

RESOLUTION NO. 2024-____

Referring Petition R4379A-22 to the Planning & Zoning Committee for further proceedings consistent with the Court's order in Jefferson County Case No. 22CV334, *Defend Town Plans, U.A., et. al. vs. Jefferson County Board of Supervisors*

Executive Summary

In April 2022, Jefferson County Board of Supervisors adopted a zoning ordinance, following approval of the Town of Concord, which rezoned approximately 7.4 acres of land located in the Town of Concord from *A-1 Exclusive Agriculture* to *A-2 Agricultural & Rural Business* at the landowner's request per Petition R4379A-22. A group of individuals organized under the name Defend Town Plans, U.A. subsequently filed a certiorari action in Jefferson County Circuit Court seeking to invalidate the rezoning ordinance alleging the County did not and could not as a matter of law find the proposed rezoning was consistent with the County's comprehensive plan as required by Wis. Stat. §91.48. The Circuit Court found the County failed to make the findings required by Wis. Stat. §91.48 but did not address the consistency argument and vacated the rezoning ordinance.

Jefferson County subsequently appealed the Circuit Court's decision. The Court of Appeals issued a decision on October 17, 2024, which affirmed but modified the Circuit Court's decision. The Court of Appeals agreed with the Circuit Court's determination that the County failed to articulate the findings required by Wis. Stat. §91.48 for a rezone out of a farmland preservation zoning district. However, the Court of Appeals disagreed with the Circuit Court's determination as the appropriate remedy. Specifically, the Court of Appeals found because failing to articulate the findings was an error that could be potentially cured, the County should be given an opportunity to make the findings required by Wis. Stat. §91.48. In rejecting Defend Town Plans' arguments that remand would be futile, the Court of Appeals noted a comprehensive plan is an advisory guide to development rather than a rigid set of rules and found "consistency with the county's comprehensive plan is quintessentially an assessment for the county to make..."

In accordance with the Court of Appeals decision, on November 20, 2024, the Circuit Court issued an order remanding the matter back to the Board of Supervisors for further proceedings consistent with the appellate decision. This resolution refers Petition R4379A-22 back to the Planning & Zoning Committee for further proceedings to consider the findings required per Wis. Stat. §91.48 and make a recommendation to the County Board regarding the proposed rezoning.

WHEREAS, the Executive Summary is incorporated into this resolution, and

WHEREAS, the Court has ordered Jefferson County to engage in additional proceedings as to Petition R4379A-22 consistent with the requirements of Wis. Stat. §91.48, and

WHEREAS, pursuant to Wis. Stat. §59.69, the Planning & Zoning Committee, as the County's designated zoning agency, is the appropriate body to recommend whether a rezoning ordinance should be approved or disapproved based upon the record, and

NOW, THEREFORE, BE IT RESOLVED Petition R4379A-22 is referred to the Planning & Zoning Committee for further proceedings consistent with the requirements of Wis. Stat. §91.48.

BE IT FURTHER RESOLVED, the Planning & Zoning Committee shall report its findings and recommendations to the County Board of Supervisors.

Fiscal Note: Passage of this Resolution has no determinable fiscal impact.

Strategic Plan Reference: None

Referred By:
Court Order

12-10-2024

REVIEWED: Corporation Counsel: DHT ; Finance Director: 