

STATE OF WISCONSIN

CIRCUIT COURT

JEFFERSON COUNTY

DEFEND TOWN PLANS, U.A.,  
DALE KONLE,  
KIM VERHEIN HERRO,  
KIMBERLY A. MILLER,  
ROBERT GARTZKE and  
KAREN GARTZKE,  
and  
SALLY J. WILLIAMS,  
Petitioners,

v.

Case No. 2022-CV-334  
30955: Petition for Writ of Certiorari

JEFFERSON COUNTY  
BOARD OF SUPERVISORS,  
311 South Center Avenue  
Jefferson, WI 53549,  
Respondent.

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**RESPONDENT’S BRIEF ON CERTIORARI REVIEW**

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The Town of Concord agreed to be subject to Jefferson County Zoning in 1975. Because of this, Jefferson County is responsible for administering the zoning districts in the Town of Concord which includes periodically amending the zoning ordinance pursuant to a petition from a landowner or other party with an interest in the land. In April 2022, Respondent, the Jefferson County Board of Supervisors, approved a petition to rezone a parcel of property in the Town of Concord. The petition was filed by The Boat House of Lake Country, a recreational boat dealer with an interest in the property. The amendment to the zoning ordinance adopted by the County Board rezoned a 7.4-acre parcel of land in the Town of Concord from an A-1 *Exclusive Agricultural* zoning district to an A-2 *Agricultural and Rural Business* zoning district. Jefferson

County Zoning Ordinance section 11.04(f)7.i. defines the purpose of A-2 AGRICULTURAL AND RURAL BUSINESS districts:

To provide for the proper location and regulation of manufacturing, storage warehousing and related marketing or industrial activities that are related to the agricultural industry and otherwise suited to a relatively isolated, rural location. This district may be considered within the Agricultural Preservation Areas, Rural Hamlet areas, Urban Service Areas, and Limited-Service Areas as described in the Jefferson County Agricultural Preservation and Land Use Plan. Uses listed for the A-2 district involve fixed locations, year-round or seasonal. A listed use that is mobile, moving from farm to farm, is not regulated. A site may have a conditional use without the primary use being established.

Section 11.04(f)6.i. of the Jefferson County Zoning Ordinance specifically contemplates rezoning lands from A-1 to A-2, and states, “Rezoning out of the A-1 district may occur only after the County Planning and Zoning Committee conducts a public hearing and makes findings as specified in §91.48(1) of the Wisconsin Statutes, as articulated in Section 11.11(c) of this Ordinance” (see Exhibit A). All of these requirements were met prior to the County Board granting the Boat House’s petition to rezone the 7.4 acre parcel from A-1 to A-2, as discussed in more detail below.

This amendment to the zoning ordinance enabled the Planning & Zoning Committee to consider a conditional use permit application which would allow the adjoining boat storage business to expand its business by constructing additional boat storage facilities on this 7.4 acre parcel. In adopting the zoning ordinance amendment, the Jefferson County Board of Supervisors acted in a manner consistent with the Town of Concord’s recommendation to approve the amendment; the 2021 Jefferson County Comprehensive Plan (which incorporated the 2021 Jefferson County Agricultural Preservation and Land Use Plan); the expired Town of Concord Comprehensive Plan; and applicable Wisconsin law. The Town of Concord Comprehensive Plan was initially adopted on July 13, 2009 and was not updated until November 23, 2022, (see attached Exhibit B), over 3 years after the 10 year statutory requirement which states in relevant part, “[A]

comprehensive plan under this subsection *shall* be updated no less than once every 10 years,” (emphasis added) s. 66.1001(2)(i) Wis. Stats. The general rule of statutory interpretation is that the word “shall” is presumed to be mandatory. *Karow v. Milwaukee Cnty. Civil Serv. Comm’n*, 82 Wis. 2d 565, 570, 263 N.W.2d 214 (1978). Because the Town’s Comprehensive Plan was expired prior to: (i) the Boat House submitting its rezone application, (ii) the recommendation to approve the petition to rezone being made by the Town Board and County Planning & Zoning Committee, and (iii) the approval of the petition by the Jefferson County Board of Supervisors, it raises the question of how much weight, if any, the expired Town Comprehensive Plan should be given when deciding future land uses of the Town of Concord. “[Z]oning regulations should not be extended by construction beyond the fair import of their language and they cannot be construed to include by implication that which is not clearly within their express terms.” 8 Eugene McQuillin, *The Law of Municipal Corporations*, § 25.71 (3d ed. 2000). See also *State v. Pratt*, 36 Wis. 2d 312, 317, 153 N.W.2d 18 (1967) (“In construing or interpreting a statute the court is not at liberty to disregard the plain, clear words of the statute”).

The basis of the Petitioners’ arguments against the petition to rezone is that the expired 2009 Town Plan was not followed. This argument assumes that even though the 2009 Town Plan had expired under the plain language of Wis. Stat. s. 66.1001(2)(i), it should still be given the same force and effect as if it had not expired, and all future growth and development in the Town must still be consistent with this expired Plan. In other words, Petitioners argue that it does not make a difference whether or not the Town failed to timely update its Plan as required under Wisconsin statutes, the Boat house’s application to rezone still must be consistent with the expired Town Plan. As described herein, Jefferson County takes the position that the record shows the Town of Concord did in fact consider the goals and policies for future development in the expired Town

plan when making its recommendation to Jefferson County to approve the petition to rezone. Additionally, to the extent there is any ambiguity as to whether an expired Comprehensive Plan is or is not enforceable, the statute must be construed in a manner that allows for the applicant's freer use of property. See, *Cohen v. Dane County Board of Adjustment*, 74 Wis.2d 87, 92, 246 N.W.2d 112 (1976). Therefore, the petition to rezone was properly approved by Jefferson County.

Even if the Court finds that the expired Town Plan should be given some weight in guiding the development of the Town, the decision of the Town to recommend the zoning amendment and the decision of the County to follow that recommendation and adopt the zoning amendment is consistent with a reasonable interpretation of the expired Town Plan in recommending the approval of the zoning amendment. This is demonstrated by the Town Board specifically referencing the Town Plan in its January 10, 2022 meeting minutes in determining that the zoning amendment was consistent with the expired Town Plan, (see attached Exhibit C):

After much discussion and deliberation by the board & audience around A2 zone approval and following the long-range town plan, there was a motion by Lloyd Zastrow and seconded by Bill Ingersoll to approve a request by Donald and Nancy Brunson to create a 7.4-acre A-2 zone from a 24-acre A-1 zone at W1432 County Road B. parcel # 006-0716-1642-000. *Affirmative: BI, LZ Opposed: DK Motion Carried*

In further support of both the Town's recommendation to approve, and the County's subsequent approval of the rezoning petition, it is noted that the Town of Concord has a history of rezoning A-1 and A-3 parcels of property to A-2 which are located outside of the rural hamlet and within the Agricultural Preservation District. Attached Exhibit D indicates in red the rural hamlet as designated in the Town and County Comprehensive Plans. This Exhibit also shows all of the property which has been rezoned from A-1 or A-3 to A-2 outside of the rural hamlet between 2009 and 2022, totaling 6 properties, including the property which is the subject of this Certiorari review. All of these zoning amendments were endorsed by the Town of Concord Board, specifically:

Parcel A – Rezoned from A-1 to A-2 to allow for storage of contractor’s equipment;

Parcel B - Rezoned from A-1 to A-2 to create lots for residential construction;

Parcel C - Rezoned from A-1 to A-2 to expand the allowable uses for agricultural purposes;

Parcel D - Rezoned from A-1 to A-2 to enlarge an existing A-2 zone which was used for storage;

Parcel E - Rezoned from A-3 to A-2 to be used as part of a landscaping business;

Parcel F - Rezoned from A-1 to A-2 to be used for boat storage and is the property which is the subject of this Certiorari review.

Attached hereto as Exhibit E are the County zoning ordinance amendments showing the County Board action taken to amend the zoning ordinance as depicted in the attached map. Planning and Zoning Committee member Steve Nass recognized this fact at the March 28, 2022 committee decision meeting and stated on pages 16 and 17 of the transcript:

SUPERVISOR NASS: -- Well, if I would vote in the affirmative here, then I would -- I would want to know what other A-2 districts have been created since – in the last ten years there, because then I have another piece of consistency to base my vote on. In other words, if -- if they've done these other A-2s out there –

SUPERVISOR NASS: -- well, then that's been a consistent –

SUPERVISOR NASS: -- pattern that they've set up, and thus --

SUPERVISOR NASS: -- thus --

SUPERVISOR NASS: -- it's -- it's a consistent pattern

SUPERVISOR NASS: -- too, that -- that --  
that --

SUPERVISOR NASS: -- they have -- that they  
have interpreted --

#### **I. The Zoning Amendment is Consistent with the Town of Concord’s Expired Comprehensive Plan**

The expired Town Comprehensive Plan stated on page 57 that:

##### **8.D. Designation of Sites for Businesses and Industries**

The Town of Concord is essentially rural, lacking public sewer and water. This has contributed to the continuation of Concord’s rural ambiance, seen as one of its foremost strengths. Consequently, the Town has chosen not to designate sites for additional businesses and industries, other than supporting those that already exist in the hamlet and a few other locations in the Town. *However, there is general consensus that any future*

*businesses that do locate in Concord should be limited to locations within the hamlet, adjacent to properties currently utilized for business purposes.* As previously stated, it is expressly intended that this plan limit the further concentration of non-residential development in the vicinity of the CTH F interchange, the Willow Glen interchange, and Delafield Road adjacent to Willow Glen Road. (emphasis added). (See attached Exhibit F).

It is significant to note that the underlined language above is conspicuously absent from the current Town of Concord Comprehensive Plan which was adopted on November 23, 2022 after the Boat House submitted its rezone application; after the Town Board and County Planning & Zoning Committee recommended approving the proposed zoning amendment; and after the County Board approved the zoning amendment. The current Town Comprehensive Plan states on pages 61-62 that:

**8.D. Designation of Sites for Businesses and Industries**

The Town of Concord is essentially rural, lacking public sewer and water. This has contributed to the continuation of Concord's rural ambiance, seen as one of its foremost strengths. Consequently, the Town has chosen not to designate sites for additional businesses and industries, other than supporting those that already exist in the hamlet and a few other locations in the Town. *However, there is general consensus that any future businesses that do locate in Concord should be limited to locations within the hamlet, adjacent to properties currently utilized for business purposes.* As previously stated, it is expressly intended that this plan not allow further concentration of non-residential development in the vicinity of the CTH F interchange, the Willow Glen interchange, and Delafield Road adjacent to Willow Glen Road. (emphasis added). (See attached Exhibit G).

Other than the deleted language from the 2022 Town Comprehensive Plan shown by the stricken language above, the two sections are identical. Striking the above language which was interpreted by the Town Board and County Board in 2022 to allow the zoning amendment, can be construed as an attempt by the Town to further restrict its growth and development to the rural hamlet. Had this language been stricken prior to the zoning ordinance amendment, Petitioners would be in a better position to argue that the decision by Jefferson County to amend the zoning ordinance was in violation of the expired Town Plan. As frequently cited throughout this brief, one reason relied



upon by the Planning & Zoning Committee to recommend granting the zoning ordinance amendment was based on the fact that the intended use was adjacent to an existing use.

Assuming for the sake of argument that the expired 2009 Town Comprehensive Plan was to be given any weight at the time that this zoning amendment was under consideration by the Town and County, the paragraph from the expired Town Comprehensive Plan immediately following the above cited paragraph states:

The Town does not rezone lands in anticipation of their development for non-residential purposes. Businesses that require rezoning or conditional use permits file applications that are evaluated by both the County and the Town on a case-by-case basis. *To provide the greatest degree of protection to the Town's existing rural character, the Town intends to continue this practice for the foreseeable future, examining all applications for rezoning or conditional use to determine whether they are consistent with the Town's adopted plan, goals, and policies and with protection of public health, safety, and welfare in the Town for years to come. (emphasis added)*

The italicized language in the paragraph above places the burden on the Town to examine, “all applications for rezoning or conditional use to determine whether they are consistent with the Town’s adopted plan, goals, and policies and with protection of public health, safety, and welfare in the Town for years to come.” The fact that the Town of Concord supported the zoning amendment at its January 10, 2022 meeting demonstrates that the Town Board interpreted the proposed zoning amendment to be consistent with the Town’s 2009 expired Comprehensive Plan. This is the function of a Town Board and this is the reason that the Jefferson County Planning & Zoning Committee does not take action on a proposed zoning amendment affecting a Town until the Town provides its input. The Jefferson County Planning & Zoning Committee relied on the Town’s recommendation to approve the Zoning amendment based on the Town’s finding that the proposed amendment was consistent with the Town’s growth and development plans, and with its expired Comprehensive Plan. What better authority to interpret a Town Comprehensive Plan than the Town itself? As shown in attached Exhibit C, the Town of Concord meeting minutes from its

January 10, 2022, meeting clearly state that the Town Board considered the expired Town Comprehensive Plan before making its decision recommending approval of the zoning ordinance amendment.

## **II. The Zoning Amendment is Consistent with the Jefferson County Comprehensive Plan and its Agricultural Preservation and Land Use Plan**

The County's decision to approve the petition to amend the zoning ordinance is consistent with the Jefferson County Comprehensive Plan. Petitioners argue on page 2 of their initial brief that the County's decision to adopt the zoning ordinance amendment is:

[i]n violation of sec. 66.1001, Wis. Stats. (2021-22), the comprehensive planning law. That statute required the County Board to deny the rezone petition because the proposed commercial use of the property is inconsistent with the County's own comprehensive plan. The Plan--which incorporates the recently updated Jefferson County Agricultural Preservation and Land Use Plan—limits commercial development to the Town's "rural hamlet," a mapped area whose boundaries do not encompass the rezoned parcel.

In response to this argument, Jefferson County cites section 11.04(f)7i of the Jefferson County Zoning Ordinance which specifically designates all A-1 zoned property (i.e. parcels within an Agricultural Preservation Area), as being suitable for rezoning from A-1 to A-2 under certain circumstances. And as such, the Jefferson County Agricultural Preservation and Land Use Plan specifically contemplates that A-1 zoned land can be rezoned to A-2 for business development while continuing to be considered as being within the Agricultural Preservation Area. Section 11.04(f)7i of the Jefferson County Zoning Ordinance illustrates this point by defining uses and purposes of an A-2 AGRICULTURAL AND RURAL BUSINESS zoning district and specifically allows A-2 zoned property to be included in an Agricultural Preservation Area:

### **A-2 AGRICULTURAL AND RURAL BUSINESS**

- i. Purpose. To provide for the proper location and regulation of manufacturing, *storage warehousing* and related marketing or industrial activities that are related to the agricultural industry and otherwise suited to a relatively isolated, rural location. *This district may be considered within the Agricultural Preservation*



*Areas*, Rural Hamlet areas, Urban Service Areas, and Limited-Service Areas as described in the Jefferson County Agricultural Preservation and Land Use Plan. Uses listed for the A-2 district involve fixed locations, year-round or seasonal. A listed use that is mobile, moving from farm to farm, is not regulated. A site may have a conditional use without the primary use being established. (emphasis added).

The County Comprehensive Plan gives deference to the Town Comprehensive Plan, and the Town of Concord interpreted its expired Comprehensive Plan to allow the zoning ordinance amendment. In other words, if the zoning ordinance amendment is determined by the Town to be consistent with the expired Town of Concord Comprehensive Plan, it is therefore de facto consistent with the County's Comprehensive Plan.

Additionally, this rezoning request being consistent with the County's plan is supported by the comment made by Planning and Zoning Committee Chair, George Jaeckel, on p. 11 of the March 28 meeting transcript, "because as far as we've seen it, it does meet our plan" (p. 11, line 19-20).

### **III. Wisconsin Law Supports that Jefferson County proceeded on a correct theory of law when deciding to Amend its Zoning Ordinance**

Wis. Stat. s. 66.1001, *Comprehensive Planning*, subsection (2m), *Effect of enactment of a comprehensive plan, consistency requirements*. (a) states that, "[T]he enactment of a comprehensive plan by ordinance does not make the comprehensive plan by itself a regulation." To help better understand the purpose of comprehensive planning, section 66.1001 (1) Definitions, states:

(a) "Comprehensive plan" means a guide to the physical, social, and economic development of a local governmental unit that is one of the following:

1. For a county, a development plan that is prepared or amended under s. 59.69(2) or (3).
2. For a city, village, or town, a master plan that is adopted or amended under s. 62.23(2) or (3).

The relevant language above uses the term "guide." Comprehensive plans are not intended to have the force and effect of ordinances whereby a governmental unit is bound. The term "guide" is used consistently and frequently in the expired 2009 Town of Concord Comprehensive Plan in

reference to future development in the Town. Section 66.1001 subsection (2)(h) further supports this argument by defining *Land-use element as this relates to a Comprehensive Plan* as, “[A] compilation of objectives, policies, goals, maps and programs to guide the future development and redevelopment of public and private property.” The theory of law proceeded on by the County was that the Town’s interpretation of its Plan was consistent with how the Town intended its expired Plan to be used to guide development within the Town of Concord. After the Town interpreted the zoning amendment request to be consistent with its expired Town Plan, the County determined that its Agricultural Preservation and Land Use Plan and Comprehensive Plan which incorporated the Town Plan, was also consistent with the proposed zoning amendment.

**IV Jefferson County made required findings mandated by Wis. Stat. s. 91.48(1) for rezoning property out of the farmland preservation zoning district**

Wis. Stat. s. 91.48(1), Rezoning of land out of a farmland preservation zoning district, states that:

(1) A political subdivision with a certified farmland preservation zoning ordinance may rezone land out of a farmland preservation zoning district without having the rezoning certified under s. 91.36, if the political subdivision finds all of the following, after public hearing:

(a) The land is better suited for a use not allowed in the farmland preservation zoning district.

(b) The rezoning is consistent with any applicable comprehensive plan.

(c) The rezoning is substantially consistent with the county certified farmland preservation plan.

(d) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

Taking subd. (a) – (d) above individually:

Subsection (a) is supported by the Jefferson County Planning and Zoning Committee’s determination that the land subject to the rezoning petition is better suited for a use not allowed in the farmland preservation zoning district. This fact was relied upon by Planning & Zoning Committee member Supervisor Lloyd Zastrow, who was also a member of the Town of Concord

Board who voted to approve the zoning amendment at the Town level, when he stated on page 22 of the March 28, 2022 decision meeting transcript as follows:

And since I am one of the offices who voted in favor of this, I did comment that if it were somewhere else separate from this, I would not have approved it, but because it's connected to an existing same type of business, I saw it as an okay thing.

The Planning and Zoning Committee Chair, Supervisor George Jaeckel, agreed with Supervisor Zastrow's opinion on page 24 of the March 28, 2022, Decision Meeting transcript:

CHAIR JAECKEL: I mean, I have to agree with Lloyd, too. I mean, to join this, it's just going basically across the fence line is all it is. It's not like we're crossing the river or the road and jumping, you know, kitty-corner from it. It -- it -- it ties in, and to me it just makes so much sense to keep, you know, that type of a business right next to that type of a business, not to try to move it around.

Subsection (b) requiring that the rezoning is consistent with any applicable comprehensive plan has been established as argued above.

Subsection (c) requiring that the rezoning is substantially consistent with the county certified farmland preservation plan has been established as argued above.

Subsection (d) requiring that the rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use is established by the County Planning & Zoning Committee recognizing that the rezoning request was not to create a new use which was unique to the area, but rather to expand a preexisting use which was appropriate for the area. The criteria in (d) is met by the County Planning & Zoning Committee taking steps to address potential issues by accepting staff recommendations regarding stormwater management plan; no customers onsite, only employees; and no outside storage" (p. 30, lines 24-25 of the March 28, 2022 meeting transcript.) Additionally, there were no concerns raised at public comment or elsewhere that rezoning this

property would substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

**V. The Town has the authority to Disapprove a Zoning Ordinance Amendment pursuant to s. 59.69 (5)(e)6. Wis. Stats.**

After the Jefferson County Board of Supervisors adopted the zoning ordinance amendment on April 19, 2022, Wis. Stat. s.59.69(5)(e)6, gives the Town the authority to disapprove any zoning amendment within 40 days of county board action. The Town Board on its own, or upon Petitioners' request, could have rejected the county's action to amend the zoning ordinance at issue in this case. Petitioners did not ask the Town to disapprove the zoning amendment nor did the Town do so on its own motion. This statutory authority granting the Town the ability to disapprove a county zoning amendment further demonstrates that the legislature intended to give towns ultimate control over their land use and development. The fact that the Town chose not to disapprove the zoning amendment shows that the Town determined that the amendment was consistent with the Town Comprehensive Plan and future Town development. Section 59.69(5)(e)6 Wis. Stats. states:

6. If an amendatory ordinance makes only the change sought in the petition and if the petition was not disapproved prior to, at or within 10 days under subd . 3. or 30 days under subd. 3m., whichever is applicable, after the public hearing by the town board of the town affected in the case of an ordinance relating to the location of district boundaries or by the town boards of a majority of the towns affected in the case of all other amendatory ordinances, it shall become effective on passage. The county clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by the ordinance of the effective date and also insert the effective date in the proceedings of the county board. The county clerk shall submit a copy of any other amendatory ordinance, under par. (g), within 7 days of its enactment, to the town clerk of each town in which lands affected by the ordinance are located. If after 40 days from the date of the enactment a majority of the towns have not filed certified copies of resolutions disapproving the amendment with the county clerk, or if, within a shorter time a majority of the towns in which the ordinance is in effect have filed certified copies of resolutions approving the amendment with the county clerk, the amendment shall be in effect in all of the towns affected by the ordinance. *The county clerk shall submit under par. (g), within 7 days of its enactment, any ordinance relating to the location of boundaries of districts only to the town clerk of the town in which the lands affected by the change are located. Such an ordinance shall become effective 40 days after enactment of the ordinance by the county board unless such town board prior to such date files a certified copy of a resolution disapproving of the ordinance with the county clerk.* If such town board approves the ordinance, the ordinance shall become effective upon the filing of the resolution of the town board approving the ordinance with the county clerk. The clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by such ordinance of such effective date and also make

such report to the county board, which report shall be printed in the proceedings of the county board. (emphasis added).

There is nothing in the record that shows that the Jefferson County Clerk failed to properly notice the Town as required above, and because the Town did not disapprove the zoning amendment, the amendment became effective by operation of law.

### **Conclusion**

Jefferson County has the legal authority to amend its Zoning Ordinance. The Town of Concord was given multiple opportunities to consider or reconsider its interpretation of its expired Town plan and prevent the zoning ordinance amendment from going into effect:

- 1) At its January 10, 2022 meeting, the Town could have disapproved the zoning ordinance amendment, but instead approved it;
- 2) On February 28<sup>th</sup>, 2022, the Jefferson County Planning & Zoning Committee, due to concerns raised by the public, voted to postpone action on the zoning amendment to allow the Town further opportunity to review its January 10<sup>th</sup>, 2022 recommendation and reconsider whether or not it was consistent with its Comprehensive Plan, and perhaps come to a different conclusion. The Town chose not to reconsider its original recommendation to approve the zoning ordinance amendment; and
- 3) The Town had 40 days from the date of County Board approval to disapprove (veto) the County Board action of granting the petition to rezone the property in question.

The Town had at least three opportunities to prevent the zoning ordinance from being amended, but consistently chose to continue its endorsement of the zoning ordinance amendment.

The zoning amendment was supported by the Town Board and County Planning & Zoning Committee before being approved by the County Board. The significant factor that makes this zoning amendment valid is that the proposed use was an expansion of a preexisting use, i.e. the

boat storage business already existed and the owners wanted to build more storage facilities to expand their business.

Petitioners spend significant effort on distinguishing the Town of Concord Comprehensive Plan and the County Comprehensive Plan as two different plans, each having its own standards. However, p. 78 of the 2009 expired Town plan states that:

The Town of Concord is in agreement with these A-2 District policies from the Jefferson County Agricultural Preservation and Land Use Plan, and they are hereby incorporated as part of the overall policy framework in the Town of Concord Comprehensive Plan. (see Exhibit H).

The language above supports Jefferson County's position that each Plan incorporates the other, i.e. if the Town finds that the zoning ordinance amendment is consistent with its Plan, the zoning ordinance amendment is also consistent with the County Plan and vice versa.

Petitioners are essentially arguing that the Town interpreted its expired Comprehensive Plan in a way that Petitioners would not have interpreted the Town Plan. This is not a basis for appealing the County's decision to amend its zoning ordinance which relied on the Town Board's recommendation, or for the Court to replace its interpretation of the expired Town Comprehensive Plan with that of the Petitioners'. Had the Town recommend that the County deny the proposed zoning ordinance amendment because such an amendment was not consistent with the expired Town Comprehensive Plan, the County would have very likely denied the petition to rezone this property. The proper remedy in this case is for the electors of the Town to elect Town Board members who are supportive of their interpretation of the Town Plan, not to sue Jefferson County based on the Town's interpretation/alleged misinterpretation of its expired Comprehensive Plan.

Certiorari review by a Circuit Court has specific statutory standards defining the Court's scope of review. There is no standard under a Certiorari review that provides this Court with the authority to replace its judgment with the Town's judgment in which the Town found that the



proposed zoning amendment was consistent with the expired Town Comprehensive Plan. For the above reasons, Jefferson County respectfully requests that this Court deny Petitioners' request to reverse the zoning ordinance amendment which is the subject of their petition.

Dated this 1<sup>st</sup> day of May 2023.

Electronically Signed by: J. Blair Ward

J. Blair Ward, State Bar No. 1023831

Jefferson County Corporation Counsel

Jefferson County Courthouse

311 S Center Ave

Jefferson WI 53549

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920-674-7135

from a parcel of record after February 8, 2000, shall not be used to create A-3 lots or in the calculation of the number of A-3 lots available.

[Resolution No. 80-126 adopted 2/10/81, effective 3/10/81; am. 2/8/00, Ord. No. 99-28; 10/14/08, Ord. 2008-20; re-lettered & amended 3/13/12, Ord. 2011-28]

- vi. **Minimum Width.** Two hundred (200) feet.
- vii. **Minimum Depth.** Two hundred (200) feet.
- viii. **Minimum Frontage.** All lots shall front on a public road for a minimum distance of at least sixty-six (66) feet. Access to the lot shall be provided within this frontage. [cr. 3/13/12, Ord. 2011-28]
- ix. **Minimum Yards.** Front - Section 11.07(d)2. Rear - 20 feet. [Amended 09-11-06, Ord. 2006-15] Side (9-9-81, Res. No. 81-87.) - 20 feet each, providing those agricultural structures do not exceed in height twice their distance from the nearest lot line. [am. 9/8/81, Res. 81-87; 9/11/06, Ord. 2006-15; am. 3/13/12, Ord. 2011-28]
- x. **Maximum Building Height.** Thirty-five (35) feet, except see Section 11.07(a)2 for height standards for agricultural structures. [am. 3/13/12, Ord. 2011-28]

**6. A-1 Exclusive Agricultural** [cr. 3/13/12, Ord. 2011-28]

- i. **Purpose.** The long-range goal for agricultural land use within Jefferson County is to preserve the most valuable of all resources—fertile land for agricultural pursuits—and to protect the land best suited for farming from premature urbanization. The A-1 Exclusive Agricultural district is intended to promote continued agricultural uses on the best quality agricultural land; protect and encourage long-term investments in food, fiber, and other resource-related production; be a state-certified farmland preservation zoning district to maintain property owner eligibility in the State's farmland preservation tax credit program in conjunction with the Agricultural Preservation and Land Use Plan; preserve rural character and manage nonfarm development; and provide reasonable opportunities for agriculturally-related businesses and home occupations. The Exclusive Agricultural zoning district may be utilized only in areas designated as Agricultural Preservation Areas within the Jefferson County Agricultural Preservation and Land Use Plan. **Rezoning out of the A-1 district may occur only after the County Planning and Zoning Committee conducts a public hearing and makes findings as specified in §91.48(1) of the Wisconsin Statutes, as articulated in Section 11.11(c) of this Ordinance.** Rezoning to the A-3 district under the associated policies of that district and the Agricultural Preservation and Land Use Plan is the only way that new housing may be built on lands currently zoned A-1, except for replacement of certain farm residences as authorized by this section.
- ii. **Permitted Principal Uses.**
  - a. Agricultural use, subject to the following limitations:
  - b. Each feedlot may not exceed 150 livestock units [see Section 11.05d(1) non ATPC-regulated facility].
  - c. Each fowl or poultry farm shall house 10,000 birds or less [see Section 11.05d(1) non ATPC-regulated facility].
  - d. Each ATPC 51 regulated livestock facility shall have 150 animal units or less [see Section 11.05d(2)].
  - e. Undeveloped natural resource or open space area.
  - f. Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place, or that is authorized to be located in a specific place under a state or federal law that preempts the requirement for a conditional use permit.



# Town of Concord

## Comprehensive Land Use Plan



Initially Adopted: July 13, 2009

Update Adopted: November 23, 2022



**Respondent's  
Exhibit B**



## Menu

Home

Tue, 04/19/2022 - 2:05pm by brian

State of Wisconsin

Town of

Concord

January 10, 2022

The regular monthly meeting of the Town of Concord was called to order by Dale Konle, Chairman with Bill Ingersoll, Lloyd Zastrow, Jim Zastrow and Brian Neumann present. Dale led the assembly in the Pledge of Allegiance.

Brian Neumann, Clerk, certified that the meeting had been properly posted. There was a motion by Lloyd Zastrow and seconded by Bill Ingersoll to accept the agenda as presented. *Affirmative:*

*DK, BI, LZ      Opposed: None      Motion Carried*

Brian Neumann read the minutes from the two December board meetings. There was a motion by Bill Ingersoll and seconded by Lloyd Zastrow to accept the minutes as read. *Affirmative: DK, BI, LZ*

*Opposed: None      Motion Carried*

There was a motion by Bill Ingersoll and seconded by Lloyd Zastrow to approve a request by Gregory Alt to create a 5-acre A-3 farm consolidation parcel from a 46.8-acre A-1 parent parcel at W2140 County Road B, parcel # 006-0716-1811-000. *Affirmative: DK, BI, LZ*

*Opposed: None      Motion Carried*

There was a motion by Lloyd Zastrow and seconded by Dale Konle to approve a request by Donald and Nancy Brunson to create a 2-acre A-3

<b>Respondent's Exhibit C</b>
-----------------------------------

zone around the existing home and buildings from a 24-acre A-1 zone at W1432 County Road B. *Affirmative: DK, BI, LZ    Opposed: None*  
*Motion Carried*

After much discussion and deliberation by the board & audience around A2 zone approval and following the long-range town plan, there was a motion by Lloyd Zastrow and seconded by Bill Ingersoll to approve a request by Donald and Nancy Brunson to create a 7.4-acre A-2 zone from a 24-acre A-1 zone at W1432 County Road B. parcel # 006-0716-1642-000.    *Affirmative: BI, LZ    Opposed: DK    Motion Carried*

There was a motion by Lloyd Zastrow and seconded by Bill Ingersoll to approve a request by Donald and Nancy Brunson for a conditional use permit to allow for storage of non-farm equipment (boat storage) in the proposed A-2 zone near W1432 County Road B. parcel # 006-0716-1642-000.    *Affirmative: BI, LZ    Opposed: DK    Motion Carried*

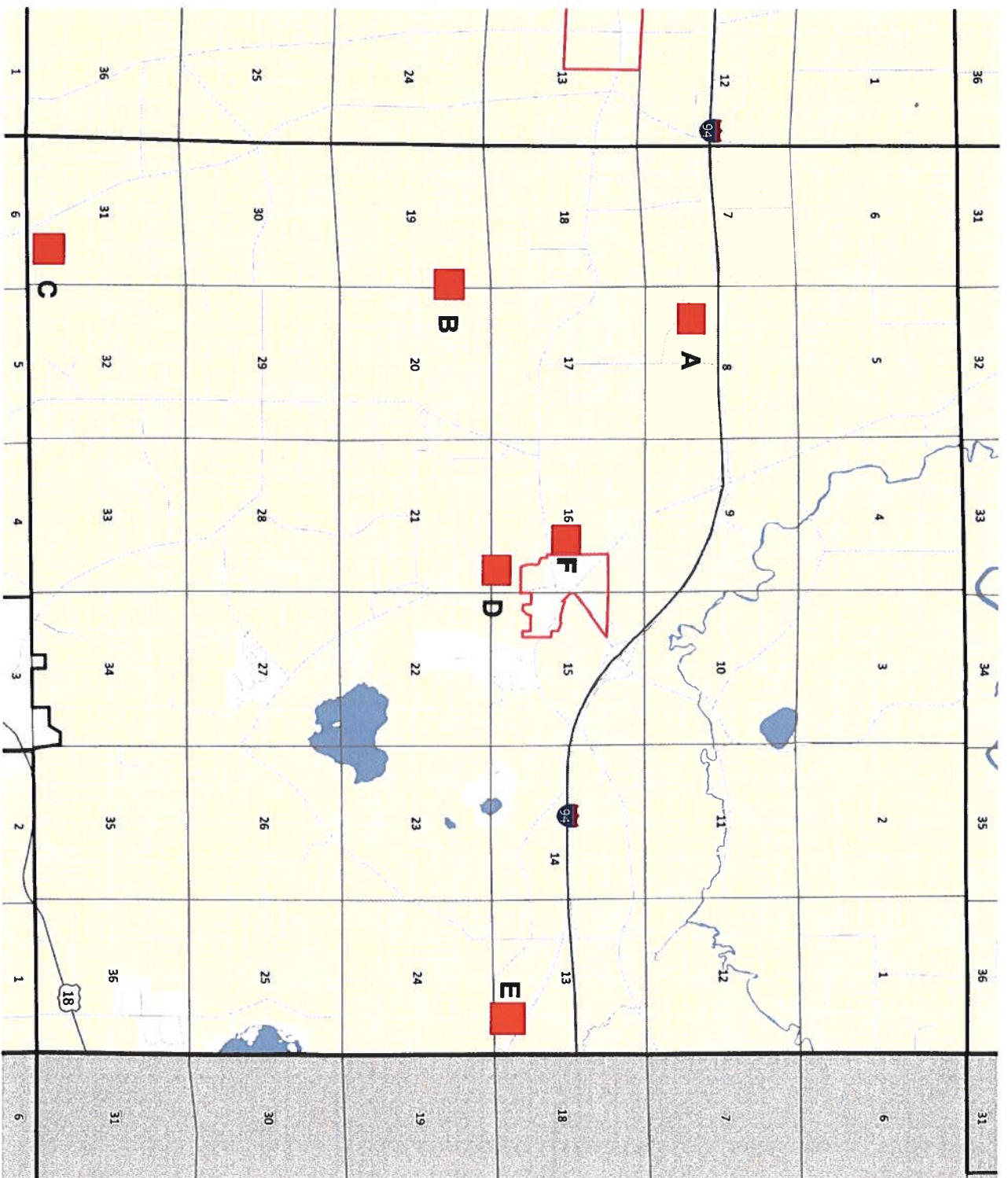
Brian Neumann state that we finished the 2021 year approximately \$3,000 under budget. He thanked the board for working well to hit our budget for 2021.

Jim Zastrow stated from his written report that there is a balance of \$100.40 in the General Fund, \$65,141.07 in the Money Market Account, \$16,470.68 in the Equipment Fund and \$15,812.32 in the Highway Reserve. There was a motion by Bill Ingersoll and seconded by Lloyd Zastrow to accept the Treasurer's report as read.    *Affirmative: DK, BI, LZ    Opposed: None    Motion Carried*

There was a motion by Bill Ingersoll and seconded by Lloyd Zastrow to pay the bills as presented.    *Affirmative: DK, BI, LZ    Opposed: None    Motion Carried*

There was a motion by Dale Konle and seconded by Bill Ingersoll to Hire Du Wayne Hunt as a town snowplow driver at a rate of \$25 an hour. *Affirmative: DK, BI, LZ    Opposed: None    Motion Carried*

With no further business, a motion to adjourn was made by Dale Konle and seconded by Lloyd Zastrow.    *Affirmative: DK, BI, LZ    Opposed: None    Motion Carried*



**Figure 7: Farmland Preservation Plan Map for Town of Concord in Jefferson County**

- Farmland Preservation Areas
- Town
- City
- Village
- Rural Hamlets
- Section Lines
- Section Number
- Parcel Boundaries
- Highways
- Local Roads
- Lakes and Rivers
- A-2 Zones approved since 2009

**Respondent's Exhibit D**



**Jefferson County 2040 Agricultural Preservation & Land Use Plan**

Source: Jefferson County, 2020

0 0.5 1 1.5 2 Miles



# Parcel A

## ORDINANCE NO. 2011-01

### Amend Zoning Ordinance

WHEREAS, the Jefferson County Board of Supervisors has heretofore been petitioned to amend the Jefferson County Zoning Ordinance, and

WHEREAS, Petition 3516A-11 was referred to the Jefferson County Planning and Zoning Committee for public hearing on February 17, 2011, and Petitions 3519A-11, 3520A-11 and 3521A-11 were referred for public hearing on March 17, 2011, and

WHEREAS, the proposed amendments have been given due consideration by the Board of Supervisors in open session,

NOW, THEREFORE, BE IT ORDAINED that the Jefferson County Board of Supervisors does amend the zoning ordinance of Jefferson County (and official zoning maps) as follows:

#### **FROM A-1, AGRICULTURAL AND A-3, RURAL RESIDENTIAL TO A-2, AGRIBUSINESS**

Rezone to allow for storage of contractor's equipment at W2054 Church Drive in the Town of Concord. The site is on PINs 006-0716-0832-000 (30.4 acres) and 006-0716-0832-002 (1 acre). This action is conditioned upon receipt and recording of a final certified survey map for the zone and upon payment of a conversion fee to the State of Wisconsin at the rate of \$891 per acre for the area being rezoned out of the A-1 Agricultural district. The rezoning shall be null and void and of no effect one year from the date of County Board approval unless all applicable conditions have been completed by that date. (3516A-11 – Keith & Tammy Ott)

#### **FROM RESIDENTIAL R-2 TO A-3, RURAL RESIDENTIAL**

Rezone PIN 028-0513-0111-001 (3.3 acres) at N2455 Kunz Road in the Town of Sumner. This was requested to allow a dog kennel to be operated on the site. Because the entire tax parcel is being rezoned, the Committee did not require a certified survey map. (3519A-11 – Bryon & Kathy Vogel)

#### **FROM AGRICULTURAL A-1 TO A-3, RURAL RESIDENTIAL**

Rezone to create an approximate 2-acre building site on Knoll Drive in the Town of Concord from part of PIN 006-0716-3522-000 (31.322 acres). This prime ag land lot combination utilizes the last available A-3 zone for the property; therefore, approval is conditioned upon recording of an affidavit acknowledging that fact. It is further conditioned upon road access approval, upon receipt by Zoning of a soil test showing sites for installation of both initial and replacement private sewage systems, upon approval and recording of a final

certified survey map for the lot and upon payment of a conversion fee to the State of Wisconsin at a rate of \$891 per acre for the area being rezoned out of the A-1 Agricultural district. Rezoning shall be null and void and of no effect one year from the date of County Board approval unless all applicable conditions have been completed by that date. (3520A-11 – David & Beverly Mueller Trust)

**FROM COMMUNITY TO A-3, RURAL RESIDENTIAL**

Rezone PIN 012-0816-1931-020 (1.769 acres) near N8206 CTH E in the Town of Ixonia to allow its combination with adjoining A-3 zoned property under the same ownership, resulting in one 5.289-acre A-3 zoned lot. This combination would then allow the petitioner to have five animals units on the property, and to apply for permits to construct a building on the newly zoned area. (3521A-11 – Robert Hamer/Jean Hallada property)

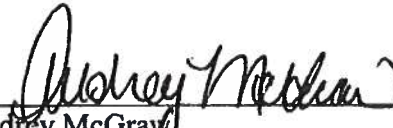
Adopted by the Jefferson County Board of Supervisors this 19th day of April 2011.

STATE OF WISCONSIN                    )  
  )ss  
COUNTY OF JEFFERSON                )

I, Audrey McGraw, County Clerk of Jefferson County, Wisconsin, do hereby certify that the attached is a true and correct copy of Ordinance No. 2011-01, adopted at the April 19, 2011, Session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.

WITNESS MY HAND AND SEAL this 27<sup>th</sup> day of April 2023.



  
\_\_\_\_\_  
Audrey McGraw  
Jefferson County Clerk  
Jefferson, Wisconsin

Voice vote

Ordinance Requested By  
Planning and Zoning Committee

04-19-11

Deb Magritz: 4-6-11

## Parcel B

### ORDINANCE NO. 2016-06

#### Amend Zoning Ordinance

WHEREAS, the Jefferson County Board of Supervisors has heretofore been petitioned to amend the official zoning map of Jefferson County, and

WHEREAS, Petitions R3890A-16, R3891A-16, R3892A-16, R3893A-16, R3894A-16, R3895A-16, R3896A-16, R3897A-16, R3898A-16, R3899A-16, R3900A-16, R3901A-16, R3902A-16, R3903A-16, R3904A-16, R3905A-16, R3906A-16, R3907A-16 and R3908A-16 were referred to the Jefferson County Planning and Zoning Committee for public hearing on June 16, 2016, and

WHEREAS, the proposed amendments have been given due consideration by the Board of Supervisors in open session,

NOW, THEREFORE, BE IT ORDAINED that the Jefferson County Board of Supervisors does amend the official zoning map of Jefferson County as follows:

#### **FROM A-1, EXCLUSIVE AGRICULTURAL TO A-3, AGRICULTURAL/ RURAL RESIDENTIAL**

Create a 3.5-acre farm consolidation lot around the home at **N5296 Popp Road** in the Town of Aztalan, and a 6-acre vacant lot combination to the east, both from PIN 002-0714-2844-000 (39.75 acres). This action is conditioned upon road access approval and suitable soil test for the vacant lot, and for approval and recording of a final certified survey map, including extraterritorial plat review if necessary. This utilizes the last available A-3 zone for the property; therefore rezoning is also conditioned upon recording of an affidavit acknowledging that fact. R3890A-16 – Robert Wagner/Jane Wagner property

Create a 4-acre lot combination at **W5140 Gillis Road** in the Town of Koshkonong from PIN 016-0514-1331-000 (40 acres). This utilizes the last available A-3 zone for the property; therefore rezoning is conditioned upon recording of an affidavit acknowledging that fact. It is also conditioned upon road access approval, upon receipt of suitable soil test, upon approval and recording of a final certified map including extraterritorial plat review, if necessary. No development is allowed on slopes exceeding 20%. R3891A-16 – Kathy Pope-Hookstead/Dark Acres Farm property

Rezone 1.25 acres around the home at **W8295 Cemetery Road** in the Town of Lake Mills from PIN 018-0713-0313-000 (23.5 acres). Approval is conditioned upon approval and recording of the final certified survey map including extraterritorial plat review, if necessary. R3892A-16 – Sharilyn DeGolier

Create a 3-acre A-3 zone at **W8756 Alley Road** in the Town of Lake Mills to allow for new home construction on PIN 018-0713-2134-000 (3 acres). The structure permitted as a garage must be converted back to a garage, and the new home must be served by a code-compliant private on-site waste treatment system. Inspection shall take place prior to issuance of a Zoning and Land Use Permit for the house. R3893A-16 – Jay Lewellin

Create a 1-acre building site on **Raether Road** and PIN 018-0713-0622-000 (32.07 acres) in the Town of Lake Mills. This utilizes the last available A-3 zone for the property; therefore, rezoning is conditioned upon recording of an affidavit acknowledging that fact. It is further conditioned upon road access approval, receipt by Zoning of a suitable soil test, approval and recording of a final certified survey map for the lot. The area where the former Town road existed shall be transferred to this owner. There shall be no development on slopes exceeding 20%. R3894A-16 – Steve Saniter/Rachel Raether LE property

Rezone 1 acre of PIN 020-0714-0321-000 (54 acres) for a new building site near **W5962 Church Road** in the Town of Milford. This is considered a consolidation of parcels of record, and is conditioned upon road access approval, receipt by Zoning of a suitable soil test and receipt and recording of a final certified survey map for the lot. R3895A-16 – Todd & Leeann Duwe/Duwe Farms LLC property.

Rezone 1.01 acres of PIN 020-0814-3241-001 (23 acres) in the Town of Milford at **W6543 Vandre Road**. This is conditioned upon approval and recording of the final certified survey map for the lot. R3896A-16 – Trisha & Erik Miller/Joel & Gayle Medenwaldt property

Create two, 2-acre lots on **US Highway 12** in the Town of Oakland from part of PIN 022-0613-1812-000 (15.81 acres). This is conditioned upon road access approval by the DOT, utilizing the approved variance. It uses the last available lot for the property, and is conditioned upon recording of an affidavit acknowledging that fact. Further, approval is conditioned upon receipt by Zoning of a suitable soil test and final certified survey map including extraterritorial plat review, if necessary. A Town signature line shall be included on the map. R3897A-16 – Nancy Hook

Create a 1.33-acre building site from PIN 028-0513-0123-000 (39 acres) in the Town of Sumner on **Schwemmer Road**. This is conditioned upon road access approval, receipt by Zoning of a suitable soil test and approval and recording of a final certified survey map including extraterritorial plat review, if necessary. R3898A-16 – Lindsay Jilek/Franz & Vicki Weigand property:

Rezone 1.68 acres of PIN 002-0714-2032-000 (35.254 acres) on **Harvey Road** for a new residential building site in the Town of Aztalan. This utilizes the last available A-3 zone for the property; rezoning is conditioned upon recording of an affidavit acknowledging that fact. It is also conditioned upon road access approval, receipt of a suitable soil test, and upon approval and recording of a final certified survey map for the lot including extraterritorial plat review, if necessary. R3899A-16 – Leo & Lisa Kucek/Ardis Eilenfeldt Trust property

**FROM A-2, AGRICULTURAL & RURAL BUSINESS AND A-3 TO A-1, EXCLUSIVE AGRICULTURAL**

R3900A-16 – Leo & Lisa Kucek/Debbie Reece Trust property: Negate previous approvals for an A-2 zone (R3658A-13) and an A-3 zone (R3659A-13) on **Harvey Road** in the Town of Aztalan on PIN 002-0714-2032-002 (1.735 acres) to allow for new A-3 lot creation. This is conditioned upon action to override the previously submitted certified survey map. R3899A-16 – Leo & Lisa Kucek/Ardis Eilenfeldt Trust property

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-2, AGRICULTURAL & RURAL BUSINESS**

Rezone to create a 1.5-acre A-2 zone adjacent to **N5983 Hillside Drive** in the Town of Concord from PIN 006-0716-1914-000 (93.4 acres). This is conditioned upon road access approval, receipt of suitable soil test only if the proposed structure will have water service, and approval and recording of a final certified survey map for the lot. There shall be a note on the final map that the A-2 zone and adjacent A-1 zone shall not be sold separately unless access requirements of the Jefferson County Zoning Ordinance are met. R3901A-16 – Joel Kleefisch/Donald & Bonnie Lott property

**FROM A-1 TO A-3**

Rezone to create a 5-acre lot around the home at **N5983 Hillside Drive** and two, 3-acre building sites nearby from PIN 006-0716-1914-000 (93.4 acres) in the Town of Concord. This uses the last available A-3 zone for the property; therefore rezoning is conditioned upon recording of an affidavit acknowledging that fact. It is further conditioned upon road access approval, receipt by Zoning of a suitable soil test and approval and recording of a final certified survey map for the lots. R3902A-16 – Joel Kleefisch/Donald & Bonnie Lott property

**FROM A-3 TO A-1**

Rezone to negate a previous A-3 zone approval, R3664A-13, to allow request for creation of new building sites on PIN 006-0716-1914-000 (93.4 acres) on **Hillside Drive** in the Town of Concord. The affidavit previously created for this property shall be updated and recorded. R3903A-16 – Donald & Bonnie Lott property

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-2, AGRICULTURAL AND RURAL BUSINESS**

Redefine the A-2 zone near **N1730 Kelln Lane** in the Town of Palmyra on PIN 024-0516-1033-000 (39 acres). Approval is conditioned upon road access approval for the lot, receipt of a suitable soil test only if water service to the buildings is proposed and approval and recording of a final certified survey map including extraterritorial plat review, if necessary. R3904A-16 – John & Brenda Soden/Charles Soden Trust property

**FROM A-1 TO A-3, AGRICULTURAL/RURAL RESIDENTIAL**

Rezone to create a 1.4-acre lot around the home at **N1730 Kelln Lane** in the Town of Palmyra from PIN 024-0516-1033-000 (39 acres). This action is conditioned upon approval and recording of the final certified survey map including extraterritorial plat review, if necessary. R3905A-16 – John & Brenda Soden/Charles Soden Trust property

**FROM A-1 TO N, NATURAL RESOURCES**

Create an 8.9-acre Natural Resource zone north of **N1730 Kelln Lane** from part of PIN 024-0516-1033-000 (39 acres) in the Town of Palmyra. Approval is conditioned upon receipt and recording of a final certified survey map for the lot including extraterritorial plat review, if necessary. The property may only be transferred to an adjoining owner. R3906A-16 – John & Brenda Soden/Charles Soden Trust property

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-3, AGRICULTURAL//RURAL  
RESIDENTIAL**

Rezone to create a 2-acre lot around the buildings at **N8331 County Road X** in the Town of Watertown from part of PIN 032-0815-2114-001 (24 acres). This is conditioned upon approval and recording of a final certified survey map including extraterritorial plat review, if necessary. R3907A-16 – Scott & Connie Vinz

**FROM A-1 TO N, NATURAL RESOURCES**

Rezone to create a 2.6-acre Natural Resource zone near **N8331 County Road X** from part of PIN 032-0815-2114-001 (24 acres) in the Town of Watertown. Rezoning is conditioned upon road access approval and approval and recording of a final certified survey map including extraterritorial plat review, if necessary. R3908A-16 – Scott & Connie Vinz

The above rezonings shall be null and void and of no effect one year from the date of County Board approval unless all applicable conditions have been completed by that date.

Adopted by the Jefferson County Board of Supervisors this 12th day of July 2016.


STATE OF WISCONSIN                    )  
  )ss  
COUNTY OF JEFFERSON                )

I, Audrey McGraw, County Clerk of Jefferson County, Wisconsin, do hereby certify that the attached is a true and correct copy of Ordinance No. 2016-06, adopted at the July 12, 2016, Session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.



WITNESS MY HAND AND SEAL this 27<sup>th</sup> day of April 2023.



  
Audrey McGraw  
Jefferson County Clerk  
Jefferson, Wisconsin

Ayes\_\_ Voice Vote\_\_ Noes\_\_ Abstain\_\_ 1\_\_ Absent\_\_ Vacant\_\_  
(Kannard)

Requested by  
Planning & Zoning Committee

07-12-16

Deb Magritz: 07-05-16

REVIEWED: Administrator: bw; Corp. Counsel: jbw; Finance Director: bl

## Parcel C

### ORDINANCE NO. 2019-05

#### Amending Official Zoning Maps

WHEREAS, the Jefferson County Board of Supervisors has heretofore been petitioned to amend the official zoning map of Jefferson County, and

WHEREAS, Petitions R4154A-19 and R4157A-19 were referred to the Jefferson County Planning and Zoning Committee for public hearing on May 16, 2019, and Petitions R4149A-19, R4160A-19, R4161A-19, R4162A-19, R4163A-19, R4164A-19 and R4165A-19 were referred to the Jefferson County Planning and Zoning Committee for public hearing on June 20, 2019 and

WHEREAS, the proposed amendments have been given due consideration by the Board of Supervisors in open session,

NOW, THEREFORE, BE IT ORDAINED that the Jefferson County Board of Supervisors does amend the official zoning map of Jefferson County as follows:

#### **FROM R-2, RESIDENTIAL-UNSEWERED TO A-2, AGRICULTURAL AND RURAL BUSINESS**

Create a 0.6-acre A-2 zone from an existing R-2 zone at **N643 Wishing Well Ln.** The site is on PIN 016-0513-2532-001 (6.00 Ac) in the Town of Koshkonong. This is in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon approval and recording of a final certified survey map for the lot, including extraterritorial plat review if necessary. R4160A-19 – Randy Braunschweig/Jennifer Miles

#### **FROM A-1, EXCLUSIVE AGRICULTURAL TO A-2, AGRICULTURAL AND RURAL BUSINESS**

Create a 4.9-acre A-2 zone for agricultural use at **N4932 County Road P.** The site is on PIN 006-0716-3143-002 (9.00 Ac) in the Town of Concord. This is in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon approval and recording of the final certified survey map. R4161A-19 – Anfang Properties LLC (Tom Anfang).

#### **FROM A-1, EXCLUSIVE AGRICULTURAL TO A-3, AGRICULTURAL/RURAL RESIDENTIAL**

Create a 1.0-acre A-3 building site from an existing A-1 zone on **Horseshoe Rd.** The site is on PIN 032-0814-0132-001 (41.177 Ac) in the Town of Watertown. This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon road access approval, receipt by Zoning of a suitable soil test, and

approval and recording of a final certified survey map, including extraterritorial plat review if necessary. R4157A-19 – Jeffrey and Susan Schaefer

Create an approximately 5.5-acre A-3 zone from an existing A-1 zone off of **County Road N**. The site is on PIN(s) 002-0714-1143-001 (15.00 Ac) and 002-0714-1142-002 (33.89 Ac) in the Town of Aztalan. This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. The proposal utilizes the last available A-3 zone for the property; therefore, rezoning is conditioned upon recording of an affidavit acknowledging that fact. It is further conditioned upon road access approval by the County Highway Department, receipt of a suitable soil test and approval and recording of a final certified survey map, including extraterritorial plat review if necessary. R4162A-19 – Michael Brunk

Create a 2.00-acre A-3 farm consolidation lot around the home and buildings at **N3056 Will Road**. The site is on PIN 010-0615-3032-000 (27.52 Ac) in the Town of Hebron. This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon approval and recording of a final certified survey map for the lot, including extraterritorial plat review if necessary. R4149A-19 – Gregg Stephan:

Create a 3.00-acre A-3 farm consolidation lot around the home and buildings at **N7524 County Road P**. This site is on PIN 012-0816-3123-000 (25.26 Ac) in the Town of Ixonia. This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon approval and recording of a final certified survey map for the lot. R4163A-19 – John Genz

Create a 4.00-acre A-3 zone from an existing A-1 zone near **N6867 County Road Q**. This site is on PIN(s) 020-0714-0922-001 (5.00 Ac) and 020-0714-0811-002 (14.65 Ac) in the Town of Milford. This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon road access approval from the County Highway Department, receipt of suitable soil test, approval and recording of the final certified survey map, and the fact that no development may occur on slopes exceeding 20%. R4165A-19 – Thomas and Kathleen Kasten

#### **FROM A-1, EXCLUSIVE AGRICULTURAL AND A-2, AGRICULTURAL AND RURAL BUSINESS TO A-3, AGRICULTURAL/RURAL RESIDENTIAL**

Create a 1.58-acre A-3 lot around the home and buildings at **W3954 US Highway 18**. The site is on PIN(s) 014-0615-0421-001 (0.61 Ac) and 014-0615-0421-003 (16.20 Ac) in the Town of Jefferson. This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon approval and recording of a final certified survey for the lot. R4164A-19 – Ned Palm

**FROM A-3, AGRICULTURAL/RURAL RESIDENTIAL TO A-2,  
AGRICULTURAL AND RURAL BUSINESS**

Create a 1.186-acre A-2 zone from an existing A-3 zone at **N2385 County Road N**. The site is on PIN 016-0514-0112-002 (3.00 Ac) in the Town of Koshkonong. This is in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning Ordinance. This action is conditioned upon approval and recording of a final certified survey map for the lot, including extraterritorial plat review if necessary. R4154A-19 – Toni Whitley

The above zoning amendments shall be null and void and have no effect one year from the date of County Board approval unless all applicable conditions have been completed.


AYES: 26 NOES: 0 ABSTAIN: 1 ABSENT: 3 VACANT: 0.

STATE OF WISCONSIN                    )  
  )ss  
COUNTY OF JEFFERSON                )

I, Audrey McGraw, County Clerk of Jefferson County, Wisconsin, do hereby certify that the attached is a true and correct copy of Ordinance No. 2019-05, adopted at the July 09, 2019, Session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.

WITNESS MY HAND AND SEAL this 1<sup>st</sup> day of May 2023.



  
Audrey McGraw  
Jefferson County Clerk  
Jefferson, Wisconsin

Referred By:  
Planning and Zoning Committee

07-09-2019

REVIEWED: County Administrator: BW; Corporation Counsel: JBW; Finance Director: MD.

## Parcel D

### ORDINANCE NO. 2021-09

#### Amending Official Zoning Map

WHEREAS, the Jefferson County Board of Supervisors has heretofore been petitioned to amend the official zoning map of Jefferson County, and

WHEREAS, Petitions R4322A-21, R4346A-21, R4347A-21, R4348A-21, R4350A-21, R4351A-21, R4352A-21, R4353A-21, R4354A-21, R4355-21, R4356A-21, were referred to the Jefferson County Planning and Zoning Committee for public hearing on September 16, 2021 and

WHEREAS, the proposed amendments have been given due consideration by the Board of Supervisors in open session,

NOW, THEREFORE, BE IT ORDAINED that the Jefferson County Board of Supervisors does amend the official zoning map of Jefferson County as follows:

**FROM R-2, RESIDENTIAL (UNSEWERED); A-T, AGRICULTURAL TRANSITION  
AND A-1, EXCLUSIVE AGRICULTURAL TO R-1, RESIDENTIAL (SEWERED) AND  
N, NATURAL RESOURCE**

Create an R-1 zone from PINs 022-0613-0433-000 (33.29 Ac), 022-0613-0434-000 (8.69 Ac) and part of 022-0613-0544-000 (26.718 Ac) that will include a planned unit development. Create an N zone from part of 022-0613-0544-000. The site is in the Town of Oakland near the intersection of **County Rd A and US Hwy 18**. This is in accordance with Sec 11.04(f)1 and 11.04(f)12 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon road access points being approved by the maintaining authority, an reports or studies as required by the County Highway Department, entering into a development agreement with the Town, approved preliminary subdivision plat within two years, approved and recorded final subdivision plat within 4 years including extraterritorial plat review if necessary, and County review and approval of any plans included, but not limited to storm water and erosion control plans. R4346A-21, R4347A-21 & CU2084-21 – John & Ann Didion

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-2, AGRICULTURAL AND RURAL  
BUSINESS**

Rezone 0.482 ac of PIN 006-0716-1644-000 (36.95 Ac) to enlarge an existing A-2 zone at N6189 County Rd F, Town of Concord. This is in accordance with Sec 11.04(f)7 of the Jefferson County Zoning Ordinance. This action is conditioned upon receipt by Zoning of a Plat of Survey indicating the A-2 zone location. R4322A-21 – Donald Popp/Hickory Wood Ranch LLC Property

**FROM A-3, AGRICULTURAL/RURAL RESIDENTIAL TO A-2, AGRICULTURAL &  
RURAL BUSINESS**

Rezone 0.421 ac of PIN 016-0514-1513-004 (35 Ac) at **N1538 County Rd K** in the Town of Koshkonong. This is in accordance with Sec 11.04(f)7 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon receipt by Zoning of a Plat of Survey for the lot. R4348A-21 – Scott Jilek

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-3, AGRICULTURAL/RURAL  
RESIDENTIAL**

Create a 1-ac lot at the intersection of **Bakertown and North Helenville Rd** in the Town of Farmington from part of PIN 008-0715-3522-000 (40 Ac). This is in accordance with Sec 11.04(f)8 of the Jefferson County Zoning Ordinance. This utilizes the last available A-3 zone for the property; therefore rezoning is conditioned upon recording of an affidavit acknowledging that fact. It is further conditioned upon road access approval, receipt by Zoning of a suitable soil test, and approval and recording of a final certified survey map for the lot. R4350A-21 – Kimberly & Richard Heine

Create a 3-ac farm consolidation lot at **N3021 Schmidt Rd**, and 2.5-ac and 3.5-ac building sites adjoining from part of PINs 010-0615-2823-000 (17 ac) and 010-0615-2914-000 (40 Ac) in the Town of Hebron. This is in accordance with Sec 11.04(f)8 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon approval and recording of a final certified map for the lot. R4351A-21 – Katzman Farm Inc

Create a 1.03-ac lot on **State Rd 106** in the Town of Hebron from part of PIN 010-0615-3544-000 (33.288 Ac). This is in accordance with Sec 11.04(f)8 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon road access approval, receipt by Zoning of a suitable soil test and approval and recording of a final certified survey map for the lot. R4352A-21 – Garry Schmidt/Schmidt Family Ag Farm LLC

Create a 1.61-ac farm consolidation lot around the home at **N8658 River Valley Rd**, Town of Ixonia from part of PIN 012-0816-1541-000 (40 Ac). This is in accordance with Sec 11.04(f)8 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon approval and recording of the final certified survey map for the lot. R4353A-21 – Tim Otterstatter/Jean A Rupnow Trust Property

Create a 1.36-ac new building site on **River Valley Rd** from part of PIN 012-0816-1541-000 (40 Ac) in the Town of Ixonia. This is in accordance with Sec 11.04(f)8 of the Jefferson County Zoning Ordinance. This utilizes the last available A-3 zone for the property, therefore rezoning is conditioned upon recording of an affidavit acknowledging that fact. It is further conditioned upon road access approval, receipt by Zoning of a suitable soil test and approval and recording of a final certified survey map for the lot.  
R4354A-21 – Tim Otterstatter/Jean A Rupnow Trust Property

**FROM A-1, EXCLUSIVE AGRICULTURAL TO N, NATURAL RESOURCE**

Rezone 8.64 ac of PIN 012-0816-1541-000 (40 Ac) on **River Valley Rd** in the Town of Ixonia. This is in accordance with Sec 11.04(f)12 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon approval and recording of the final certified survey map for the lot.  
R4355A-21 – Tim Otterstatter/Jean A Rupnow Trust Property

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-3, AGRICULTURAL/RURAL  
RESIDENTIAL**



Create a 1-ac building site near **N8041County Rd Y**, Town of Watertown, from part of PIN 032-0815-3012-000 (64.543 Ac.) This is in accordance with Sec 11.04(f)8 of the Jefferson County Zoning Ordinance. This utilizes the last available A-3 zone for the property, therefore rezoning is conditioned upon recording of an affidavit acknowledging that fact when both this lot and the previously approved lot are created. It is further conditioned upon road access approval, receipt by Zoning of a suitable soil test, approval and recording of a final certified survey map for the lot, including extraterritorial plat review if necessary. R4356A-21 – Randy & Nancy Vail/Steven & Barbara Bendall Trust Property

The above zoning amendments shall be null and void and have no effect one year from the date of County Board approval unless all applicable conditions have been completed.


Roll Call Vote - Passed

STATE OF WISCONSIN           )  
  )ss  
COUNTY OF JEFFERSON       )

I, Audrey McGraw, County Clerk of Jefferson County, Wisconsin, do hereby certify that the attached is a true and correct copy of Ordinance No. 2021-09, adopted at the October 12, 2021, Session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.


WITNESS MY HAND AND SEAL this 1<sup>st</sup> day of May 2023.



  
Audrey McGraw  
Jefferson County Clerk  
Jefferson, Wisconsin

Referred By:  
Planning and Zoning Committee

10-12-2021

REVIEWED: County Administrator;\_BPW ; Corporation Counsel: JBW ; Finance Director 

# Parcel E

## ORDINANCE NO. 2022-07

### Amending Official Zoning Map

WHEREAS, the Jefferson County Board of Supervisors has heretofore been petitioned to amend the official zoning map of Jefferson County, and

WHEREAS, Petitions R4412A-22, R4413A-22, R4414A-22, R4416A-22 and R4417A-22 were referred to the Jefferson County Planning and Zoning Committee for public hearing on June 16, 2022, and

WHEREAS, the proposed amendments have been given due consideration by the Board of Supervisors in open session,

NOW, THEREFORE, BE IT ORDAINED that the Jefferson County Board of Supervisors does amend the official zoning map of Jefferson County as follows:

#### **FROM A-1, EXCLUSIVE AGRICULTURAL TO A-3, AGRICULTURAL/RURAL RESIDENTIAL**

Create a 2.9-ac farm consolidation lot around the home at **N2502 Wenham Rd**, Town of Hebron, from part of PINs 010-0515-0521-000 (49.158 ac) and 010-0615-3234-003 (31.362 ac). This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance and is conditioned upon approval and recording of a final certified survey map for the lot. R4412A-22 – Reu Farms Partnership

Create a 3-ac lot around the home at **N9010 Ridge Ln** in the Town of Ixonia from part of PIN 012-0816-1042-000 (11.382 ac). This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance and is conditioned upon approval and recording of a final certified survey map for the lot. R4413A-22 – ZLRM II LLC

Create a 5-ac lot around the home and farm buildings at **W9458 County Road B**, Town of Lake Mills, on PIN 018-0713-0743-000 (38.25 ac). This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance and is conditioned upon approval and recording of the final certified survey map for the lot. R4414A-22 – Wayne E & Donna J Martin

Create a 2.55-acre lot around the existing home and buildings at **W2847 Aliceton Dr**, Town of Watertown from PIN 032-0815-3622-000 (38.37 ac). This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance and is conditioned upon approval and recording of a final certified survey map for the lot. R4416A-22 – Sarah Miller & Mary Krueger

#### **FROM A-3, AGRICULTURAL/RURAL RESIDENTIAL TO A-2, AGRICULTURAL AND RURAL BUSINESS**

Rezone 2.17 acres from PIN 006-0716-1344-002 (3.58 ac) at **W158 Concord Center Dr**, Town of Concord. This is in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning

Ordinance and is conditioned upon approval and recording of a final certified survey map for the lot, including extraterritorial plat review if necessary. R4417A-22 – David Berres/D Thomas Landscaping LLC

The above zoning amendments shall be null and void and have no effect one year from the date of County Board approval unless all applicable conditions have been completed.

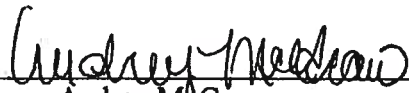
Voice Vote – Passed

STATE OF WISCONSIN                    )  
  )ss  
COUNTY OF JEFFERSON                )

I, Audrey McGraw, County Clerk of Jefferson County, Wisconsin, do hereby certify that the attached is a true and correct copy of Ordinance No. 2022-07, adopted at the July 12, 2022, Session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.

WITNESS MY HAND AND SEAL this 27<sup>th</sup> day of April 2023.



  
\_\_\_\_\_  
Audrey McGraw  
Jefferson County Clerk  
Jefferson, Wisconsin

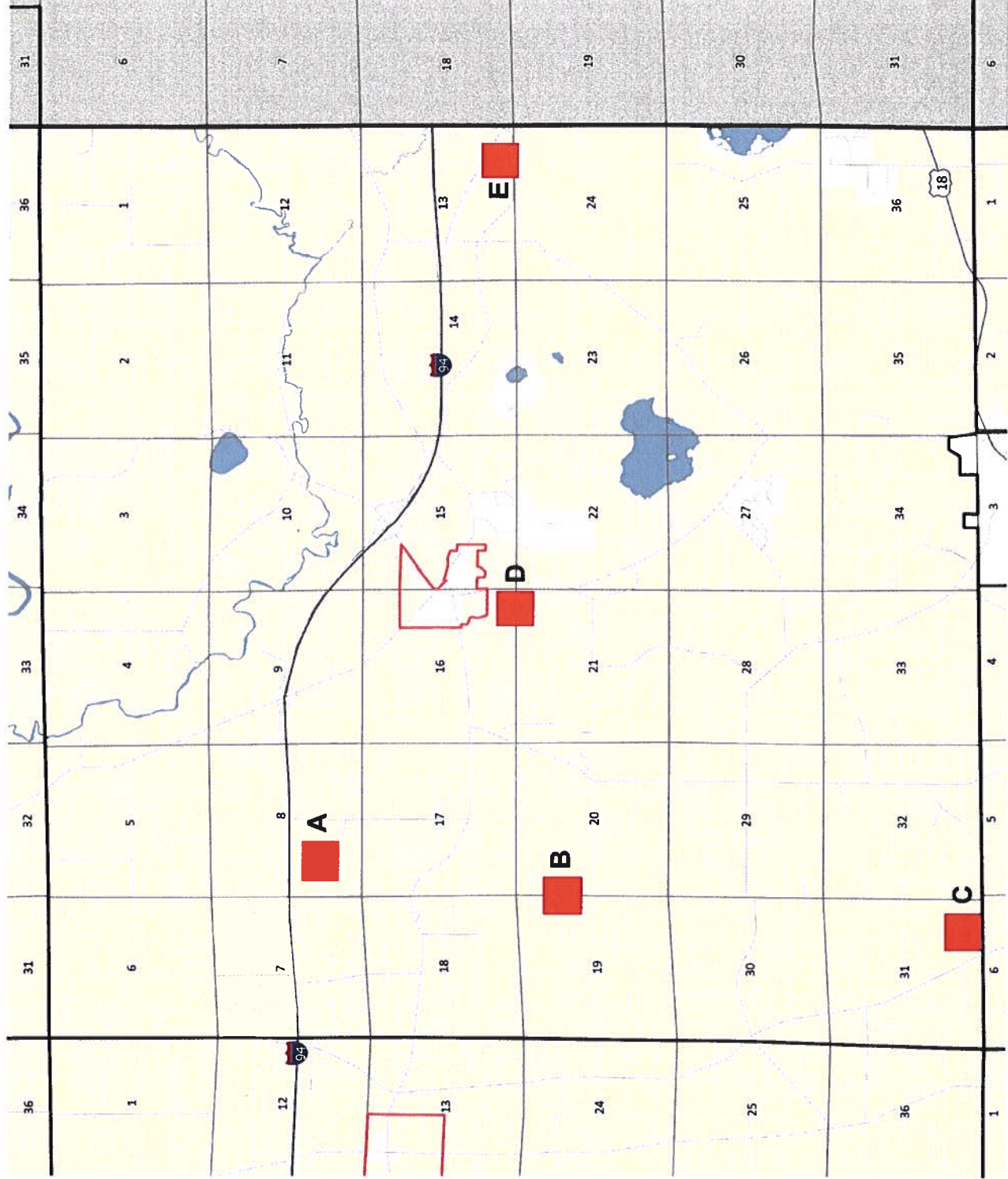
Referred By:  
Planning and Zoning Committee

07-12-2022

REVIEWED: Corporation Counsel: JBW ; Finance Director



**Figure 7: Farmland Preservation in Plan Map for Town of Concord in Jefferson County**



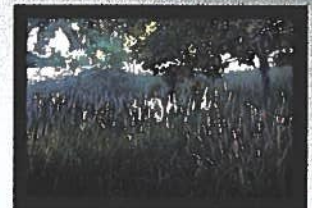
Source: Jefferson County, 2020





# Town of Concord

## Comprehensive Land Use Plan



**2009**



Respondent's  
Exhibit F



preservation of the Town's rural character is the foremost goal of this plan and is seen to have economic value to the Town, the Town does not support the further expansion of the Willow Glen Road interchange. The Town perceives that expansion of this interchange would create increased levels of residential and non-residential traffic and increased development pressures. This would not be consistent with preservation of the Town's rural character.

2. Of the approximately 120 acres in the Town of Concord rural hamlet, about 80 acres are currently in agricultural use or are open uncultivated land. This acreage should be adequate to support additional business development through the life of this plan.
3. Under the County Zoning Ordinance, the Community District permits a mix of residential, commercial, industrial, and institutional uses and has appropriately been designated as the primary future zoning district for the designated rural hamlet area. Many potential uses in the Community zoning district are conditional uses and the property owner must gain approval of both the Town of Concord and Jefferson County for the proposed use. The Jefferson County Zoning Ordinance currently provides for 47 conditional uses for Community zoning. As some of these uses may be incompatible with the vision of the Town of Concord, the Town will develop a revised list of acceptable conditional uses for Community zoning as part of a land use plan for the rural hamlet area as noted in section 8.B.11.

#### **8.D. Designation of Sites for Businesses and Industries**

The Town of Concord is essentially rural, lacking public sewer and water. This has contributed to the continuation of Concord's rural ambiance, seen as one of its foremost strengths. Consequently, the Town has chosen not to designate sites for additional businesses and industries, other than supporting those that already exist in the hamlet and a few other locations in the Town.

However, there is general consensus that any future businesses that do locate in Concord should be limited to locations within the hamlet, adjacent to properties currently utilized for business purposes. As previously stated, it is expressly intended that this plan limit the further concentration of non-residential development in the vicinity of the CTH F interchange, the Willow Glen interchange, and Delafield Road adjacent to Willow Glen Road.

The Town does not rezone lands in anticipation of their development for non-residential purposes. Businesses that require rezoning or conditional use permits file applications that are evaluated by both the County and the Town on a case-by-case basis. To provide the greatest degree of protection to the Town's existing rural character, the Town intends to continue this practice for the foreseeable future, examining all applications for rezoning or conditional use to determine whether they are consistent with the Town's adopted plan, goals, and policies and with protection of public health, safety, and welfare in the Town for years to come.

The Town discourages the establishment of any business that could be expected to have a negative impact on the rural character of the Town of Concord. The Town of Concord will not support approval of new business enterprises if those businesses can reasonably be expected to have undesirable direct or secondary impacts for the public health, safety, and welfare of the community in the immediate vicinity or in the Town as a whole. Such undesirable secondary impacts



include, but are not limited to, vibration, noise, odors, hazardous materials, heavy traffic (volume or weight), criminal activity, etc.

The Town is fully supportive of the establishment of additional home occupations throughout the Town and the continuation of existing business operations. There is also a potential for Concord's farmers and other business people to reap benefits through direct farm marketing and tourism, contributing to the economic vitality of the Town while preserving and enhancing its rural character.

The establishment of secondary businesses associated with direct farm marketing and tourism – such as bed and breakfasts, riding stables, and value-added production from local produce (jams, etc.) – is another way that Concord's local economy could be enhanced while retaining the Town's rural character.

## **8.E. Background Information**

### **Economic Base**

Historically, agriculture was the economic mainstay in the Town of Concord since the first Yankee settlers arrived in the 1830s and 1840s from New England and the east, followed by immigrants from Europe. In 2007, the vast majority of the land in Concord was devoted to agricultural uses, principally the growing of corn and cool-weather crops.

There is very heavy demand for any farmland that is available to lease, an indication of the continuing strength of farming in Concord. Although much of the land in Concord is farmed, agriculture is by no means the largest employer of Concord's residents. According to 2000 Census data, only 1 percent of Concord's residents list farming, fishing, and forestry (collectively) as their occupation. Those industries, together with hunting and mining, employ 6 percent of Concord's residents (*see Exhibits 1-8 and 1-9*). The large amount of land devoted to farming, combined with the relatively small number of residents indicating farming as their source of income, strongly suggests the following: (1) more agricultural lands are in large-scale farms and there are fewer farmers; and (2) many residents whose primary sources of employment and income are in the non-agricultural sectors continue to farm but for them farming has become a secondary source of employment and income.

In addition to commercial farming, Concord is home to a number of hobby farms. Although these hobby farms may not have a direct economic impact on the Town through their production, nonetheless they are of value to the Town. The presence of the hobby farms contributes to the rural character of the Town, which itself is of value, and the hobby farmers support local businesses as they make purchases related to their enterprise.

Overall, in keeping with the fact that the majority of Concord's land is devoted to agriculture, Concord does not function as an employment center. Nevertheless, the Town has a vibrant local economy, comprised primarily of small, locally owned businesses. Concord has long been a place where entrepreneurial residents pursue gainful employment from a local base, with many operating their businesses as home occupations. Home occupations are allowed under Jefferson County zoning<sup>3</sup> in agricultural, residential, and community zoning districts, provided they oper-

<sup>3</sup> *Jefferson County Zoning Ordinance No. 11* (Jefferson County, Effective January 15, 1975, Last Amended September 11, 2006), pp. 5 and 18–25.



# Town of Concord

## Comprehensive Land Use Plan



Initially Adopted: July 13, 2009

Update Adopted: November 23, 2022



Respondent's  
Exhibit G



## 8.C. Issues

1. The Town is bisected by I-94. There is one full interchange at CTH F and a partial interchange at Willow Glen Road, as more fully discussed in the Transportation Element. The full interchange at CTH F is centrally located in the Town, allowing convenient access to and from I-94 for all users with business in the Town. Because the preservation of the Town's rural character is the foremost goal of this plan and is seen to have economic value to the Town, the Town does not support the further expansion of the Willow Glen Road interchange. The Town perceives that expansion of this interchange would create increased levels of residential and non-residential traffic and increased development pressures. This would not be consistent with preservation of the Town's rural character.
2. Of the approximately 138 acres in the Town of Concord rural hamlet, about 55 acres are currently in agricultural use or are open, uncultivated land according to Jefferson County data. This acreage should be adequate to support additional business development through the life of this plan.
3. Under the County Zoning Ordinance, the Community District permits a mix of residential, commercial, industrial, and institutional uses and has appropriately been designated as the primary future zoning district for the designated rural hamlet area. Many potential uses in the Community zoning district are conditional uses, and the property owner must gain Town of Concord input and Jefferson County approval for the proposed use. The Jefferson County Zoning Ordinance currently provides for 46 conditional uses for Community zoning.
4. Under the County's Agricultural Preservation and Land Use Plan, property owners may request rezoning to A-2 (Ag Business) anywhere in the Town to establish a new business. Approximately 15 parcels scattered throughout the Town currently have this zoning designation. Residential development is also scattered widely throughout the Town due to County zoning policies that allow a certain number of residential lot splits from each A-1 parent parcel. As a result, business development with A-2 zoning can occur near existing homes. Business development often negatively affects the quality of life for nearby residential development and the rural character of the Town. The Town will not allow rezoning to the A-2 district outside the Town hamlet.
5. Jefferson County zoning allows conditional use permits for home occupations in both A-1 and A-3 zoning. Because business development, even if low impact, often negatively affects the quality of life and rural character associated with rural residential development, it is important that the Town participate in the review of conditional use permit applications for home occupations to ensure that such uses do not negatively impact existing residential development.
6. We have seen an increase in applications for large multi-shed storage facilities for renting out storage. This is becoming an issue in terms of clusters of large sheds. Two of these facilities are located in or near the hamlet. The Town does not wish to approve more of these as the industrial nature of such developments detracts from the rural character and community feel that Town citizens desire.

## 8.D. Designation of Sites for Businesses and Industries

The Town of Concord is essentially rural, lacking public sewer and water. This has contributed to the continuation of Concord's rural ambiance, seen as one of its foremost strengths. Consequently, the Town has

chosen not to designate sites for additional businesses and industries, other than supporting those that already exist in the hamlet and a few other locations in the Town. **However, there is general consensus that any future businesses that do locate in Concord should be limited to locations within the hamlet.** As previously stated, it is expressly intended that this plan not allow further concentration of non-residential development in the vicinity of the CTH F interchange, the Willow Glen interchange, and Delafield Road adjacent to Willow Glen Road.

The Town does not rezone lands in anticipation of their development for non-residential purposes. Businesses that require rezoning or conditional use permits must file applications that are evaluated by both the County and the Town on a case-by-case basis. To provide the greatest degree of protection to the Town's existing rural character, the Town intends to continue this practice, examining all applications for rezoning or conditional use to determine whether they are consistent with the Town's adopted plan, goals, and policies and with protection of public health, safety, and welfare in the Town for years to come. The Town discourages the establishment of any business that could be expected to have a negative impact on the rural character of the Town of Concord. The Town of Concord will not support approval of new business enterprises if those businesses can reasonably be expected to have undesirable direct or secondary impacts for the public health, safety, and welfare of the community in the immediate vicinity or in the Town as a whole. Such undesirable secondary impacts include, but are not limited to, vibration, light, noise, odors, hazardous materials, heavy traffic (volume or weight), criminal activity, etc. See the performance criteria in the Town hamlet land use category.

The Town understands that a resident homeowner may wish to apply for a conditional use permit to conduct a home occupation. The Town is supportive of such applications and will work with the County to enable such uses if in compliance with the County zoning regulations on home occupations.

The establishment of secondary businesses associated with farm products and services—such as riding stables and value-added production from local produce (jams, etc.)—is another way that Concord's local economy could be enhanced while retaining the Town's rural character. The Town does not support rezoning from A-1 outside the Town hamlet for business purposes.

## **8.E. Background Information**

### ***Economic Base***

Historically, agriculture was the economic mainstay in the Town of Concord after the first Yankee settlers arrived in the 1830s and 1840s from New England and the East, followed by immigrants from Europe. In 2022, the vast majority of the land in Concord is devoted to agricultural uses, principally the growing of corn and cool-weather crops.

There is very heavy demand for any farmland that is available to lease, an indication of the continuing strength of farming in Concord. Although much of the land in Concord is farmed, agriculture is by no means the largest employer of Concord's residents. According to 2000 American Community Survey data, only 3% of Concord's residents list farming, fishing, forestry, hunting, or mining (collectively) as their occupation (see Figure 1-8 and Figure 1-9). The large amount of land devoted to farming, combined with the relatively small number of residents indicating farming as their source of income, strongly suggests the following: (1) more agricultural lands are in large-scale farms, and there are fewer farmers; and (2) many residents whose

**Lot Splits in the A-1 and A-3 Districts**

*(See Appendix B for current A-1, A-2, and A-3 land use policies from the 1999 Jefferson County Agricultural Preservation and Land Use Plan.)*

The major concern at the time of this writing is the potential impact of lot splits permitted in the A-1 zoning district on the land use patterns, traffic flow, and rural character of the community. The *Jefferson County Agricultural Preservation and Land Use Plan*<sup>3</sup> provides for a maximum of 521 additional lot splits for new housing units.<sup>4</sup> Assuming 2.67 persons per household, an exercising of all available lot splits could result in as many as 1,391 additional residents. This could increase the population from its year 2000 level of 2,023, to 3,414 and would irrevocably alter the rural character that residents cherish. Although there is no policy currently in place to either limit or regulate the rate of development on these available splits, under Jefferson County zoning Concord is allowed to further reduce lot splits to address this problem. A citizen questionnaire conducted in November 2008 indicated that of 255 respondents, 138 (54.7%) supported limiting lot splits, and 113 (45.3%) did not support limiting lot splits.

**A-2 Agricultural Business District Policies**

*(See Appendix B for current A-1, A-2, and A-3 land use policies from the Jefferson County Agricultural Preservation and Land Use Plan.)*

A small portion of the land in the Town of Concord is zoned A-2 Agricultural Business District under the Jefferson County Zoning Ordinance.<sup>5</sup> This district provides for agricultural businesses that are related to the sustainability and productivity of agriculture in Jefferson County. The only residential use permitted in the A-2 District is “farm labor housing,” which is to be occupied exclusively by employees or families of employees on farms in Jefferson County. Jefferson County has set forth detailed policies regarding the A-2 District in the *Jefferson County Agricultural Preservation and Land Use Plan*.<sup>6</sup> One of these policies states that all uses in the A-2 District should be considered conditional uses and should require a conditional use permit. A second policy is that all non-agricultural structures in the A-2 District should be subject to site plan review to evaluate the proposed building and driveway locations with respect to impact on prime farmland.

Criteria for evaluating proposals for rezoning land from A-1 Exclusive Agricultural to A-2 Agricultural Business are also included in the County Plan. One of these criteria is that access to the land proposed for rezoning from A-1 to A-2 should be either from a public road or from a new private access drive that does not divide an existing field. The Town of Concord is in agreement with these A-2 District policies from the *Jefferson County Agricultural Preservation and Land Use Plan*, and they are hereby incorporated as part of the overall policy framework in the Town of Concord Comprehensive Plan.

<sup>3</sup> *Jefferson County Agricultural Preservation and Land Use Plan* (Jefferson County, October 1999), pp. 88–91.

<sup>4</sup> Information from the Jefferson County Zoning Office 11-21-2006 (see Appendix B).

<sup>5</sup> *Jefferson County Zoning Ordinance No. 11* (Jefferson County Effective January 15, 1975, Last Amended September 11, 2006), pp. 20–21.

<sup>6</sup> *Jefferson County Agricultural Preservation and Land Use Plan* (Jefferson County, October 1999), pp. 91–92.