

FILED

10-31-2023

Clerk of Circuit Court

Cindy R. Hamre Incha

2022CV000334

STATE OF WISCONSIN, CIRCUIT COURT, JEFFERSON, COUNTY

## Case Caption (Case Name)

DEFEND TOWN PLANS, U.A., et. al,  
Petitioners,

v.

JEFFERSON COUNTY  
BOARD OF SUPERVISORS,  
Respondent.**DOCKETING STATEMENT**Circuit Court Case No. 2022CV000334Case Number Issued by Court of Appeals  
2023AP001996

## Appellant(s) (Cross-Applicant)

JEFFERSON COUNTY  
BOARD OF SUPERVISORS,

## Attorney's Name and Address

J Blair Ward  
Corporation Counsel  
Jefferson County Courthouse  
311 S Center Ave, Jefferson WI 53549

## Attorney's Telephone Number

920-674-7135

## Respondent(s) (Cross-Respondent)

DEFEND TOWN PLANS, U.A. et. al.,

## Attorney's Name and Address

Mary Beth Peranteau  
44 E Mifflin St, Ste 1000  
Madison WI 53703-2800

## Attorney's Telephone Number

608-441-3832

**CRITERIA FOR EXPEDITED APPEALS**

- This Docketing Statement is used solely to determine whether an appeal should be placed on the expedited appeal calendar. The respondent is not required to respond to the Docketing Statement. Generally, an appeal is appropriate for the expedited appeal calendar if:

1. no more than 3 issues are raised;
2. the parties' briefs will not exceed 15 pages in length; and
3. the briefs can be filed in a shorter time than normally allowed.

These requirements can be modified somewhat in appropriate cases.

- Parties should assume that the appeal will proceed under regular appellate procedure unless the court notifies them that the appeal is being considered for placement on the expedited appeals calendar.

**JURISDICTION**

Has judgment or order appealed from been "entered" (filed with the clerk of circuit court)?

 Yes  No If yes, date of entry October 05, 2023.

Is appeal timely? (See §808.04, Wisconsin Statutes)

 Yes  No

Is judgment or order final (does it dispose of the entire matter in litigation as to one or more of the parties)?

 Yes  No (If "no", explain jurisdiction basis for appeal on separate sheet.)**NATURE OF ACTION** – Briefly describe the nature of action and the result in circuit court:

The Circuit Court on Certiorari review initiated by Petitioner/Respondent Defend Town Plans declared a Jefferson County zoning ordinance amendment null and void and/or vacated. Jefferson County is seeking appellate review of the zoning ordinance amendment and requesting a finding that Jefferson County did not fail to satisfy all of the statutory criteria required to grant the zoning ordinance amendment.

**ISSUES** – Specify the issues to be raised on appeal: *(Attach separate sheet if necessary.)*

(Failure to include any matter in the docketing statement does not constitute waiver of that issue on appeal. The court may impose sanctions if it appears available information was withheld. Court of Appeals Internal Operating Procedures, sec. VII(2)(b).)

- 1) Whether or not the Jefferson County Board of Supervisors as the governing body of Jefferson County must make the required statutory findings under s. 91.48(1) Wis. Stats. necessary to rezone a parcel of property from A-1 to A-2 as a condition precedent to granting a zoning ordinance amendment rather than adopting the findings and recommendations of the Jefferson County Planning & Zoning Committee as the County designated and statutorily authorized subunit of government under s. 59.69 (5)(e) Wis. Stats.; and
- 2) If the Jefferson County Planning & Zoning Committee is authorized to make the required statutory findings under s. 91.48(1) Wis. Stats. on behalf of Jefferson County, whether or not the record establishes that Jefferson County made the required statutory findings under s. 91.48(1) Wis. Stats. to amend the zoning ordinance rezoning a parcel of property from A-1 to A-2.

**STANDARD OF REVIEW** – Specify the proper standard of review for each issue to be raised, citing relevant authority:

"When conducting common law certiorari review, a court reviews the record compiled by the municipality and does not take any additional evidence on the merits of the decision. The court's review is limited to: (1) whether the municipality kept within its jurisdiction; (2) whether it proceeded on a correct theory of law; (3) whether its action was arbitrary, oppressive, or unreasonable and represented its will and not its judgment; and (4) whether the evidence was such that it might reasonably make the order or determination in question..."*Voters with Facts v. City of Eau Claire*, 2018 WI 63, ¶25, 382 Wis. 2d 1, 913 N.W.2d 131

Do you wish to have this appeal placed on the expedited appeals calendar? *(See Criteria For Expedited Appeals.)*

Yes     No    If "no", explain :

Will a decision in this appeal meet the criteria for publication in Rule 809.23(1)?

Yes     No

Will you request oral argument?

Yes     No

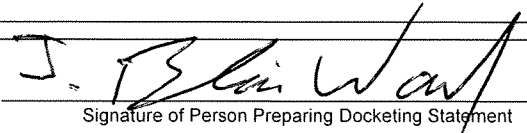
List all parties in trial court action who will not participate in this appeal:

<u>Party</u>	<u>Attorney's Name and Telephone Number</u>	<u>Reason for not Participating</u>
N/A		

Are you aware of any pending or completed appeal arising out of the same or a companion trial court case that involves the same facts and the same or related issue?

Yes     No    Name of Case \_\_\_\_\_

Appeal Number \_\_\_\_\_



Signature of Person Preparing Docketing Statement

J. Blair Ward

Name Printed or Typed

dthompson@jeffersoncountywi.gov

Email Address (if any)

October 30, 2023

Date

**Appellant Note:**

**You MUST** file this form and attachments with the Clerk of the Circuit Court.

**You MUST** attach a copy of the following trial court documents to this form:

1. Trial court's judgment or order and findings of fact.
2. Conclusions of law.
3. Memorandum decision or opinion upon which the judgment or order is based.

**You MUST** also serve all parties with a copy of this completed Docketing Statement and attached trial court documents.

The clerk of circuit court shall forward this form to the Court of Appeals.

DATE SIGNED: October 5, 2023

Electronically signed by William V. Gruber  
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT

JEFFERSON COUNTY

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DEFEND TOWN PLANS, U.A. et al,

Petitioners,

v.

JEFFERSON COUNTY BOARD OF  
SUPERVISORS,

Respondent.

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Case No.: 22CV334

Case Code: 30955

### JUDGMENT

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The above-captioned matter having come before the Court for oral argument on May 30, 2023, and the Court having reviewed the file and certiorari record herein and being duly apprised of all relevant facts and circumstances;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, for the reasons stated on the record in open court on August 14, 2023, and September 25, 2023, that Jefferson County Ordinance No. 2022-02, rezoning a 7.4-acre parcel of land in the Town of Concord from A-1 exclusive agriculture to A-2 agriculture and rural business is hereby declared null and void and/or vacated as appropriate.

*This is a final judgment for purposes of appeal.*