



WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

Senator Scott Fitzgerald and Representative Keith Ripp Testimony on Senate Bill 479 and Assembly Bill 563

January 5, 2016

Good morning Senate Insurance and Real Estate chairman and members, and thank you for allowing us to testify on AB 563 today, allowing Dane County towns to opt out of county zoning.

We, along with Senator Olsen, and Representatives Kleefisch and Jagler, are proposing this bill to allow Town Boards in Dane County to opt out of countywide zoning under very limited circumstances. This bill is needed to protect the property rights of rural landowners in the county.

The Dane County Zoning Ordinance was first adopted in 1938 and has not ever had a comprehensive revision. This makes it unique among Wisconsin's counties. The county has never had a comprehensive revision because enacting one would require the county to allow Town Boards the option of opting out. In order to keep the towns from opting out, Dane County has had an almost continuous process of incremental revisions, thus trapping towns into an ordinance that now bears no resemblance to the original ordinance which was adopted before World War II, a time when, for example, many farmers were still using horses to pull their implements.

The Dane County Board is made up of 37 members and only roughly 5 of them currently represent rural areas. The remaining 32 represent incorporated areas that are NOT covered by the county zoning ordinance, but still get to vote on zoning decisions affecting only township areas. This is another factor that makes the situation in Dane County uniquely undemocratic.

These two facts have led to a situation in which Dane County routinely makes arbitrary decisions that are not supported by the town board of a particular town or by its residents.

Our bill allows a town board to choose to opt out of county zoning during calendar year 2017, and for one year periods every three years after that. Towns that choose to opt out have the option to choose one of two actions: 1. Adopt a Town Zoning Ordinance that is essentially identical to the County Zoning Ordinance or 2. Adopt a model ordinance that is developed by all opt-out towns collectively. These two options avoid the issue of having several different zoning ordinances across the county and would ensure Dane County would have a maximum of two zoning ordinances.

On December 10th, AB 563 received a Public Hearing in the Assembly Committee on Housing and Real Estate. At that hearing, there were 45 speakers/registrations **in favor** of the bill, and 25 speakers/registrations **against** the bill. We wanted to respond to some of the concerns raised during that public hearing, as well as clarify some false statements out there. You will likely hear some or all of the same arguments today.

1. The Wisconsin Counties Association testified at the Assembly Housing and Real Estate Committee Public Hearing on December 10th that they have strong concerns about legislation like this applying to all counties statewide.
 - a. This is not something I support nor am I advocating for statewide applicability in this bill. This bill affects Dane County only, and the authors and I drafted it that way because we believe Dane County is unique. They have not done a comprehensive revision to their county zoning since the first zoning ordinances were adopted in 1938. Because of this, Dane County towns have been unable to opt-out if they so choose.

2. A few of those who testified against AB 563 indicated that this bill is a solution searching for a problem and that the towns and county currently work well together.
 - a. The Dane County Board is made up of 37 members and only roughly 5 of them currently represent rural areas. The remaining 32 represent incorporated areas that are NOT covered by the county zoning ordinance, but still get to vote on zoning decisions affecting only township areas.
 - b. Because of this unequal representation, residents living in the towns who are unhappy with Dane County decisions affecting their area can often not even hold them accountable by voting them out of office. This means that the county really has no existing incentive to come to the table with unhappy Dane County towns or their residents to negotiate in good faith.
3. The Wisconsin Counties Association and Dane County Board both raised concerns about whether the state should be involved in a local dispute between two entities of government, especially when it only affects one county.
 - a. The Dane County towns have, on several occasions over decades, tried to negotiate with the county on changes that would make this working relationship more equal and fair and these concerns have largely fallen on deaf ears. Similar to the point made above, the County currently has no incentive to make any of these changes other than the fact that there is legislation currently circulating that would take away their authority.
 - b. If the towns are not given the ability to opt-out, the relationship between them and the county will continue to be unequal and will prevent the towns from having any bargaining ability.
4. Several testifiers against AB 563 have indicated that only a small amount of petitions from the towns have been rejected.
 - a. This is true for two reasons:
 - i. First: Most projects are no longer even petitioned because developers, towns, and residents know there is no hope of the petition being granted, so they do not even try.
 - ii. Second: Other projects that are petitioned are often sent through so many different hoops with some many conditions added to them by the County Zoning Board that petitioners run out of money, time, or willpower before all of the conditions can be met. The county essentially waits them out until they give up and withdraw the petition entirely.
5. Several testifiers against AB 563 claimed that Dane County is the fastest growing county in Wisconsin, so the towns cannot argue that the zoning board is not allowing growth.
 - a. Where exactly is this growth happening? When the Dane County Zoning Board was asked this during the Public Hearing on AB 563, they admitted that it occurs mostly in the cities and villages.
 - b. Some towns in Dane County are even seeing population decline. These rural towns have roads to maintain and communities to support, too. How can they continue to do that if Dane County continues to prevent them from adding to their tax base?
6. In a letter from eight towns in Dane County opposing the bill, stating that “[i]f this bill is enacted, it will lead to a fragmented decision making system that varies widely from town to town.”
 - a. This is just not true. When the Dane County Towns Association worked with the Wisconsin Counties Association on provisions in this bill, they both agreed that if any town were to opt out of Dane County Zoning, they would only be able to opt-in to a universal town zoning run by all of the towns in that zoning. This creates only two zoning options: Dane County, or the Towns, and will not result in fragmented decision-making from town to town.

Some points we would like to reiterate about the bill:

- This bill does not create a mandate that towns in Dane County must opt-out. It gives towns a much needed additional option in deciding what is best for their communities. If a Dane County town is happy with the current relationship they share with the county, they can choose to continue that relationship.
- This bill does not affect annexation or extraterritorial zoning of cities and villages.

After concerns raised by DATCP, we have also drafted an amendment to the bill that would require that towns adopting a farmland preservation ordinance for the first time must certify this ordinance with DATCP by December 31st of that year as is required under current law, rather than allowing for 18 months as the bill currently dictates. This will ensure that farmers are not negatively affected. Under the bill and under the amendment, towns would be adopting an ordinance identical to that of Dane County, so there should be no problems with certification from the department.

Thank you again for your time today and we would be happy to answer any questions you may have.

MEMORANDUM

TO: Honorable Members of the Senate Committee on Insurance, Housing and Trade

FROM: Kyle Christianson, Director of Government Affairs *kc*

DATE: January 5, 2016

SUBJECT: Opposition to Senate Bill 479

The Wisconsin Counties Association (WCA) opposes Senate Bill 479, which allows towns in Dane County to unilaterally withdraw from county zoning ordinances. If passed, this legislation will lead to many unintended consequences throughout the Dane County region and will set a precedent for other counties across the state.

While there are undoubtedly disagreements between towns in Dane County and the county over land use issues, the current system of checks and balances works well. Over the last four years (2011-2014), there were 593 zoning petitions before the Dane County Zoning and Land Regulation Committee. Only 13 of these petitions were denied; however, six of these denials were denied by the towns.

There is value added in having both towns and Dane County partner in the current zoning process, evident in the fact that Dane County is one of the fastest growing counties in the state. Under the current system, both the county and towns have a stake in zoning decisions. For example, the county is only allowed to make changes to county zoning ordinances with approval from the majority of towns in Dane County. This forces a level of collaboration and cooperation between the county and towns that will be eliminated under this legislation. In addition, SB 479 has the potential to create regulatory uncertainty for businesses and developers, as Dane County would no longer have zoning uniformity.

While the current county-town zoning process may not always be easy, it has proven successful and should not be preempted by the state without the county and towns first working cooperatively to identify and address all the challenges present under the current system. In recent years, based on concerns raised by Dane County towns, the county board made significant changes to its zoning practices, as well as membership of the Dane County Zoning and Land Regulation Committee. These changes were the direct result of local government officials working cooperatively to make improvements to the local government zoning process.

Thank you for considering our comments and please feel free to contact WCA if you need additional information.

MEMORANDUM

TO: Senate Committee on Insurance, Housing & Trade

FROM: Anthony R. Varda

DATE: January 5, 2016

RE: SB479

My name is Anthony Varda, and I am currently the Chair of the Town of Berry. I have held that position for the past nine years. I am also a practicing attorney, with municipal law experience. However, I am speaking today on my own behalf, based upon my experience, and not as a representative of the Town of Berry.

First, I wish to point out there has been a good deal of misinformation on this issue, and nature of this bill. When I read the editorial in the *Wisconsin State Journal* opposing this legislation, I was taken by the fact that virtually every paragraph was wrong or misleading.

For example, the *State Journal* said that the majority of members on the Zoning Committee were from rural districts. If you just look geographically, that would be true. If you look on the basis of population, there is only one member of the Zoning Committee that actually represents a district where a majority of the constituents are in the rural areas of the County. Two of the districts are largely metropolitan areas, where the urban constituents outnumber the rural constituents by a substantial number.

Remember, zoning in Dane County is only applicable outside of cities and villages. In other words, it only applies in rural towns, who are not effectively represented on the County Zoning Committee. Zoning in Dane County is being used to restrict rural development by directing development into the cities and villages of Dane County. It is a pattern we see time and time again. The "new urbanism" requires increased population densities to support the programs and policies of that philosophy. Unfortunately, in Dane County it also results in penalizing rural areas, who are not effectively represented on the Zoning Committee.

Since the *Journal* editorial, I have been contacted by a couple of other Towns, seeking to oppose this measure. I am appalled by their lack of understanding of what this measure does. Simple partisanship appears the basis for their opposition to the bill. The fact that opting out of County Zoning is optional and does not eliminate zoning under the bill is ignored.

I am here to testify in favor of the bill, because I think it is an excellent option for Towns to balance out the urban control being imposed over rural zoning in Dane County.

Dane County is unique in that it has not had a comprehensive revision of its zoning code since 1938. Under existing law, only a comprehensive revision gives an opportunity to

towns to opt out of county zoning. To avoid any opportunity to opt out, the County has systematically revised the zoning ordinances, bit-by-bit, to avoid the label of "comprehensive revision." It has thereby precluded any opportunity to opt out. The irony is, of course, in those counties where they have had a comprehensive revision of their zoning code, in cooperation with both the urban and rural communities, everyone decided to stay in because the resulting zoning code was something they all wanted.

During my nine years as Town Chair, I have repeatedly been forced to attend Dane County zoning meetings on behalf of residents who ran into problems with unwritten rules being applied by the County. Moreover, when we revised our Comprehensive Plan for the Town of Berry, we provided a clause that allowed the Town of Berry the final word on interpretation of its Comprehensive Plan, after a hearing and review of such interpretation by the residents. This is the same format whereby a comprehensive plan is amended. Nonetheless, Dane County refused to accept that provision. The County declared it had the right to interpret the Comprehensive Plan Berry wrote, as it chose to interpret it, regardless of the interpretation of the Town of Berry. Similarly, when the Town of Berry developed a Transfer of Development Rights Ordinance, which allowed the movement of development rights from one parcel to another within the Town, the County insisted on an overall veto right. Yet, the County adopted no standards for exercise of its "veto authority."

Those opposed to this bill claim the system isn't broken so it doesn't need fixing. There is a reason why few zoning applications are actually turned down. It is not because the system is working. It is actually because:

1. Once the parties learn what they have to do and the likelihood of approval, they do not bother applying; and

I routinely tell applicants for zoning changes to check first with the County before paying the application fee. Most never come back to pay the fee.

2. People desperate for rezoning are willing to agree to a variety of conditions that have no basis in law or ordinance, but are required by the ZNR to get their "approval."

The number of unnecessary deed restrictions that I have seen is disturbing. These unilaterally imposed deed restrictions encumber the land forever, whereas circumstances may change making such restrictions undesirable, unnecessary or counterproductive. Nonetheless, there is a common thread: restricting development in rural areas of Dane County.

I have people in Berry who have been waiting over six months for what we would consider a "no brainer" rezone, where the lines are simply being redrawn and nothing is in fact changing. This is a particularly difficult situation where the land is under contract for

purchase, contingent upon rezoning. Mortgage lenders will not hold a mortgage lock for six months. It is impossible to tell how many discouraged purchasers have simply walked away, never making a rezoning application, or dropping their application, because it was just too complicated and took too long.

If you look at the rest of Wisconsin, you will find that Dane County's situation is unique. Zoning is not handled this way anywhere else in the State. In Dane County, zoning has been used to limit rural development and force all development into the villages and cities. Although Dane County has one of the fastest development rates in the State, rural Dane County is at a standstill. In Berry we had one building start last year, and that was a tear down/rebuild. This year, the only activity relates to properties that were rezoned long ago.

The most important consideration, from my perspective, is the fact that this legislation simply creates a window every three years when a town can opt out of Dane County zoning. Whether Berry leaves Dane County zoning once the bill is passed is a decision that the Berry Board will have to make for itself. We may stay. We may leave. We may wait three years to see if the problems with Dane County zoning are addressed on the county level. Meanwhile, the towns that are presently opposed to this legislation would be free to continue with Dane County zoning. However, the future boards of those same towns would have the option of opting out, should they discover that Dane County zoning is no longer working in their town.

Can zoning be effectively done outside Dane County's control? We have a perfect example for that in Dane County. The Town of Westport left Dane County zoning by entering into an Intergovernmental Agreement with the Village of Waunakee. They handle their own zoning in conjunction with Waunakee. It seems to have worked out to their mutual satisfaction. There is no question that other towns in Dane County could agree to do the same, if they could legally do so.

We are simply asking for that option. We are asking that you correct this unique situation in Dane County so that rural Dane County will have the opportunity to undertake some limited growth. I know my Town firmly intends to retain its rural character. Unfortunately, Dane County's idea of assisting us to retain our rural character is to discourage all development. That does not help pay for the roads and the maintenance required to operate a rural town in Wisconsin. Some development and increase in tax base is necessary to keep up with rising costs.

We believe we can do that in a reasonable fashion, consistent with Berry's Comprehensive Plan, which mandates we uphold the Town's rural character. I would request that you support AB563 to allow that option.



MADISON AREA BUILDERS ASSOCIATION

January 5, 2015

Chair Lasee and Members of the Committee:

My name is Andrew Disch. I am the Director of Government Affairs for the Madison Area Builders Association. On behalf of our 500 members who are dedicated to delivering high-quality, safe, and affordable housing options to all income levels, I am here to testify in support of Senat Bill 479 giving Towns *the option* to withdraw from Dane County zoning.

This is a jobs bill. New construction also generates substantial local economic activity like support of locally owned business - everything from excavators to title companies - and additional revenue for local governments the result is: 3 full-time, permanent jobs are created for every new home built.

Dane County's restrictive land use policies have prevented environmentally responsible new construction from taking place. A significant segment of consumers prefer to live in a rural setting. This is evidenced by the fact that 15% of Dane County's population lives in one of its 34 towns and despite Dane County having the fastest growing population in the State, there has been a noticeable absence of rural housing options keeping up with consumer demand. To illustrate this point, it is not uncommon for zero or one building permits to be issued annually in Dane County towns. Here are some examples:

2013: Town of Berry: one permit. Town of Medina: one permit.

2014: Town of Dunkirk zero permits. Town of Perry zero permits. Town of Verona one permit.

2015: Town of Blue Mounds one permit. Town of Christiana zero permits. Town of York one permit.

In addition, this proposal comes at a time when towns are under significant budget pressures. If a local town board wants to continue to deliver high quality services without raising property taxes, the best way to way to achieve this is to increase its tax base. Now this does not mean paving the way for massive neighborhoods. With many annual operating budgets less a million dollars, identifying pockets of rural housing can go a long way. Moreover, rural landowners are the best stewards of their land. I can attest to this growing up myself in a town on rural lot in Dane County.

I have also been to several other town board meetings all throughout Dane County during my tenure at the Builders Association and I've observed that the local elected officials on town boards are some of the most connected to their local community and are in the best position to assess their local character and make land use decisions

MADISON AREA BUILDERS ASSOCIATION

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accordingly. On the contrary, for the first time since statehood, not a single farmer serves on the Dane County Board. In a County that is still largely rural, and has 37 County Board members, and is charged with regulating rural land – not one farmer serves on the Dane County Board for the first time since the county was created.

Not every Town will decide to withdraw from County Zoning, however this will give more Dane County Towns an additional option to select when evaluating what best serves their unique needs.

Respectfully Submitted,

Andrew Disch



TO: Senator Frank G. Lasee, Chair, 2015 Senate Committee on Insurance, Housing, and Trade
Room 316 South, State Capitol, Madison, WI 53707-7882

CC: Committee members, 2015 Senate Committee on Insurance, Housing, and Trade

FROM: Town of Dunn Town Chair Edmond Minihan
Town of Cross Plains Town Chair Greg Hyer
Town of Montrose Town Chair Roger Hodel
Town of Perry Town Chair Roger Kittleson
Town of Primrose Town Board

Town of Christiana Town Chair Gary Rattmann
Town of Oregon Town Chair Wayne Ace
Town of Pleasant Springs Town Chair Mary Haley
Town of Springdale Town Chair Ed Eloranta
Town of Roxbury Town Board

RE: Opposing SB 479 to allow Dane County Towns to withdraw from County Zoning

I am writing on behalf of 10 Dane County Towns to urge you to oppose SB 479. We are deeply concerned about the repercussions this bill would have for our towns and our fellow Dane County towns, property owners and taxpayers.

Perhaps the most important reason we encourage you to oppose this legislation is that it seems to be attempting to fix a problem that, we believe, is overstated and quite limited. Only 13 zoning petitions have been denied since 2011, and about half of those denied were in fact denied at the Town level, not by Dane County Zoning. Towns enjoy significant benefits from our partnership with Dane County Zoning, and these limited incidents of denial do not warrant abandoning a well-functioning system.

In Dane County, towns have been successful at achieving farmland preservation that supports a robust agricultural economy, while also facilitating appropriate development in our rural areas. This is due in large part to having a predictable, cooperative system across the county. If this bill is enacted, it will lead to a fragmented decision making system that varies widely from town to town. This would be a barrier for farmers and developers alike. Despite the provision to have all towns that opt-out adopt a single code, it would be a challenge to maintain this consistency over time as individual towns pursue updates as they begin to use the code.

Administrating zoning at the county level allows for having high quality planning staff administrating and enforcing the zoning ordinance. Most towns do not have the capacity to hire staff with this capability should they choose to have their own ordinance. With County zoning, Towns have both the benefit of town-level review for local control and collaborating county zoning staff and taking advantage of on their expertise. Enforcement is another important service that county zoning provides. If towns opt out, they are losing out on this service and town taxpayers are also paying twice – through county taxes which fund county zoning, plus the significant financial investment of administrating and enforcing a zoning ordinance locally whether by hiring staff or a consultant.

Dane County Zoning has been responsive to the concerns of towns as they have arisen, making changes to give towns more local control over the zoning process. For example, Dane County Towns have the ability to approve or deny Conditional Use Permits, which is unique to Dane County. Town action comes first, influencing the county process, and adjustments have been made to have more town representatives on zoning committees.

Once again, we urge you to oppose SB 479. We believe this bill represents a costly over-correction for a limited set of circumstances. County zoning provides a significant benefits to towns in a very cost effective manner, while providing a predictable, consistent process county-wide. Eliminating this consistency would come at a great cost both financially and in a diminished ability to provide quality services to our residents.

Sincerely,



Edmond P. Minihan

Chairman, Town of Dunn

4156 County Road B, McFarland, WI 53558 | (608) 838-1081

Tuesday, January 5, 2016

Re: SB ~~464~~ / ^{sd} 464 : AGAINST

Fellow citizens,

We are all in favor of protecting freedom. As usual, we are in tension to explain freedom through the eyes of us all. We hope we can define freedom as a description of an idea promoting the well-being of "the people," the ones with beating hearts, the ones breathing our air, living in our spaces, drinking water as a shared natural resource.

So we must ask, does passing this legislation protect the essential resources mentioned above that determine citizens' well-being? The life or death elements we assume we have a right to as our freedoms are threatened and about to be legislated away! Our legislators seem to value a type of freedom that is not life-giving but breathes an artificial sort of life into money-making concerns only. No respect for humans who vote. Business only votes for business, this is not the definition of freedom, it is the crushing of our basic life-giving freedoms.

That is why I oppose SB464. It sets dangerous precedents that will affect the lives of our voting breathing citizens.

Marcia V. Riquelme
3953 Finch Trail
DeForest, WI 53532

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WRITTEN TESTIMONY OF KAREN EDSON
AGAINST SB 479

This bill ~~targets~~ targets towns in Dane and Milwaukee Counties (the only counties currently meeting the population cutoff specified) and specifically excludes Waukesha County (on the off chance that it will have a population spurt?).

It allows towns in these counties to withdraw from county zoning, to keep farmland preservation tax credits and various other goodies.

Given recent efforts in the State Budget to punish Dane County for using zoning to attempt to require conditions such as additional insurance covering possible spills from the Eubridge Pipeline 61 which passes through Dane County (and when expanded will carry more tar sands oil than the Keystone XL Pipeline would have).

The expansion of this pipeline is partly dependent on the construction of a pumping station in the town of Medina on the far east side of the county - not in Rep. Ripp's District.

The pipeline company has a poor record (over)

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of spills, having had one prior one in Wisconsin and one recently in Michigan where cleanup costs have exceeded \$1 Billion and cleanup is not done over 3 years after the spill.

It would appear that this bill is an effort to reward the town of Medina for accepting ~~an~~ an unconscionable risk imposed on the rest of the County!

I urge the committee to vote AGAINST.

WRITTEN TESTIMONY OF KAREN EDSON AGAINST SB 464

This bill expands the concept of "vested property rights" beyond the individual piece of property within the specific jurisdiction of a specific building permit to any piece of property owned by the same land owner within the entire state! This destroys local land use control completely and makes a mockery of GOP protestations of desire for small government!

This bill also seems to freeze the requirements and prohibitions of all levels of government at the time of the first application for any improvement, even if the actual project takes years for completion. Given my objections in the above paragraph, a community in the North might not even be aware that a property in their area was "frozen" as a result of a permit granted by Milwaukee County!

This bill also gives "vested rights" retroactively - a dangerous thing for a law to do!

The bill also directs state courts to resolve "any ambiguity in a matter" ... in favor of the free use of private property." I apologize for the elipsis but my hand is too tired for the full quote. I have two objections with this provision: first, does this not infringe on the separation of powers that establishes the courts as a separate and equal branch of government? and second, (over)

(p2)

zoning ordinances are developed to resolve conflicting uses of private property within a community. They are not the imposition of the will of an outside organization upon the community (as is this bill). So the question of "free use of private property" becomes "whose use of which private property" is to be favored by the courts and why does this legislature care so much?

I urge the committee to vote against.



Brad Boycks
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Robert C. Procter
WBA General Counsel
Axley Brynelson, LLP
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(608) 283-6762

Re: 2015 Senate Bill 479 – Authorizing towns located in populous counties to withdraw from county zoning.

TO: Senate Committee On Insurance, Housing and Trade

FROM: Brad Boycks, Executive Director
Robert C. Procter, General Counsel

DATE: January 5, 2016

The Wisconsin Builders Association (WBA) represents more than 4,000 members of the housing industry throughout Wisconsin, including a large number of homebuilders, developers and related employers within Dane County. The WBA supports the housing industry through advocacy for its members and consumers.

The WBA membership supports Senate Bill 479 because allowing Dane County towns to control their own land use planning and approvals will provide consumers more affordable, innovative and environmentally conscious housing options.

The WBA's developers and homebuilders have stressed to the WBA that Dane County is unique within the State because of the land use jurisdictional battles between certain towns and the County, which have negatively affected property rights.

Senate Bill 479 is a modest resolution of that tension between Dane County town governments and the Dane County government for the following reasons.

- **Town Zoning Is Voluntary.** Senate Bill 479 will allow, but not require, towns to withdraw from coverage of county zoning ordinances. *See 2015 Senate Bill 479, Section 7, Lines 1-7.* Any town located within Dane County that prefers to continue under the current county zoning structure may do so.
- **Town Zoning Does Not Change Regional Planning.** Regional planning in Dane County is not accomplished through county zoning. Cities and villages are not subject to county zoning.

Regional planning in Dane County is the function of the Capital Area Regional Planning Commission (CARPC), which was created by Governor James Doyle pursuant to Executive Order #197 and Wis. Stat. § 66.0309.

CARPC adopted and administers the Dane County Land Use and Transportation Plan. CARPC is governed by a Commission made up of thirteen commissioners, three appointees from Dane

County, three appointees from the Dane County Towns Association, three appointees from the Dane County Cities and Villages Association and four appointees from the City of Madison. Senate Bill 479 does not change or limit CARPC's regional planning jurisdiction under Wis. Stat. § 66.0309 (Regional Planning Commissions) or Executive Order #197.

- **Town Zoning Is Not A Radical Solution.** Town zoning is not new. Wisconsin Stat. § 60.62 allows towns under certain circumstances to exercise village powers for purposes of zoning.

Dane County is unique in that it has systematically taken steps to prohibit any of its towns to exercise zoning powers. Dane County's actions have led to the current stalemate between some Dane County town governments and the Dane County government.

When it comes to zoning, each county in the State is unique. According to a 2006 survey published by the University of Wisconsin Stevens Point, 57 counties administer general zoning ordinances, 747 towns participate in county zoning programs, 244 towns administer town zoning ordinances, and the remaining 269 towns have no zoning at all.

Allowing towns the option to administer their own zoning in Dane County is a modest solution to the problems that exist between Dane County towns and the Dane County government.

- **Town Zoning Is Not "Anti-Dane County."** It is a false narrative to label Senate Bill 479 anti-Dane County. The supporters of the bill are Dane County towns, Dane County businesses and Dane County citizens. In any town that elects to exercise town zoning powers, zoning decisions will be made by Dane County residents that are elected to their local town board.

In summary, town zoning is not the extreme measure that the Dane County government officials make it out to be. The revision to the law will simply allow elected town officials, as opposed to county officials, to be the final authority over whether a farmer can rezone a portion of his / her property to allow for an additional residence for a son or daughter, to rezone a property to commercial zoning for a business or to rezone a property to allow for a rural subdivision.

Senate Bill 479 does not require any town to do its own zoning, does not change regional planning laws, is not radical and is not anti-Dane County. Senate Bill 479 is a simple solution to the current tension between Dane County towns and Dane County Government.

Senate Bill 479 will provide WBA members more opportunities to provide consumers more affordable, innovative and environmentally conscious housing options.

DANE COUNTY CITIES' & VILLAGES' ASSOCIATION



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DCCVA Address:

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To: Senator Frank Lasee, Chair
Members of the Senate Committee on Insurance, Housing & Trade

From: City of Verona Mayor Jon Hochkammer
City of Middleton Mayor Kurt Sonnentag
City of Stoughton Mayor Donna Olson
Village of DeForest President Judd Blau
City of Verona Administrator Bill Burns

Date: Tuesday, January 5, 2016

Re: **Opposition to Senate Bill 479 – Allowing Towns to Withdraw from only Dane County Zoning**

On behalf of the 19 villages and 8 cities that comprise the membership of the Dane County Cities' & Villages' Association (DCCVA) where approximately 85 percent of the approximate 500,000 residents of Dane County reside, we are writing to express our deep concern over the prospect of legislation allowing towns to withdraw from Dane County zoning. While this may seem to be an isolated change for towns, it will have broad implications for cities and villages in Dane County. Land use issues can be contentious, but this legislation will substantially alter the dynamic.

We are sympathetic to the towns' claim that they have faced challenges in working with Dane County prior to the 2014 compromise the Dane County Towns Association and the Dane County Board reached during the public debate of [2013 AB-661](#). Certainly the DCCVA has had its share of conflicts. However, this proposal will have wide repercussions on issues such as land use, transportation and the efficient provision of municipal services. DCCVA believes this proposal will lead to disputes between cities, villages and towns that will be costly, lengthy and unnecessary intergovernmental boundary disputes for our taxpayers. Such a fundamental alteration in the landscape of municipal growth needs to be made in the context of all the communities affected.

The cities and villages of this region believe it is biased that towns only in Dane County would in effect be exempted from regional planning oversight, while the Dane County Towns' Association and the Dane County Board would continue to have representatives on the regional planning entities where they would continue to have direct votes to decide whether or how a city or village will grow in the future.

Thank you.

Town of
SPRINGFIELD



6157 County Hwy P. Dane, WI 53529 608-849-7887 Phone 608-849-6187 Fax
Email: chacker@town.springfield.wi.us Website: www.town.springfield.wi.us

January 5, 2016

TO: Senate Committee Members

I ask you to support legislation that allows towns to opt out of Dane County Zoning and provide zoning that is regulated by the town governments and the people it represents. The towns represent all the land in the county that is not under the control of a city or village and yet the urban population has control over all land decisions because of the makeup of the Zoning and Land Regulation committee at the county. As a 3rd generation dairy farmer I can look back and see the effort and sacrifice that has been put forth to have the wonderful rural areas that make up the rural towns.

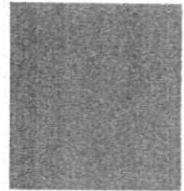
When you go to a Zoning and Land Regulation committee meeting and at the last minute they put forth conditions that make a proposed zoning request unfeasible or economically unworkable, and their answer to your objections is that it is not their problem to make it work. That shows that they are not working for the interest of the local citizens but to promote an urban driven agenda. The towns have access to all the resources necessary to oversee local zoning. I encourage you to give towns the ability to oversee their own future.

Thank you,

Donald Hoffman
Chairman, Town of Springfield

Cc: Springfield Town Board

Lisa Conley
516 Lac La Belle Drive
Oconomowoc, WI 53066
(262) 567-5947
Lconley101@gmail.com



January 5, 2016

RE: SB 464

Senator Frank Lasee
316 South, State Capitol
Madison, WI 53707-7882

Dear Senator Lasee and Members of the Senate Insurance, Housing and Trade Committee,

As a former citizen member of the Waukesha County Park and Planning commission, and a lifelong resident of this beautiful state, I wish to strenuously object to provisions of SB 464 that undermine the ability of local communities to protect their citizens, their property values, and the lands that are critical to the local economy. I have participated firsthand in the kind of discussion and careful consideration of individual issues that come before such a board, and the long term land use plans we helped draft.

While I did not always agree with the outcomes, I have deep respect for the local process and local knowledge that this bill attempts to short circuit.

I also object to the provisions that provide incentives to develop land held in conservation easements. In the face of the kind of development pressure I see here in Waukesha County, we need to increase our protection of the lands that provide critical groundwater recharge, and much loved and well used natural areas that make our county such a desirable place to live. Conservation easements are established for the good of us all, and the state should not weaken their protection.

Sincerely,

Lisa Conley



Dorinda Jelle

From: "Mike D" <dillismike@gmail.com>
Date: Wednesday, December 09, 2015 9:11 PM
To: "Dennis Jelle" <ourfarm@mhtc.net>
Cc: "LeeAnn Dillis" <ldillis@fdmh.org>
Attach: chronology 12-9-15.xlsx; ZLR Ltr 3-12-13 w_History.docx
Subject: ZLR & Dillis Residence Issue

Dennis, I am unable to attend the meeting tomorrow at the State Capitol regarding the possible change in the way zoning is handled by the Dane County ZLR. However, based upon my personal experiences that took place with the ZLR over an 18 month period of time in 2012 and 2013 I support the efforts to bring a change to the way business is conducted in Dane County when it comes to zoning review and approval in the rural areas of the county.

My experience, which has been well documented in previous correspondence with yourself, attorney Hazelbaker, Dane County zoning administration staff and the ZLR clearly demonstrates that providing well engineered and otherwise sound and logical systematic responses to an ever changing set of objections by the ZLR was an effort in futility. Having no further recourse other than continuing to play the "whack-a-mole" game with the ZLR ultimately caused me to give up my quest to have my land rezoned as petitioned over that 18 month period of time.

As a taxpayer in Dane County I encourage you and others to continue to work towards creating a fair and publicly accountable zoning process that cannot be manipulated by self-serving appointed individuals.

For your reference I am attaching couple of documents that may help you recall the details and level of scrutiny that our zoning request was put under and through by the ZLR.

Best of luck.

Mike Dillis

Mike and Lee Ann Dillis
2214 Dahlk Circle
Verona, WI 53593

March 12, 2013

Dane County Zoning and Land Regulation Committee
City-County Building
210 Martin Luther King, Jr., Blvd
Madison, WI 53703-3342

RE: Rezone Application #10486
3205 Bergum Road, Town of Blue Mounds

Dear Committee Members,

At the November 13, 2012 Zoning & Land Regulation Committee meeting you voted unanimously to postpone action on our petition in order to *"provide an opportunity for the applicant to explore alternate homesite locations on the property"*.

Over the past two months we have communicated with Chairman Miles through our attorney in an effort to more clearly understand what is at the heart of the Committee's concerns with regard to our proposed location. The perceived impact on agriculture appears to be what you are really concerned about. There is concern with the length of the driveway and it interfering with agricultural usage. It was suggested by Chairman Miles, to our attorney, that we again consider ways of minimizing the length of the driveway while also considering using the open field areas for agricultural purposes.

Perhaps it has not been clearly communicated to you that we have intended for the land? The preservation of the land and some agricultural use has always been at the forefront of our thinking. Please read the following few paragraphs to gain further clarity on our vision.

The open field areas on the property have been enrolled in the United States Department of Agriculture's Conservation Reserve Program (CRP) since October 2007. The contract expiration date is October 2017. The now-deceased father of the current Owner (Bob Larson) enrolled the field areas in CRP because his efforts to crop the land in previous years were not cost-effective. One main focus of the CRP program is to reduce soil erosion and sedimentation in streams while helping to improve water quality and establishing wildlife habitat. Bob Larson was a great steward of his land, and he saw this program as an opportunity to maintain the land in a natural state in lieu of trying to actively farm it. In its current state, the vegetative cover on the open field areas protects the stream running through the property, and also provides good habitat for the wild animal population.

If we receive ZLR and County Board approval, it is our intent to keep the open field areas in the CRP Program intact through the 2017 contract expiration date. After that time, we plan to either sign a new CRP contract or plant a combination of crops and meadows to be potentially used for animals; and we will work with the USDA to enroll the other portion in its Wildlife Habitat Incentive Program (WHIP). What really excites us about this program is that it offers technical and financial assistance to help restore, develop and enhance both fish and wildlife habitat. The creek that runs the length of the property has some great potential to be improved and this program could be a great catalyst!

We recently had a meeting with a land planning and design firm that specializes in land stewardship and sustainability. They provided us with some additional ideas on how we could further enhance the natural beauty of the land, and we are eager to explore additional options with them. We believe that these alternative plans will address the Committee's concerns: maintaining the property in CRP would protect the stream and foster a healthy indigenous plant and animal community; while feed crop or meadow would further agricultural use while minimizing the impact to the aesthetics and natural character of the property.

Chairman Miles expressed concern about the length and location of the driveway to the proposed home site, and whether it may limit future use of the fields for agriculture. As a reminder, the vast majority of the proposed driveway is an existing unpaved farm vehicle drive that parallels but is not located in the open field. Our plan is to utilize the footprint of the existing drive; and our driveway would only extend into the current field to the extent necessary to reach the home site (no more than 300 lineal feet). Even then, the drive will be close to the edge of the field so as not to be visually intrusive or limiting of future use.

It has been suggested more than once by the Committee that we should simply build our new home in the location of the old double wide trailer since this location would shorten the overall driveway length. As previously noted, that site is too small to allow for a modestly sized home to be built there. In addition please understand that if a home were to be built in this general location the agricultural use of the land would no longer be an option. Given the size of today's farming equipment, it would not physically fit past the house to get down into the open fields in question.

In conclusion we once again we wish to convey our willingness to work with the Committee to fashion appropriate conditions that would be consistent with our goals for residing at the south end of the property while preserving the rural character of this property. We ask that you approve this request.

Thank you,

Mike and Lee Ann Dillis

cc: Roger Lane, Mark Hazelbaker, Dennis Jelle, Jon Larson

A copy of the proposed home and driveway location plan is attached. Based upon past interactions with The Committee during a number of meetings several concerns were expressed.

This letter in conjunction with a review of the documents being provided directly to you by the Zoning Administrator for the upcoming March 12th meeting, adequately address all of these concerns.

According to published meeting notes this is the list of The Committee's specific concerns:

1. Compliance with the Town Use Plan.
2. Development on 12% slopes.
3. Development within the floodplain.
4. Classification of soils within the boundary area.
5. The length of the driveway.
6. Remote site location and ability of the County to deliver services.
7. Spot zoning and conflicts with the County Comprehensive Plan.

Compliance with the Town Use Plan.

- The two acre parcel meets all nine criteria established in the Town Land Use Plan
- The application has been unanimously endorsed by the Town of Blue Mounds.

Development on 12% slopes.

- This concern was a carryover from Petition #10416 and has been resolved.
- See page 2 of the September 25, 2012 Staff Report.
- The home and driveway are not impacting these slopes.

Development within the floodplain.

- This concern was a carryover from Petition #10416 and has been resolved.
- See page 2 of the September 25, 2012 Staff Report.
- The home location and driveway are not in the floodplain.

Classification of soils within the boundary area.

- This concern was a carryover from Petition #10416 and has been resolved.
- See page 2 of the September 25, 2012 Staff Report.
- Only 4% of the two acre parcel has Class 2 soils.
- The home location and driveway do not impact the Class 2 soils.

The length of the driveway.

- As verified by Dane County Staff, the proposed driveway is out of the floodplain, has no impact to Class 1 or 2 soils, and is completely off of the steep slopes.
- The Town of Blue Mounds has no driveway length restrictions. Note the following clause was inserted as an Amendment to Ordinance 4, adopted on September 14, 2009... "*The Town of Blue Mounds has no restrictions on the length of private driveways.*"
- It should be noted that there are countless other driveways in Dane County that are what may be considered to be as long. As the Committee is aware, the adjacent neighbor's driveway is approximately 2,800 feet long.

The remote location and ability of the County to deliver Services.

- Homesite is located approximately 3 miles from Hwy 18/151.
- Two existing homes are located within 750 feet of this proposed home location.
- Site is located within a 5 minute response time by the Mount Horeb Fire District which provides fire and EMT services to the area.
- FDMH has sent two letters stating that they have no concern with the proposed site, driveway or home location. ZLR Committee has previously acknowledged these letters and that they have no concern with EMT and Fire gaining access.
- Concern by the ZLR relative to Elder Abuse. Telephone conversation with the Area Agency on Aging on 11-5-12 confirmed that this agency is responsible for investigating elder abuse cases. They advised that this is a non-emergent service and stated that if there was a need to respond in an emergent situation they would contact the Dane County Sherriff or Mount Horeb Fire/EMTs for assistance.
- Concern by the ZLR relative to Elder Abuse. Telephone conversation with the Director of Southwest Dane Senior Outreach Services on 11-5-12 noted that they have never had an issue to responding to homes in the rural setting around Mount Horeb. The Director has visited the neighbor who shares the joint driveway on several occasions and is also familiar with the proposed home site location, having visited the land. She sees no issues providing services to our proposed location.
- Concern by the ZLR relative to Child Protective Services. Telephone conversation with the Child Protective Services Manager on 11-5-12 confirmed that this agency is responsible for investigating child abuse cases. The manager noted that if an investigator needs to be dispatched to the residence they would contact the Dane County Sherriff or Mount Horeb Fire/EMTs for assistance.
- Elder Abuse and Child Protective Services do not have a concern about the length of the driveway or ability to gain access in an emergent situation.
- Concern by the ZLR about a potential wind fall tree blocking the driveway. Several individuals have provided feedback over the past ten months addressing this concern. To summarize, should a felled tree obstruct a portion of the proposed driveway a secondary access option will utilize the valley floor as necessary to circumvent the obstruction.

Chief Brinkmann spoke to clarify access in emergency situations do not need neighbor approval and also restate that there is no concern by Fire and EMS for access to building site.

Action by ZLR: _____

Hendrick: Acknowledges that emergency vehicle access is not issue, but is concerned that other county services such as Elder Abuse and Child Protective Services will not be able to reach remote site.

Miles: Dislikes use of agricultural land for driveway.

Boiling: Approves petition but recommends postponement to allow continued work to resolution of concerns

Action taken by Petitioner to address concerns _____

Phone contact made to Manager Julie Ahnen of Child Protective Services and Lyn Forschaug, manager of Dane County Aging Community and Elder Abuse. Informed that they have no concerns on driveway length. If needed to access home in time of emergency, they would utilize emergency services.

11/13/12 ZLR Working Meeting

Petition by Land Owner to rezone 2 acres of A1-Ex to A2

Action by ZLR: _____

Hendricks Concerns: _____

1. Petitioners are asking for Illegal Spot Zoning

2. Farmland Preservation Plan: Using up 80 acres for one house. Does not preserve productive agricultural land for food and fiber production

3. Health Safety and Welfare: Remote location about half mile from through road with only one way in and out.

4. Chapter 75: Cul de sacs shall not exceed 1000 feet

5. Chapter 4: Dane County Comprehensive Plan: Does not meet goals to provide water, sewer and solid waste services, utilities, recycling, natural gas, electricity.

December 7, 2015

To Whom It May Concern,

As the residents of the Town of Blue Mounds discuss the merits of attempting to remove ourselves from the influence of the Dane County Zoning and Land Regulation Committee, I had been in support of staying with Dane County. However, I recently experienced the process of petitioning to rezone a parcel of my property, and I must say that my view has been somewhat altered.

Since I am not an experienced land developer, the process seemed extremely complex and convoluted. I was often given conflicting messages and wrong dates. I was told by Dane County in the early summer of 2015 that a portion of my land should be switched to A-4 and then, only a few days before my Nov. 24 hearing, the ZLR committee suggested it be changed to CO-1 Conservation. Meanwhile, I was told by the town board that I really didn't need to rezone the land at all. I was also told by the ZLR Committee at that time that I would need a revised driveway agreement without any explanation of how or when or with whom to implement these changes. I don't necessarily question the committee's intentions, but I objected to the lack of communication and consideration for my time and resources.

While I understand that Dane County works to be a good steward of our land, I have come to believe that the Town of Blue Mounds could be just as responsible and conscientious a steward of our land while being much more accessible and considerate of individual land owners.

Thanks,

Michael J. Cahill
3100 Bergum Road
Mount Horeb, WI 53572



**BIRRENKOTT
SURVEYING, INC.**

P.O. Box 237
1677 N. Bristol Street
Sun Prairie, WI. 53590
Phone (608) 837-7463
Fax (608) 837-1081

ZONING MAP

SE1/4-SW1/4
SECTION 35
TOWN OF VERMONT

SW1/4-SE1/4
SECTION 35
TOWN OF VERMONT

PARCEL "A"
Proposed CSM
Lot 1
REZONE TO A-4

TOWN OF VERMONT
TOWN OF BLUE MOUNDS

SOUTH 1/4 CORNER
SECTION 35
T6N, R6E S89°49'41"W 504.50'

NORTH 1/4 CORNER
SECTION 2
T6N, R6E

PARCEL "B"
Proposed CSM
Lot 1
REZONE TO A-2

NE1/4-NW1/4
SECTION 2
TOWN OF BLUE MOUNDS

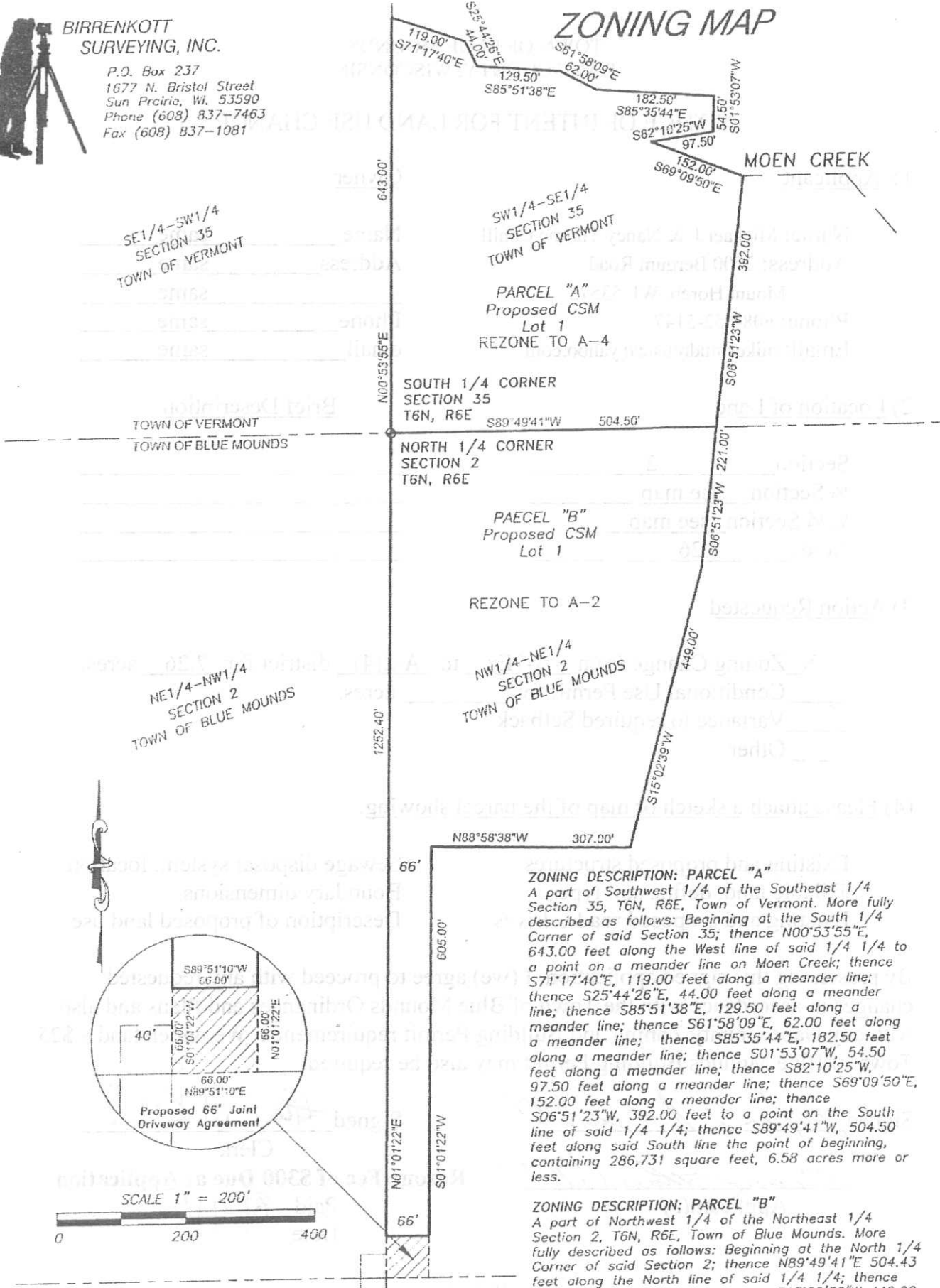
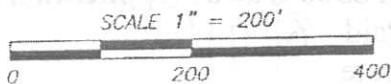
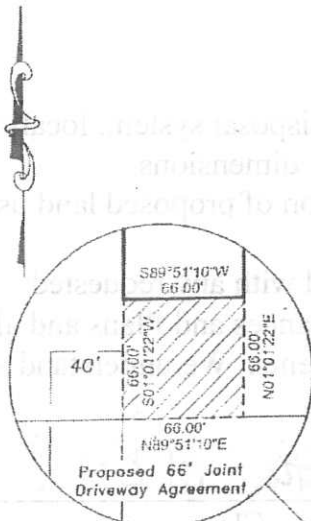
NW1/4-NE1/4
SECTION 2
TOWN OF BLUE MOUNDS

ZONING DESCRIPTION: PARCEL "A"

A part of Southwest 1/4 of the Southeast 1/4 Section 35, T6N, R6E, Town of Vermont. More fully described as follows: Beginning at the South 1/4 Corner of said Section 35; thence N00°53'55"E, 643.00 feet along the West line of said 1/4 1/4 to a point on a meander line on Moen Creek; thence S71°17'40"E, 119.00 feet along a meander line; thence S25°44'26"E, 44.00 feet along a meander line; thence S85°51'38"E, 129.50 feet along a meander line; thence S61°58'09"E, 62.00 feet along a meander line; thence S85°35'44"E, 182.50 feet along a meander line; thence S01°53'07"W, 54.50 feet along a meander line; thence S82°10'25"W, 97.50 feet along a meander line; thence S69°09'50"E, 152.00 feet along a meander line; thence S06°51'23"W, 392.00 feet to a point on the South line of said 1/4 1/4; thence S89°49'41"W, 504.50 feet along said South line the point of beginning, containing 286,731 square feet, 6.58 acres more or less.

ZONING DESCRIPTION: PARCEL "B"

A part of Northwest 1/4 of the Northeast 1/4 Section 2, T6N, R6E, Town of Blue Mounds. More fully described as follows: Beginning at the North 1/4 Corner of said Section 2; thence N89°49'41"E 504.43 feet along the North line of said 1/4 1/4; thence S06°51'23"W 221.69 feet; thence S15°02'39"W 449.00 feet; thence N88°58'38"W 307.00 feet; thence S01°01'22"W 605.00 feet; thence S89°51'10"W, 66.00 feet to a point on the West line of said 1/4 1/4; thence N01°01'22"E 1252.40 feet along said West



TOWN OF BLUE MOUNDS
DANE COUNTY, WISCONSIN

NOTICE OF INTENT FOR LAND USE CHANGE

1) Applicant

Name: Michael J. & Nancy Thorne Cahill
Address: 3100 Bergum Road
Mount Horeb, WI 53572
Phone: 608-852-5147
Email: mikesmudmusic@yahoo.com

Owner

Name same
Address same
same
Phone same
email same

2) Location of Land

Section 2
1/4 Section see map
1/4 1/4 Section see map
Acres 7.26

Brief Description

3) Action Requested

Zoning Change from A-1Ex to A-2(4) district for 7.26 acres.
 Conditional Use Permit for _____ acres.
 Variance to required Setback.
 Other

(4) Please attach a sketch or map of the parcel showing:

Existing and proposed structures
Tillable land, define soil types
Existing and proposed roads, drives
Sewage disposal system, location
Boundary dimensions
Description of proposed land use

By presenting this signed application, I (we) agree to proceed with any requested changes in accordance with the Town of Blue Mounds Ordinances and Plans and also with any Dane County Zoning and Building Permit requirements. We understand a \$25 Town of Blue Mounds Building Permit may also be required.

Signed Michael J. Cahill

Signed Helen M. Kahel
Clerk

Nancy Thorne Cahill
Applicant(s)

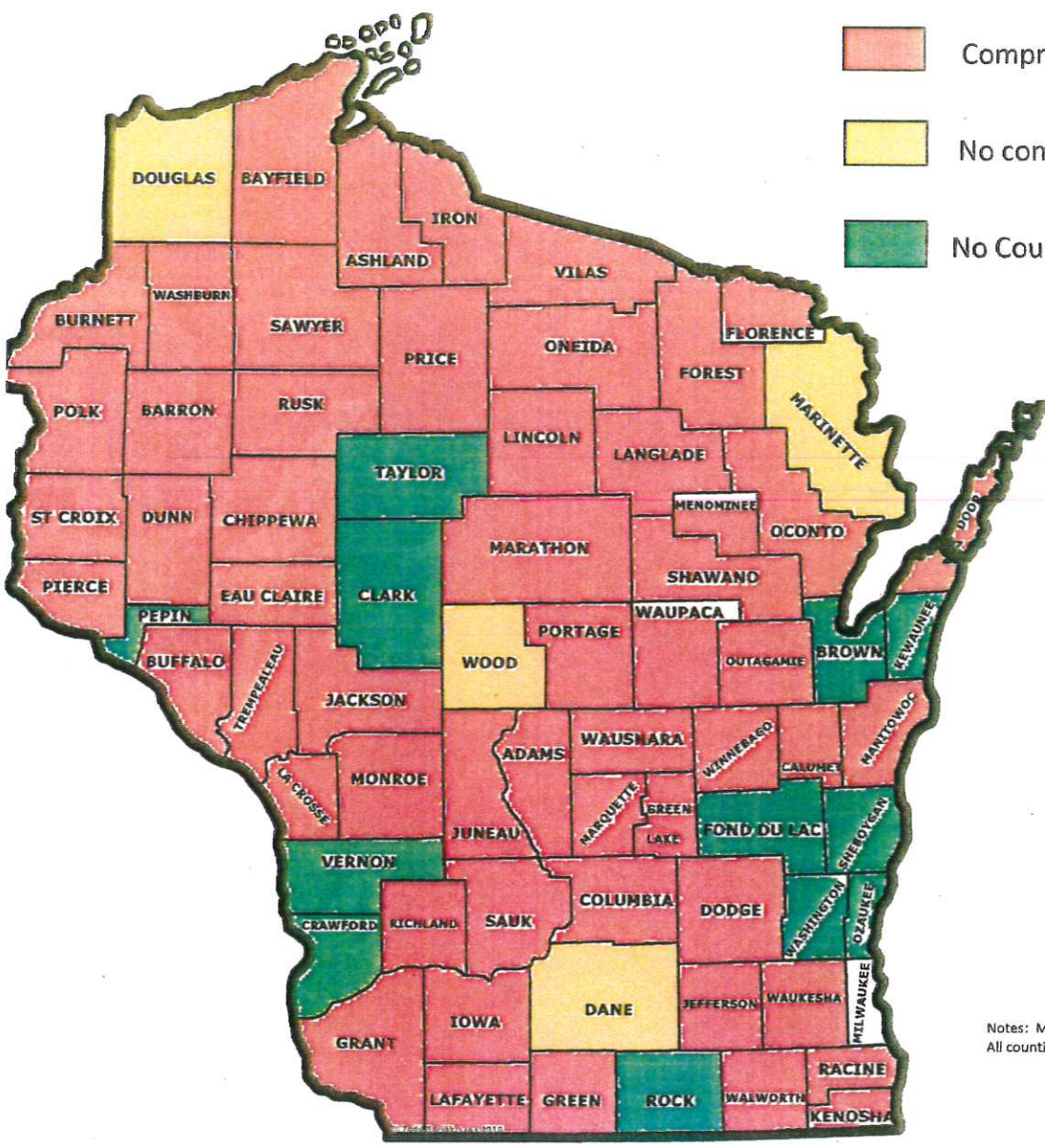
Rezone Fee of \$300 Due at Application
Paid 8/7/15
Date

COUNTIES AND STATUS OF ZONING REVISION

County	Adoption	Comp Revision	
Adams		2010	
Ashland	1934	2002	
Barron		1986	
Bayfield	1976	2012	
Brown	No general zoning		
Buffalo	1965	2015	
Burnett	1970	Underway	
Calumet	1976	2009	
Chippewa		2006	
Clark	No general zoning		
Columbia		2014	
Crawford	No general zoning		
Dane	1938	none	
Dodge	1968	2000	
Door		1995	
Douglas	1970	none	
Dunn		2013	
Eau Claire		2005	
Florence		2003	One Town
Fond du Lac	No general zoning		
Forest		Under way	
Grant		2012	
Green	1968	1982	
Green Lake	Unclear		
Iowa		2005	
Iron		2011	
Jackson		2013	
Jefferson		1975	
Juneau	1965	No towns under it	
Kenosha		1983	
Kewaunee	No general zoning		
La Crosse		2012	
Lafayette		2000	
Langlade	1967	2013	
Lincoln		2005	
Manitowoc		2011	
Marathon		Underway	
Marinette	1953		
Marquette		2014	
Menominee	1999	2015	One Town
Milwaukee	No towns		
Monroe		1986	
Oconto		1989	
Oneida	1934	2000	
Outagamie		1992	

COUNTIES AND STATUS OF ZONING REVISION

County	Adoption	Comp Revision	
Ozaukee	No general zoning		
Pepin	No general zoning		
Pierce	1972	2009	
Polk		2002	
Portage		Unclear	
Price	1934 & 1970	2010	2 revisions
Racine	1949	1969	1975 codification
Richland	1966	2003	
Rock	No general zoning		
Rusk		1987	
St. Croix		2014	
Sauk		2014	
Sawyer	1934	1971	
Shawano		2011	
Sheboygan	No general zoning		
Taylor	No general zoning		
Trempealeau	1972	2010	
Vernon	No general zoning		
Vilas		2005	
Walworth		2002	
Washburn		1977	
Washington	No general zoning		
Waukesha	1946	1959 & 2005	
Waupaca		2010	
Waushara		1984	
Winnebago		2001	
Wood	1934	Very limited coverage	
	No revision		
	Nothing to revise		



- Comprehensive revision
- No comprehensive revision
- No County Zoning

Notes: Milwaukee County has no towns.
 All counties other than Milwaukee have shoreland and floodplain zoning.

Town of Black Earth Chapter of the Dane County Comprehensive Plan Addendum

Pursuant to substitute 1 to Ordinance Amendment #35, 2009-10, the Dane County Board adopts the Town of Black Earth Comprehensive Plan as adopted by the Town of Black Earth on August 18, 2009 **excluding** the following provisions:

1. Page 3-3 under **Section 3.3 Implementation** “If at any time there are discrepancies, inconsistencies, or subjectivity within these goals, objectives and policies, it shall be the sole responsibility of the Town to make a final determination of their meaning and intent.”
2. Page 3-12 under **Section 13.k Determination of density**. The current Town of Black Earth “Splits Available” Map, as included at the end of the Land Use Chapter of this Plan, shall be the official determination of allowable splits by Dane County and the Town of Black Earth. If discrepancies are identified or appeals are made,
3. **Under General Provisions Part II Interpretation, Section 2-3** In the event that any question arises concerning any provision or the application of any provision of this plan, the Plan Commission shall be responsible for such interpretation and shall look to the overall intent of the comprehensive plan for guidance. The Commission shall provide such interpretation in writing upon request and keep a permanent record of said interpretations. The Town shall be the sole interpreter of this plan and shall have final interpretation of all materials contained within.

[EXPLANATION: The Town of Black Earth Chapter of the Dane County Comprehensive Plan Addendum identifies differences between the Town of Black Earth adopted Town of Black Earth Comprehensive Plan, and the county-adopted Town of Black Earth component of the Dane County Comprehensive Plan.]

DRAFT

- ii. May not be environmentally sensitive areas.
- iii. Should have access to Town roads which provide good vehicle access without a need for upgrading the road corridor.
- iv. Should have soils which are capable of supporting onsite wastewater treatment systems.
- v. Should not be located on ridgelines, hilltops or slopes of more than ten (10) percent.
- vi. Should not require the creation of flag lots.
- vii. Should comply with all other policies and requirements of the Town's ordinances and comprehensive plan.
- g. The landowner shall present a site plan showing where the lots and home sites of each reallocated density unit will be located, including the proposed driveway alignment, runoff control and erosion control plans.
- h. If all of the density units associated with a parcel have been utilized, as the result of reallocation, deed notices shall be recorded against the parcel to document that its associated density units have been used.

13. Rezoning for nonfarm residential use. Rezoning of lands in the agricultural preservation district for limited nonfarm residential development may be approved by the Town Board if the following criteria are met:

- a. The area proposed for rezoning is limited to the acreage that is necessary for the residential or hobby use contemplated.
- b. The development or structure is located on non-tillable land and/or takes a minimum of tillable land, land that is not economically viable for farming, or where there has not been a history of productive farming activities.
- c. The land is suitable for an approved wastewater disposal system which can be properly operated all seasons of the year.
- d. Land is located so that conflict with surrounding agricultural uses would be unlikely.
- e. The development shall require a driveway of no more than 10 percent slope in order to assure access by fire and emergency vehicles. Driveways must meet the requirements of the Town's Driveway Ordinance.
- f. Construction must be done under accepted erosion control measures and an erosion control plan must be filed to meet the requirements of the Dane County Erosion Control regulations.
- g. The proposed development/structure shall not disturb or destroy any important natural features such as significant woodland areas, wetlands, steep slopes, etc.
- h. The land shall not require crossing of productive agricultural land to reach the proposed development.
- i. Utility extensions (electric power lines, telephone lines, cable television, natural gas distribution lines, and sewer lines) shall not cross productive farmland in a manner that will disrupt farming activities.
- j. The minimum residential lot size shall be one (1) acre for four or less parcels in a cluster; for five or more parcels in a cluster, the minimum is 1 ½ acres. Note: The Dane County Groundwater Protection Plan recommends that clusters of on-site wastewater systems be at a density of one system per 1.5 to 2.0 acres.

- k. **Determination of density.** ~~The current Town of Black Earth "Splits Available" Map, as included at the end of the Land Use Chapter of this Plan, shall be the official determination of allowable splits by Dane County and the Town of Black Earth. If discrepancies are identified or appeals are made, the Town shall work with the County to provide a determination on the number of splits available. The density or number of allowable splits have been determined in the following manner:~~

- a. **Density.** The overall density of Agricultural Preservation areas shall not exceed one dwelling unit per 35 acres owned on June 3, 1981 (effective date of A-1 Exclusive Agricultural Zoning).
 - i. **Land Sales after 1981.** Changes and reconfigurations in ownership do not trigger new allotments of potential future dwelling units per the density

Not Adopted by the
Dane County Board
Per sub 1 to OA 35
(09-10) DCCO

- f. The Town Clerk directs the publishing of a Class 1 notice, with such notice published at least 30 days before a Town Board public hearing and containing information required under Section 66.1001(4)d, Wisconsin Statutes.
- g. The Town Board holds the formal public hearing on an ordinance that would incorporate the proposed plan amendment into the *Comprehensive Plan* (see sample ordinance included in this *Comprehensive Plan*).
- h. Following the public hearing, the Town Board approves (or denies) the ordinance adopting the proposed plan amendment. Adoption must be by a majority vote of all members. The Town Board may require changes from the Plan Commission recommended version of the proposed plan amendment.
- i. The Town Clerk sends a copy of the adopted ordinance and plan amendment (not the entire *Comprehensive Plan*) to all adjacent and surrounding government jurisdictions as required under Sections 66.1001(4)b and c, Wisconsin Statutes.
- j. The Town Clerk sends copies of the adopted plan amendment to the Dane County Planning and Development Department for incorporation in the Dane County Farmland Preservation Plan and/or County Comprehensive Plan.

3. PLAN UPDATE

The State comprehensive planning law requires that the *Comprehensive Plan* be updated at least once every ten years. As opposed to an amendment, an update is often a substantial re-write of the plan document and maps. Further, on January 1, 2010, if a local unit of government has an official map, or subdivision or zoning ordinance, these documents will have to be consistent with locally-adopted comprehensive plans—including zoning and subdivision ordinances, annexations, and transportation improvements. Based on these two deadlines, the Town should complete a full update of its *Comprehensive Plan* before the year 2015 (i.e., ten years after 2005) at the latest. The Town should continue to monitor any changes to the language or interpretations of the State law over the next several years.

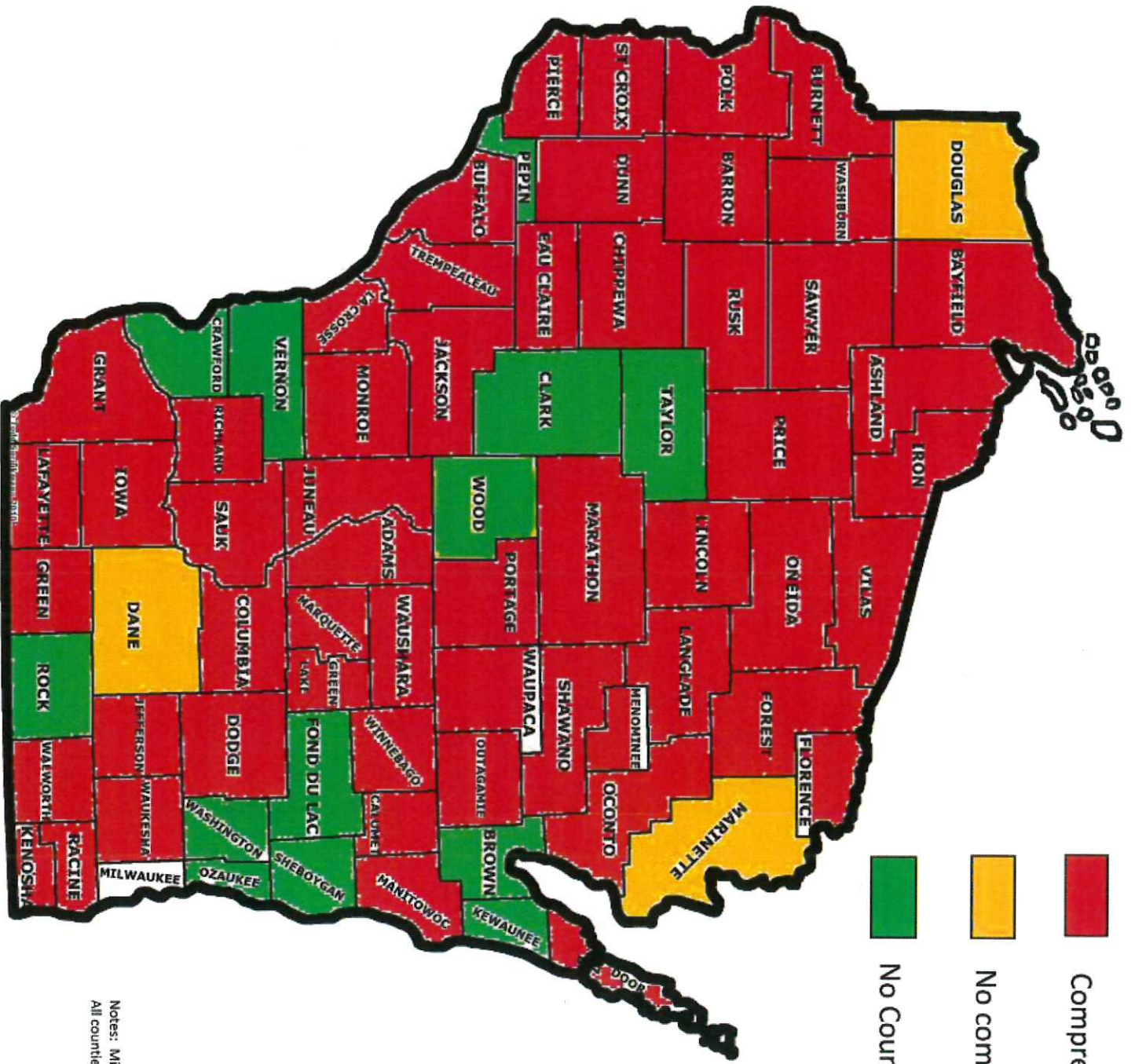
D. CONSISTENCY AMONG PLAN ELEMENTS

The State comprehensive planning statute requires that the implementation element “describe how each of the elements of the Comprehensive Plan shall be integrated and made consistent with the other elements of the Comprehensive Plan.” Preparing the various elements of the *Town of Springfield Comprehensive Plan* simultaneously has ensured that there are no known internal inconsistencies between the different elements of this *Plan*.

~~E. INTERPRETATION~~

~~The Town intends that this *Plan* should be interpreted reasonably to achieve the overall goals of the *Plan*, and not in a narrow or literal sense which frustrates or delays realization of its goals. If there is a question as to the interpretation of a provision of the *Plan*, the Town Board shall be empowered to adopt an interpretation of the *Plan* which shall resolve the issue and shall be appended to this *Plan*. The Town shall be the only body authorized to interpret this *Plan*.~~

Not Adopted by the Dane County Board
via Sub 1 to Res 23(07-08)

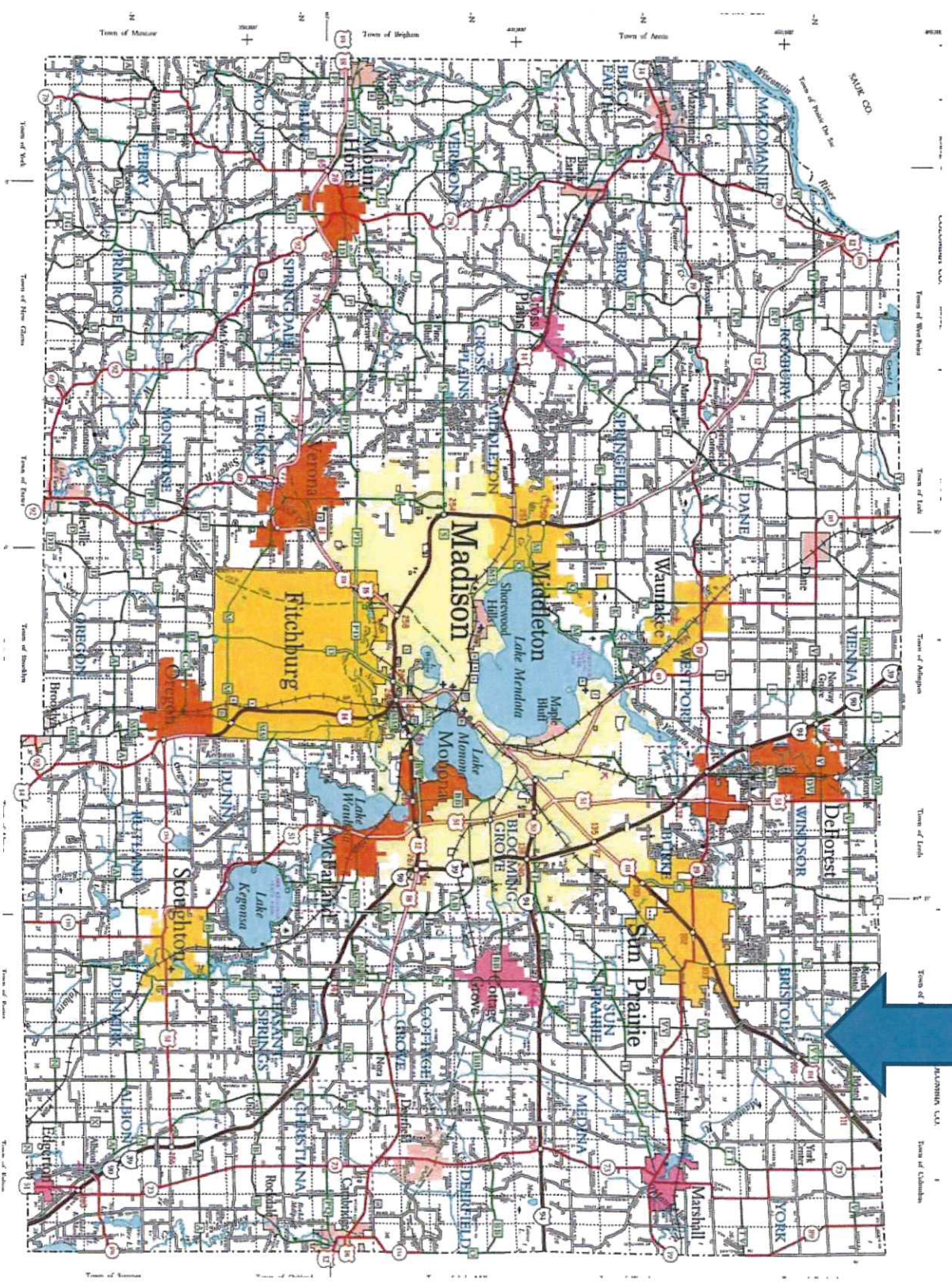


- Comprehensive revision
- No comprehensive revision
- No County Zoning

Notes: Milwaukee County has no towns.
 All counties other than Milwaukee have shoreland and floodplain zoning.

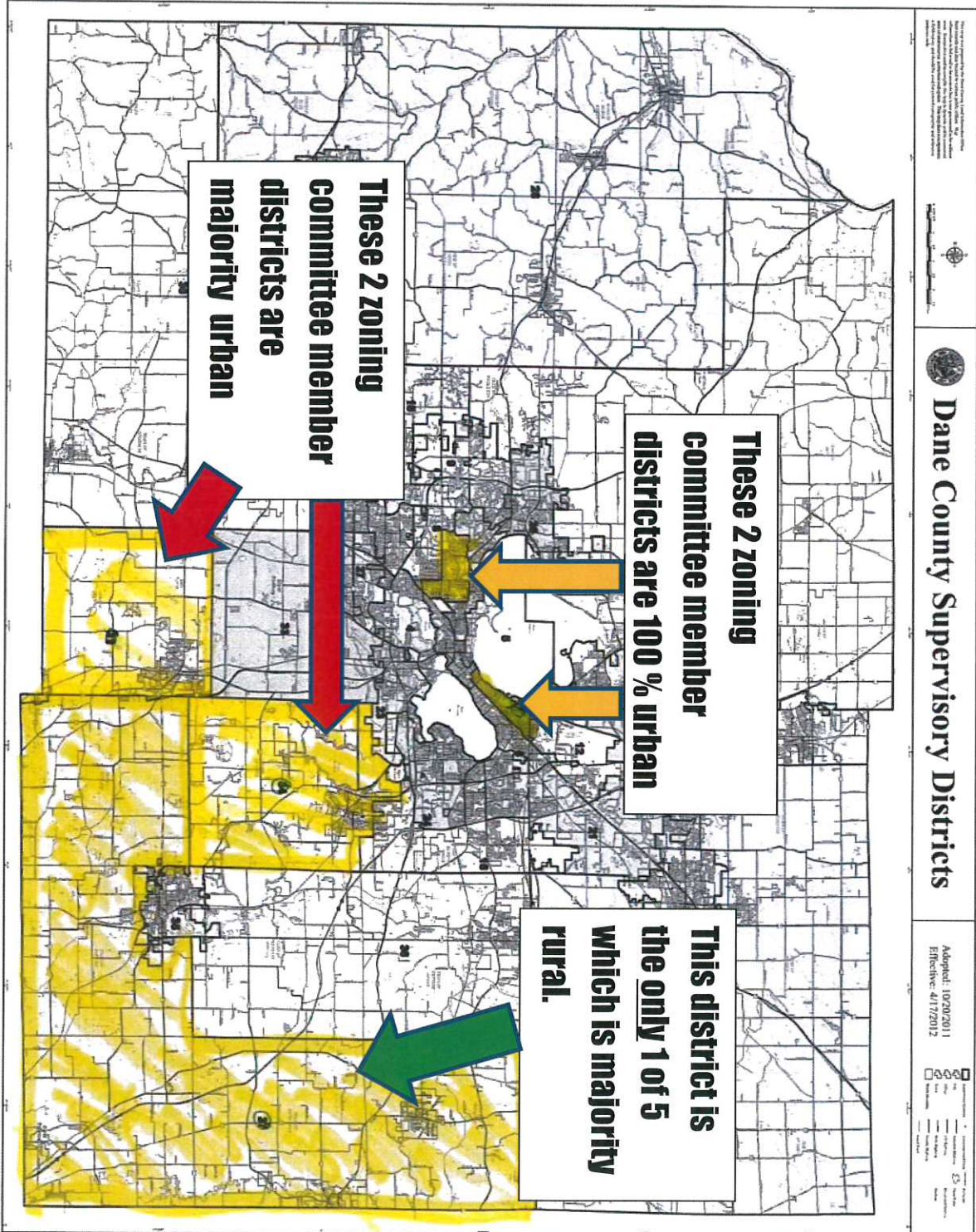
WHO DANE COUNTY ZONING CONTROLS

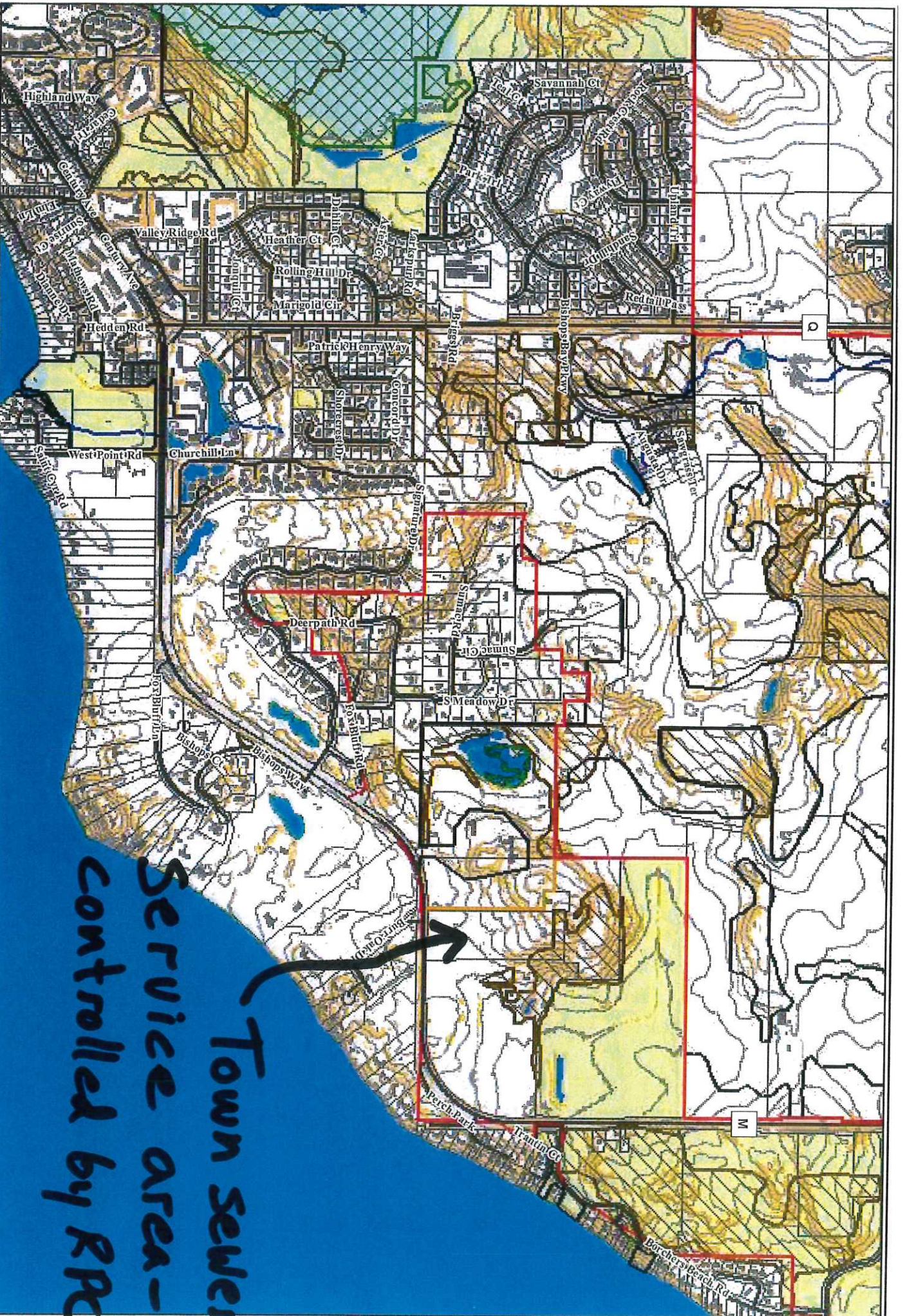
THE AREA OF THE MAP SHOWN IN WHITE IS THE UNINCORPORATED AREA OF DANE COUNTY, WHERE 79,000 PEOPLE LIVE WHO ARE SUBJECT TO DANE COUNTY'S ZONING AUTHORITY



WHO CONTROLS DANE COUNTY ZONING?

The 5 Dane County zoning committee members represent the following areas of the County:





*Town Sewer
Service Area -
controlled by RR*

Environmental Corridors

Fox Bluff
Dane County, Wisconsin

Jun. 25, 2014



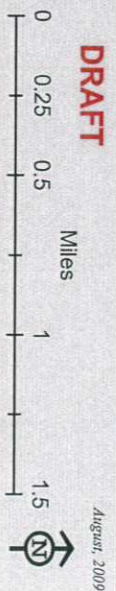
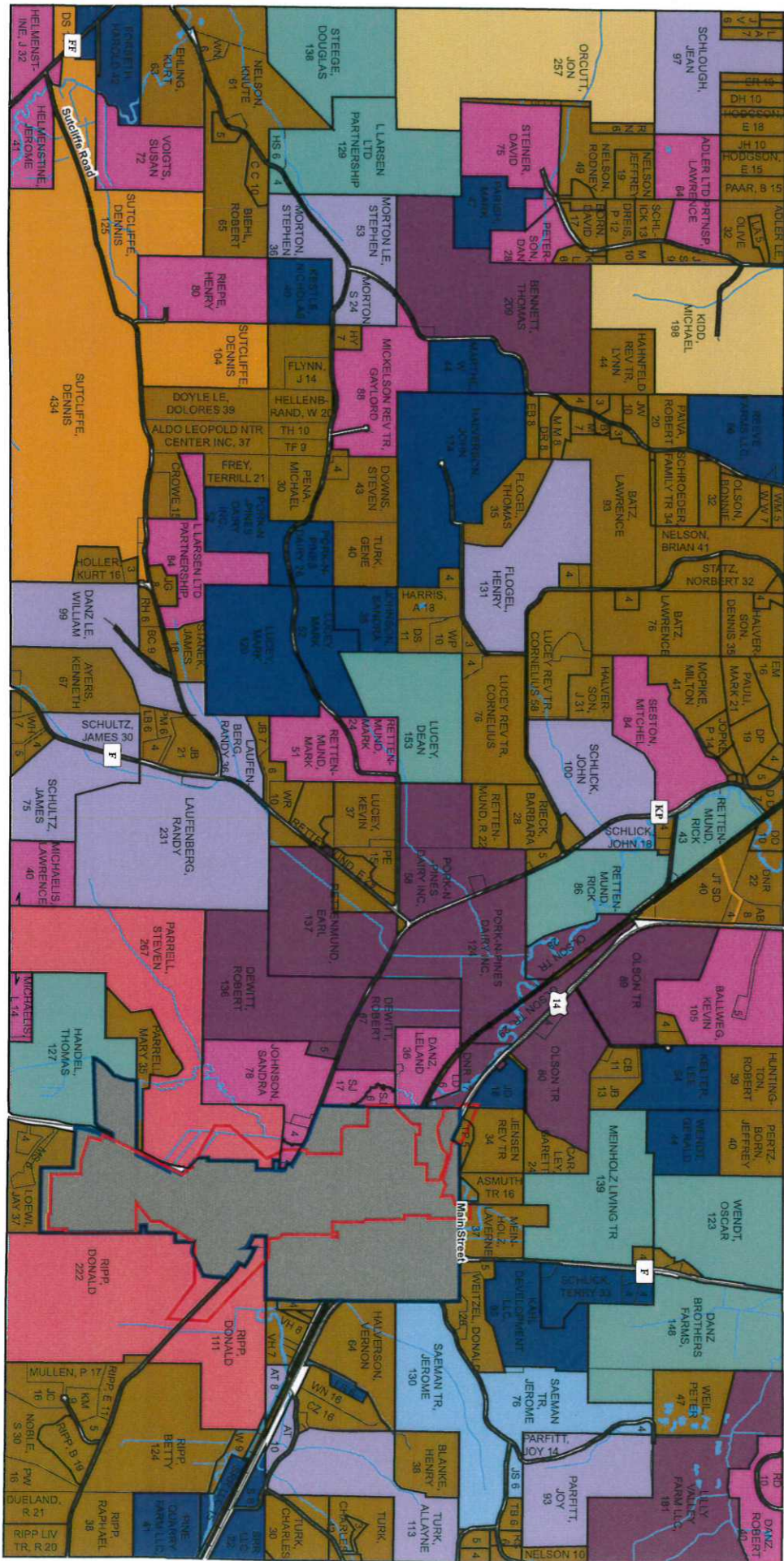
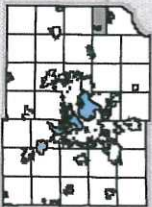
- Urban Service Area
- Limited Service Area
- Channel
- Intermittent
- Perennial
- Shoreline
- Tax Parcel
- Contours (10ft interval)
- Sleep Slopes (GTE 12%)
- Existing Public Land
- Proposed Public Land
- Wetland
- Woodland (80% canopy)
- 100 Year Floodplain



Town of Black Earth Splits Available



Estimates are based on general town/county land use policies and on county parcel and zoning data as of 2/10/2009. For a current and more precise accounting of potential building sizes or "split" contact the Dane County Planning Division for a density study report.
http://www.countyofdane.com/planning/Planning_Division_phone_number_608_266-4251
 City-County Building, Room 116, 210 Main Luther King Jr Blvd Madison, WI 53703



Source Info:
 Original Formset: 2003, (DCCD)
 Potential Formset: 08/09, (DCCD, & T Black Earth)
 Black Earth Village Boundary: 08/09, (DCCD)
 Black Earth Urban Service Area: 08/09, (CABCO)
 Planning Commission.

This map was prepared through the Dane County Department of Planning and Development in conjunction with the Dane County Land & Water Resources Department, Dane County Land Information Office and the Capital Area Regional Planning Commission.