNITY INFORMATION**

#### APPLICABLE NFIP REGULATIONS/COMMUNITY OBLIGATION

We have made this determination pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (P.L. 93-234) and in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, P.L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65. Pursuant to Section 1361 of the National Flood Insurance Act of 1968, as amended, communities participating in the NFIP are required to adopt and enforce floodplain management regulations that meet or exceed NFIP criteria. These criteria, including adoption of the FIS report and FIRM, and the modifications made by this LOMR, are the minimum requirements for continued NFIP participation and do not supersede more stringent State/Commonwealth or local requirements to which the regulations apply.

We provide the floodway designation to your community as a tool to regulate floodplain development. Therefore, the floodway revision we have described in this letter, while acceptable to us, must also be acceptable to your community and adopted by appropriate community action, as specified in Paragraph 60.3(d) of the NFIP regulations.

NFIP regulations Subparagraph 60.3(b)(7) requires communities to ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. This provision is incorporated into your community's existing floodplain management ordinances; therefore, responsibility for maintenance of the altered or relocated watercourse, including any related appurtenances such as bridges, culverts, and other drainage structures, rests with your community. We may request that your community submit a description and schedule of maintenance activities necessary to ensure this requirement.

#### **COMMUNITY REMINDERS**

We based this determination on the 1-percent-annual-chance flood discharges computed in the FIS for your community without considering subsequent changes in watershed characteristics that could increase flood discharges. Future development of projects upstream could cause increased flood discharges, which could cause increased flood hazards. A comprehensive restudy of your community's flood hazards would consider the cumulative effects of development on flood discharges subsequent to the publication of the FIS report for your community and could, therefore, establish greater flood hazards in this area.

Your community must regulate all proposed floodplain development and ensure that permits required by Federal and/or State/Commonwealth law have been obtained. State/Commonwealth or community officials, based on knowledge of local conditions and in the interest of safety, may set higher standards for construction or may limit development in floodplain areas. If your State/Commonwealth or community has adopted more restrictive or comprehensive floodplain management criteria, those criteria take precedence over the minimum NFIP requirements.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Mapping and Insurance eXchange toll free at 1-877-336-2627 (1-877-FEMA MAP) or by letter addressed to the LOMC Clearinghouse, 3601 Eisenhower Avenue, Suite 500, Alexandria, VA 22304-6426. Additional Information about the NFIP is available on our website at https://www.fema.gov/flood-insurance.

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21-05-2374P



Washington, D.C. 20472

# LETTER OF MAP REVISION DETERMINATION DOCUMENT (CONTINUED)

We will not print and distribute this LOMR to primary users, such as local insurance agents or mortgage lenders; instead, the community will serve as a repository for the new data. We encourage you to disseminate the information in this LOMR by preparing a news release for publication in your community's newspaper that describes the revision and explains how your community will provide the data and help interpret the NFIP maps. In that way, interested persons, such as property owners, insurance agents, and mortgage lenders, can benefit from the information.

This revision has met our criteria for removing an area from the 1-percent-annual-chance floodplain to reflect the placement of fill. However, we encourage you to require that the lowest adjacent grade and lowest floor (including basement) of any structure placed within the subject area be elevated to or above the Base (1-percent-annual-chance) Flood Elevation.

We have designated a Consultation Coordination Officer (CCO) to assist your community. The CCO will be the primary liaison between your community and FEMA. For information regarding your CCO, please contact:

Mary Beth Caruso
Director, Mitigation Division
Federal Emergency Management Agency, Region V
536 South Clark Street, Sixth Floor
Chicago, IL 60605
(312) 408-5500

#### STATUS OF THE COMMUNITY NFIP MAPS

We will not physically revise and republish the FIRM and FIS report for your community to reflect the modifications made by this LOMR at this time. When changes to the previously cited FIRM panel(s) and FIS report warrant physical revision and republication in the future, we will incorporate the modifications made by this LOMR at that time.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Mapping and Insurance eXchange toll free at 1-877-336-2627 (1-877-FEMA MAP) or by letter addressed to the LOMC Clearinghouse, 3601 Eisenhower Avenue, Suite 500, Alexandria, VA 22304-6426. Additional Information about the NFIP is available on our website at https://www.fema.gov/flood-insurance.

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

21-05-2374P

Case No.: 21-05-2374P



## Federal Emergency Management Agency

Washington, D.C. 20472

# LETTER OF MAP REVISION DETERMINATION DOCUMENT (CONTINUED)

### **PUBLIC NOTIFICATION OF REVISION**

A notice of changes will be published in the *Federal Register*. This information also will be published in your local newspaper on or about the dates listed below, and through FEMA's Flood Hazard Mapping website at <a href="https://www.floodmaps.fema.gov/fhm/bfe">https://www.floodmaps.fema.gov/fhm/bfe</a> status/bfe main.asp

LOCAL NEWSPAPER

Name: Post Crescent

Dates: September 23, 2022 and September 30, 2022

Within 90 days of the second publication in the local newspaper, any interested party may request that we reconsider this determination. Any request for reconsideration must be based on scientific or technical data. Therefore, this letter will be effective only after the 90-day appeal period has elapsed and we have resolved any appeals that we receive during this appeal period. Until this LOMR is effective, the revised flood hazard determination presented in this LOMR may be changed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Mapping and Insurance eXchange toll free at 1-877-336-2627 (1-877-FEMA MAP) or by letter addressed to the LOMC Clearinghouse, 3601 Eisenhower Avenue, Suite 500, Alexandria, VA 22304-6426. Additional Information about the NFIP is available on our website at https://www.fema.gov/flood-insurance.

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