



Legislation Text

File #: 160339, **Version:** 2

160339
SUBSTITUTE 2

ALD. KOVAC AND BOHL

A substitute ordinance relating to the change in zoning, from Parks to Institutional, of lands located south of West Hampton Avenue and east of North Port Washington Road (6th Aldermanic District). This ordinance changes the zoning of lands located south of West Hampton Avenue and east of North Port Washington Road from Parks (PK) to Institutional (TL).

Whereas, The Estabrook Dam on the Milwaukee River has been in decline and has developed major structural issues due to years of neglect; and

Whereas, The dam is a crumbling "public nuisance" that hasn't operated since a 2008 Wisconsin Department of Natural Resources order to shut it down; and

Whereas, Industrial pollutants, including polychlorinated biphenyls, have been accumulating near the dam for decades, mostly from industrial sources upstream in the Lincoln Creek watershed; and

Whereas, There is no viable reason to maintain the dam and keep it permanently open as the short-term repair costs and long-term maintenance costs of that scenario would far exceed removal costs; and

Whereas, The dam removal alternative means the complete removal of the dam, including the gated control structure and fixed crest spillway, and the creation of a free-flow condition; and

Whereas, Removing the dam and restoring free-flow conditions would allow for unimpeded passage of boats, fish and aquatic invertebrates, yield the greatest positive impacts on river ecology, flood management, water quality, sediment management, fish and aquatic life, terrestrial wildlife and recreation, would support natural wetland hydrology, and may result in a net gain of wetland acreage; and

Whereas, The ecological health created by a free-flowing river offers greater long-term value than maintaining the present water body behind the dam; and

Whereas, On May 12, 2016, the City of Milwaukee passed resolution number 141707 expressing the City of Milwaukee's support for the removal of the Estabrook Dam; and

Whereas, On April 21, 2016 the Wisconsin Department of Natural Resources (DNR) issued a final Environmental Impact Statement which serves as a basis to permit the owner of the dam, Milwaukee County, to repair rather than to remove the dam; and

Whereas, The DNR failed to consider certain issues and failed to appropriately apply the law in various ways that would have supported dam removal and not dam repair; and

Whereas, Cheryl Nenn and Milwaukee Riverkeeper filed a Petition for Review Pursuant to Wis. Stats. § 227.52 seeking judicial review of the DNR's decision to issue the final Environmental Impact Statement on grounds similar to those stated above; and

Whereas, The City of Milwaukee's legally protected interests, as well as those of its residents, will be harmed by the DNR's decision to allow Milwaukee County to repair, rather than remove, the dam; and

Whereas, Removal of the dam is the only option to permanently abate the public nuisance caused by years of neglect and protect the interests of the City of Milwaukee and its residents; and

Whereas, Changing the zoning of Estabrook Dam will facilitate the removal of the dam; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. There is added to the Milwaukee Code of Ordinances a new section to read as follows:

The zoning map is amended to change the zoning of all lands within the following described area from Parks (PK) to Institutional (TL):

That part of Lots 132 and 133 of Comstock and Williams Subdivision, a recorded subdivision, in the Northeast 1/4 of Section 5, Township 7 North, Range 22 East, described as follows: Commencing at the point of intersection of the present easterly line of North Port Washington Road and the south line of West Hampton Avenue; thence Easterly, along said south line and the south line of East Hampton Avenue to a point on the southwesterly line of the former railroad right-of-way; thence Southeasterly, along said southwesterly line, to a point in the east line of said 1/4 Section; thence Southerly, along said east line, to a point in the center line of the Milwaukee River; thence Northwesterly, along said center line to a point in the limit line between the City of Milwaukee and the City of Glendale; thence continuing Northwesterly, along said centerline and said city limits line, to a point in the present easterly line of North Port Washington Road extended; thence Northerly, along said present easterly line and its extension, to the point of commencement.

LRB165073-2
Jeff Osterman
10/05/2016