

FILED
02-19-2024
CLERK OF WISCONSIN
COURT OF APPEALS

WISCONSIN COURT OF APPEALS
DISTRICT IV

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

Petitioners-Respondents,

v. Appeal No.: 2023AP001996
Circuit Court Case No.: 2022CV000334

JEFFERSON COUNTY BOARD OF SUPERVISORS,

Respondent-Appellant,

APPENDIX OF RESPONDENT-APPELLANT

Appeal from the Circuit Court for Jefferson County
The Honorable William V. Gruber, Presiding
Trial Court Case No. 2023CV000334

JEFFERSON COUNTY
CORPORATION COUNSEL
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FILED
10-14-2022
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

STATE OF WISCONSIN

CIRCUIT COURT

JEFFERSON COUNTY

DEFEND TOWN PLANS, U.A.,
an unincorporated Wisconsin association,
N6240 Stonewood Drive
Watertown, WI 53094,

DALE KONLE
N6240 Stonewood Drive
Watertown, WI 53094,

KIM VERHEIN HERRO
N5391 Golden Lake Park Road
Oconomowoc, WI 53066,

KIMBERLY A. MILLER
N6240 Stonewood Drive
Watertown, WI 53094,

ROBERT GARTZKE and
KAREN GARTZKE
W1363 County Road B
Watertown, WI 53094,

and

SALLY J. WILLIAMS
W2403 North Side Drive
Watertown, WI 53094

Petitioners,

SUMMONS

v.

30955: Petition for Writ of Certiorari

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

Respondent.

THE STATE OF WISCONSIN:

To the Party named above as Respondent:

You are hereby notified that the Petitioners named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 311 South Center Avenue, Jefferson, Wisconsin 53549, and to Fredrikson & Byron, P.A., the Petitioners' attorney, whose address is 44 East Mifflin Street, Suite 1000, Madison, Wisconsin 53703. You may have an attorney help or represent you.

If you do not serve a proper answer within twenty (20) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

Dated this 14th day of October, 2022.

FREDRIKSON & BYRON, P.A.

By: Electronically Signed By: Mary Beth Peranteau
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FILED
10-14-2022
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

STATE OF WISCONSIN

CIRCUIT COURT

JEFFERSON COUNTY

DEFEND TOWN PLANS, U.A.
an unincorporated Wisconsin association,
N6240 Stonewood Drive
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N6240 Stonewood Drive
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KAREN GARTZKE
W1363 County Road B
Watertown, WI 53094,

and

SALLY J. WILLIAMS
W2403 North Side Drive
Watertown, WI 53094,

Petitioners,

COMPLAINT

v.

30955: Petition for Writ of Certiorari

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

Respondent.

Petitioners Defend Town Plans, U.A., Dale Konle, Kim Verhein Herro, Kimberly A. Miller, Robert Gartzke and Karen Gartzke, and Sally J. Williams, by and through their attorneys Fredrikson & Byron, P.A., as and for their Complaint for certiorari review of a decision of Respondent Jefferson County Board of Supervisors, hereby allege as follows:

PARTIES

1. Petitioner Defend Town Plans, U.A. (the “Association”) is an unincorporated nonprofit association organized and existing under the laws of the State of Wisconsin, having its principal business address at N6240 Stonewood Drive, Watertown, Wisconsin 53094.

2. Petitioner Dale Konle is an adult resident of the State of Wisconsin and President of the Association, who resides and is the owner of property located at N6240 Stonewood Drive, in the Town of Concord, Jefferson County, Wisconsin.

3. Petitioner Kim Verhein Herro is an adult resident of the State of Wisconsin and Secretary of the Association, whose address is N5391 Golden Lake Park Road, Oconomowoc, WI 53066.

4. Petitioner Kimberly A. Miller is an adult resident of the State of Wisconsin and Treasurer of the Association, whose address is N6240 Stonewood Drive, in the Town of Concord, Jefferson County, Wisconsin.

5. Petitioner Robert Gartzke is an adult resident of the State of Wisconsin and member of the Association who resides and is co-owner of property located at W1363 County Road B, in the Town of Concord, Jefferson County, Wisconsin.

6. Petitioner Karen Gartzke is an adult resident of the State of Wisconsin and member of the Association who resides and is co-owner of property at W1363 County Road B, in the Town of Concord, Jefferson County, Wisconsin.

7. Petitioner Sally J. Williams is an adult resident of the State of Wisconsin who resides and is co-owner of property within the A-1 exclusive agricultural zoning district, located at W2403 North Side Drive, in the Town of Concord, Jefferson County, Wisconsin.

8. Jefferson County (the “County”) is a subdivision of the State of Wisconsin and a body corporate under Section 59.01 of the Wisconsin Statutes, acting through Respondent, the Jefferson County Board of Supervisors (the “County Board”).

JURISDICTION

9. On June 21, 2022, Petitioners duly served the County Board with a Notice of Claim pursuant to Wis. Stat. § 893.80 setting forth the circumstances of their claim and demanded the relief requested herein.

10. On August 23, 2022, the County Board approved a resolution to disallow Petitioners’ claim, and on September 2, 2022, served notice of same on Petitioners.

11. This Court has jurisdiction to review the County Board’s decision under Wis. Stat. § 59.69(14) and common law certiorari principles.

CLAIM FOR CERTIORARI REVIEW

12. On February 9, 2021, the County adopted an updated Agricultural Preservation and Land Use Plan (the “Farmland Preservation Plan”). On or about February 12, 2021, the Farmland Preservation Plan was certified by the State of Wisconsin Department of Agriculture, Trade and Consumer Protection pursuant to Wis. Stat. § 91.16.

13. The Farmland Preservation Plan is incorporated into the Jefferson County Comprehensive Plan (the “Comprehensive Plan”) pursuant to Wis. Stat. § 91.10(2).

14. Section 11.04(a)6. of the County Zoning Ordinance, establishing the A-1 exclusive agricultural zoning district, is a certified farmland preservation ordinance within the meaning of Wis. Stat. § 91.48.

15. On November 18, 2021, Applicants Donald and Nancy Brunson filed a petition to rezone 7.4 acres of their 24-acre tax parcel no. 006-0716-1642-000 from the A-1 (Exclusive Agricultural) to A-2 (Agricultural and Rural Business) zoning district and for a conditional use permit to enable a proposed development consisting of ten barns to be used for boat storage on property located on County Road B in the Town of Concord (the “Rezone Petition”).

16. The parcel that is the subject of the Rezone Petition is located on the opposite side of County Road B from the residence of Petitioners Robert Gartzke and Karen Gartzke. The industrial scale of the development proposed by the Rezone Petition, night-time lighting and increased traffic poses a significant threat to the value and quiet enjoyment of the Gartzkes’ property.

17. The Jefferson County Planning and Zoning Committee held a public hearing on the Rezone Petition on February 17, 2022.

18. At a regular meeting on March 28, 2022, the Jefferson County Planning and Zoning Committee considered and voted to recommend adoption of a zoning ordinance amendment to rezone 7.4 acres of the Brunson parcel to remove it from the A-1 exclusive agricultural zoning district.

19. At its regular meeting on April 19, 2022, the Jefferson County Board considered and approved the Rezone Petition for the rezone of 7.4 acres of the Brunson parcel from A-1 to A-2 to permit the proposed storage facility development as a conditional use.

20. Section 91.48(1), Wis. Stats. and Section 11.11(c)6. of the County’s certified farmland preservation ordinance require the County Board to make certain mandatory findings in approving a rezone of property out of the exclusive A-1 agricultural zoning district, including but not limited to a finding that the rezoning is consistent with any applicable comprehensive plan

and that the rezoning is substantially consistent with the County's certified farmland preservation plan.

21. The County Board erred as a matter of law in approving the Rezone Petition without making any of the findings required by Section 91.48(1), Wis. Stats. and Section 11.11(c)6. of the County's certified farmland preservation ordinance.

22. The Comprehensive Plan, which by statute incorporates the provisions of the Farmland Preservation Plan, requires any rezone amendment to be consistent with the applicable town comprehensive plan.

23. The Town of Concord Comprehensive Plan (the "Town Plan") in effect at the time of the County's decision specifies that future commercial development shall be located within the rural hamlet designated in the County Farmland Preservation Plan, the boundaries of which are shown in Figure 7 of the Farmland Preservation Plan attached hereto as Exhibit A and incorporated herein by reference.

24. The Town of Concord Comprehensive Plan, excerpts of which are attached hereto as Exhibit B, and incorporated by reference, includes multiple statements emphasizing the goal of the Plan to limit future commercial development in the Town to property located within the mapped rural hamlet.

25. The County Board erred as a matter of law in approving the Rezone Petition in violation of Wis. Stat. § 66.1001(2m), which requires a rezone amendment to be consistent with the provisions of the Comprehensive Plan. The approved Rezone Petition authorizes commercial development outside the boundary of the Town of Concord rural hamlet and therefore directly contradicts the provisions of the Comprehensive Plan and Town Plan incorporated therein by reference.

26. The County Board failed to consider relevant factors and its approval of the rezone was an erroneous exercise of discretion.

27. The rezone was solely for the benefit of the Applicants and is not in the public interest considering the overall zoning plan, the use of the surrounding land and therefore constitutes illegal spot zoning.

WHEREFORE, Petitioners request that this Court:

1. Issue a Writ of Certiorari directed to Respondent Jefferson County Board, commanding that this Court be duly and fully certified of all proceedings of the County relating to the matters referred to in this Complaint, and further directing that the Respondent certify to the Court a true and correct copy of all files, correspondence, papers, audiotapes and digital files, agendas, minutes and other proceeding pertaining to the Petitioners' claims.

2. Upon return of such Writ, enter an order vacating the County Board's approval of the Rezone Petition.

Dated this 14th day of October, 2022.

FREDRIKSON & BYRON, P.A.

By: Electronically Signed By: Mary Beth Peranteau
Mary Beth Peranteau State Bar No. 1027037
44 East Mifflin Street, Suite 1000
Madison, WI 53703-2800
(608) 441-3832 direct line
mperanteau@fredlaw.com
Attorney for Petitioners

EXHIBIT A

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

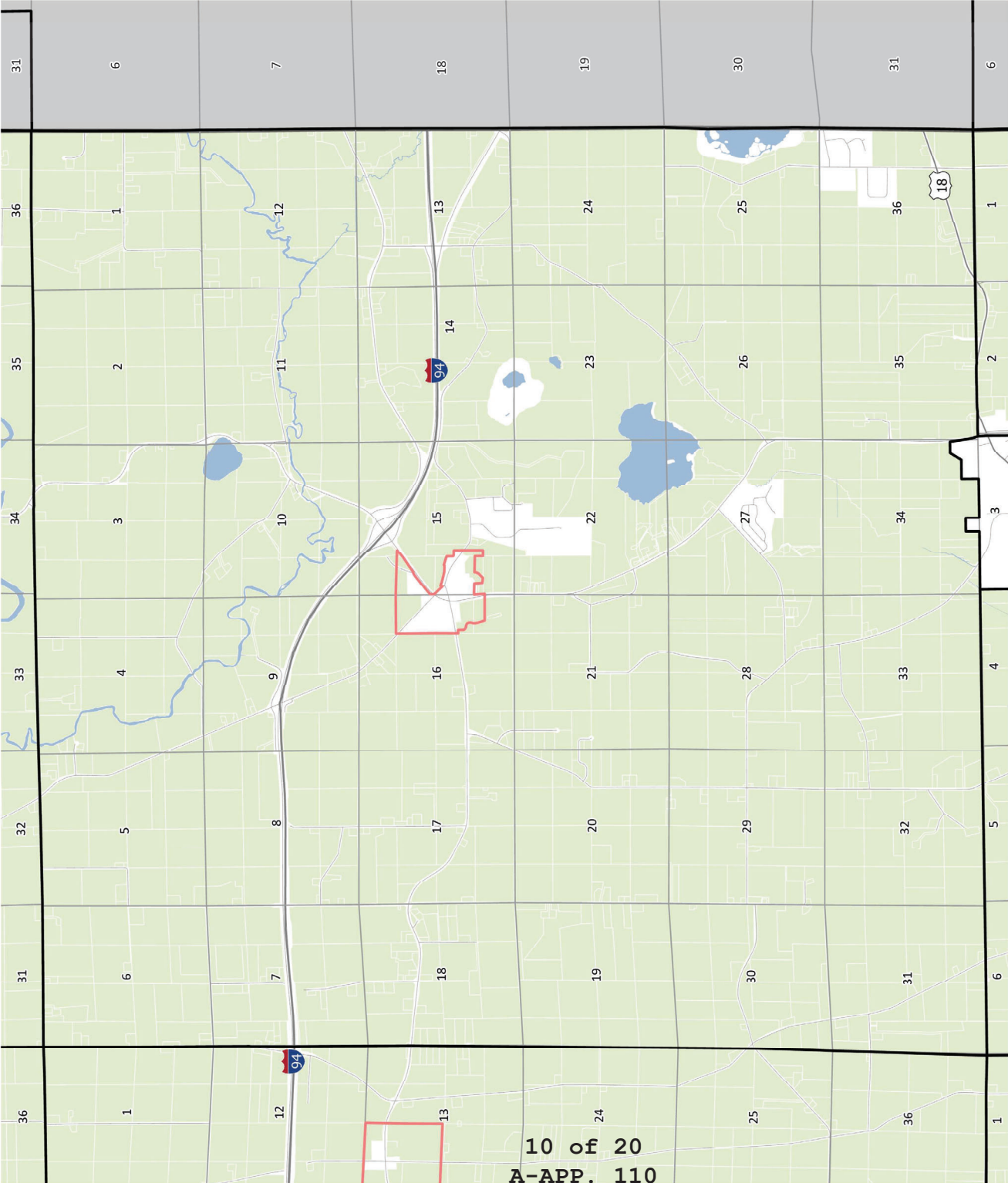


EXHIBIT B4 *Town of Concord Comprehensive Land Use Plan*

5. Town residents will continue to have easy and convenient access to I-94 at the CTH F interchange.
6. The Town will be characterized by housing that maintains the rural nature while providing an adequate supply to meet the needs and special needs of people of all income levels and age groups.
7. Housing needs for which solutions are not available, practical, or reasonable within the Town will be met through cooperation with surrounding communities.
8. The Town will have a multimodal transportation system that is safe, efficient, and convenient and is integrated with state, regional, and federal transportation plans.
9. The Town will have a transportation system that accommodates the needs of all Town residents including those with disabilities.
10. Town residents will have access to suitable utilities and community facilities. The Town will have in place agreements for shared services and consolidated facilities with adjoining governmental bodies when appropriate (e.g., fire protection, emergency services, etc.).
11. New business development will be characterized by small-scale, locally owned operations that are compatible with the Town's rural character and agricultural land use or that provide services satisfying a demonstrated local need that cannot be adequately met in the surrounding areas.
12. The Town will have cooperative, mutually beneficial relationships with local, county, state, and federal units of government (boundary agreements, snow-plowing agreements, etc.).
13. The foundation of Concord's *Comprehensive Land Use Plan* will be the 1999 *Jefferson County Agricultural Preservation and Land Use Plan* and its policies. The provisions in the County plan will be modified when necessary to further enhance the rural character of the Town.
14. The Town will have in place procedures to ensure public participation in resolution of future issues.
15. The Town will have in place zoning, ordinances, regulations, codes, and other means to implement the elements of the comprehensive plan. This will include a method of measuring compatibility of zoning with plan goals and a method of updating the plan.

1.B. Issues and Opportunities

The Town of Concord has geographic, demographic, economic, environmental, and other factors that result in the following issues and/or opportunities. For the purpose of this list, there is no meaningful reason to distinguish between an issue and an opportunity. Both issues and opportunities were considered in the development of this comprehensive plan.

1. The approval of a responsible comprehensive plan will control pressure for development and serve to maintain the Town's rural character, natural resources, and quality of life.

2. There is the potential for annexation of town land by neighboring communities. Avenues that the Town may use to address this issue include the use of boundary agreements, conservation easements, and purchase of development rights.
3. The City of Oconomowoc and the Village of Sullivan currently exercise extraterritorial plat review in portions of the Town of Concord (*see map 3, Appendix A*).
4. The proximity of Concord to the intense growth areas of Oconomowoc, Summit, and Johnson Creek presents unique challenges to the Town in its efforts to maintain the open space desired by the majority of Town residents and agriculture as the primary land use.
5. While the passage of Interstate 94 through the Town with a four-way interchange at CTH F provides residents with easy access to the large metropolitan areas of Milwaukee and Madison, it also has a significant influence on the Town in terms of traffic volumes and development pressures primarily from the east.
6. The State is proposing a park-and-ride lot at the I-94 / CTH F interchange on a piece of state-owned property on the northeast corner of the interchange between CTH-B and the westbound off-ramp at CTH F. This proposal was rejected by the Town Board in March 2004 and again in October 2008. Objections were that the Town would have had the responsibility and cost of maintaining the park-and-ride lot. The proposal is still in place, but the State cannot go forward with the project without a maintenance agreement in place. Citizen response to a questionnaire in November 2008 indicated that 59 percent of respondents do not support the creation of a park-and-ride lot in the Town under any circumstances. An additional 22 percent would support the proposal only if there was no cost or responsibility for the Town.
7. The “I-94 Corridor” and the I-94 / CTH F interchange present areas that may attract business development or more concentrated residential development. The overwhelming majority of citizen input prior to and throughout the planning process has been against development of this area or rezoning of this area to accommodate increased residential or business development.
8. The Town of Concord has one rural hamlet area that was defined by the 1999 *Jefferson County Agricultural Preservation and Land Use Plan*. Limiting future business development to this hamlet will help to cluster such development and limit its impact on rural residential and agricultural land uses.
9. There is concern that the type and amount of economic development be consistent with the Town’s rural character; therefore, development by large businesses or employers should be prohibited.
10. The Town does not have any public water or sewage treatment facilities, although a private sanitary sewer system serves Spacious Acres mobile home park. Because the Town plans to remain without public or private sanitary sewer service (with the exception of the Spacious Acres mobile home park) and without a public water supply, all new development must be able to properly provide for a private on-site wastewater treatment system and a private well.
11. The Community Center serves as a focal point for Town business, a polling location, an activity center, and more but still offers potential for additional uses.

6 *Town of Concord Comprehensive Land Use Plan*

12. The Town comprehensive plan must be compatible with the 1999 *Jefferson County Agricultural Preservation and Land Use Plan*,¹ with the understanding that the Town may be more restrictive but not less restrictive than the County plan in terms of limiting development. This would pertain primarily to the Town's ability to limit the maximum number of lot splits beyond what is allowed by the County plan.
13. Between 2000 and 2006 there was an average of eight new lot splits per year for building sites. If lot splits in Concord were to continue at that pace, the Town would experience an increase of 192 new home sites and 513 residents by 2025.
14. A major concern at the time of this writing is the potential impact of the lot splits permitted in the A-1 District on land use patterns, traffic flow, and the rural character of the community. The *Jefferson County Agricultural Preservation and Land Use Plan*² provides for a maximum of 520 additional lot splits for building sites on non-prime soils (data as of the end of 2006; see section G, Appendix B).
15. All planning must acknowledge that an extremely high percentage of the Town's land is designated as an agricultural preservation area or environmental corridor (see map 8, Appendix A).
16. In Concord, farming is both an economic pursuit and a lifestyle, with many people farming part-time.
17. Planning must take into account the need to protect ground and surface water quality and the need for open space to recharge the aquifer (see map 6, Appendix A).
18. The Town must be aware of the need to research cost-effective alternatives for the services it provides and to generate adequate revenue to cover rising costs associated with these services, particularly increased costs of road maintenance and repair.
19. Regular resurfacing of Town roads and maintenance options to extend road life and decrease maintenance costs are a primary concern as highway maintenance accounts for approximately 50 percent of the Town's annual budget.
20. Town residents have indicated a strong desire for bicycle, pedestrian, and equestrian trails.
21. When/if the population of the Town reaches the level set by state statutes at which it could consider the changes necessary to become a village, the Town will need to explore the advantages/disadvantages of a town form of government versus a village form of government.

1.C. Demographic and Background Information

With the exception of population projections, which were created by the Wisconsin Department of Administration, all information contained in this section of the plan was taken directly from the 2000 U.S. Census and other years as noted.

¹ *Jefferson County Agricultural Preservation and Land Use Plan* (Jefferson County, October 1999).

² *Ibid.*, pp. 88–94

Chapter 8: Economic Development Element

This element was drafted by Vanessa Kuehner, AICP (consultant to the Town of Concord).

8.A. Vision Statements

1. The Town's rural character and quality of life will be retained.
2. The vast majority of the land in the Town will remain in agricultural use for the foreseeable future (*refer to Chap. 10: Land Use Element*).
3. There will be limited zoning for non-farm business uses.
4. The rural character of the Town will be defined by contiguous areas for the continuation of farming and protection of its natural resources.
5. The rural quality of life enjoyed by Town residents will be characterized by continued low traffic volumes and limited scale of development.
6. The Town will have in place guidelines enabling it to make responsible decisions with regard to proposals for new business development and expansion of existing businesses in the Town.
7. New businesses will be small-scale, locally owned operations that are compatible with the Town's rural character and agricultural land use.

8.B. Strategies

1. The Town will support the successful operation of small-scale home occupations and locally owned, independent businesses while acknowledging that the Town does not act as an employment center at this time, nor does it intend to become one in the future.
2. The Town will encourage and promote agriculture as the predominant land use in the Town and support agricultural economic activity that enhances farm income.
3. The Town will encourage the conduct of direct farm marketing (and value-added products on a limited scale) to supplement household incomes and provide a greater sense of community and vitality to the Town of Concord.
4. The Town will support Town residents' utilization of federal, state, and county programs that provide education on agriculture-related tourism, crop diversification, and carrying out promotional events and will provide information regarding such programs when available.
5. The Town will evaluate conditional use applications and rezoning requests for new and expanding business ventures in relation to the anticipated impact on the Town's rural character and quality of life.
6. The Town will discourage the establishment of any businesses that would reasonably be expected to have a negative impact on the rural character of the Town of Concord and es-

establish conditions of approval that fully mitigate any negative impacts of business operations for which permits are granted.

7. The Town will not rezone lands *in anticipation* of their development for non-residential purposes. Businesses that require rezoning or conditional use permits must file applications that will be evaluated by both the County and the Town on a case-by-case basis.
8. The Town will 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.
9. The Town will limit the establishment of new businesses to areas within the Town of Concord rural hamlet as defined by the 1999 *Jefferson County Agricultural Preservation and Land Use Plan* (see map 10, Appendix A). An exception to this would be home occupations that operate under the current Jefferson County zoning guidelines.¹
10. The Town will not support expansion of the current rural hamlet or creation of new rural hamlet areas within the Town.
11. The Town will develop a land use plan for the current rural hamlet area as required by the 1999 *Jefferson County Agricultural Preservation and Land Use Plan* which states: "Towns with designated rural hamlets should be required to prepare development or land use plans for the designated rural hamlets..."² This plan will include a revised list of conditional uses acceptable in the Community District which is the primary zoning for the rural hamlet area. (see 8.C. for further discussion).
12. The Town will severely limit any 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. Future requests that involve further non-residential development in the Town, outside the identified rural hamlet area, will be carefully considered through the plan amendment process detailed in the Implementation Element of this plan.
13. The Town will prohibit development within environmental corridors, on steep slopes, or where wetland filling would be required.
14. The Town will establish strict regulations on any non-residential development that has the potential to interfere with agricultural practices or to contaminate ground or surface water.

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. In terms of economic development, it must be noted that the Town has considered the value of the Willow Glen Road partial interchange and concludes that the removal of this interchange would not be detrimental to the economic well-being of the Town during the life of this plan. 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

¹ *Jefferson County Zoning Ordinance No. 11* (Jefferson County, Effective January 15, 1975, Last Amended September 11, 2006), pp. 5 and 18–24.

² *Jefferson County Agricultural Preservation and Land Use Plan* (Jefferson County, October 1999), pp. 99.

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 zoning³ in agricultural, residential, and community zoning districts, provided they oper-

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

Chapter 10: Land Use Element

Credit to Larry Oliverson and Dale Konle, who originally drafted and presented this element.



10.A. Vision Statements

1. The official guide for land use planning in the Town of Concord will be the *Town of Concord Comprehensive Land Use Plan*.
2. The Town will have a comprehensive plan that provides a distribution of various land uses both now and in the future that protects the Town's natural resources, especially prime agricultural soils, wetlands, floodplains, upland woods, wildlife habitats, state-designated natural areas, rivers, and surface waters.
3. The Town's current infrastructure capacity, including road, fire, emergency services, and other public services and facilities, will be adequate to serve development through the life of this plan.
4. The rates of commercial and residential development in the Town will remain at or below the levels the Town has experienced in the last 10–15 years.
5. The rural character of the Town and the quality of life enjoyed by the current residents of the Town will not be compromised by excessive new residential or commercial development.
6. The primary land uses in the Town of Concord will remain as agriculture, open space, and natural environmental features.
7. Agricultural land use will not be compromised by establishment of land uses that are incompatible with farming.
8. The Town will support stringent requirements for CAFOs (Concentrated Animal Feeding Operations) and any other livestock facility that may have adverse environmental effects.
9. All new non-residential development will be limited to the hamlet area.
10. The existing rural hamlet as defined by the 1999 *Jefferson County Agricultural Preservation and Land Use Plan* will remain as it is, and no new hamlets will be created.

Drive, CTH E, and CTH B is 120 acres in size. Currently approximately 33 percent of the acreage in the hamlet is developed with the following land uses: residential (36 acres), commercial (1.5 acres), industrial (1 acre), and public institutional (1.1 acres). The remaining 80 acres is currently in agricultural use or is open uncultivated land and has the potential to be rezoned and developed for residential or commercial land uses.

Residential use covers only 4.4 percent of the Town's land area, according to Jefferson County data. A large portion of the residential land use in the Town is located in rural residential subdivisions and the Spacious Acres mobile home park. Scattered large lot and farm homes make up the remaining residential acreage (*see map 18, Appendix A*).

Environmental Corridors and Floodplains

Environmentally significant features found within the Town include wetlands, woodlands, and steep slopes. Together, the wetlands and woodlands impart many benefits for the natural environment and the residents of the Town. These environmentally significant features have been classified as environmental corridors (*see map 8, Appendix A*). The environmental corridor areas contribute significantly to the rural atmosphere that most area residents desire. The corridors provide natural habitat for wildlife, preserve the purity of our drinking water, and serve to maintain integral portions of our ecosystem.

Due to the negative impacts that occur with significant flooding, land areas that typically flood during the 100-year rain event are identified as lands within the 100-year floodplain (*see map 7, Appendix A*). The lands within the floodplain should be protected from future development to limit flood damage to houses and structures. Many farmers depend on the crop yield from their land that is within the floodplains, and they understand the potential impact of the large storms on their crop yield in these areas.

10.E. Land Use Trends

Consistent with the relatively slow growth in the Town of Concord's population over the last 20 years, there has been little change in the overall land use pattern. A cluster of business uses and activities has remained in the hamlet and along Concord Center Drive with the exception of established home occupations that are located throughout the Town. The highest residential densities remain confined to the area near the hamlet; in the Ruders, Union Hill, and Golden Lake Park View Subdivisions in the southeastern corner of the Town; and in a mobile home park located in the southern part of the Town. The residential growth has primarily taken the form of single-family, one- or two-story houses with attached garages located throughout the Town along existing roadways. The majority of the lots for the new residential uses were created from land formerly zoned as agricultural land, following the allowable agricultural land division policies of Jefferson County.

Agricultural Trends

As noted in “Chapter 5: Agricultural Resources Element,” approximately 90 percent of the entire Town consisted of agricultural land and open land in 1996. Currently 51.2 percent of the land uses within the Town are directly related to agriculture, and 38.4 percent is open land, for a decrease of 0.4 percent or 93 acres. Despite the loss of 93 acres of farmland and open space since 1996, the core agricultural uses remain very strong in Concord.

Public, Commercial, and Residential Trends

Public and institutional uses in the Town of Concord include the old Town Hall, Community Center, Town Garage, salt shed, and the churches, parks, and cemeteries. These serve the community in a variety of ways. The old Town Hall is used by the Concord Historical Society. The Concord Community Center is the location of Town meetings and has many other community uses including rental options.

Commercial enterprises in Concord are limited, small in scale, and locally owned. As noted in “Chapter 8: Economic Development Element,” commercial and business activities consist of an inn, a general store, a tavern, automotive repair shops, towing, HVAC, and a good variety of other small-scale, locally owned operations. This is not unusual in a predominantly rural community that lacks public sewer and water. It is anticipated that future commercial development will be minimal and small in scale and will continue to be located in the hamlet adjacent to properties currently utilized for business purposes.

Concord plans to remain without public sanitary sewer service and without public water. Future changes in land use patterns will be directed by the *Town of Concord Comprehensive Land Use Plan* and the *Jefferson County Zoning Ordinance*. 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 future land use for the hamlet. As noted in “Chapter 8: Economic Development Element,” the Town of Concord will develop a revised list of conditional uses for the Community zoning district in conjunction with the development of a land use plan for the rural hamlet area.

Much of the surrounding farmland is zoned A-1, which permits a certain number of lot splits for residential development based on prime or non-prime soils and road access. Factors such as road improvements and road extensions also affect the location of growth.

10.G. Year 2025 Population Projections and Future Land Use

Population Projections

As noted in “Chapter 1: Issues and Opportunities Element,” the population in Concord increased from 1,884 in the year 1990 to 2,023 in the year 2000. This represents an increase of 139 residents for a population growth of 7.4 percent over 10 years. Six separate population projections are identified that project population growth in the Town for the 25-year period from 2000 to 2025. These projections are summarized in Table 10-2 on the following page.

PETITION TO AMEND ZONING ORDINANCE

FILED

R-13799A-22

Clerk of Circuit Court

Cindy R. Hamre Incha

2022CV000334

TO: JEFFERSON COUNTY CLERK
JEFFERSON COUNTY BOARD OF SUPERVISORS

PETITION NO. _____

THIS PETITION, MADE UNDER AND PURSUANT TO PROVISIONS OF §59.97(5)(e)1, WISCONSIN STATUTES, REQUESTS THE JEFFERSON COUNTY BOARD OF SUPERVISORS TO AMEND THE ZONING ORDINANCE OF JEFFERSON COUNTY.

The Boat House of Lake Country REQUEST THAT THE ZONING MAP OF THE TOWN OF Concord

(Petitioner's Name-Please Print)

BE AMENDED TO CHANGE THE ZONING CLASSIFICATION OF THE PROPERTY DESCRIBED

FROM A-1 DISTRICT TO A-2

PROPERTY DESCRIPTION

Tax Parcel/
PIN Number 006-0716-1642-000 Property
Address W1432 County Road B, Sullivan WI 53178

Subdivision _____ Lot _____ Block _____ CSM _____ Vol. _____ Page _____

Parent Parcel Size _____ Present Use _____

PROPERTY OWNER(S)

Name Donald & Nancy Brunson Address W1432 County Road B, Sullivan WI 53178
Street _____ City _____ St. _____ Zip _____
Phone Number 920-751-9185 262 3911886 E-Mail Address _____

PLEASE ATTACH THE FOLLOWING WITH YOUR COMPLETED APPLICATION FORM. *Failure to submit a completed application that includes the below-mentioned items could delay scheduling your petition for the next public hearing.* All pages including plot plan to be no larger than 11" X 17".

1. Preliminary Certified Survey delineating proposed land division.
2. Reasons for rezoning, evidence that the rezoning meets the Jefferson County Agricultural Preservation and Land Use Plan and Jefferson County Ordinances.
3. Type of use proposed and structures needed.
4. Land modifications necessary.
5. If rezoning from A-1 or N, please refer to the standards for approval on the reverse side of this application.
6. Town Board decision.
7. Other pertinent information such as proposed road access, extraterritorial plat review, etc.

REZONING HEARING FEE IS \$300, PRELIMINARY CSM REVIEW FEE IS \$50, and ADMINISTRATIVE FEE FOR REZONING OUT OF THE A-1 DISTRICT IS \$100. Soils Report by Certified Soil Tester and a Final Certified Survey Map May Be Required Following Approval. *Keep a copy of the application and attachments to give to the Town.*

PETITIONERS/OWNERS UNDERSTAND THAT NOTICE OF PUBLIC HEARING WILL BE SENT TO THEM, TO TOWNSHIP OFFICIALS, COUNTY BOARD SUPERVISOR FOR THE AREA OF REZONING, AND PROPERTY OWNERS ACCORDING TO SEC. 11.15 OF THE ZONING ORDINANCE. 1/4 mi

AS PETITIONER/OWNER, I UNDERSTAND THAT I MUST CONTACT TOWNSHIP OFFICIALS AND ATTEND A TOWN BOARD/TOWN PLAN COMMISSION MEETING(S) ON THIS MATTER PRIOR TO THE COUNTY'S PUBLIC HEARING; I UNDERSTAND THAT I MUST ALSO ATTEND THE COUNTY'S PUBLIC HEARING OR SEND AN AGENT TO REPRESENT ME.

[Signature]
(Signature of OWNER)

11-18-21
(Date)

(Address, if Different From Above)

DocuSigned by:

Boathouse/Jesse M Gaengel

DBF3B1058AE3453...

DocuSigned by:

Boathouse/Jesse M Gaengel

PDFB04050AE0463...

(Signature of PETITIONER)

(Date)

The Boat House of Lake Country N7536 Sterlingworth Drive, Elkhorn WI 53121

(Address, if Different From Above)

Extraterritorial _____

County Board Supervisor Jeff Johns (11)

Decision Sheet Sent to Town on 11/30/21

JEFFERSON COUNTY
PRELIMINARY REVIEW FOR CERTIFIED SURVEY

A Division of land located in the NW 1/4 of the SE 1/4 of Section 16, Township 6 N, Range 17 E, Town of Concord, Jefferson County, Wisconsin, on Parcel Number 006-0716-1642-000

Owner/Petitioner: Donald & Nancy Brunson (A-3 Zone)
Address: W1432 County Road B
Sullivan, WI 53178
Phone: 262 391-1886

In addition to the info required by Sec 236.34 of State Statutes, Sec. 15.04(f) of the Jefferson County Land Division/Subdivision Ordinance requires that the following be shown:

Date Submitted: _____
Revised: _____

Petitioner: The Boat House of Lake Country (A-2 Zone)
Address: N7536 Sterlingworth Drive
Elkhorn, WI 53121
Phone: 262 742-3898

☐ Existing buildings, watercourses, drainage ditches and other features pertinent to the proper division.

☐ Location of access to a public road, approved by the agency having jurisdiction over the road.

☐ All lands reserved for future public acquisition.

☐ Date of the map.

☐ Graphic Scale.

Note to Be Placed on Final CSM

Petition # _____ Zoning _____

Check for subsequent zoning changes with Jefferson County Zoning Department.

Surveyor: **SOUTHWEST**
SURVEYING & ASSOCIATES, Inc.
P.O. BOX K, PALMYRA, WI. 53156
920-674-4884
262-495-4910

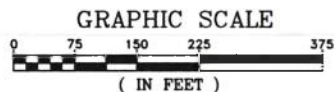
☒ Rezoning

☐ Allowed Division within Existing Zone

☒ Farm Consolidation (A-3 Zone)

☐ 35+ Acre Lot in A-1 Zone

☐ Survey of Existing Parcel



Intent and Description of Parcel to be Divided:

Create one 2.0± Acres A-3 Zoned Farm Consolidation Parcel around existing buildings.
Create one 7.4 Acres A-2 Zoned Parcel with Conditional Use for inside boat storage.



NOTE:

This map was compiled from public data supplied by the Jefferson County Land Information Department and is not a substitute for an actual field survey and is limited by the quality of the data from which it was assembled. The dimensions are approximate and will vary upon an actual field survey. To be used for planning purposes only.

Town Board Approval _____
(Includes Access Approval If Applicable)

Date: _____

County Highway Approval _____
(If Applicable)

Date: _____

Extraterritorial Approval _____
(If Applicable)

Date: _____

County Surveyor Approval _____

Date: _____

Zoning Office Approval _____

Date: _____

SHEET 1 OF 1
DATE: NOVEMBER 11, 2021
JOB NO: B-221132

Please submit one copy to Jefferson County Zoning, Room 201, Courthouse, 230 S. Main St. Jefferson Wisconsin 53549

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*³ provides for a maximum of 521 additional lot splits for new housing units.⁴ 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.⁵ 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*.⁶ 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.

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

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

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

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

As a result:

Three zoning issues for which the plan called for the creation of zoning ordinances by the Town have been reworded to reflect that the Town policy will be more restrictive than the County in these areas in accordance with our Comprehensive Plan, but the Plan no longer directs the Town to create ordinances.

The issues are:

- Limiting lot splits on non-prime soils
- Restricting conditional uses in the Community Zoning District
- Developing guidelines for the location and operation of large scale farming operations

Limiting lot splits

The Comprehensive Planning Questionnaire sent out November, 2008 gave the following information regarding lot splits:

“Many parcels of agricultural land in Concord qualify for Splitting off up to 6 acres for up to 3 residences under Jefferson County zoning rules. The County zoning department estimates Concord could add an additional 520 residences under these rules. This would increase Concord's present 757 households by 72%. Under County zoning rules Concord is allowed to be more restrictive. Because of the significant impact of such a large housing increase, it has been proposed that Concord limit the new residences to 2 instead of 3 but *not change* the allowable six acres

that can be split off. This would reduce the increase in new households by a third to 346 but allow for larger lots.”

Results of Lot Split Question

Do you support reducing the maximum number of lot splits on agricultural land Zoned A-1 from three splits to two splits?

- a. Support limiting lot splits: 138 (54.7%)
- a. Do not support limiting lot splits: 113 (45.3%)

Menu

Home

Concord's limiting of land splits stems from the vision put forth by the Town of Concord Comprehensive Plan.

The plan was over three years in the making, being developed almost entirely by Concord citizens under the authority of Wisconsin's Comprehensive Planning Law (S.66.1001, Wis. Stats.). Various people who live in Concord volunteered to write almost all of the chapters. Vanessa Kuehner from the firm Ruekert-Mielke was hired to guide our progress. Steve Grabow of the University of Wisconsin Extension was a tremendous help. More than 40 citizens participated in the plan creation process. Bill Ingersoll, a town board supervisor at the time, was the only officially appointed member of the group that created the plan. Visioning sessions were held, and each chapter of the plan was discussed at the monthly meetings as it was being developed.

The rural quality of life in Concord was established to be very important to most citizens. One of the final steps in the planning process was to mail a questionnaire to every household in Concord. The poll results came back with 54% in support of limiting the land splits.

[Here is a link to a slide show that describes the Concord plan development process.](#) (4.4mb pdf)

[Here are many more details of the month-to-month meetings that were held while creating the plan.](#)

The plan was adopted by the [Concord Town Board on July 13, 2009](#), and was set to take effect on November 1, 2009. Since the plan went into effect, lot splits have been limited to two, with the procedure for determining this based on the Jefferson County comprehensive plan. The following quote from the implementation chapter (p. 87 of the paper copy or p. 97 of the electronic copy of the Concord town plan) describes how the Concord Planning Committee is to evaluate Concord petitions for parcel splits zoned A-3 by Jefferson County.

"The Town will use the procedure established by Jefferson County in the 1999 Jefferson County Agricultural Preservation and Land Use Plan pg. 88-941 to determine "parent parcels" and the number of potential A-3 building sites available. However, the Town will allow a maximum of only two A-3 lots to be created on a non-prime parcel as opposed to the three-lot maximum allowed by the County. The Town would allow a maximum of 6 total acres to be used for the two A-3 lots with the minimum lot size being one acre. Under this procedure, the Town Plan Commission would grant only two petitions for the creation of A-3 lots from a non-prime parent parcel. It will be the responsibility of the Plan Commission to contact the Jefferson County Zoning Department when a petition to create an A-3 parcel comes before them. If the Jefferson County Zoning Department already has two approved petitions for the creation of A-3 building sites on record for the parcel in question, the Plan Commission will reject the petition to approve a third A-3 building site (also see sections 2.B., 2.C., 5.B., 10.B., 10.C., and 10.G.)."

Town of Concord Comprehensive Plan

CHAPTER 17

ZONING

17.01 Jefferson County Zoning Ordinance Adopted

17.01 JEFFERSON COUNTY ZONING ORDINANCE ADOPTED. The provisions of the Jefferson County Zoning Ordinance, passed December 10, 1974, are adopted by reference and made a part of this chapter as if set forth in full.

17.02 NONMETALLIC MINERAL EXTRACTION REGULATION AND CONTROL.

(1) LEGISLATIVE PURPOSE:

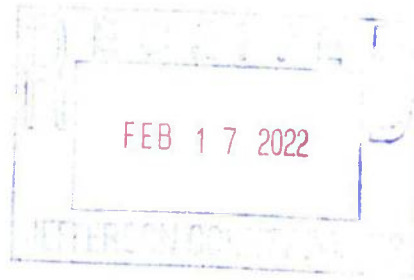
- (a) Purpose. The purpose of this ordinance is to regulate and control the operation of non metallic mineral extraction operations in the Town of Concord and to assure such operations are conducted in a manner that promotes successful operation consistent with the standards established in this chapter, as well as to address the health, safety, and welfare concerns of the Concord community
- (b) Definition; "Nonmetallic Mineral Extraction and Processing." Nonmetallic mineral extraction processing operations are conditional uses in Jefferson County, and include mining, quarrying, burrow pits, crushing, washing and other removal or processing of nonmetallic resources, the erection of buildings and the installation of necessary machinery used in said extraction or processing, and the preparation of hot-mix asphalt and ready mixed concrete.

(2) PROCEDURE FOR APPLICATION:

- (a) Permit: No nonmetallic mineral extraction operation shall take place within the Town of Concord until a conditional use permit application has been received, reviewed by the Town Plan Commission (Park and Planning), and approved by both the town board and appropriate Jefferson County zoning authority. Such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed three (3) years. To renew an existing permit the applicant shall mail the application at least sixty (60) and no more than one hundred twenty (120) days before the expiration of the original permit. Application after such date shall be treated as an original application. Permit renewal shall not be unreasonably withheld so long as (1) there is no uncured default existing at the time the permit renewal is either applied for or is granted by the Town and (2) the operator has not engaged in a pattern of flagrant and repeated violations of the terms of the permit during the prior term. Repeated violation shall mean three (3) or more separate violations of a similar nature which are identified by written notice from the Town Board. The permit may be rescinded after a public hearing before the Town Board and Plan Commission (Park and Planning) and a new conditional use permit will be required to resume operations. Any alleged violation of the permit shall be identified to the applicant and the property owner in writing, with particularity, and the applicant shall have thirty (30) days to cure such violation unless the violation will result in imminent harm to the health and safety of the Town of Concord neighbors immediately adjacent to the quarry in which case the operator shall take prompt actions to cure such violation. A cease work order may be issued by the Town Board for a violation of the permit and its applicable regulations which may result in imminent harm to the health and safety of those Town of Concord neighbors immediately adjacent to the mineral extraction operation. Such order shall be

Jefferson County Zoning Committee
Jefferson County Courthouse
311 S. Center Ave., Room 201
Jefferson, WI 53549

February 16, 2022



Dear Zoning Committee members,

I would like to request that you deny the Boat House's proposal to rezone 7.4 acres to A-2 and grant a conditional use permit for boat storage barns (Donald and Nancy Brunson, R4379A-22 and CU2108-22).

This proposal is inconsistent with the Town of Concord's Town Plan, which, for example, restricts new business development to the hamlet, does not support expansion of the hamlet, and restricts nonresidential development near the I-94 interchange, among other criteria—all in order to maintain a rural atmosphere, as citizens have requested. **This proposal is also inconsistent with our past practice**; decisions up until now have followed the Town Plan, with multiple A-2 proposals being turned down for this reason. Because of this, the Concord Plan Commission had voted 4-0 (with Lloyd Zastrow abstaining) to recommend that the Town Board deny this request.

Clear, specific criteria are essential to ensure fair, consistent decisions and clear communication with landowners. I as a Plan Commission member believed that our Town Plan provided us with some such criteria. Our town chair voted *against* this proposal because he is concerned that inconsistency and a lack of criteria could open the town and the county up to lawsuits.

Further, the Plan Commission does not regularly send notices to neighbors about rezoning and CUP requests; we sometimes informally contact neighbors, but in this case we did not because in the past the Town Board has always followed our Town Plan, and so we thought this was a straightforward "no." As a result, most neighbors were not aware of the change and could not provide input at the town level. I have since become aware of some significant neighbor concerns that I believe would have changed the Town Board's decision had they been aware of them at the time.

1. **Drainage:** There are concerns that the proposed retention pond is too small for the area being built up.
2. **Lighting:** The buildings are lit up all night, with very bright lights. Also, while the existing barns are relatively low-lying, the new barns would be on a hill, potentially resulting in more light spread. Agricultural barns usually have much less lighting, and so this lighting gives the boat storage barns a more "industrial" rather than "rural" feel (contradicting the key objective of our Town Plan, which is to maintain a rural atmosphere).
3. **Traffic obstruction:** When a boat is brought to the current barns, they must stop partially on the road to open the locked gate. The shoulder is not wide enough for a

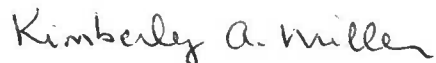
boat trailer with a pontoon to pull fully off the road. Sometimes three boats are brought at once, creating an extended obstruction (three trucks and three trailers). This creates an accident risk on a 55 mph road that is heavily used as a route to reach I-94.

Further, the neighbors indicated that when the existing barns first went in, they expected the boats to be taken out in spring and brought back in fall. Instead, boats are constantly being taken out and brought back, producing much more ongoing traffic than they had anticipated. (During the proposal for the current barns, the Boat House had in fact stated that boats would be moved only in spring and fall.) Were this proposal to be granted, there would be yet more traffic, resulting in more frequent road obstruction. The county would likely need to create a turn lane there.

Thus, the Town Board made this decision with very little community input, meaning they were unaware of the above issues, and with no clear criteria for why this proposal was approved when others were not. Some proposals that were denied would have been approved if the Town Board had been equally lenient with regard to the Town Plan. There is therefore a sense that this decision was affected by personal relationships, and that does not seem appropriate. I am sorry that the family selling the land is experiencing financial hardships, but I do not think that should override the impacts on neighbors and the preferences of the citizens as a whole, as expressed in our Town Plan.

Thank you for your work on the Zoning Committee and your attention to this matter!

Sincerely,



Kimberly A. Miller
Town of Concord Plan Commission member
N6240 Stonewood Dr.
Watertown, WI 53094
608-616-0535

Jefferson County Planning and Zoning Commission:

Re: R4379A-22 & CU2108-22

I respectfully ask that the Planning and Zoning Commission deny the request by the Boat House to rezone 7.4 acres to A-2 for the purpose of expanding their boat storage business to include 10 more large buildings. **This request is not consistent with the *Town of Concord Comprehensive Land Use Plan* or past Town Board decisions** as it creates a new commercial business venture outside the town hamlet. Because of its size and location, it would have a negative impact on the rural character and the quality of life of neighboring residents.

Past decisions regarding A-2 zoning requests in the Town of Concord have been consistent with the *Town of Concord Comprehensive Land Use Plan*. This Plan states the following in Chapter 8.B., Economic Development Element/Strategies: "5. The Town will evaluate conditional use applications and rezoning requests for new and expanding business ventures in relation to the anticipated impact on the Town's rural character and quality of life. 9. The Town will limit the establishment of new businesses to areas within the Town of Concord rural hamlet ... 10. The Town will not support expansion of the current rural hamlet or creation of new rural hamlet areas 12. The Town will severely limit any further concentration of non-residential development in the vicinity of the CTH F interchange..."

The Town has done well accommodating requests to rezone to A-2 in light of the criteria set forth in Chapters 8. The Town has approved a number of requests to rezone to A-2. These include (2) requests to enlarge existing A-2 zones for businesses which were longstanding in the Town (Stern – lumber business, and Popp – boat storage), (2) small A-2 zones to allow for the storage of contractor's equipment so that the resident homeowner could store equipment for a business which was operated off the premises (Ott – concrete equipment, Beres - landscape equipment), (1) request for A-2 for Agricultural Use - the use of the property was to remain the same but allowed sale of a parcel less than 35 acres (Anfang), (1) request for beekeeping (Kleefisch).

The Town has consistently denied requests for new commercial enterprises in A-2 zoning. Denials include a wedding barn, a landscape business with business operations and employees onsite, a kennel, a disc golf course, and a wrestling camp.

Aside from its inconsistency with the Town Plan and past decisions, the location of this requested A-2 zone in relation to nearby residential development makes the proposal unsuitable. When evaluating the initial proposal for the Boat House, the Plan Commission considered that the location was in the hamlet and that the land in question was below the grade of the roadway. With this in mind, and a request by the Plan Commission for buffering to screen the development from the road and surrounding properties, the Plan Commission and Town Board approved the proposal. The requested screening was never maintained and most of the trees have died. The remaining trees do not look very healthy. I would argue that the Boat House has not complied with this aspect of the CUP. Rather than being on lower ground, the proposed location of the new buildings is on a hill above the residential development to the north along Hwy E. A hilltop view of 10 large industrial type storage buildings would certainly have a negative impact for the nearby existing residential development. This is not an industrial area, but a rural community area.

So, on the basis of inconsistency with the Town Plan and previous town decisions and unsuitability of the site for this proposal, I ask that the County Planning and Zoning Commission deny this request.

If you choose to approve the request I would ask that the following conditions be attached to the CUP:

1. A requirement to establish a year-round green screen to obscure the whole development from existing residences to the north. Giant arborvitae might work. Plantings should be dense and mature to provide immediate screening.
2. Conditions on the type and brightness of nighttime lighting. Currently, the 5 existing buildings have extremely bright lights which are on all night long. This is not an industrial area, but a quiet rural area. Conditions to mitigate the nighttime light nuisance would be appropriate.

Thank you,

Sally Williams, Town of Concord

February 12, 2022

Jefferson County Courthouse
311 Center Ave.
Jefferson, Wi 53549

Gentlemen:

I am writing this letter to ask for your help in zoning for the Town of Concord.

I am a 30 year resident of the Town of Concord. I moved here from Milwaukee because, having lived on a farm when I was young, I wanted get back to my roots to a small , rural, agrarian hamlet – Concord.

Concord is a tight, but friendly community where everyone helps each neighbor.

We recently were approached by the Boat House for permission to build storage units on the Northern edge of our hamlet, Unfortunately, they were given permission by our board to do so without any input from local residents. Many residents are not in agreement with it, as that goes against the Town of Concord Comprehensive Plan.

Can you please help

FEB 14 2022

Several years ago I informed an elderly gentleman friend that his family would be receiving a heritage plate from the Concord Historical Society. I asked him if he would like me to type up a response from him. He looked thoughtful and said I would say, "We worked hard, helped our neighbors and went to church". Not much has changed in the Town of Concord and we want to keep it that way.

Sincerely,



Marian Speerless

Our Email is now turley sm2020@Gmail.com

FILED

02-16-2023

Clerk of Circuit Court

Cindy R. Hamre Incha

2022CV000334

TOWN OF CONCORD PLAN COMMISSION MINUTES

December 22, 2021

The meeting was called to order at 7:00 p.m. with Plan Commission members Lloyd Zastrow, Jim Gilbert, Carole Hoffmeister, Sally Williams, and Kim Miller present.

The meeting was opened with the Pledge of Allegiance.

Sally Williams stated that the meeting had been properly posted.

Kim Miller made a motion to approve the minutes from the October 27, 2021 meeting, seconded by Jim Gilbert. All approved. Motion passed.

Item 1: 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. Land in the 5-acre area is not currently being farmed. Sally made motion to recommend approval of the proposal as presented, second by Kim. All approved. Motion passed.

Item 2: Requests by Donald and Nancy Brunson

1. to create a 2-acre A-3 farm consolidation parcel around the existing home and buildings from a 24-acre A-1 zone at W1432 County Road B. Jim made a motion to approve, second by Sally. All approved, Motion passed.
2. 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. The purpose of this rezoning would be to expand the existing boat storage business on the property to the east. The Concord Comprehensive Plan states that the town would like all new business development to be in the hamlet, be small in scale, and locally owned. The Plan also states that the town does not want to increase the size of the hamlet. Contrary to the Town Plan, this proposal creates an area for new business development outside the hamlet and effectively increases the size of the hamlet. Additionally, the Plan Commission is reluctant to approve more storage buildings as that general area has quite a few already. We are currently updating the Comprehensive Plan and would like to set criteria for approval of businesses in the hamlet that would create more of a community feel – small scale and locally owned. We would also like to set criteria in the updated plan for approval of A-2 zoning and conditional uses. Since we are actively working on updating the plan now, it would make sense to postpone this request until we have completed the update. Sally made a motion to recommend denial of the rezoning, second by Kim. Sally, Kim, Carole, and Jim aye, Lloyd abstained. Motion passed.
3. 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. See discussion above. This proposal is for 10 more storage buildings, each 148' x 81'. The land in question is outside the hamlet, it increases the size of the business considerably when the intent of the Plan is to keep business small scale and locally owned. Buffering requested by the town for the existing buildings was never maintained. Also, there are already quite a few storage buildings built or approved for that general area. Sally made a motion to recommend denial of the CUP, second by Kim. Sally, Kim, Carole, and Jim aye, Lloyd abstained. Motion passed.

Item 3: Request by Gilside Farms to create a 2.0-acre A-3 lot from a 120-acre A-1 parent parcel across from N5354 Pioneer Dr., parcel # 006-0716-2942-000. Kim made a motion to recommend approval of the lot split as presented, second by Sally. All approved. Motion passed.

Item 4: Discuss Comprehensive Plan update. Larry Oliverson is getting quotes from a number of area planners.

With no further business, Sally made a motion to adjourn, second by Kim. Meeting adjourned.

Respectfully submitted, Sally Williams, secretary

FILED
02-16-2023
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

TOWN OF Concord

DATE:

2-14-2022

TO:

Jefferson County Planning and Zoning Committee

RE:

Jefferson County Zoning Petition No. R4379A-22

Filed by Donald and Nancy Brunson to create a 7.4-acre

A-2 zone from an A-1 zone at W1432 County Road B, PIN 006-

0716-1642-000.

The Town of CONCORD, having considered the above described petition

for which a Town meeting was held on Jan 10, 2022,

finds

FN

FAVOR

2

voters

to

1 opposed

When the Town submits this form to the Zoning Department, the petition can be scheduled for the next available Jefferson County Planning and Zoning Committee public hearing.

Signed

Dale Karl

, Town Chair

Attest

[Signature]

, Town Clerk

This document complies with Chapter 59.69, Wisconsin Statutes



Jefferson County

PLANNING AND ZONING DEPARTMENT
COURTHOUSE, 311 S. CENTER AVE., JEFFERSON, WI 53549
ROOM 201 PHONE 920-674-7130 FAX 920-674-7525

MEMORANDUM

DATE: March 1, 2022

TO: Donald & Nancy Brunson

FROM: Matt Zangl, Director of Planning and Zoning

MZ 3-3-2022

RE: Zoning Amendment R4379A-21 to Create a 7.4-Acre A-2 zone with Conditional Use CU2108-22 for Boat Storage Near W1432 County Road B, on PIN 006-0716-1642-000

The Jefferson County Planning and Zoning Committee, having considered the above-identified petitions to amend the zoning ordinance of Jefferson County and grant a conditional use for boat storage, does hereby recommend that action on the above noted petitions be postponed. The Committee heard testimony in public hearing that this proposal is inconsistent with the Town's plan, which they also were told was being updated. Therefore they voted to postpone action at this time.

If you have questions about this matter, please contact our office.

Cc Town of Concord Clerk
Southwest Surveying & Associates, Inc.

JEFFERSON COUNTY PLANNING
AND ZONING COMMITTEE

January 29, 2022

Dear Zoning committee,

I voted against the rezoning of the R4379A-22 & CU2108-22 – Donald & Nancy Brunson request from A-1 to A-2 because the change does not follow the Town of Concord's comprehensive plan.

Having a town comprehensive plan allows a town to step back and take some time to decide what really is important to making and keeping the town a nice place to live. This thoughtfulness should not be overridden in a half-hour discussion at a town board meeting where personal relationships cloud the decision.

Our planning committee, which reviews requests for zoning changes, voted to reject this request, as they have with other similar requests, because the request did not follow the town comprehensive plan (see quoted text from town plan below). It will be hard in good faith to not approve the next requested change from A-1 to A-2 for a commercial use after we approved this request. A number of requests have been denied in the past that probably should have been approved if the town board had applied the same standard to them as to this current request.

I would like to request the county deny this requested zoning change and the conditional use permit to help Concord maintain consistent zoning and stick with our comprehensive plan, which we are in the process of updating.

Thank you,



Dale Konle
Concord Town Chairperson



Excerpt from Concord Comprehensive Plan:

Chapter 8, Economic Development Element
8.B. Strategies

9. The Town will limit the establishment of new businesses to areas within the Town of Concord rural hamlet as defined by the 1999 Jefferson County Agricultural Preservation and Land Use Plan (see map 10, Appendix A). An exception to this would be home occupations that operate under the current Jefferson County zoning guidelines.

10. The Town will not support expansion of the current rural hamlet or creation of new rural hamlet areas within the Town.

Jefferson County Land Information

FILED
02-16-2023
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334



- | | | |
|-------------------------|----------------------|-----------------------|
| Tax Parcels | — Rail Right of Ways | Tax Parcels |
| □ Municipal Boundaries | — Road Right of Ways | □ Preliminary Surveys |
| Parcel Lines | — Section Lines | |
| — Property Boundary | — Surface Water | |
| — Old Lot/Meander Lines | — Map Hooks | |

Jefferson County Geographic Information System

1 of 8
A-APP. 140

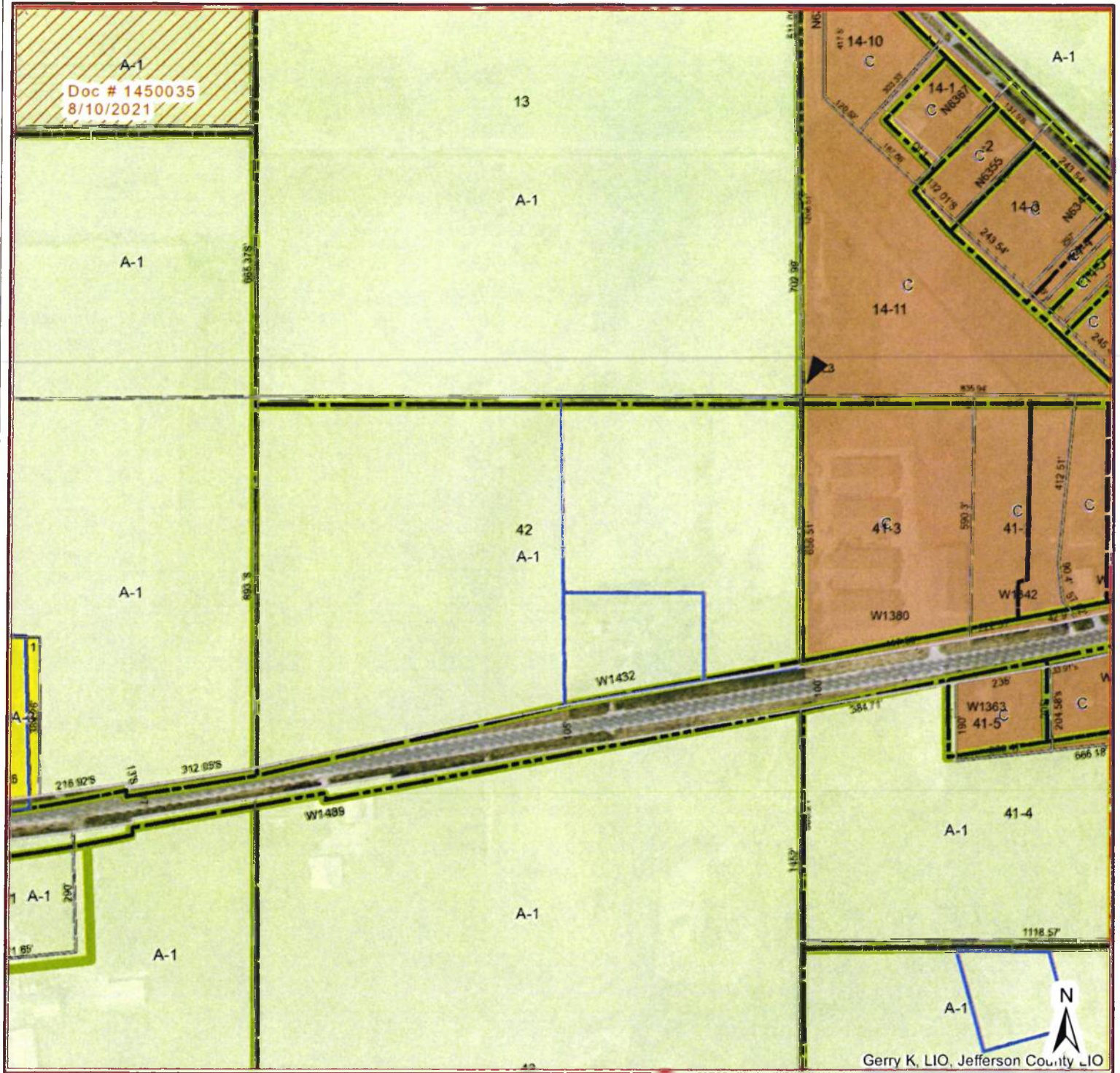
120 60 0 120 Feet
1 inch = 120 feet

Printed on: February 9, 2022

Author: Public User

DISCLAIMER: This map is not a substitute for an actual field survey or onsite investigation. The accuracy of this map is limited to the quality of the records from which it was assembled. Other inherent inaccuracies occur during the compilation process. Jefferson County makes no warranty whatsoever concerning this information.

Jefferson County Land Information



- | | | | |
|---|--|---|--|
| <p>Tax Parcels</p> <p>Municipal Boundaries</p> <p>Parcel Lines</p> <p>Property Boundary</p> <p>Old Lot/Meander Lines</p> <p>Rail Right of Ways</p> | <p>Road Right of Ways</p> <p>Section Lines</p> <p>Surface Water</p> <p>Map Hooks</p> <p>Tax Parcels</p> <p>Preliminary Surveys</p> | <p>Parcels of Record 1977</p> <p>Parcels of Record 2000</p> <p>Frozen Parcels</p> <p>Rezoning</p> <p>Deed Transfer</p> <p>Farm Consolidation/Accessory</p> | <p>Lot Variance</p> <p>Extraterritorial Zoning</p> <p>County Conservation Easements</p> <p>JEFFERSON COUNTY</p> <p>DATCP/JEFFERSON CO</p> |
|---|--|---|--|



Jefferson County Geographic Information System

2 of 8

A-APP. 141

340 170 0 340 Feet
1 inch = 340 feet

Printed on: February 9, 2022

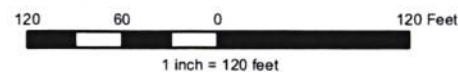
Author: Public User

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Jefferson County Land Information



Tax Parcels	Road Right of Ways	Floodplain 2/4/2015	Slopes > 20% - Terrain Data
Municipal Boundaries	Section Lines	ZONE A NO BSE 1%(100 YR)	0 - 20% Slope
Parcel Lines	Surface Water	ZONE AE BSE 1% (100YR)	Slope > 20%
Property Boundary	Map Hooks	0.2% FLD HAZ (500 YR)	COUNTY ADOPTED
Old Lot/Meander Lines	Tax Parcels	Flood Storage Districts 2/4/2015	DNR UPDATED
Rail Right of Ways	Preliminary Surveys		



Jefferson County Geographic Information System

3 of 8

A-APP. 142

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Printed on: February 9, 2022

Author: Public User

Jefferson County Land Information



Tax Parcels	— Rail Right of Ways	Tax Parcels	S66.0105 Overlap
□ Municipal Boundaries	— Road Right of Ways	□ Preliminary Surveys	1.5 mi Plat Review
Parcel Lines	— Section Lines	Extraterritorial Limits	3 mi Plat Review
— Property Boundary	— Surface Water	1.5 mi Review Not Exercised	
— Old Lot/Meander Lines	— Map Hooks	3 mi Review Not Exercised	

Jefferson County Land Information



Tax Parcels	Road Right of Ways	Prime Soil Classification	5-NP
Municipal Boundaries	Section Lines	1-P	6-NP
Parcel Lines	Surface Water	2-P	7-NP
Property Boundary	Map Hooks	3-P	Soil Map Units & Percent Slope
Old Lot/Meander Lines	Tax Parcels	3-NP	
Rail Right of Ways	Preliminary Surveys	4-NP	

120 60 0 120 Feet
1 inch = 120 feet



Jefferson County Geographic Information System

5 of 8

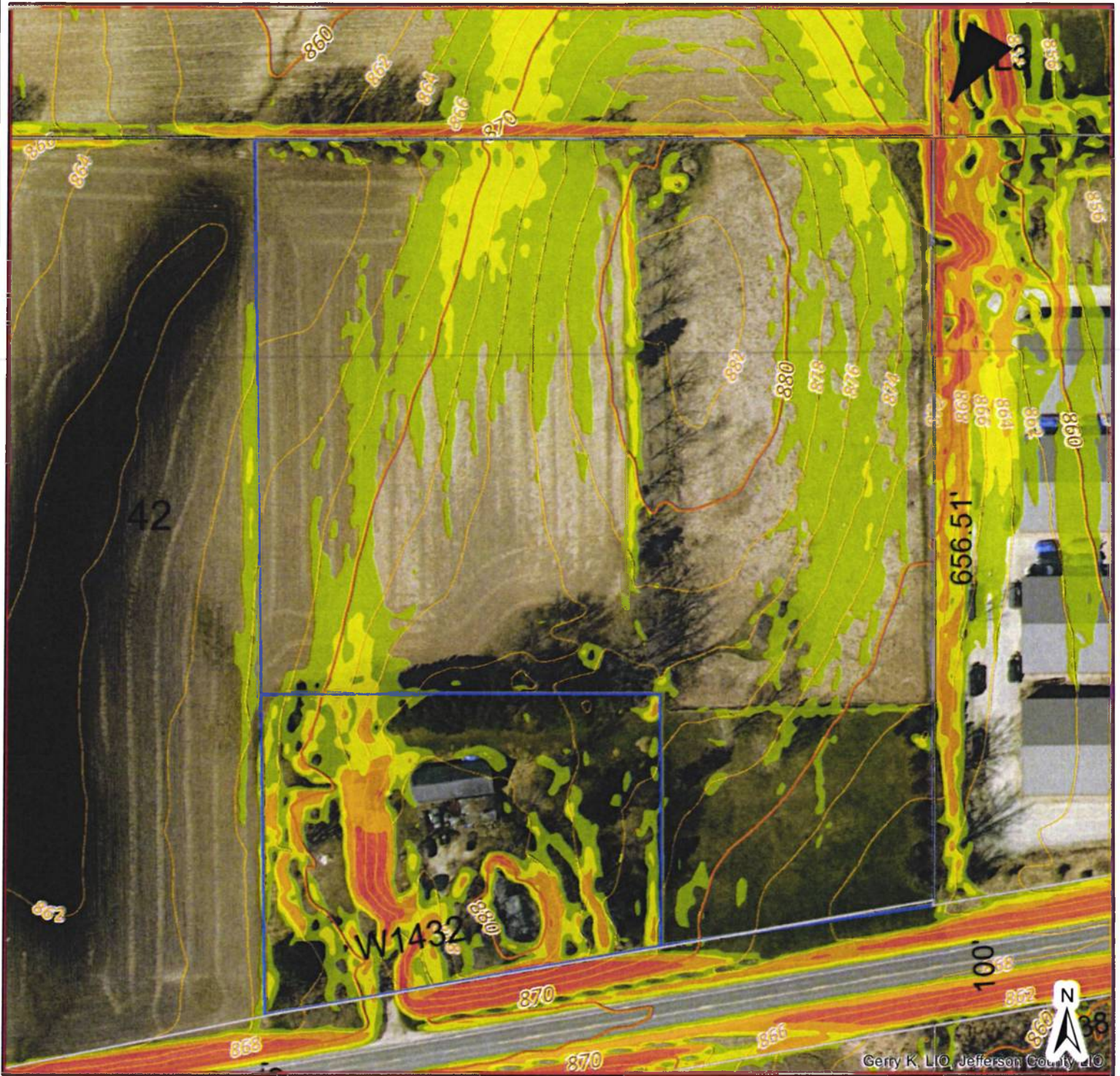
A-APP. 144

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Printed on: February 9, 2022

Author: Public User

Jefferson County Land Information



Tax Parcels	Road Right of Ways	2 Foot Contours	Percent Slope
Municipal Boundaries	Section Lines	2 ft contour interval	0 - 6 %
Parcel Lines	Surface Water	10 Foot Contours	6 - 9 %
Property Boundary	Map Hooks	10 ft contour interval	9 - 12 %
Old Lot/Meander Lines	Tax Parcels	50 ft contour interval	12 - 20 %
Rail Right of Ways	Preliminary Surveys	100 ft contour interval	> 20 %

120 60 0 120 Feet

1 inch = 120 feet

Jefferson County Geographic Information System

6 of 8

A-APP. 145

Printed on: February 9, 2022

Author: Public User

DISCLAIMER: This map is not a substitute for an actual field survey or onsite investigation. The accuracy of this map is limited to the quality of the records from which it was assembled. Other inherent inaccuracies occur during the compilation process. Jefferson County makes no warranty whatsoever concerning this information.

JEFFERSON COUNTY PRELIMINARY REVIEW FOR CERTIFIED SURVEY

A Division of land located in the NW 1/4 of the SE 1/4 of Section 16, Township 6 N, Range 17 E, Town of Concord, Jefferson County, Wisconsin, on Parcel Number 006-0716-1642-000

Owner/Petitioner: Donald & Nancy Brunson (A-3 Zone)
Address: W1432 County Road B
Sullivan, WI 53178
Phone: 262 391-1886

Petitioner: The Boat House of Lake Country (A-2 Zone)
Address: N7536 Sterlingworth Drive
Elkhorn, WI 53121
Phone: 262 742-3898

Surveyor: **SOUTHWEST**
SURVEYING & ASSOCIATES, Inc.
P.O. BOX K, PALMYRA, WI, 53156
920-674-4884
262-495-4910

- ☒ Rezoning
- ☐ Allowed Division within Existing Zone
- ☒ Farm Consolidation (A-3 Zone)
- ☐ 33+ Acre Lot in A-1 Zone
- ☐ Survey of Existing Parcel

Intent and Description of Parcel to be Divided:

Create one 2.0± Acres A-3 Zoned Farm Consolidation Parcel around existing buildings.
Create one 7.4 Acres A-2 Zoned Parcel with Conditional Use for inside boat storage.

In addition to the info required by Sec 236.34 of State Statutes, Sec. 15.04(1) of the Jefferson County Land Division/Subdivision Ordinance requires that the following be shown:

- ☐ Existing buildings, watercourses, drainage ditches and other features pertinent to the proper division.
- ☐ Location of access to a public road, approved by the agency having jurisdiction over the road.
- ☐ All lands reserved for future public acquisition.
- ☐ Date of the map.
- ☐ Graphic Scale.

Date Submitted: _____

Revised: _____

Note to Be Placed on Final CSM

Petition # _____ Zoning _____

Check for subsequent zoning changes with Jefferson County Zoning Department.



NW CORNER, SE 1/4
SECTION 16-7-16

NE CORNER, SE 1/4
SECTION 16-7-16

14.0± ACRES
REMAINING

LOT
2.0± ACRES
PROPOSED A-3 ZONE

LOT 2
7.4± ACRES
PROPOSED A-2 ZONE
(SEE ATTACHED SITE PLAN)

R.O.W.
-E-
-R.O.W.

COUNTY ROAD - B - E

NOTE:

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Town Board Approval B. J. H. Clark

(Includes Access Approval if Applicable)

County Highway Approval _____

(If Applicable)

Extraterritorial Approval _____

(If Applicable)

County Surveyor Approval _____

Zoning Office Approval _____

Date: 2-14-22

Date: _____

Date: _____

Date: _____

Date: _____

SHEET 1 OF 1
DATE: NOVEMBER 11, 2021
JOB NO: B-221132

Please submit one copy to Jefferson County Zoning, Room 201, Courthouse, 230 S. Main St. Jefferson Wisconsin 53548

JEFFERSON COUNTY PRELIMINARY REVIEW FOR CERTIFIED SURVEY

A Division of land located in the NW 1/4 of the SE 1/4 of Section 16, Township 6 N, Range 17 E, Town of Concord, Jefferson County, Wisconsin, on Parcel Number 006-0716-1642-000

Owner/Petitioner: Donald & Nancy Brunson (A-3 Zone)

Address: W1432 County Road B

Sullivan, WI 53178

Phone: 262 391-1886

Petitioner: The Boat House of Lake Country (A-2 Zone)

Address: N7536 Sterlingworth Drive

Elkhorn, WI 53121

Phone: 262 742-3898

Surveyor:

SOUTHWEST

SURVEYING & ASSOCIATES, Inc.

P.O. BOX K, PALMYRA, WI. 53156
920-674-4854
262-495-4910

☒ Rezoning

☐ Allowed Division within Existing Zone

☒ Farm Consolidation (A-3 Zone)

☐ 35+ Acre Lot in A-1 Zone

☐ Survey of Existing Parcel

Intent and Description of Parcel to be Divided:

Create one 2.0± Acres A-3 Zoned Farm Consolidation Parcel around existing buildings.
Create one 7.4 Acres A-2 Zoned Parcel with Conditional Use for inside boat storage.

In addition to the info required by Sec 236.34 of State Statutes, Sec. 15.04(f) of the Jefferson County Land Division/Subdivision Ordinance requires that the following be shown:

☐ Existing buildings, watercourses, drainage ditches and other features pertinent to the proper division.

☐ Location of access to a public road, approved by the agency having jurisdiction over the road.

☐ All lands reserved for future public acquisition.

☐ Date of the map.

☐ Graphic Scale.

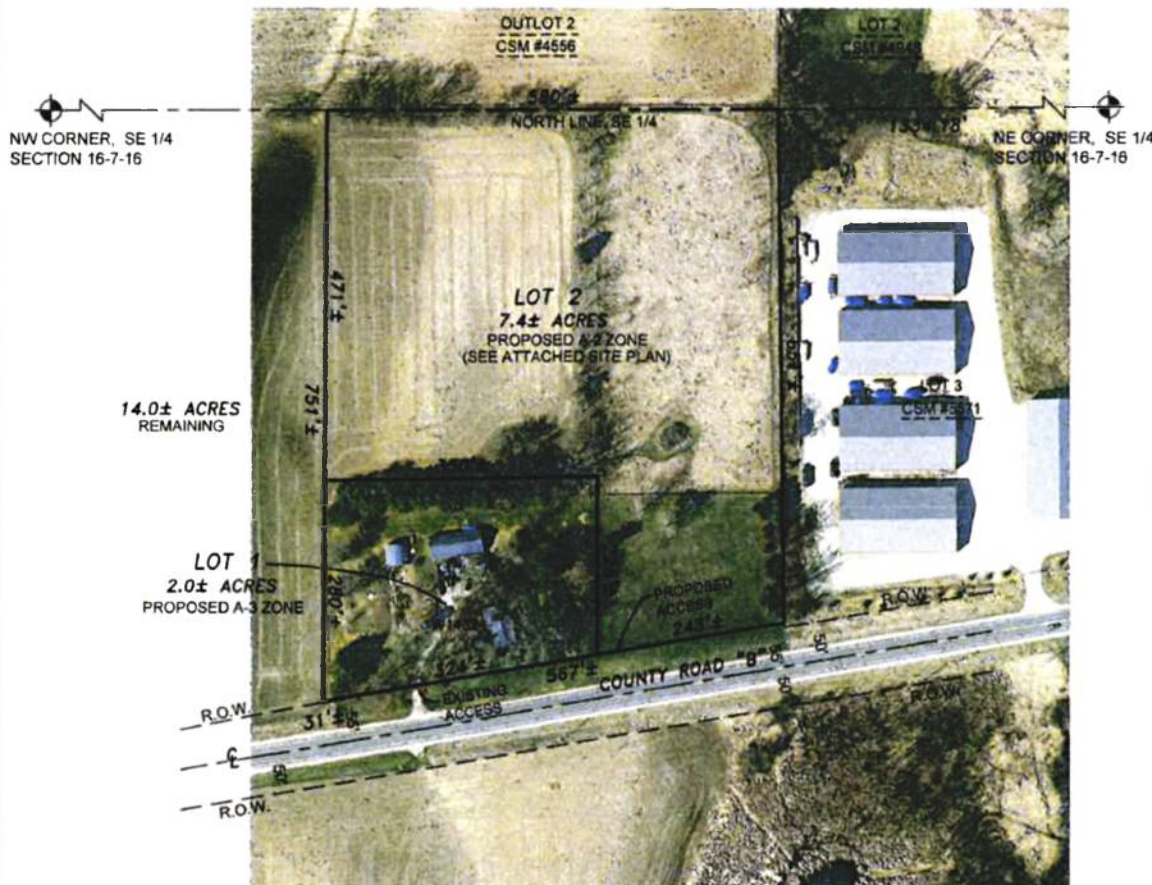
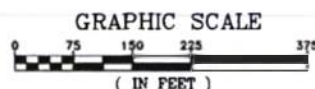
Date Submitted: _____

Revised: _____

Note to Be Placed on Final CSM

Petition # _____ Zoning _____

Check for subsequent zoning changes with Jefferson County Zoning Department.



NOTE:

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Town Board Approval _____
(Includes Access Approval If Applicable)

Date: _____

County Highway Approval _____
(If Applicable)

Date: _____

Extraterritorial Approval _____
(If Applicable)

Date: _____

County Surveyor Approval *Jim A. Morrow*

Date: 12/01/21

Zoning Office Approval _____

Date: _____

SHEET 1 OF 1

DATE: NOVEMBER 11, 2021

JOB NO: B-221132

Please submit one copy to Jefferson County Zoning, Room 201, Courthouse, 230 S. Main St. Jefferson Wisconsin 53549

FILED

02-16-2023

Clerk of Circuit Court

Cindy R. Hamre Incha

2022CV000334

**DECISION OF THE JEFFERSON COUNTY
PLANNING & ZONING COMMITTEE/COUNTY BOARD
ZONING AMENDMENTS
I. FINDINGS OF FACT:**

Petition #: R4379-22 Township: Concord
 Site Inspection Date: 2/11/2022 Hearing Date: 2/17/2022
 Petitioner Name: Donald & Nancy Brunson
 Property Owner(s): Donald & Nancy Brunson
 Property Location: W1432 County Road B

REZONING REQUEST:

To create a 7.4-acre A-2 zone from an A-1 zone at W1432 County Road B, PIN 006-0716-1642-000.

PARCEL(S) (PIN#): 006-0716-1642-000 (24.0ac)

PARENT PARCEL(S):(See attached map) PARCEL OF RECORD:(See attached map)

TOTAL CONTIGUOUS A-1 ACRES 24.0 ☒ Less than 50 ☐ More than 50

PREVIOUS A-3 LOTS CREATED FROM PARENT PARCEL: 0

LOTS AVAILABLE: Non Prime N/A or Prime N/A

LOTS REQUESTED: One 7.4-acre A-2 zone

☒ AGRICULTURAL PRESERVATION ☐ LIMITED SERVICE AREA ☐ LONG RANGE URBAN SERVICE AREA
☐ ENVIRONMENTAL CORRIDOR ☐ 15 YEAR GROWTH AREA ☐ RURAL HAMLET

SOIL TYPES: ThC2, LaB, Sm

Class I 0 % Class II 10 % Class III 90 % Class III Non-Prime 0 %

Class IV 0 % Class V-VII 0 %

Cropland 80 % Woods 5 % Fallow/Pasture 0 % Existing Yard 15 % Slope 0-20 %

☐ FLOODPLAIN ☐ WETLANDS ☐ SHORELAND

ADJACENT LAND USE: A-1, Exclusive Agricultural; C, Community.

COMMENTS/ADDITIONAL INFORMATION RECEIVED AT PUBLIC HEARING:

- proposed CUP for boat storage

- Will entire A-2 zone be used for proposed CUP? YES

TOWN BOARD RECOMMENDATION 1/10/22 ☒ Granted ☐ Denied ☐ Tabled ☐ Not Received
 Date

Note: Town Board recommendation does not constitute final county action. See Sec. III Order & Determination (pg. 2)

II. CONCLUSIONS

BASED UPON THE FINDINGS OF FACT, THE AMENDMENT FILE, SITE INSPECTION, PUBLIC HEARING, ZONING ORDINANCE, AND THE AGRICULTURAL PRESERVATION AND LAND USE PLAN, THE PLANNING & ZONING COMMITTEE CONCLUDES THAT THE PROPOSED ZONING AMENDMENT ☒ **Complies** ☐ **Does Not Comply**

AS A PRIME LOT _____ NON-PRIME LOT _____ LOT COMBINATION _____ FARM CONSOLIDATION _____

FOR THE FOLLOWING REASONS: The Town Board approved, and has approved other such uses
outside the hamlet. This proposal is adjacent to the same use inside the hamlet.

☐ The Jefferson County Planning and Zoning Committee finds this amendment meets the standards of 91.48 Wisconsin State Statutes and 11.11(c)6 of the Jefferson County Zoning Ordinance.

DECISION

III. ORDER & DETERMINATION

DECISION

Based on the findings of fact conclusions and the record herein, the committee recommends to the Jefferson County Board of Supervisors that the amendment be: ☒ **Granted** ☐ **Denied** ☐ **Postponed**

Motioned by: George Jaeckel 2nd by: Steve Nass Abstained _____

Vote: 4-0 Date: 3/28/2022

Note: If postponed, this amendment is not forwarded to the Jefferson County Board of Supervisors for action and may be required to go back to a public hearing.

Based on the Planning and Zoning Committee recommendation the Jefferson County Board of Supervisors:

☒ **Granted** ☐ **Denied** ☐ **Postponed** Date: 4/19/2022

If the requested amendment was granted, it is subject to the following: *(Check all that apply)*

☒ ACCESS APPROVAL BY MAINTAINING AUTHORITY

☒ RECEIPT OF SUITABLE SOIL TEST

☒ RECEIPT OF AND RECORDING OF THE FINAL CSM

☐ EXTRATERRITORIAL PLAT REVIEW

☒ REZONING SHALL BE NULL & VOID & OF NO EFFECT ONE YEAR FROM THE DATE OF COUNTY BOARD APPROVAL UNLESS ALL APPLICABLE CONDITIONS HAVE BEEN COMPLETED BY THAT DATE

☒ OTHER Soil Test required only if bathrooms are proposed

☐ FILING OF AFFIDAVIT OF ZONING STATUS ON REMAINING LANDS
(SEE ATTACHED INSTRUCTION SHEET)

DATE: 4/20/2022 SIGNATURE: 

**DECISION OF THE JEFFERSON COUNTY
PLANNING & ZONING COMMITTEE/COUNTY BOARD
ZONING AMENDMENTS
I. FINDINGS OF FACT:**

Petition #: R4379-22 Township: Concord
 Site Inspection Date: 2/11/2022 Hearing Date: 2/17/2022
 Petitioner Name: Donald & Nancy Brunson
 Property Owner(s): Donald & Nancy Brunson
 Property Location: W1432 County Road B

REZONING REQUEST:

To create a 7.4-acre A-2 zone from an A-1 zone at W1432 County Road B, PIN 006-0716-1642-000.

PARCEL(S) (PIN#): 006-0716-1642-000 (24.0ac)

PARENT PARCEL(S): *(See attached map)* PARCEL OF RECORD: *(See attached map)*

TOTAL CONTIGUOUS A-1 ACRES 24.0 ☒ Less than 50 ☐ More than 50

PREVIOUS A-3 LOTS CREATED FROM PARENT PARCEL: 0

LOTS AVAILABLE: Non Prime N/A or Prime N/A

LOTS REQUESTED: (1) 0.712-acre A-2 zone

☒ AGRICULTURAL PRESERVATION ☐ LIMITED SERVICE AREA ☐ LONG RANGE URBAN SERVICE AREA
☐ ENVIRONMENTAL CORRIDOR ☐ 15 YEAR GROWTH AREA ☐ RURAL HAMLET

SOIL TYPES: ThC2, LaB, Sm

Class I 0 % Class II 10 % Class III 90 % Class III Non-Prime 0 %

Class IV 0 % Class V-VII 0 %

Cropland 80 % Woods 5 % Fallow/Pasture 0 % Existing Yard 15 % Slope 0-20 %

☐ FLOODPLAIN ☐ WETLANDS ☐ SHORELAND

ADJACENT LAND USE: A-1, Exclusive Agricultural; C, Community.

COMMENTS/ADDITIONAL INFORMATION RECEIVED AT PUBLIC HEARING:

- proposed CUP for boat storage

- Will entire A-2 zone be used for proposed CUP?

TOWN BOARD RECOMMENDATION _____ ☐ Granted ☐ Denied ☐ Tabled ☐ Not Received
 Date _____

Note: Town Board recommendation does not constitute final county action. See Sec. III Order & Determination (pg. 2)

II. CONCLUSIONS

BASED UPON THE FINDINGS OF FACT, THE AMENDMENT FILE, SITE INSPECTION, PUBLIC HEARING, ZONING ORDINANCE, AND THE AGRICULTURAL PRESERVATION AND LAND USE PLAN, THE PLANNING & ZONING COMMITTEE CONCLUDES THAT THE PROPOSED ZONING AMENDMENT ☒ **Complies** ☐ **Does Not Comply**

AS A PRIME LOT _____ NON-PRIME LOT _____ LOT COMBINATION _____ FARM CONSOLIDATION _____

FOR THE FOLLOWING REASONS: Town has approved others outside hamlet
this is adj. to the same use within the hamlet

☐ The Jefferson County Planning and Zoning Committee finds this amendment meets the standards of 91.48 Wisconsin State Statutes and 11.11(c)6 of the Jefferson County Zoning Ordinance.

DECISION

III. ORDER & DETERMINATION

DECISION

Based on the findings of fact conclusions and the record herein, the committee recommends to the Jefferson County Board of Supervisors that the amendment be: ☒ **Granted** ☐ **Denied** ☐ **Postponed**

Motioned by: Jackel 2nd by: Nass Abstained _____
Vote: 4-0 Date: 3/28/22

Note: If postponed, this amendment is not forwarded to the Jefferson County Board of Supervisors for action and may be required to go back to a public hearing.

Based on the Planning and Zoning Committee recommendation the Jefferson County Board of Supervisors:

☐ **Granted** ☐ **Denied** ☐ **Postponed** Date: _____

If the requested amendment was granted, it is subject to the following: (Check all that apply)

- ☒ ACCESS APPROVAL BY MAINTAINING AUTHORITY
- ☒ RECEIPT OF SUITABLE SOIL TEST
- ☒ RECEIPT OF AND RECORDING OF THE FINAL CSM
- ☐ EXTRATERRITORIAL PLAT REVIEW
- ☒ REZONING SHALL BE NULL & VOID & OF NO EFFECT ONE YEAR FROM THE DATE OF COUNTY BOARD APPROVAL UNLESS ALL APPLICABLE CONDITIONS HAVE BEEN COMPLETED BY THAT DATE
- ☒ OTHER Soil Test required if bathrooms are proposed

☐ FILING OF AFFIDAVIT OF ZONING STATUS ON REMAINING LANDS
(SEE ATTACHED INSTRUCTION SHEET)

DATE: _____ SIGNATURE: _____

DECISION OF THE JEFFERSON COUNTY PLANNING & ZONING COMMITTEE/COUNTY BOARD ZONING AMENDMENTS

I. FINDINGS OF FACT:

Petition #: R4379-22 Township: Concord
 Site Inspection Date: 2/11/2022 Hearing Date: 2/17/2022
 Petitioner Name: Donald & Nancy Brunson
 Property Owner(s): Donald & Nancy Brunson
 Property Location: W1432 County Road B

REZONING REQUEST:

To create a 7.4-acre A-2 zone from an A-1 zone at W1432 County Road B, PIN 006-0716-1642-000.

PARCEL(S) (PIN#): 006-0716-1642-000 (24.0ac)

PARENT PARCEL(S):(See attached map) PARCEL OF RECORD:(See attached map)

TOTAL CONTIGUOUS A-1 ACRES 24.0 ☒ Less than 50 ☐ More than 50

PREVIOUS A-3 LOTS CREATED FROM PARENT PARCEL: 0

LOTS AVAILABLE: Non Prime 3 or Prime 1

LOTS REQUESTED: (1) 2.0-acre A-3 around existing home & buildings.

☒ AGRICULTURAL PRESERVATION ☐ LIMITED SERVICE AREA ☐ LONG RANGE URBAN SERVICE AREA
☐ ENVIRONMENTAL CORRIDOR ☐ 15 YEAR GROWTH AREA ☐ RURAL HAMLET

SOIL TYPES: ThC2, LaB

Class I 0 % Class II 20 % Class III 80 % Class III Non-Prime 0 %

Class IV 0 % Class V-VII 0 %

Cropland 0 % Woods 0 % Fallow/Pasture 0 % Existing Yard 100 % Slope 0-20 %

☐ FLOODPLAIN ☐ WETLANDS ☐ SHORELAND

ADJACENT LAND USE: A-1, Exclusive Agricultural; C, Community.

COMMENTS/ADDITIONAL INFORMATION RECEIVED AT PUBLIC HEARING:

-Age of home?

-Septic location?

-All structures meet 20' rear and side setbacks

TOWN BOARD RECOMMENDATION _____ ☐ Granted ☐ Denied ☐ Tabled ☐ Not Received
 Date

Note: Town Board recommendation does not constitute final county action. See Sec. III Order & Determination (pg. 2)

II. CONCLUSIONS

BASED UPON THE FINDINGS OF FACT, THE AMENDMENT FILE, SITE INSPECTION, PUBLIC HEARING, ZONING ORDINANCE, AND THE AGRICULTURAL PRESERVATION AND LAND USE PLAN, THE PLANNING & ZONING COMMITTEE CONCLUDES THAT THE PROPOSED ZONING AMENDMENT ☐ **Complies** ☐ **Does Not Comply**

AS A PRIME LOT _____ NON-PRIME LOT _____ LOT COMBINATION _____ FARM CONSOLIDATION _____

FOR THE FOLLOWING REASONS: need to amend plan

* or provide County with Town Board action addressing the inconsistency with action and Comp Plan

☐ The Jefferson County Planning and Zoning Committee finds this amendment meets the standards of 91.48 Wisconsin State Statutes and 11.11(c)6 of the Jefferson County Zoning Ordinance.

DECISION

III. ORDER & DETERMINATION

DECISION

Based on the findings of fact conclusions and the record herein, the committee recommends to the Jefferson County Board of Supervisors that the amendment be: ☐ **Granted** ☐ **Denied** ☒ **Postponed** until Town

Motioned by: Nass 2nd by: Poulson Abstained Plan is amended

Vote: 5-0 Date: 2/28/22

Note: If postponed, this amendment is not forwarded to the Jefferson County Board of Supervisors for action and may be required to go back to a public hearing.

Based on the Planning and Zoning Committee recommendation the Jefferson County Board of Supervisors:

☐ **Granted** ☐ **Denied** ☐ **Postponed** Date: _____

If the requested amendment was granted, it is subject to the following: (Check all that apply)

☐ ACCESS APPROVAL BY MAINTAINING AUTHORITY

☐ RECEIPT OF SUITABLE SOIL TEST

☒ RECEIPT OF AND RECORDING OF THE FINAL CSM

☐ EXTRATERRITORIAL PLAT REVIEW

☒ REZONING SHALL BE NULL & VOID & OF NO EFFECT ONE YEAR FROM THE DATE OF COUNTY BOARD APPROVAL UNLESS ALL APPLICABLE CONDITIONS HAVE BEEN COMPLETED BY THAT DATE

☐ OTHER _____

☐ FILING OF AFFIDAVIT OF ZONING STATUS ON REMAINING LANDS
(SEE ATTACHED INSTRUCTION SHEET)

DATE: _____

SIGNATURE: _____

FILED
02-24-2023
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

In the Matter Of:

JCPZM

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January 26, 2023



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A-APP. 154

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JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE
DECISION MEETING
ROOM 202, JEFFERSON COUNTY COURTHOUSE
311 CENTER AVENUE, JEFFERSON, WISCONSINMonday, February 28, 2022
8:30 a.m.

EXCERPTED PORTIONS ONLY

Transcribed by:
Christine Aiello

J9255865-2

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1 PLANNING AND ZONING COMMITTEE

2
3 George Jaeckel, Chair

4 Steve Nass, Vice-Chair

5 Blane Poulson, Secretary

6 Matt Foelker

7 Lloyd Zastrow

8
9
10 STAFF11
12 Brett Scherer, Planning and Zoning Department

13 Sarah Elsner, Planning and Zoning Department

14 Matt Zangl, Planning and Zoning Department

15 Deb Magritz, Planning and Zoning Department

16 Ben Wehmeier, County Administrator
17
18
19
20
21
22
23
24
25

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PROCEEDINGS

(On the record)

(0:00 - 01:20)

CHAIR JAECKEL: (Indiscernible) the Open Meetings Law?

SUPERVISOR POULSON: We are in compliance, Mr. Chairman.

CHAIR JAECKEL: Thank you.

Approval of the agenda. Anybody see anything we need to change out? We have a couple of names here. I think they are all on. We've got the Brunson one, I'm not a hundred percent sure, but it's Concord.

MR. ZANGL: Yeah, Brunson, Steptoe.

CHAIR JAECKEL: Yeah, Steptoe. So we will take them in order when we get down to number 17.

Public comment. Anybody have public comment on anything that's not on the agenda?

Seeing none, approval of January 31st meeting minutes.

SUPERVISOR POULSON: So moved.

SUPERVISOR ZASTROW: Second.

CHAIR JAECKEL: All in favor?

SUPERVISOR POULSON: Aye.

SUPERVISOR ZASTROW: Aye.

SUPERVISOR NASS: Aye.

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1 SUPERVISOR FOELKER: Aye.

2 CHAIR JAECKEL: Aye. Motion carries.

3 February 11th.

4 SUPERVISOR POULSON: So moved.

5 SUPERVISOR FOELKER: Second.

6 CHAIR JAECKEL: All in favor?

7 SUPERVISOR POULSON: Aye.

8 SUPERVISOR FOELKER: Aye.

9 SUPERVISOR ZASTROW:

10 SUPERVISOR NASS: Aye.

11 CHAIR JAECKEL: Aye. Carries.

12 February 17th.

13 SUPERVISOR FOELKER: So moved.

14 SUPERVISOR POULSON: Second.

15 CHAIR JAECKEL: All -- all in favor? Aye.

16 SUPERVISOR POULSON: Aye.

17 SUPERVISOR NASS: Aye.

18 SUPERVISOR FOELKER: Aye.

19 SUPERVISOR ZASTROW: Yeah, aye.

20 CHAIR JAECKEL: Motion carries.

21

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(14:45 - 30:00)

CHAIR JAECKEL: All right. Moving on to number 17, discussion of possible action on petitions presented in public hearing on February 17th. Seeing how we have a fair amount for the Brunson one, why don't we start with that one, R4379A-22 and conditional use CU2108-22.

MR. ZANGL: All right. So the first Brunson rezone would be the A-2 zone. Along with that, you have that conditional use permit. So they are looking to create approximately a 7.4-acre A-2 zone right where Sarah's cursor is. That A-2 zone will be for conditional use for the storage of boats, very similar to the adjacent property of which would be the same owner at the end of the -- end of the process. So that's the conditional use for it. Again, the A-2 zone is about seven and a half acres, and they have that A-3 zone that they're also creating around the existing home.

This one, we do have a fair amount of letters in the file opposed to the petition citing some reasons with the Town's Comprehensive Plan, draining, lighting, and traffic obstruction, which you heard of during the public hearing. We do have the letter from the Town of which they were in favor of this rezone request from

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1 the Town Board action.

2 The Highway Department did review it, and we
3 do have approval for an access driveway from the
4 Highway Department. My understanding, and there --
5 there has been some discussion, no formal complaints to
6 the County Zoning Department or the County Highway
7 Department regarding their existing access at W -- just
8 east there -- 1380. If you zoom in, they have a gate
9 there.

10 The story that I heard is as people -- as
11 they come in with a truck and a trailer with a boat on
12 it, to open that gate, then the back end of the boat is
13 on the road yet and maybe there's two of them coming at
14 the same time and then that other one has to wait on
15 the road for a while potentially obstructing traffic.
16 I did have that discussion with Pete Gross, the
17 Realtor, who then talked with the owner; and he would
18 be willing to rectify that solution, whether they --
19 with whatever solution needs to be. It could be an
20 electronic gate that opens ahead of time so they're not
21 stalling on the road and potentially causing traffic
22 concerns.

23 Along with the conditional use permit, which
24 we can talk to later, they are proposing to have a
25 stormwater retention device. So that will be a

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1 proposed condition as some sort of stormwater
2 management plan/erosion control plan with that
3 proposal.

4 I believe that is all I have for you now.
5 There were some concerns about lighting. Again, as I
6 talked with the Realtor, who talked with the owner,
7 they were unaware of any of these concerns previously.
8 So we can put conditions on that they reduce the
9 lighting. We can put conditions on the conditional use
10 permit for any traffic concerns or obstruction of
11 traffic with those gates.

12 SUPERVISOR NASS: Okay. I've got some
13 questions. One of them is, okay, when we went out and
14 saw this initially and it was boat storage, I figured
15 it was boat storage throughout the winter; but it's my
16 understanding that's not what goes on here. These are
17 boat storage for people that don't have any place to
18 put their boat. And so if -- so all summer long, they
19 can come and get their boat, take it out, then they
20 bring it back.

21 MR. ZANGL: The --

22 SUPERVISOR NASS: Is that correct?

23 MR. ZANGL: The -- you, as an owner of the
24 boat, do not come to the site. Staff members from the
25 company come to the site, pick up the boat, transport

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1 it back to their shop in Oconomowoc. I think they've
2 got one down by Elkhorn. So it's only staff members
3 coming to get the boat. Now, if they're coming during
4 the week of the summer to pick up a boat for use on the
5 weekend, that I'm -- I'm not sure about.

6 SUPERVISOR NASS: Yeah, all right. And the
7 other thing is what's the -- what's the Town
8 Comprehensive Plan? You know, how is it not approved
9 by that plan?

10 MR. ZANGL: That I don't know. My
11 understanding is the Town Planning Commission denied
12 it. And then at the Town -- Town Board, it was
13 approved. I don't know if Lloyd has anything he wants
14 to -- to add to that. From what I've heard, the A-2
15 zone of this nature should be within the urban service
16 area.

17 If you zoom, I'll put the --

18 MS. ELSNER: Uh-huh.

19 MR. ZANGL: -- farm preservation plan on,
20 you'll see that the -- or the rural hamlet, you'll see
21 that that boundary line is right on that property. So
22 to the east is within that area, and to the west is
23 outside of that area. So from what I have heard,
24 because it's outside of that area, they would not
25 recommend the A-2 zone. The Comprehensive Plan should

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1 not then be allowing that A-2 zone in that area.

2 Had it be over one more property and within
3 that zone, that it could be approved.

4 SUPERVISOR NASS: Well, I'm at -- I've -- I've
5 got the feeling here, you know, there's an awful lot of
6 people that talk about the inconsistency with their
7 plan; and in my opinion, I think it should go back to
8 the Town Board and -- and rectify this. It's their
9 plan, and they need to rectify this either by changing
10 their plan if they want to see this rezoned like this
11 or denying it. Because I --

12 MR. ZANGL: Zoom (indiscernible).

13 SUPERVISOR NASS: It's in -- it's in our rules
14 not to overrule the --

15 CHAIR JAECKEL: Yeah.

16 SUPERVISOR NASS: -- Town Plan.

17 CHAIR JAECKEL: (Indiscernible).

18 SUPERVISOR NASS: So --

19 SUPERVISOR: (Indiscernible).

20 CHAIR JAECKEL: Right, but we did get the
21 approval from the Town Board, and that's where I want
22 to ask Lloyd on it, why the -- I mean, I understand,
23 too, from being on Town, the Planning Committee is an
24 advisory --

25 SUPERVISOR NASS: Yeah.

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CHAIR JAECKEL: -- committee. They're not the rule maker. So the Board must have decided that there was good reason for it that they said, yeah, we want it, and the Planning Committee didn't.

So I guess I was going to ask you that today, Lloyd. You're on the Board, right? I mean --

SUPERVISOR ZASTROW: Yep. I'm also on the --

CHAIR JAECKEL: Committee?

SUPERVISOR ZASTROW: -- Committee. I'm the --

CHAIR JAECKEL: I mean --

SUPERVISOR ZASTROW: -- Chair of the Committee.

CHAIR JAECKEL: Okay. So did you vote for it on the -- on the Plan Committee or against the --

SUPERVISOR ZASTROW: I abstained.

CHAIR JAECKEL: Abstained --

SUPERVISOR ZASTROW: I needed some --

CHAIR JAECKEL: -- okay.

SUPERVISOR ZASTROW: -- questions answered --

CHAIR JAECKEL: Yeah, okay.

SUPERVISOR ZASTROW: -- so I abstained.

CHAIR JAECKEL: I mean --

SUPERVISOR ZASTROW: And then okay. The property is owned by an elderly couple, okay? And of course, you know, I -- you know, my decisions here, and

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1 at the Town level, I like to throw common sense into
2 the ring for, you know, certain things. The fact that
3 it borders the hamlet directly, it borders a site that
4 currently has the buildings on it; if we would allow
5 something like this in the Town, because it doesn't
6 affect anything else, it's out of -- it's set back from
7 the highway with a few trees out front of it, you'd
8 never know it was there.

9 And the traffic situation -- well, also this
10 older couple, they've lived there a long time, have
11 financial troubles and they can now bail out if they
12 sell this property and remain living there in the
13 farmhouse. If they can't sell this, they probably --
14 they would probably have to sell the home and move
15 elsewhere. So, you know, that's the commonsense thing.
16 Okay, you've got property that you can make some money
17 on. It's in a -- in an area that is suited for having
18 this because there's a lot right next to it with the
19 same identical buildings, the same owner is involved
20 with both. If this was taking place an eighth of a
21 mile away separated from this, I would not be for it;
22 but since it's next to something that already exists,
23 Bill and I felt that it's an okay thing.

24 As far as being a traffic hazard, I come down
25 Highway B six times a month to come to these meetings,

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1 and many other times besides.

2 CHAIR JAECKEL: Uh-huh.

3 SUPERVISOR ZASTROW: In the last four years
4 since the buildings have been here, I saw one boat
5 going in, and he was pulled off the road. It wasn't
6 one of the big ones. It was just a normal boat. And
7 as you can see, it's right near that intersection. So
8 the speed in that area should not be more than 25 miles
9 an hour because they're just picking up speed to take
10 off or declining your speed to approach Highway F
11 there. So it's not a highway hazard.

12 As far as the lighting aspect, all the lights
13 are mounted on the site front of the buildings to the
14 ground.

15 CHAIR JAECKEL: Uh-huh.

16 SUPERVISOR ZASTROW: There are no light poles,
17 you know, shining in front of anything. So, you know,
18 that's not a problem anymore than all of the farms
19 around who have mercury lights on their property, okay?
20 So, you know what, this was a commonsense issue that
21 Bill and I both felt, well, this could work. So that's
22 -- any other questions?

23 SUPERVISOR NASS: From -- from my standpoint,
24 I -- I agree with you, you know, absolutely. And when
25 we looked at the property, it seemed like a natural

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1 there between two -- you know, but again, I -- and --
2 and I would be fine if the Town Board would approve it,
3 but I think the Town Board is in violation of their own
4 plan. And -- and if they want to do this, amend the
5 plan, and then we can do it. Because I can't sit here
6 as a Zoning Committee and having, in our plan saying,
7 we honor the plans --

8 CHAIR JAECKEL: Yeah.

9 SUPERVISOR NASS: -- of the towns.

10 CHAIR JAECKEL: Uh-huh.

11 SUPERVISOR NASS: If the board over there
12 wants to choose to violate their own law, that's their
13 business; but not -- I'm not going to do it.

14 CHAIR JAECKEL: Yeah, uh-huh. They're going
15 to have up to eight more of these buildings there.
16 That's what --

17 SUPERVISOR NASS: Yeah.

18 CHAIR JAECKEL: Up to eight.

19 SUPERVISOR NASS: Yeah. And -- and I agree to
20 it. It's a natural, it's good for them. They can
21 still -- so I have no problems with -- with -- with
22 rezoning it, but I don't -- I won't violate the plan.

23 CHAIR JAECKEL: Right, yeah, I agree.

24 SUPERVISOR NASS: And I -- for all the reasons
25 that Lloyd said, I agree with you, those are all good

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1 reasons; and those are all good reasons to amend your
2 plan.

3 SUPERVISOR ZASTROW: Send it back.

4 SUPERVISOR NASS: Right.

5 CHAIR JAECKEL: Yeah, I mean, my -- my
6 comment is I think it's totally natural to go that way.
7 I mean, we always tell everybody, no matter what we're
8 rezoning, to try to cluster things. So to me that
9 totally fit the idea, regardless of anybody's personal
10 financial issues or not, it fits, at least to my
11 thought. I don't know, does the Town not have an
12 exception in their plan for, you know, growth at all?
13 That -- that's what hits me funny.

14 I think most towns have that in their plans,
15 that there is allowable growth. I mean, you look at
16 the rest of it, and it's all pretty well-built up in
17 there. You -- you -- you can't squeeze it --

18 SUPERVISOR NASS: Right.

19 CHAIR JAECKEL: -- somewhere else within the
20 hamlet, so I think they got --

21 SUPERVISOR NASS: I mean, yeah, I agree with
22 you, George. They've got plenty of reason to amend
23 their plan.

24 CHAIR JAECKEL: I -- yeah. I --

25 SUPERVISOR NASS: I mean, the -- the whole

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1 list that Lloyd gave, and I agree with you. Just do
2 that, and then we can approve it.

3 CHAIR JAECKEL: I mean, normally -- normally
4 other than, how do I want to say, the -- the Plan
5 Committee's opposition to it, I mean, a few of the
6 neighbors that are only citing the -- the plan; to me
7 it doesn't hold a lot of water, because we would -- we
8 were to approve an A-2 zone like that as long as it was
9 like that in any other jurisdiction throughout the
10 county.

11 SUPERVISOR NASS: Uh-huh.

12 CHAIR JAECKEL: We -- we would -- we wouldn't
13 even second guess this.

14 SUPERVISOR NASS: Uh-huh.

15 CHAIR JAECKEL: So I -- I -- I absolutely have
16 no problems with it just for the functionality of the
17 way it is designed and -- and looks. I mean, they
18 said, you know, I guess, you know, we're -- I'm just
19 talking the rezone right now, but if we got into the
20 conditional use, I mean, they're basically bending over
21 backwards saying they'll do whatever it takes to --

22 MR. ZANGL: Uh-huh.

23 CHAIR JAECKEL: -- you know, make it --

24 SUPERVISOR NASS: Yeah.

25 CHAIR JAECKEL: -- work.

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1 SUPERVISOR ZASTROW: And just wanted to
2 comment that I just -- those are comments that have to
3 be brought up at our Town meeting. I -- you know,
4 someone said they've been there for four years. I
5 didn't think it was that long. But I've never had a
6 complaint of any type. They operate a fantastic
7 business.

8 SUPERVISOR NASS: Yeah. And I guess that's --

9 SUPERVISOR ZALSTROW: Our -- our --

10 SUPERVISOR NASS: -- you know --

11 SUPERVISOR ZALSTROW: -- hamlet plan is very
12 small --

13 SUPERVISOR NASS: Uh-huh.

14 SUPERVISOR ZALSTROW: -- very limited.

15 SUPERVISOR NASS: Uh-huh.

16 SUPERVISOR ZALSTROW: And part of the hamlet
17 is that mountain that you see on the --

18 SUPERVISOR NASS: Yeah.

19 SUPERVISOR ZASTROW: -- right side.

20 CHAIR JAECKEL: Yeah.

21 SUPERVISOR NASS: Yeah.

22 SUPERVISOR ZASTROW: You can't do anything
23 with that.

24 SUPERVISOR NASS: Right, right.

25 SUPERVISOR ZASTROW: So there's no flat area

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1 anywhere else. And then you've got all these highways
2 coming through the hamlet using up space, too.

3 SUPERVISOR NASS: Well, and so I say, Lloyd,
4 with all these things, just go back to your Town Board
5 and say, let's amend the plan.

6 SUPERVISOR POULSON: Well, at the meeting,
7 they said they were draw -- writing a new plan, they
8 were --

9 MR. ZANGL: Uh-huh.

10 SUPERVISOR POULSON: -- working on
11 replacing --

12 SUPERVISOR NASS: Oh, okay.

13 SUPERVISOR POULSON: -- the plan with a newer
14 plan --

15 MR. ZANGL: Yeah.

16 SUPERVISOR POULSON: -- weren't they?

17 SUPERVISOR: (Indiscernible).

18 MR. ZANGL: Yeah, their plan is "expired."
19 They're past their ten-year renewal --

20 SUPERVISOR: Wow.

21 MR. ZANGL: -- and they're in the process of
22 working to update their plan.

23 SUPERVISOR NASS: So to me, I would just -- I
24 -- I wouldn't deny this. I just, I would postpone this
25 until it's -- until the plan is amended. That's my

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1 motion.

2 SUPERVISOR POULSON: Yeah. And I'll second
3 that motion.

4 CHAIR JAECKEL: Okay. I'll call the vote on
5 the motion to postpone. All in favor say aye.

6 SUPERVISOR POULSON: Aye.

7 SUPERVISOR NASS: Aye.

8 SUPERVISOR FOELKER: Aye.

9 CHAIR JAECKEL: Aye.

10 SUPERVISOR ZASTROW: Aye.

11 CHAIR JAECKEL: Opposed? Motion carries.
12 We're going to leave the conditional use off. We do
13 have the rezone for the farm consolidation for the
14 Brunsons, as well, if we're --

15 MR. ZANGL: Yes.

16 SUPERVISOR NASS: Yeah, that we can do
17 right --

18 MR. ZANGL: Yeah.

19 SUPERVISOR NASS: -- now.

20 CHAIR JAECKEL: Yeah.

21 SUPERVISOR NASS: That's fine. I'll make a
22 motion to approve (indiscernible) on it.

23 SUPERVISOR POULSON: Second.

24 CHAIR JAECKEL: Any other discussion? Do you
25 want to read your famous words?

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1 SUPERVISOR POULSON: Oh, yeah, yeah. That
2 one. Standards for rezoning out of A-1 exclusive
3 agricultural and unnatural resources per 91.48,
4 Wisconsin State Statutes and 11.11(c)6, Johnson County
5 Zoning Ordinance.

6 MS. MAGRITZ: And likely, you condition an
7 approval upon --

8 MR. ZANGL: Yeah, these are all screwed up.

9 MS. MAGRITZ: Yeah, okay. I see. I see.
10 I'll put recording of the final certified survey map.

11 * * *

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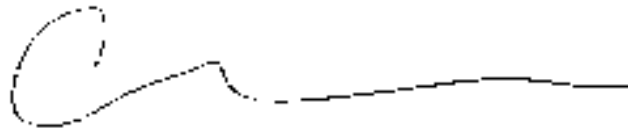
21

1 STATE OF WASHINGTON)
) SS
2 COUNTY OF WHATCOM)

3
4
5 I, CHRISTINE AIELLO, do hereby certify
6 that I transcribed the audio, and that the foregoing is
7 a true and complete transcription of the audio
8 transcribed under my personal direction.

9 IN WITNESS WHEREOF, I do hereunto set my
10 hand at Blaine, Washington, this 15th day of February,
11 2023.

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Christine Aiello

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02-24-2023
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2022CV000334

In the Matter Of:

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JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE
DECISION MEETING
ROOM 202, JEFFERSON COUNTY COURTHOUSE
311 CENTER AVENUE, JEFFERSON, WISCONSINMonday, March 28, 2022
8:30 a.m.

EXCERPTED PORTIONS ONLY

Transcribed by:
Christine Aiello

J9255865-3

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1 PLANNING AND ZONING COMMITTEE

2
3 George Jaeckel, Chair

4 Steve Nass, Vice-Chair

5 Blane Poulson, Secretary

6 Lloyd Zastrow

7
8
9
10 STAFF11
12 Brett Scherer, Planning and Zoning Department

13 Sarah Elsner, Planning and Zoning Department

14 Matt Zangl, Planning and Zoning Department

15 Deb Magritz, Planning and Zoning Department

16 Ben Wehmeier, County Administrator
17
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9	R4379A-22 and CU2108-22	9



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PROCEEDINGS

(On the record)

(0:00 - 04:00)

CHAIR JAECKEL: Good morning, everybody. I'll call the Planning and Zoning Committee decision meeting to order for March 28th, 2022. We have a quorum. The only one missing is Matt Foelker, and I think he said he wasn't going to make it last weekend -- or two weeks ago, anyhow.

So we are in compliance with the Open Meetings Law?

SUPERVISOR POULSON: We are, Mr. Chair.

CHAIR JAECKEL: Thank you.

Approval of the agenda. Does anybody need any --

SUPERVISOR NASS: So moved to approve as printed.

SUPERVISOR POULSON: Second.

CHAIR JAECKEL: Okay. All in favor.

SUPERVISOR POULSON: Aye.

SUPERVISOR ZASTROW: Aye.

SUPERVISOR NASS: Aye.

CHAIR JAECKEL: Aye. Motion carries.

We have a sign-in sheet. And most of them are all here for item number 13. There's one for 16. So

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1 they're all following in order pretty much anyhow.

2 So number five, public comment. Not -- and
3 not to include petition slated for decision, is there
4 anybody that's got public comment that's not on the
5 petitions for decision? Seeing none --

6 FEMALE SPEAKER: Wait. Hold on.

7 MR. ZANGL: You had one.

8 SUPERVISOR ZASTROW: We have one.

9 CHAIR JAECKEL: Do we have one?

10 MALE SPEAKER: My question is the 13, I didn't
11 know it was up for possible decision, so I would like
12 to comment on that.

13 SUPERVISOR POULSON: Yeah.

14 CHAIR JAECKEL: That -- that is basically for
15 decision. It says, discussion and/or decision and
16 possible action. So it technically doesn't fit because
17 that could be considered additional information that
18 wasn't given at public hearing, and that's not allowed
19 at this point.

20 So anybody else?

21 MR. OLIVERSON: Yeah, I would like to make a
22 public comment, if I could, please.

23 CHAIR JAECKEL: Sure.

24 MR. OLIVERSON: Yeah, because what I have to
25 say is just -- can be construed generally. It isn't

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1 for a particular item, although it may apply to a few
2 of them. And I'd like to just say that consistency
3 should be a primary factor on which zoning decisions
4 are made. If there are two conflicting criteria to be
5 considered in evaluating consistency, the first being
6 Comprehensive Plan -- I mean, Comprehensive Plan, and
7 the second being individual Board decision; logic and
8 common sense dictates that the most consistent option
9 should govern.

10 Town Board decisions could fluctuate every
11 two years with potential changes in the makeup of the
12 Board and the degree that each individual Board adheres
13 to their plan. However, clearly defined Comprehensive
14 Plan policy is stable for a ten-year period or more,
15 and it's clearly the most consistent option. I
16 encourage the Committee to give very serious
17 consideration to this fact.

18 CHAIR JAECKEL: Thank you.

19 Approval of February 17th meeting minutes.

20 MR. GROSS: Can -- can I make a comment also,
21 but --

22 CHAIR JAECKEL: Sure, Mr. --

23 MR. GROSS: -- (indiscernible).

24 CHAIR JAECKEL: -- Gross, go ahead.

25 MR. GROSS: Okay. I -- I would like to say

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1 something to the same note. Mainly, about when an
2 ordinance is adopted and it's sent to the County, I
3 would hope that the County would view the County
4 ordinance and policies and procedures that happen
5 throughout. And I just want to make that comment.
6 Thank you.

7 CHAIR JAECKEL: Thank you.

8 Anybody else? Okay. We'll move back on to
9 number six, approval of February 17th meeting minutes.

10 SUPERVISOR POULSON: So moved.

11 SUPERVISOR NASS: Second.

12 CHAIR JAECKEL: All in favor.

13 SUPERVISOR POULSON: Aye.

14 SUPERVISOR NASS: Aye.

15 SUPERVISOR ZASTROW: Aye.

16 CHAIR JAECKEL: Aye.

17 February 28th meeting minutes.

18 SUPERVISOR POULSON: So moved.

19 SUPERVISOR NASS: Second.

20 CHAIR JAECKEL: All in favor.

21 SUPERVISOR ZASTROW: Aye.

22 SUPERVISOR NASS: Aye.

23 SUPERVISOR POULSON: Aye.

24 CHAIR JAECKEL: Aye.

25 March 4th.

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1 SUPERVISOR POULSON: So moved.

2 SUPERVISOR NASS: Second.

3 CHAIR JAECKEL: All in favor.

4 SUPERVISOR NASS: Aye.

5 SUPERVISOR POULSON: Aye.

6 SUPERVISOR ZASTROW: Aye.

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(09:15 - 32:30)

CHAIR JAECKEL: On to number 13, discussion and possible action on R4379A-22 and CU2108-22, Donald and Nancy Brunson.

MR. ZANGL: So this is certainly a unique petition. As you remember, we worked on this one last month with a petition -- or a motion to -- or an action to table it until the Town updates their Comprehensive Plan. From staff perspective, there are some concerns with that motion because it doesn't give the petitioner an action item. It doesn't give them an approval or a denial, and it doesn't give them really any end date of a potential approval or denial. It's kind of out there floating in space waiting for something to happen that we don't know if it's going to happen or when it's going to happen.

So the uncertainty of that does provide some concerns from staff, from my perspective, and our counsel's perspective. In addition, so the -- the formal opinion -- or the formal recommendation from the Town was to approve. I know you've heard a lot of back and forth from different members of the public saying it should be denied or it should be approved, specifically the Town is, "not following their Comprehensive Plan." Really, that's at the Town level

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1 and that's a Town concern.

2 Again, from my perspective, the Town's formal
3 decision was to approve it. If the Town has issues
4 with their recommendation, they should review it at the
5 Town level. The Town Comprehensive Plan is meant for
6 the Town to provide guidance and their recommendations.
7 And if the Town isn't following that, unfortunately,
8 that's a -- that's a Town issue. At the County level,
9 again, we'll review it for our plan and ordinances,
10 which I believe the Committee did, and we had that
11 discussion last month.

12 And then just one final note, that even if
13 the Committee were to approve this, County Board were
14 to approve the rezone, the Town still has the option to
15 veto the decision. So if the Town reviews their action
16 and decides that they did not follow their
17 Comprehensive Plan, that they can simply provide a
18 resolution to the County clerk after the County has
19 approved and, therefore, deny the petition. So the --
20 the Town still has opportunities to change their
21 decision. Since then, we haven't heard anything from
22 the Town that they wish to change their decision, their
23 Town decision is to approve the petition.

24 And right now it -- it's a little gray at the
25 County level when we're potentially denying something,

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1 even though the Town approved it.

2 CHAIR JAECKEL: And with that, we need a
3 motion to take it off the table, and I will so move.

4 SUPERVISOR POULSON: Second.

5 CHAIR JAECKEL: Is there any discussion on
6 that? All in favor. Aye.

7 SUPERVISOR NASS: Aye.

8 SUPERVISOR POULSON: Aye.

9 SUPERVISOR ZASTROW: Aye.

10 CHAIR JAECKEL: Okay. Now, I guess I will
11 start it off. I know Mr. Nass has said it, and I --
12 I'd like to kind of follow that along. Ever since I've
13 gotten on the Committee, you know, as much as sometimes
14 it pains me to support some Town decisions, their
15 decision at the Town level was to approve it. And, you
16 know, regardless, I guess, which way, you know, the
17 Town wants to take action and go back on it, if they do
18 decide to, I think we have our -- our -- our
19 prerogative to approve this, because as far as we've
20 seen it, it does meet our plan.

21 The Town's comprehensive, if I'm not
22 mistaken, is technically out of date right now, if I
23 heard that right, so it's not -- I guess, it's not our
24 issue to decide with if each Town has their
25 Comprehensive Plan up to our plan. So is there any

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1 other comments?

2 SUPERVISOR NASS: I'll -- I'll add in -- in
3 here a couple -- a couple questions I have. And, one,
4 is an out-of-date plan enforceable?

5 MR. ZANGL: That's a very gray area.

6 SUPERVISOR NASS: That's --

7 MR. ZANGL: And --

8 SUPERVISOR NASS: -- my first question. All
9 right. And I knew that was what the answer was going
10 to be. Two, it -- I don't know the exact wording of --
11 of their plan, other than they showed us the map last
12 time. And it's always been my understanding, and
13 correct me if I'm wrong, but Town Plans get
14 incorporated into our -- into our County Plan, we have
15 to take that into consideration.

16 And -- and I have a -- my -- as I stated last
17 time, I have a concern of being essentially an -- an --
18 an accomplice in not following the rules. And I -- I
19 don't want to put my -- myself into that position or
20 this Board into that position of not following the --
21 our own rules and their rules. So that's my concern
22 with this.

23 I -- I don't inherently have any problem with
24 the development. I think it's natural, and it's
25 probably a good idea; but the point is, is I -- I just

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1 don't -- I -- I can't push myself over that edge not
2 knowing the specific wording in their plan other than
3 the map. I'd like to know that before I make a
4 decision.

5 MR. ZANGL: I looked at the Town's
6 Comprehensive Plan, and I have sections here. It could
7 go either way. There are sections where it falls that
8 you could approve it. There's sections where it falls
9 that it could be denied, because it's not in the rural
10 hamlet. The rural hamlet is the boundary of that
11 parcel. It -- the one with the buildings on is in the
12 rural hamlet, and the one outside of it is.

13 So the literal interpretation of it's not in
14 the rural hamlet, sure, I can see that argument; but
15 then the following sentence in that section says, or
16 adjacent to. So I think there is some flexibility.
17 Any future businesses that do locate in Concord should
18 be limited to locations within the hamlet, adjacent to
19 properties currently zoned for business purposes.

20 So I think there's an argument either way
21 with that one sentence, and that's just one sentence.

22 SUPERVISOR NASS: So here's -- let me take
23 this other question a step further. Does that include
24 an A-2 zone? Is that -- or -- or does that mean that
25 they mean a business zone? Which we haven't done in

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1 rural areas, which would be consistent, because would
2 -- my question would be, and I'm sitting here as if,
3 you know, I'm -- let -- let -- let's take, for example,
4 I'm a district judge and I don't know anything about
5 sewing. So my next question would be, as a district --
6 as a judge would be, in this interpretation, would --
7 would the Town Board approve an A-2 zone anywhere else
8 out in their district? And --

9 MR. ZANGL: So that --

10 SUPERVISOR NASS: -- would -- would that --
11 would creating an A-2 zone for tractor repair
12 somewhere, not even near the Concord center, just
13 somewhere in the Township of Concord, would that
14 violate their land use plan?

15 MR. ZANGL: That I don't -- I don't know. The
16 specific section that I was -- or that sentence I was
17 reading just says businesses. So I could see that
18 being an A-2 zone or a business zone or any sort of
19 business that's proposed. And I lost my train of
20 thought. I know there are A-2 zones out there. I'm
21 not -- not a hundred percent sure on their location.
22 Generally, we leave that up to the Town to determine
23 and review in their recommendation to the County. In
24 this case, the Town's approval was a -- the Town's
25 recommendation was approval.

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1 And I -- I certainly get where you're coming
2 from, Steve, and the County should take that into
3 consideration; but then at the end of the day, we have
4 to look at our Comprehensive Plan and our ordinances
5 and leave the towns out of it. Just for that same
6 reason, because if you're a district attorney or a
7 district judge looking at this going, well, the Town's
8 formal decision was approve, sure, the Town did not
9 follow their Comprehensive Plan, but that's still a
10 Town issue and not necessarily a County issue; because
11 the -- the Town's formal decision was to approve the
12 petition. Whether they made a valid decision or did
13 not make a valid decision is more or less at the Town's
14 level in my opinion.

15 At the County level, we should review it
16 based on that formal decision and if it fits into our
17 plans.

18 SUPERVISOR NASS: And my question is, does our
19 plan include their plan?

20 MR. ZANGL: Not necessarily. That section was
21 changed a little bit. I -- I think we still reference
22 the Town's comprehensive plans, but like you said
23 before, we should give consideration to the plan. So
24 in cases like this where it arises, I think the County
25 does have the flexibility to make a decision based on

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1 ours and -- and leave the Town issue at the Town.

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

9 MR. ZANGL: Zoom in over farm.

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

12 MS. ELSNER: Okay.

13 MR. ZANGL: (Indiscernible).

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

16 MS. ELSNER: I'm going to take the prelims
17 off.

18 MR. ZANGL: Put the zoning, that.

19 SUPERVISOR NASS: -- thus --

20 MS. ELSNER: Yeah, I did.

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

23 MS. ELSNER: It's -- it's super
24 (indiscernible).

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

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1 that --

2 MR. ZANGL: (Indiscernible).

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

5 MR. ZANGL: (Indiscernible) on.

6 SUPERVISOR NASS: -- theirs as A-2 as a
7 commerce --

8 MR. ZANGL: They're all hamlet.

9 SUPERVISOR NASS: -- business zone.

10 MS. ELSNER: There's an A-2 right there.

11 MR. ZANGL: But the rural -- the --

12 MS. ELSNER: Yeah.

13 MR. ZANGL: Oh, but you're going to see it
14 underneath it.

15 MS. ELSNER: It's super --

16 MR. ZANGL: You have to turn the zoning off.

17 MS. ELSNER: It's super slow today.

18 MR. ZANGL: The zoning is on the top layer.
19 Put the farm on because -- yeah.

20 So I know we just did that rezone to the
21 south. It looks like that one, oh, was that in --

22 Zoom in right here. Right -- where was that?
23 Right in here. So I think that A-2 zone is right
24 there. Put the zoning back on.

25 So the red line is the rural hamlet.

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1 MS. ELSNER: Yeah, it's --

2 MR. ZANGL: We have that A-2 --

3 MS. ELSNER: -- over here.

4 MR. ZANGL: -- zone for the storage buildings.
5 Just south of there, that's technically out of it. And
6 that one we just updated not too long ago. I know that
7 was there previously, but again, he expanded it and
8 he's making it bigger.

9 Put the farm. There you go.

10 See on A-2 way -- A-2 way to the --

11 MS. ELSNER: Right here.

12 MR. ZANGL: -- west. Yeah, you've got a
13 couple in --

14 MS. ELSNER: And right here.

15 MR. ZANGL: -- there. I don't know what those
16 are off the top of my head.

17 MS. ELSNER: And up here.

18 SUPERVISOR NASS: And when were they done?

19 MS. ELSNER: Right here.

20 SUPERVISOR NASS: Were they done before or
21 after they approved their plan?

22 MR. ZANGL: If you just click on the A-2 zone,
23 and I'll hit this line over. Do it again. Zoom up or
24 scroll up and then keep going. It will give you the --
25 now you're on the A-1. Zoom in and click on the A-2.

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1 Yeah.

2 MS. ELSNER: That's --

3 SUPERVISOR NASS: Essentially --

4 MS. ELSNER: -- (indiscernible) A-2.

5 SUPERVISOR NASS: -- has the Town already
6 established a precedent --

7 MR. ZANGL: No, that one.

8 SUPERVISOR NASS: -- that I can say, okay,
9 this is what they've been interpreting -- this is how
10 they've been interpreting --

11 MR. ZANGL: And I don't know --

12 SUPERVISOR NASS: -- their plan?

13 MR. ZANGL: -- the --

14 MS. ELSNER: This one.

15 MR. ZANGL: -- petition number. Click on a
16 different one.

17 CHAIR JAECKEL: (Indiscernible).

18 MS. ELSNER: This is --

19 MR. ZANGL: That was --

20 MS. ELSNER: -- 1996.

21 MR. ZANGL: -- 1996 was that rezone.

22 SUPERVISOR NASS: It was just --

23 MS. ELSNER: '96.

24 SUPERVISOR NASS: -- prior to the plan.

25 MR. ZANGL: You've got to keep clicking that.

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1 So that was --

2 MS. ELSNER: 2011.

3 MR. ZANGL: -- 2011 is an A-2 there. I don't
4 know what that one is off the top of my head.

5 If you go out to the east, we just did that
6 landscape business for that guy. Oh, but he didn't --

7 SUPERVISOR NASS: (Indiscernible) --

8 MR. ZANGL: -- get his approved.

9 SUPERVISOR NASS: -- at least.

10 MR. ZANGL: We did a landscape business out to
11 the east that was approved, but he -- that's the guy
12 that didn't get the final certified survey map done, so
13 it's not mapped accordingly.

14 SUPERVISOR NASS: But it was approved?

15 CHAIR JAECKEL: Yeah.

16 MR. ZANGL: It was approved, yeah.

17 MS. WILLIAMS: I can answer your question.

18 MALE SPEAKER: George, I can answer your --

19 MS. WILLIAMS: Because I know --

20 MALE SPEAKER: -- question, too.

21 MS. WILLIAMS: -- everything that's been
22 approved since then.

23 CHAIR JAECKEL: No. Right --

24 MS. WILLIAMS: And I know --

25 CHAIR JAECKEL: Right now this is between the

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1 Committee here. We're --

2 MS. WILLIAMS: But I did submit a letter for
3 -- for the public hearing. So you have the letter that
4 outlines what we've approved since then. Did you not
5 read my letter?

6 MS. ELSNER: (Indiscernible).

7 MS. WILLIAMS: You have a copy of it.

8 MR. ZANGL: To their point, there are quite a
9 few letters in the file.

10 MS. ELSNER: (Indiscernible).

11 MR. ZANGL: I can look through it, but then I
12 would -- technically, I feel like I should look through
13 and read everyone's letter over again. And, you know,
14 if we need to do that, we can go down that road, or we
15 can go back to public hearing also if we need to go
16 down to that forum.

17 SUPERVISOR: Those were issues as part of
18 public hearing?

19 MR. ZANGL: Huh?

20 SUPERVISOR: Those were issues --

21 SUPERVISOR ZASTROW: Yes.

22 SUPERVISOR: -- as public -- part of public
23 hearing?

24 MR. ZANGL: Yeah.

25 SUPERVISOR ZASTROW: Yes.

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1 SUPERVISOR NASS: I find that that would be
2 helpful to me, but we'll continue discussion
3 (indiscernible).

4 CHAIR JAECKEL: Lloyd.

5 SUPERVISOR ZALSTROW: Well, I just have a
6 comment here to your -- to your comment, Steve. Would
7 they have approved it if it were somewhere else?

8 CHAIR JAECKEL: Uh-huh.

9 SUPERVISOR ZALSTROW: And since I'm one --

10 SUPERVISOR NASS: Right.

11 SUPERVISOR ZASTROW: -- of the offices who
12 voted in favor of this, I did comment that if it were
13 somewhere else separate from this, I would not have
14 approved it, but because it's connected to an existing
15 same type of business, I saw it as an okay thing.

16 CHAIR JAECKEL: (Indiscernible).

17 SUPERVISOR ZASTROW: And Mr. Ingersoll also,
18 that was his opinion of this whole process. It's --
19 and a little bit of common sense also comes in, the
20 fact that it does combine the two and doesn't create --

21 CHAIR JAECKEL: Yeah.

22 SUPERVISOR ZASTROW: -- a new area.

23 So --

24 CHAIR JAECKEL: Yeah.

25 SUPERVISOR ZASTROW: -- or a (indiscernible).

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1 MR. ZANGL: So, Steve, based on
2 Ms. Williams's letter, she references a number of A-2
3 zones, and those include two requests to enlarge
4 existing A-2 zones for businesses that were
5 longstanding in the Town, Stern, which must be that
6 larger one that we originally were looking at for a
7 lumber business, and Pop for boat storage, was that --

8 MS. ELSNER: Uh-huh.

9 MR. ZANGL: -- other A-2 we were looking at.

10 SUPERVISOR NASS: But that's within the --
11 their -- that's already within their -- their --

12 MR. ZANGL: No, outside of.

13 SUPERVISOR NASS: It's outside?

14 MR. ZANGL: Outside of the rural hamlet.
15 These are all -- all outside of the rural hamlet --

16 SUPERVISOR NASS: Okay.

17 MR. ZANGL: -- as I believe. Two small A-2
18 zones for the storage of contractor's equipment so that
19 the resident homeowner can store equipment for a
20 business, which was operated on that site, Ott, which
21 is a concrete equipment, and Baris (phonetic), which is
22 a landscape equipment, and that's the one I was also
23 referencing. And a request for A-2 for the use of the
24 property, that will remain the same; but in order for
25 them to sell it, and that was (indiscernible) and one

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1 request for beekeeping, which is the Cleefish
2 (phonetic) property.

3 SUPERVISOR NASS: Okay. So those are all A-2s
4 outside of --

5 MR. ZANGL: Correct.

6 SUPERVISOR NASS: -- of the prescribed lines?

7 MR. ZANGL: Correct.

8 SUPERVISOR NASS: Okay.

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

17 If you look at the rest of the hamlet, I
18 don't know, you know, even if there -- you know, if
19 anybody else has land for sale with access, you know,
20 that would accommodate a business like this.

21 SUPERVISOR ZASTROW: Yeah.

22 SUPERVISOR NASS: Well, I don't have -- to me,
23 the discussion about the business, itself, and whether
24 -- it doesn't make any difference to me. To me, it's
25 being consistent. And if the Town Board has

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1 consistently approved A-2 zones outside of that center,
2 it only seems to be consistent and fair to do this,
3 too. Because apparently, by their definition, A-2 does
4 not constitute a -- what they would refer to as a
5 business.

6 You know, that's -- I mean, that's the
7 consistency that I've seen, and that hasn't been the
8 same Town Board over the last ten years, either.

9 CHAIR JAECKEL: Uh-huh, yeah.

10 SUPERVISOR NASS: Yeah. So --

11 CHAIR JAECKEL: And -- and has the Planning
12 Committee been --

13 SUPERVISOR ZASTROW: Bill and --

14 CHAIR JAECKEL: -- the same over ten years,
15 too?

16 SUPERVISOR ZASTROW: Bill and I have been on
17 the Board. Bill, I think, has been on 17 years. I've
18 been on 27 years. So --

19 SUPERVISOR NASS: That's consistency.

20 What do you think, Blane?

21 SUPERVISOR POULSON: Well, I'm thinking along
22 the same lines that you are at this point, because it
23 seems like there is consistency. I was with you
24 initially on we shouldn't go outside of their plan, but
25 it looks like we've been going outside of their plan

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1 for sometime. And unfortunately, they're behind on
2 updating theirs. And we're in a gray area whether
3 their -- whether their plan applies or not since it's
4 expired.

5 So by that, if you want to go by that logic
6 that it's expired, then it automatically defaults to
7 the Comprehensive Plan.

8 CHAIR JAECKEL: Correct.

9 SUPERVISOR POULSON: And so and I get the
10 feeling from the Township area that this is an area
11 that if they had renewed their plan, they would
12 include. And from the standpoint that if -- if you
13 include some of that development around Concord
14 Center --

15 MR. ZANGL: Put that --

16 SUPERVISOR POULSON: -- that -- that --

17 MR. ZANGL: -- one back on.

18 SUPERVISOR POULSON: -- releases pressure on
19 more -- on other rural areas if you've got an outlet
20 there. And I -- I see they have other outlets there,
21 too, but I understand where it's, you know, the
22 business wants to be consolidated in one spot. So my
23 opinion at this point personally is that it can be
24 approved because that's consistent with what the
25 Township has approved in the past. And I can't really

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1 say that their -- their land use plan, in all
2 certainty, applies at this point because it's expired.

3 CHAIR JAECKEL: Yeah, agreed. So any other
4 discussions? I would make a motion to approve the
5 rezone. We've got to do that separate, right? Rezone
6 and the conditional use, or can they be combined in the
7 same motion?

8 MR. ZANGL: I'd say on this one just do them
9 separate so we can get --

10 CHAIR JAECKEL: Okay.

11 MR. ZANGL: -- the reasons for the rezone and
12 conditional use separately.

13 CHAIR JAECKEL: I will make a motion to
14 approve the rezone.

15 SUPERVISOR POULSON: I'll second that. And
16 I'll add as part of the discussion, the other thing
17 that -- that pushes me that direction is when he read
18 this and --

19 Read that part again about adjacent to.

20 MR. ZANGL: Future -- any future businesses
21 that do locate in Concord should be limited to
22 locations within the hamlet, adjacent to properties
23 currently utilized for business purposes.

24 SUPERVISOR POULSON: Okay. So it is adjacent
25 to, yeah.

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1 CHAIR JAECKEL: Yeah.

2 SUPERVISOR NASS: What page is that on?

3 MR. ZANGL: Fifty-seven.

4 CHAIR JAECKEL: Any other discussion? All in
5 favor of the rezone, signify by saying aye.

6 SUPERVISOR POULSON: Aye.

7 SUPERVISOR ZASTROW: Aye.

8 SUPERVISOR NASS: Aye.

9 CHAIR JAECKEL: Aye. Opposed. Four to zero
10 for the rezone. And the reasons are basically we've
11 noted that the Town has approved other ones and it is
12 adjacent to an existing business property.

13 Now, on the conditional use --

14 MR. ZANGL: Deb has got some --

15 CHAIR JAECKEL: Oh, Deb, sorry.

16 MS. MAGRITZ: No, that's quite all right.

17 Likely, you would condition your approval upon road
18 access approval by the maintaining authority, receipt
19 of suitable soil test; receipt of and recording of the
20 final certified survey map. The fact that rezoning
21 shall be null and void and have no effect one year from
22 date of County Board approval unless all applicable
23 conditions have been completed by that date. And then
24 soil test required if bathrooms are proposed.

25 CHAIR JAECKEL: Deb, who -- does Blane have to

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1 read his --

2 SUPERVISOR POULSON: No.

3 CHAIR JAECKEL: -- into it?

4 SUPERVISOR POULSON: No.

5 SUPERVISOR NASS: No.

6 CHAIR JAECKEL: No, okay.

7 SUPERVISOR POULSON: Because it's not a
8 residential.

9 CHAIR JAECKEL: Okay.

10 SUPERVISOR POULSON: It's not a residential.

11 CHAIR JAECKEL: And then CU2108-22.

12 SUPERVISOR POULSON: I'll make a motion to
13 approve.

14 CHAIR JAECKEL: Second. Any other discussion
15 on this? All in favor. Aye.

16 SUPERVISOR POULSON: Aye.

17 SUPERVISOR NASS: Aye.

18 SUPERVISOR ZASTROW: Aye.

19 CHAIR JAECKEL: Opposed? Motion carries.

20 MS. MAGRITZ: And likely you would condition
21 that upon the stormwater management plan; no customers
22 onsite, only employees; and no outside storage.

23 MR. ZANGL: And you remember we had those
24 couple of those other items with the cars potentially
25 backing up on to --

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1 SUPERVISOR: Yeah.

2 MR. ZANGL: -- the road, so work --

3 SUPERVISOR: Yes.

4 MR. ZANGL: -- with the County Highway
5 Department to reduce any conflict or traffic backing
6 up.

7 SUPERVISOR: Well, one of the things, I
8 thought about that, Matt, would -- would be if it comes
9 down to the point where the Highway Department -- the
10 Highway Department says, look, you have to put a turn
11 light in there, who's going to be responsible for that?

12 MR. ZANGL: I don't think it will go up to
13 that point.

14 SUPERVISOR: Okay.

15 MR. ZANGL: But we'll keep that in mind. And
16 if it does get to that point, we'll bring it back to
17 you guys for review. I think that's really all I was
18 looking for. They had some screening that could be --
19 or they have screening as part of the plan, but I think
20 we'll (indiscernible).

21 MR. GROSS: Yeah.

22 MR. ZANGL: So if you want a motion to accept
23 those.

24 CHAIR JAECKEL: Motion to accept the
25 conditions for the conditional use.

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1 SUPERVISOR: Second.

2 CHAIR JAECKEL: All in favor.

3 SUPERVISOR POULSON: Aye.

4 SUPERVISOR NASS: Aye.

5 SUPERVISOR ZASTROW: Aye.

6 CHAIR JAECKEL: Aye.

7 SUPERVISOR NASS: One last question, we -- we

8 did do the farm consolidation last time?

9 MR. ZANGL: Yeah.

10 SUPERVISOR NASS: Okay.

11 MR. ZANGL: Yeah.

12 SUPERVISOR NASS: So that one is done.

13 CHAIR JAECKEL: Okay.

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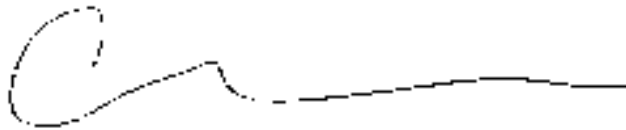
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1 STATE OF WASHINGTON)
2) SS
3 COUNTY OF WHATCOM)
4

5 I, CHRISTINE AIELLO, do hereby certify
6 that I transcribed the audio, and that the foregoing is
7 a true and complete transcription of the audio
8 transcribed under my personal direction.

9 IN WITNESS WHEREOF, I do hereunto set my
10 hand at Blaine, Washington, this 15th day of February,
11 2023.
12
13

14 
15
16

17 _____
18 Christine Aiello
19
20
21
22
23
24
25

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02-24-2023

Clerk of Circuit Court

Cindy R. Hamre Incha

2022CV000334

In the Matter Of:

JCPZC

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January 26, 2023



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1 of 30

DEPOSITION SOLUTIONS A-APP. 224

PUBLIC HEARING EXCERPT 02172022
JCPZC

January 26, 2023

1

JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE
PUBLIC HEARING
ROOM 205, JEFFERSON COUNTY COURTHOUSE
311 CENTER AVENUE, JEFFERSON, WISCONSIN

Thursday, February 17, 2022
7:00 p.m.

EXCERPTED PORTIONS ONLY

Transcribed by:
Christine Aiello

J9255865-1

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2

1 PLANNING AND ZONING COMMITTEE

2
3 George Jaeckel, Chair

4 Steve Nass, Vice-Chair

5 Blane Poulson, Secretary

6 Matt Foelker

7 Lloyd Zastrow

8
9
10 STAFF11
12 Brett Scherer, Planning and Zoning Department13 Sarah Elsner, Planning and Zoning Department
14
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PROCEEDINGS

(On the record)

(0:00 - 03:20)

CHAIR JAECKEL: And roll call, I will introduce the Committee. To my right, Steve Nass from the Town of Lake Mills; Matt Foelker from the Town of Hebron; Blane Poulson from the Town of Palmyra; Lloyd Zastrow from the Town of Concord.

To the left of me is Brett Scherer from the Planning and Zoning Department. In front of me is Sarah Elsner from the Planning and Zoning Department. And I am George Jaeckel, Planning and Zoning Committee Chairman, from the Town of Koshkonong.

Are we in compliance with the Open Meetings Law?

SUPERVISOR POULSON: We are, Mr. Chairman.

CHAIR JAECKEL: Thank you.

Approval of the agenda. Make a motion.

SUPERVISOR POULSON: I'll move.

SUPERVISOR FOELKER: Second.

CHAIR JAECKEL: All in favor?

SUPERVISOR POULSON: Aye.

SUPERVISOR NASS: Aye.

SUPERVISOR FOELKER: Aye.

SUPERVISOR ZASTROW: Aye.

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1 CHAIR JAECKEL: Aye.

2 Motion carries.

3 The procedure we will follow tonight is
4 Mr. Scherer will read the petition, and the petitioner
5 will make his or her request and give their reasons. I
6 will then ask if there is anyone else here to speak in
7 favor of the petition and then if there is anyone here
8 to speak against the petition. Those speaking for or
9 against the petition need to give their names and
10 addresses and speak into the microphone since we are
11 recording the proceedings. After that, there will be a
12 chance for the petitioner to give the rebuttal. There
13 is no rebuttal for anyone other than the petitioner.

14 We will then accept questions from the
15 Planning and Zoning Committee and the Town Board will
16 then give its recommendation and/or decision. And
17 Mr. Scherer will read the staff report. All questions
18 must be directed to the Chair to prevent discussion on
19 the floor. If you wish to speak on a petition and your
20 reasons have previously been given by another speaker,
21 please mention that rather than repeating all the
22 reasons in the interest of saving time.

23 Decisions and recommendations on the petitions
24 will be made by the Committee on February 28th, and
25 amendments will be acted upon by the County Board when

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1 it meets in March on the 8th at 7:00 p.m.

2 Mr. Scherer.

3 MR. SCHERER: Notice is hereby given and the
4 Jefferson County Planning and Zoning Committee will
5 conduct a public hearing on Thursday, February 17th,
6 2022, in Room 205 of the Jefferson County Courthouse,
7 Jefferson, Wisconsin.

8 Members of the public will be allowed to be
9 heard regarding any petition under consideration by the
10 Planning and Zoning Committee. Petitioners, or their
11 representatives, shall be present either in person or
12 via Zoom. Matters to be heard are petitions to amend
13 the official zoning map of the Jefferson County and
14 applications for conditional use permits. A map of the
15 properties affected may be obtained from the Zoning
16 Department, individual files, which include staff
17 finding of facts, are available for viewing between the
18 hours of 8:00 a.m. and 4:30 p.m., Monday through
19 Friday, except holidays.

20 If you have any questions regarding these
21 matters, please contact Zoning at (920) 674-7131.
22
23
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25

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(07:30 - 25:20)

MR. SCHERER: All right. R4379A-22 and CU2108-22, Donald and Nancy Brunson, looking to create a 7.4-acre A-2 zone around W1432 County Road B with a conditional use for boat storage. The site is part of PIN 006-0716-1642-000 in the Town of Concord. This is in accordance with Section 11.04(f)7 of the Jefferson County Zoning Ordinance.

CHAIR JAECKEL: Brunsons or their representative.

MR. GROSS: Pete Gross, N5921 Jefferson Road, Johnson Creek, Wisconsin. I've got the Brunsons to my right and the representative for the Boat House, Dick Heckel, to my left. But if you guys want to ask them questions, they're here for that. In a nutshell, they want to build an additional ten buildings adjacent to the current buildings that they have on that community zone, and it's all inside boat storage. The building -- buildings will be identical in size to the ones that they current have there.

CHAIR JAECKEL: Okay. Anyone else speak in favor of this petition? Anyone else in favor? Anyone opposed?

State your name and address and --

MR. KONLE: Dale Konle. I am presently the

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1 Concord Town Chair. My address is N6240 Stonewood
2 Drive. That's Watertown, Wisconsin. And I'm a -- I
3 voted against it on the -- on the Town level, and the
4 reason is, it's inconsistent with our Town Plan. Our
5 Town Plan calls for just having buildings like this,
6 businesses inside the hamlet, and now this one is
7 outside the hamlet, so it's going to an A-2 zone. And
8 I think our Town Plan sort of offers that -- it was
9 worked on pretty hard -- it offers consistency. We've
10 followed it for quite a few years, like the last ten.

11 And this is the first time that we've had the
12 Board vote to violate that consistency. And I don't
13 know where we're going to go for the next people to
14 come, and which we've already had, because this sort of
15 opens up our whole Town as far as our plan goes because
16 it's directly against the plan. And so I think it's
17 been -- it's a pretty important issue for us is that
18 the consistency be held.

19 CHAIR JAECKEL: Okay. Thank you.

20 Anyone else against?

21 MS. WILLIAMS: Can you hear me?

22 CHAIR JAECKEL: Yeah.

23 MS. WILLIAMS: All right. Sally Williams
24 W2403 North Side Drive. As Dale said, it's not
25 consistent with our Town Plan. Our Town Plan states

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1 that the Town will evaluate conditional use
2 applications in rezoning in relation to anticipated
3 impact on the Town's rural character and quality of
4 life, that the Town will establish -- limit
5 establishment of new businesses to the hamlet, and that
6 the Town will not support expansion of the hamlet.

7 I think the Town has done well accommodating
8 each of the requests in light of these criteria. We've
9 approved six such requests, two -- including two to
10 enlarge existing A-2 zones for longstanding businesses;
11 two small A-2 zones to allow for storage of
12 contractor's equipment so a resident homeowner could
13 store equipment for business operated on premises; and
14 two requests for agricultural uses.

15 We have consistently denied requests for new
16 commercial enterprises in A-2 zoning. Denials
17 including a wedding barn, landscape business with
18 operations and employees onsite, kennel, disc golf, and
19 a wrestling camp. Aside from its inconsistency with
20 the Town Plan and past decisions, the location of the
21 request makes it unsuitable.

22 When evaluating the initial proposal for the
23 Boat House, the Plan Commission considered that the
24 location was in the hamlet and that the land in
25 question was below the grade of the roadway. With this

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1 in mind, and a request by the Plan Commission for
2 buffering to screen the development from road -- to
3 screen the development from the road and surrounding
4 properties, the Town approved the petition. The
5 requested screening has not been maintained, and I
6 would argue that the Boat House has not complied with
7 this aspect of the CUP.

8 Also, rather than being on lower ground, the
9 proposed locations of the new buildings is on a hill
10 above the residences to the north. A hilltop view of
11 ten large industrial-type storage buildings would
12 certainly have a negative impact for nearby existing
13 residential development. This is not an industrial
14 area. It's a rural community area.

15 So on those bases I would recommend denying
16 the request. If approved, I would ask that the
17 following conditions be attached to the CUP,
18 enforcement of a requirement to establish a mature
19 year-round green screen to obscure the entire
20 development from existing residences and conditions on
21 the type and brightness of nighttime lighting. The
22 five existing buildings have extremely bright lights,
23 which are on all night long. This is not an industrial
24 area. It's a rural community. Conditions to mitigate
25 nighttime light nuisance would be appropriate.

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1 Additionally, I became aware today that
2 there's some traffic problems with the -- with the
3 facility, that the boats line up on the road and then
4 wait there to open the gate and go in, and that can
5 create a hazard for, you know, possible accidents.
6 Thank you.

7 CHAIR JAECKEL: Is there anyone else opposed?

8 MS. GARTZKE: My name is Karen Gartzke. I'm
9 here with my husband, Bob, and we live at W1363 County
10 Road B, which is directly across from this storage,
11 boat storage. We feel we are the ones that are most
12 affected if this is approved.

13 Two years ago we sold our large -- larger
14 country home and acreage to our daughter and son-in-law
15 on Highway F. We were thrilled to find a smaller home
16 on a one-acre lot for our retirement years near our
17 family. We had no idea how much traffic is on Highway
18 B and how many people turn around in our driveway.

19 We were not upset about the storage units
20 across the road. We thought they would take the boats
21 out in the spring and bring them back in the fall. We
22 were very, very wrong. All year long we are -- they
23 pull the boats out, and then they bring them back or
24 bring back different boats. I don't -- all day, all
25 week, all winter, all summer, all spring, all fall.

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1 We were under the impression, you know,
2 people would take their boats there and store them for
3 the winter. I don't know why they're taking boats out
4 all the time, but today is another example. There were
5 three trucks with three large trailers with three
6 pontoon boats there on the road on Highway B, which is
7 very, very busy, and there were two or three cars
8 always lined up behind them, the people waiting to get
9 around. It's -- it's awful.

10 I don't know why they have to pull these
11 boats in and out all winter. I don't understand it.
12 First we thought they were just winterizing them, but
13 it's going on all -- you know, it's now February,
14 almost March.

15 So we are very opposed to it. I don't
16 understand, and now they want to triple the amount. So
17 can you imagine? It's already so busy, and then to
18 have, you know, three times the amount that they have
19 now. Also -- also, somebody has to stop and get out
20 and open the gate, so that blocks everything up, too.

21 So the Town ordinance -- or the Town Planning
22 Commission voted against it, four against, one
23 abstained to not approve this. So I don't know -- I
24 don't understand why it's already -- why it's gone to
25 the County if they have not approved it. I -- I mean,

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1 I know the Town Board voted two -- two to one for it;
2 but shouldn't the Planning Commission, who wants to
3 keep this in, you know, the business or whatever in the
4 hamlet -- I mean, why -- I -- I don't know, but my
5 husband and I are very against it.

6 CHAIR JAECKEL: Thank you.

7 MS. GARTZKE: Thank you.

8 CHAIR JAECKEL: Anyone else opposed?

9 MR. BOUCHE: My name is Mike Bouche. I live
10 at N6451 County Road E. I guess I'm opposed to it
11 because I see all the traffic problems on Highway B, on
12 Highway E. People over by Valley Road where the --
13 their -- their trucks usually come down Highway E and
14 then -- or on -- on Valley Road and turn on B. It's a
15 very congested area already. Now, if we're going to
16 add that many more vehicles to get boats out there and
17 boats back and -- and stuff like that -- I moved out
18 there to live in the country, not live next to a
19 storage facility.

20 What's happening is these people are moving
21 out here to buy land to put their storage up, because I
22 can guarantee you, I used to live in the Village of
23 Summit, and they don't -- they're not allowing any
24 storage units being built. I don't know what it's like
25 to the north or to the west, but today I was just

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1 driving by an eight-acre parcel in an industrial park
2 in Ixonia. There would be a perfect place for ten more
3 buildings. Thank you.

4 CHAIR JAECKEL: Anyone else opposed?

5 Petitioner -- oh, hold on.

6 MS. MILLER: I want to -- or my -- my name is
7 Kimberly Miller, N6240 Stonewood Drive, Watertown,
8 Wisconsin. I'm in the Town of Concord. I'm on our
9 Plan Commission. And I just wanted to give a bit of
10 perspective from that. We -- on the Plan Commission
11 level, we thought this was a straightforward no because
12 it diverged from our Town Plan, which we've always
13 followed. So we didn't contact neighbors or have
14 conversations or do some of the investigation that we
15 normally would, which we, you know, realized it
16 afterwards, we would have done differently.

17 And so since -- since this then was approved
18 -- you know, so the Town -- the Plan Commission did
19 turn it down. The County -- the Board voted to approve
20 it. However, we have since then become aware of
21 concerns, as spoken already, about the lighting, the
22 draining, and -- yeah, drainage, and then also the
23 traffic. So again, yeah, drainage, lighting, traffic,
24 and that the neighbors, you know, do have some
25 significant concerns.

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1 And I guess I believe that if the -- if the
2 Town Board had been aware of these concerns at the time
3 when this had come before the Town Board, that the Town
4 Board might -- might very well have voted differently.
5 That it was -- that that vote was not, you know, kind
6 of both the Plan Commission and the Board, we had not
7 yet received any input from neighbors. So --

8 CHAIR JAECKEL: Anyone else opposed?

9 MR. OLIVERSON: My name is Larry Oliverson --
10 or Lawrence Oliverson on N6069 Colonial Drive,
11 Sullivan, Wisconsin. And I'd just like to request that
12 you deny, vote against this for all the reasons that
13 have already been listed, primarily focusing on the
14 consistency with what has been done in the past, both
15 on a County and on a Town level, and primarily on the
16 traffic situation, as well.

17 CHAIR JAECKEL: Thank you.

18 Anyone else?

19 MR. WILLIAMS: I'm Tom Williams, W2403 North
20 Side Drive in Concord. I -- I worked on the -- was a
21 volunteer on the original Town Plan ten years ago, and
22 I spent a couple years working on that plan. And I am
23 opposed to this as to -- diverging from the -- from our
24 plan. And we are currently going through rewriting
25 that, and I would just like to encourage the Committee

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1 to take that -- take into consult -- into thought that
2 the Town Plan is -- it was easier to get around the
3 Town Plan than I think it should have been. And I'd
4 like to see that -- that the Town Plan does have some
5 teeth to it.

6 CHAIR JAECKEL: Anyone else opposed?

7 Petitioner has a rebuttal.

8 MR. GROSS: I would just like to say that I
9 did read the complete Comprehensive Plan for the Town
10 of Concord. They did adopt the A-2 zoning ordinance
11 with the County. And it was a long discussion at the
12 Town Board meeting, and there were several people there
13 that had input. They do have professional engineering
14 that are working on all the drainage issues, and they
15 did that on the prior one. There have been no
16 complaints about any of that.

17 This is the first I ever heard of anything
18 about any traffic issues. And at the Town Board level,
19 nobody said there were any complaints. I had never
20 heard of any complaints. I asked Matt if there were
21 any complaints about the Boat House. They run a class
22 operation. They did put the screening up. It was
23 young screening. It's still growing. And they're
24 willing to do whatever it takes to make sure that it's
25 done right.

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1 And if you guys drive by and look at it,
2 you'll see it is done right.

3 CHAIR JAECKEL: Thank you.

4 Questions from the Committee? Seeing none,
5 staff and Town report.

6 MR. SCHERER: Yes, the petitioners are looking
7 to create a 7.4-acre A-2 zone from an A-1 zone at W1432
8 County Road B. With that being said, it is paired with
9 the conditional use, and that would be CU2108-22, which
10 is to allow for storage of nonfarm equipment, boat
11 storage, in a proposed A-2 zone near W1432 County Road
12 B.

13 I guess first off, where is the -- would
14 there be any employees onsite or a number of employees,
15 nothing? Is it self-storage?

16 MR. HECKEL: (Indiscernible).

17 MR. SCHERER: Oh, yeah, could you speak into
18 the mic, please?

19 MR. HECKEL: Richard Heckel, W358 N6745
20 Stonewood Drive, Oconomowoc. No, that would be
21 strictly for when we put them in and out. They do not
22 -- we do not have people there full time.

23 MR. SCHERER: Okay. Any bathrooms proposed
24 onsite at all?

25 MR. HECKEL: On the new proposal coming up,

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1 not -- no.

2 MR. SCHERER: Okay.

3 MR. HECKEL: It's just strictly storage.

4 MR. SCHERER: And then what's your proposed
5 hours where you would be operating at?

6 MR. HECKEL: The only time they go in and out
7 is during the 8:00 to 5:00.

8 MR. SCHERER: Okay.

9 MR. HECKEL: It's strictly not on Sundays,
10 yeah.

11 MR. SCHERER: Okay. Monday -- Monday through
12 Saturday, okay. Any signage proposed at all?

13 MR. HECKEL: No.

14 MR. SCHERER: Nothing?

15 MR. HECKEL: I can say sometimes -- I -- I
16 shouldn't say -- when it gets busy in November, we may
17 do a Sunday morning run or whatever, but only usually
18 it's a morning run.

19 MR. SCHERER: Okay. And then going off that,
20 any lighting proposed on these buildings at all?

21 MR. HECKEL: Whatever you guys would propose.
22 I mean, we're not opposed to anything. We just have
23 the standard like --

24 MR. SCHERER: Dawn to dusk?

25 MR. HECKEL: -- dawn-to-dusk lights --

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1 MR. SCHERER: Okay.

2 MR. HECKEL: -- like anybody else has out
3 there on any buildings.

4 MR. SCHERER: And then can you just give me a
5 little, I guess, an overview of like your business
6 plan? Is it just boats you're strictly storing? Is it
7 anything else?

8 MR. HECKEL: No, it's strictly boats.

9 MR. SCHERER: Okay.

10 MR. HECKEL: We're in a boat dealership with
11 -- with (indiscernible).

12 MR. SCHERER: And then for the ten buildings
13 that you're proposing, when will -- when will you build
14 them? Is it all going to be at once? Is it going to
15 be a staggered?

16 MR. HECKEL: No, it would be a severe
17 staggered stanch around this one. If we get lucky in
18 the next year or two, we'll get a couple up. And then
19 -- well, after that depending on the financial side of
20 it --

21 MR. SCHERER: Perfect.

22 MR. HECKEL: -- the business. It's not --

23 MR. SCHERER: Thank you.

24 MR. HECKEL: -- all at once.

25 MR. SCHERER: Perfect. Thank you.

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1 And then just a note, too, in the file, we do
2 have a couple letters of opposition. We have about 40
3 signatures for in opposition of the conditional use,
4 basically the gist of it that it's violating Concord's
5 Town Plan and it's not -- and it's inconsistent with
6 the Town Board's decision.

7 We also have another letter from Lawrence
8 Oliverson, basically stating the same thing, that it's
9 inconsistent with the Town of Concord's Plan. And we
10 also have another letter in opposition from Marian
11 Speerless, same gist, with the plan of Concord, that it
12 doesn't fit the plan at all. And lastly, we've got
13 another letter in opposition from Sally Williams, the
14 Town of Concord, the same gist, that it -- it is not
15 consistent with the Town of Concord's Comprehensive
16 Plan. And the last letter in opposition is from
17 Kimberly Miller on the Plan Commission, and a similar
18 stance on that.

19 All these letters are available in the file
20 if anyone wants to look at them.

21 * * *

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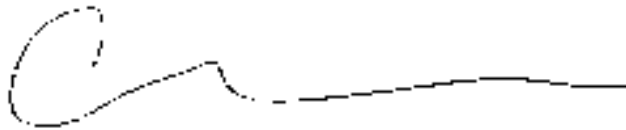
21

1 STATE OF WASHINGTON)
) SS
2 COUNTY OF WHATCOM)

3
4
5 I, CHRISTINE AIELLO, do hereby certify
6 that I transcribed the audio, and that the foregoing is
7 a true and complete transcription of the audio
8 transcribed under my personal direction.

9 IN WITNESS WHEREOF, I do hereunto set my
10 hand at Blaine, Washington, this 15th day of February,
11 2023.

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Christine Aiello

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FILED

02-27-2023

Clerk of Circuit Court
Cindy R. Hamre Incha

**JEFFERSON COUNTY BOARD MINUTES
TUESDAY, April 19, 2022, 4:00 P.M.**

2023 CIV 000334

County Clerk Audrey McGraw called the meeting to order.

Administration of Oath of Office by Honorable Robert F. Dehring Jr.

McGraw called the roll, all members being present in person.

Supervisors Herbst and Lund were absent. Lund having given prior notification was excused.

District 1.. Richard C. Jones	District 2. Cassie B. Richardson
District 3..... Robert Preuss	District 4 Tim P. Mielke
District 5 James B. Braughler	District 6 Dan Herbst
District 7. Dwayne C. Morris	District 8 Michael Wineke
District 9..... Bruce Degner	District 10 Mark Groose
District 11..... Jeff Johns	District 12 Jeff Smith
District 13..... Anita Martin	District 14 Kirk Lund
District 15.... Steven J. Nass	District 16 . Meg Turville-Heitz
District 17..... Russell Kutz	District 18 ... Brandon White
District 19..... Dave Drayna	District 20 .. Curtis Backlund
District 21. John C. Kannard	District 22 Blane Poulson
District 23... George Jaeckel	District 24 Roger Lindl
District 25. Matthew Foelker	District 26Joan Fitzgerald
District 27..... Joan Callan	District 28 Anthony Gulig
District 29.. Mary K. Roberts	District 30 Walt Christensen

Corporation Counsel J Blair Ward led the Pledge of Allegiance. A moment of silence was observed.

New members of the County Board of Supervisors: Cassie B. Richardson, District 2; Robert Preuss, District 3; Tim P. Mielke, District 4; Bruce Degner, District 9; Mark Groose, District 10; Meg Turville-Heitz, District 16; Joan Callan, District 27; and Anthony Gulig, District 28 introduced themselves.

Wehmeier certified compliance with the Open Meetings Law.

Approval of the Agenda. Christensen moved to bring Planning and Zoning Report and Ordinance, #20a and b, to right after Public Comment and to otherwise continue as drafted. Seconded by Poulson and passed.

Adoption of Rules of Order.

Wehmeier introduced Ordinance No. 2022-01.

Repeal Board of Supervisors Rules of Order 2020-2022 and recreate Board of Supervisors Rules of Order 2022-2024.

Braughler moved to repeal and recreate Ordinance No. 2022-01, the Board of Supervisors Rules of Order 2022-2024. Seconded by Morris and passed as amended below.

Jones moved to Amend the 2022-2024 County Board

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Rules as follows:

Section 3.05 STANDING COMMITTEES.

2. a) BROADBAND WORKING GROUP – Five to Seven members appointed by the County Board Chair, consisting of at least one member from the Finance Committee, one member from the Jefferson County Economic Development Consortium, one member from the Planning and Zoning Committee, one member from the Executive Committee, and one member of the public. Any additional members shall be County Board Supervisors selected by the County Board Chair. The Broadband selected by the County Board Chair. The Broadband Working group will be responsible for policy oversight of the expansion and improvement of Broad Band within Jefferson County. Members will be paid a per diem and mileage for meeting attendance in accordance with County Policy. The Working Group will dissolve at the end of the 2022-2024 County Board term.

Seconded by Backlund and passed.

Jones moved to Amend the 2022-2024 County Board Rules as follows:

Section 3.05 STANDING COMMITTEES.

2. e) FINANCE COMMITTEE - Five members appointed by the County Board Chair consisting of County Board Supervisors. This Committee shall receive the proposed County budget from the County Administrator and shall conduct hearings necessary in the review of the proposed budget. The Committee shall make necessary permitted transfers as authorized by the provisions of s. 65.90(5)(b), Wis. Stats. The Committee shall propose utilization of contingency budget and necessary budget transfers and amendments requiring County Board action. [Am. 03/14/06, Ord. 2005-48d; Am. 05/11/04, Ord. 2004-04; 03/09/10, Ord. 2009-24; Ord. No. 2014- 11, 07/08/2014; Ord. No. 2018-01, 04/17/2018] The Committee shall recommend to the Board the auditors to be employed, and shall report to the Board the results of such audits. The Finance Committee shall meet each month to audit and approve for payment proper vouchers, expenditures and claims against the County. [Ord. No. 2018-01, 04/17/2018] The Committee shall review insurance to be carried and also the insurance carrier to which such insurance shall be awarded. The Committee shall be authorized to renew insurance contracts without bidding same, when it finds renewal is in the best interest of Jefferson County, select investment advisors/brokers, select vendors for professional services related to financial matters if required by the Jefferson County Purchasing Policy and select P-Card vendors. [Ord. No. 2018-01, 04/17/2018] The Committee shall have the authority to resolve claims against the County in amounts over \$25,000 up to the County's self-insured retention (SIR) amount after consulting with the County's insurance carrier, the County Administrator and Corporation Counsel. [Cr.

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04/16/02, Ord. 2002-04; Ord. No. 2018-01, 04/17/2018] The Committee shall supervise the collection of delinquent taxes and is authorized to sell foreclosed properties in accordance with Resolution No. 2002-16. [Am. 08/13/02, Ord. 2002-16; 03/14/06, Ord. 2005-48d, effective 04/18/06; 03/13/12, Ord. 2011-24] The Committee, on a case-by-case basis, shall recommend to the Board of Supervisors the allocation of the proceeds from the sale of county-owned farmland to possibly increase the acreage of farmland permanently protected from development, and to leverage state and federal funds for the acquisition of conservation easements to protect farmland (Resolution No. 2008-15). [Ord. 2016-01, 04/19/2016] Unless otherwise provided by statute or ordinance, the Finance Committee shall oversee the sale of county-owned land in addition to land obtained through tax foreclosure and shall present contracts for sale of such land to the Board for approval. [Ord. No. 2007-39, 03/11/2008; Ord. No. 2018-01, 04/17/2018] The Committee provides policy oversight of the County Treasurer, Finance Department and Child Support Office in handling policy matters related to those offices and shall present matters to the County Board on behalf of said offices whenever necessary. [am. 3/13/12, Ord. 2011-24; Ord. 2016-01, 04/19/2016, Ord. No. 2018-01, 04/17/2018] [Ord. No. 2002-05, 04/15/2002; Ord. No. 2002-16, 08/13/2002; Ord. No. 2004-04, 05/11/2004; Ord. No. 2005-48d, 03/14/2006; Ord. No. 2009-24, 03/09/2010; Ord. No. 2011-24, 03/13/2012; Ord. No. 2014-11, 07/08/2014; Ord. No. 2016-01, 04/19/2016]

Seconded by Jaeckel and passed.

Christensen moved to Amend the 2022-2024 County Board Rules as follows:

3.06 BOARDS, COMMISSIONS, COMMITTEES AND OTHER BODIES.

1. The following Boards, Commissions, Committees and Other Bodies created by the County or to which the County has a right to appoint representatives, shall be elected or appointed in the manner provided by law, ordinance or rule. The Chair or either Vice Chair may attend the meetings of Boards, Commissions, Committees and Other Bodies, but are not to be considered ex-officio members and may not serve to establish a quorum or vote. Members of Boards, Commissions, Committees or other bodies where only one County Board member or other appointed member is serving as a representative of Jefferson County shall, in March of each year, submit to the County Clerk a report to include the number of meetings attended and a brief discussion of the major work of the body. The report shall be distributed to the County Board as a Communication at the April County Board meeting. [Am. 03/14/06, Ord. 2005-49a; Ord. No. 2018-01, 04/17/2018]

Seconded by Nass and passed.

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Jones moved to Amend the 2022-2024 County Board Rules as follows:

3.02 ORGANIZATION.

6. The County Board Chair is authorized and directed to attend meetings and conferences on matters directly related to County government. The County Board Chair may designate member(s) of the County Board to attend such meetings and conferences, either in place of the Chair or along with the Chair. The County Board Chair, the Vice Chairs and such other Board members as may be designated by the Chair, shall be entitled to meeting fees or per diem and mileage for attending such meetings and conferences, all subject to the regular rules of the County Board pertaining to meeting fees, per diems, mileage and expenses. The County Board Chair shall be entitled to a meeting fee for meeting with the County Administrator. Board members attending meetings and conferences in addition to regularly scheduled meetings, including educational meetings and events, shall notify the County Administrator not less than 72 hours in advance of said meeting or conference in order to permit the County Administrator to give any necessary Open Meeting notices as may be required. No per diems, meeting fees or expenses shall be paid to Board members attending meetings and conferences in addition to regularly scheduled meetings, including educational meetings and events, who have not been authorized to attend by the County Board Chair. Utilization of remote attendance at all County meetings to facilitate the transaction of County business is permitted by County Board Supervisors when serving as a member of the Jefferson County Board of Supervisors or as an appointed member of a Board, Commission, Committee, or other body on behalf of Jefferson County. County Board Supervisors shall have the same rights and privileges when appearing by remote attendance as they would have when appearing in person. The official meeting shall be noticed as taking place at a physical location on the meeting agenda. If appearing remotely, it is the responsibility of the member to maintain audio and video connectivity with the official meeting site. If connectivity is lost, but the physical location of the meeting maintains a quorum, the meeting may continue in the discretion of the chair. If connectivity is lost and there is a quorum of members appearing remotely, the meeting shall be adjourned until connectivity is reestablished with the official meeting location or rescheduled to another date and time in accordance with the Wisconsin Open Meetings Law. As a courtesy, committee members planning to attend remotely should provide 24 hours' notice in advance of a scheduled meeting to the County Clerk. Members attending remotely must be able to be heard, and when video is available to the member attending remotely, seen by Committee members and public who are present at the physical location of the

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meeting. Loss of connectivity will result in the member being considered absent from that portion of the meeting after connectivity is lost. If the meeting is convened in closed session, any member attending remotely shall inform the board or committee chair as appropriate, that no other person is present with them and to the best of their knowledge no other person can view or hear any portion of the closed session meeting unless such person is allowed to attend closed session meetings by the County Board rules or expressly authorized to attend the closed session meeting by the committee. [am. 03/09/10, Ord. 2009-24; Ord. No. 2014-06, 05/13/2014; Ord. No. 2018-01, 04/17/2018]

Seconded by Johns and passed.

Appointment of ballot clerks by County Clerk McGraw.

The Board proceeded to the election of the County Board Chair and Vice Chairs. County Clerk McGraw read Section 3.02(1) of the County Board Rules regarding electing a Chair, Vice Chair and a Second Vice Chair. McGraw appointed the following ballot clerks: Marc DeVries, Benjamin Wehmeier, Amy Listle, Deb Schroedl, and Matt Zangl.

Election of County Board Chair.

Election of County Board Chair. Nominations were made by written, secret ballot for County Board Chair. Nominated were Jones, Braughler, and Nass. Jones declined the nomination. McGraw called on Chair nominees to give a brief statement up to three minutes in length. The first-round nominees for Chair were tallied, and Nass was elected as Chair.

Chair Nass presides over the rest of the meeting.

Nominations were made by written, secret ballot for First Vice Chair. Nominated were Jones, Poulson, Braughler, Wineke, and Christensen. Jones, Poulson, and Christensen declined the nomination. The Chair called on First Vice Chair nominees to give a brief statement up to three minutes in length. The ballot for First Vice Chair were tallied, and Wineke was elected First Vice Chair.

Nominations were made by written, secret ballot for Second Vice Chair. Nominated were Jones, Poulson, Braughler, Jaeckel, Smith, and Christensen. Jones, Jaeckel, and Smith declined the nomination. The Chair called on Second Vice Chair nominees to give a brief statement up to three minutes in length. The first-round nominees moving on to the second round were Poulson and Christensen. The second-round ballot for Second Vice Chair were tallied, and Poulson was elected as Second Vice Chair.

Committee Elections:

No Elections.

Communications:

County Clerk McGraw presented the following

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communications:

1. Treasurer's Monthly Report.
2. Notice of Public Hearing from the Jefferson County Planning and Zoning Committee for a hearing to be held on April 21, 2022, at 7:00 p.m.
3. Recognition of Sheriff's Proclamation proclaiming the week of April 10 through April 16, 2022, as National Public Safety Telecommunicators Week.

Public Comment:

11 Members of the public spoke on the Zoning Ordinance Amendment for the Brunson property.

Jaeckel, Planning and Zoning Committee Chair, introduced the following report:

REPORT TO THE HONORABLE MEMBERS OF THE JEFFERSON COUNTY BOARD OF SUPERVISORS by the Jefferson County Planning and Zoning Committee recommending approval of petitions to amend the official zoning map of Jefferson County.

Jaeckel, Highway Committee Chair, introduced Ordinance No. 2022-02.

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

WHEREAS Petition R4379A-22 was referred to the Jefferson County Planning and Zoning Committee for public hearing on February 17, 2022 and Petitions R4391A-22, R4392A-22, R4393A-22, R4394A-22, R4395A-22, R4396A-22 and R4397A-22 were referred for public hearing on March 17, 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

Jaeckel moved for the adoption of Ordinance No. 2021-02. Seconded by Christensen.**Jaeckel moved to divide the Question to allow for separate consideration of the Petition to rezone, FROM A-1, EXCLUSIVE AGRICULTURAL TO A-2, AGRICULTURAL AND RURAL BUSINESS**

Create a 7.4-ac A-2 zone near **W1432 County Rd B** on PIN 006-0716-1642-000 (24 ac), Town of Concord. This is in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon road access approval, receipt of a suitable soil test if bathrooms are proposed, and upon approval and recording of a final certified survey map for the lot. R4379A-22 – Donald & Nancy Brunson. **Seconded by Poulson and passed. Question divided.**

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Vote on remaining Petitions, excluding the Brunson Property Petition for W1432 County Rd B on PIN 006-0716-1642-000, **passed**.
Kannard abstained from voting due to potential conflict of interest.

Martin moved to postpone action on the Brunson Property Petition to May 10, 2022 County Board Meeting. Seconded by Johns and failed to pass. Ayes 10 (Richardson, Degner, Goose, Johns, Smith, Martin, Turville-Heitz, Callan, Gulig, Christensen), Noes 18 (Jones, Preuss, Braughler, Morris, Wineke, Nass, Kutz, White, Drayna, Backlund, Kannard, Poulson, Jaeckel, Lindl, Foelker, Fitzgerald, Roberts, Mielke), Abstain 0, Absent 2 (Lund, Herbst).

Poulson moved to close debate (move the previous question). Seconded by Jaeckel and passed. Ayes 21 (Jones, Richardson, Preuss, Mielke, Braughler, Morris, Wineke, Degner, Goose, Johns, Turville-Heitz, Kutz, Drayna, Backlund, Poulson, Jaeckel, Lindl, Foelker, Fitzgerald, Callan, Roberts), Noes 6 (Smith, Martin, Nass, White, Gulig, Christensen), Abstain 1 (Kannard), Absent 2 (Lund, Herbst).
Kannard abstained from voting due to potential conflict of interest.

Vote on Petition to Rezone W1432 County Rd B, PIN 006-0716-1642-000, Brunson Property. passed.
Kannard abstained from voting due to potential conflict of interest.

Backlund, Buildings and Grounds Committee Vice Chair, introduced Resolution No. 2022-09. Awarding Bids for 2022 Capital Project - South Campus Improvements (Phase 2), Fair Park Improvements and Courthouse Judicial Entrance

NOW, THEREFORE, BE IT RESOLVED that the County Administrator is authorized to enter into contracts with Maas Brothers Construction to hold contracts for General Construction –\$596,900, and construction management – \$260,344 - \$857,244, Heating, Ventilation, and Air Conditioning (HVAC) – Zien Mechanical - \$566,611, Electrical – Ready Electric - \$449,545, and Plumbing – North American Mechanical - \$168,000.

Fiscal Note: Total project costs for the proposed resolution are as follows:

Description	Base Bid	Contractor
BP #01 – General Construction	\$ 596,900.00	Maas Bros. Construction
BP #02 – HVAC	\$ 566,611.00	Zien
BP #03 – Electrical	\$ 449,545.00	Ready Electric
BP #04 – Plumbing	\$ 168,000.00	North American Mechanical

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Removal & Salvage of High-Density Storage	
Detention Door	\$ 22,075.00
Material Purchase	
General Conditions	\$ 43,718.00
Supervision-PM & Full-Time Superintendent	\$ 79,000.00
CM Fee (6.00%)	\$ 115,550.94
Construction Manager Bond	\$ 16,331.20

Total Construction Contract \$2,041,399.94
Backlund moved for the adoption of Resolution No. 2022-09. Seconded by Lindl and passed. Ayes 28 (Jones, Richardson, Preuss, Mielke, Braughler, Morris, Wineke, Degner, Groose, Johns, Smith, Martin, Nass, Turville-Heitz, Kutz, White, Drayna, Backlund, Kannard, Poulson, Jaeckel, Lindl, Foelker, Fitzgerald, Callan, Gulig, Roberts, Christensen), Noes 0, Abstain 0, Absent 2 (Herbst, Lund).

Backlund, Buildings and Grounds Committee Vice Chair, introduced Resolution No. 2022-10. Awarding Contract to Stanley Security for Jail Security System Upgrades and Additions
NOW, THEREFORE, BE IT RESOLVED that the County Administrator is authorized to enter into contracts with Stanley Security for \$172,410 and is authorized a contingency budget of \$30,305.

Fiscal Note: This project is budgeted for in account number 11201.594822 and funded by budget carryover, which was approved by the County Board of Supervisors on March 8, 2022, in the amount of \$202,715. No budget adjustment is necessary.

Backlund moved for the adoption of Resolution No. 2022-10. Seconded by Morris and passed.

Jones, Finance Committee Chair, introduced Resolution No. 2022-11. Requesting the State of Wisconsin to Revise the Current Real Estate Transfer Fee Revenue Sharing Formula.

NOW, THEREFORE, BE IT RESOLVED by the Jefferson County Board of Supervisors in session this 19th day of April, 2022 that the State of Wisconsin is hereby requested to revise the real estate transfer fee share formula to again allow Wisconsin Counties to retain 50% of all real estate transfer fees collected, with 50% to be remitted to the State.

BE IT FURTHER RESOLVED, that a copy of this resolution is sent to Governor Tony Evers, all members of the State Legislature representing Jefferson County, the Wisconsin Counties Association and all other Wisconsin Counties.

Fiscal Note: This resolution has no fiscal impact at this time.
Jones moved for the adoption of Resolution No. 2022-11. Seconded by Christensen and passed.

Poulson out at 5:50 p.m.

Braugher, Human Resources Committee Chair, introduced Resolution No. 2022-12. Creating a full-time Community Health Worker position at the Health Department

NOW, THEREFORE, BE IT RESOLVED that the position of one full-time Community Health Worker is hereby created and the 2022 County Budget setting forth positions at the Health Department be and is hereby amended to fund one full-time Community Health Worker position at the Health Department to become effective upon passage of this resolution.

Fiscal Note: The Community Health Worker position costs a total of \$47,722 for salary and fringe benefits for the remainder of 2022 and is fully funded through the Drug-Free Communities (DFC) Support Program Grant. The former Public Health Nurse position will currently remain unfilled, therefore no new tax-levy is required for this position. This is a budget amendment. County Board approval requires a two-thirds vote of the entire membership of the County Board (20 votes of the 30-member County Board).

Braugher moved for the adoption of Resolution No. 2022-12. Seconded by Jaeckel and passed. Ayes 27 (Jones, Richardson, Preuss, Mielke, Braugher, Morris, Wineke, Degner, Groose, Johns, Smith, Martin, Nass, Turville-Heitz, Kutz, White, Drayna, Backlund, Kannard, Jaeckel, Lindl, Foelker, Fitzgerald, Callan, Gulig, Roberts, Christensen), Noes 0, Abstain 0, Absent 3 (Herbst, Lund, Poulson).

Morris introduced Proclamation 2022-01, Proclaiming May 18, 2022, as Jefferson County Peace Officer's Memorial Day in Jefferson County.

Morris moved for the adoption of the Proclamation 2022-01, Seconded by Gulig and passed.

Appointments by County Administrator:

Wehmeier, County Administrator, introduced the following appointments:

By virtue of the authority vested in me under Section 59.18(2)(b) of the Wisconsin Statutes, I respectfully request confirmation of the following appointment:

Barb Elwood-Goetsch, Ixonia, WI, to the Oconomowoc Library Board for a 3-year term ending April 15, 2025.

Jaeckel moved to confirm the above appointment. Seconded by Morris and passed.

Public Comment: (General) None

Announcements:

Nass temporarily appointed the 4 prior members of the Planning and Zoning Committee to continue and Wineke

as the 5th member of that committee. Nass also temporarily appoints Kannard and Kutz to the Home Consortium Board. County Board of Supervisors Orientation Meeting was held April 12, 2022.

Supplemental information presented at the April 19, 2022, Jefferson County Board meeting will be available at the County Clerk's office upon request during regular Courthouse hours or on the County's website at www.jeffersoncountywi.gov.

There being no further business, Jaeckel moved that the Board adjourn. Seconded by Backlund and passed at 6:07 p.m.

FILED
03-13-2023
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

REPORT
TO THE HONORABLE MEMBERS OF THE JEFFERSON COUNTY
BOARD OF SUPERVISORS

The Jefferson County Planning and Zoning Committee, having considered petitions to amend the official zoning map of Jefferson County, filed for public hearing held on February 17 and March 17, 2022 as required by law pursuant to Wisconsin Statutes, notice thereof having been given, and being duly advised of the wishes of the town boards and persons in the areas affected, hereby makes the following recommendations:

APPROVAL OF PETITIONS R4379A-22, R4391A-22, R4392A-22,
R4393A-22, R4394A-22, R4395A-22, R4396A-22 AND R4397A-22

DATED THIS TWENTY-EIGHTH DAY OF MARCH, 2022

Blane Poulson, Secretary

THE PRIOR MONTH'S AMENDMENTS, R4377A-22, R4378A-22, R4380A-22, R4381A-22, R4382A-22, R4383A-22, R4384A-22, R4385A-22, R4386A-22, R4387A-22, R4388A-22, R4389A-22 AND R4390A-22 ARE EFFECTIVE UPON PASSAGE BY COUNTY BOARD, SUBJECT TO WIS. STATS. 59.69(5)

ORDINANCE NO. 2022-02**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 Petition R4379A-22 was referred to the Jefferson County Planning and Zoning Committee for public hearing on February 17, 2022 and Petitions R4391A-22, R4392A-22, R4393A-22, R4394A-22, R4395A-22, R4396A-22 and R4397A-22 were referred for public hearing on March 17, 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-2, AGRICULTURAL AND RURAL
BUSINESS**

Create a 7.4-ac A-2 zone near **W1432 County Rd B** on PIN 006-0716-1642-000 (24 ac), Town of Concord. This is in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning Ordinance. Rezoning is conditioned upon road access approval, receipt of a suitable soil test if bathrooms are proposed, and upon approval and recording of a final certified survey map for the lot. R4379A-22 – Donald & Nancy Brunson

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

Create a 4.71-ac lot around the home & buildings at **N795 Tamarack Rd**, Town of Palmyra from part of PIN 024-0516-2713-000 (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 a final certified survey map for the lot, including extraterritorial plat review if necessary. R4391A-22 – Jeanette C Poulson Family Trust

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

Rezone approximately 2.8 ac of PIN 024-0516-2742-000 (37.8 ac) to add it to an adjoining 2.2-ac A-3 zoned lot at **N683 Tamarack Rd**, Town of Palmyra. 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. R4392A-22 – Jeanette C Poulson Family Trust

Create a 2.47-ac building site **at the intersection of Bakertown Rd and Pioneer Dr** from part of PIN 006-0716-2942-000 (40.703 ac), Town of Concord. 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, receipt by Zoning of a suitable soil test and approval and recording of a final certified survey map of the lot. R4393A-22 – James E Gilbert

Create three new building sites, one of 1.9 ac and two of 1.89 ac, all on **Switzke Rd** in the Town of Farmington from part of PIN 008-0715-0432-004 (5.6 ac). 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 and receipt by Zoning of a suitable soil test for each lot, and approval and recording of a final certified survey map. No development on slopes greater than 20% is allowed. R4394A-22 – Richard Helman

Rezone approximately 1.5 ac of PIN 022-0613-3122-002 (15.443 ac) to add it to an existing adjacent A-3 zone owned by the Wolfs at **N2803 County Rd C**, Town of Oakland. This is in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. The proposal utilizes the last A-3 zone for the property; therefore, rezoning is conditioned upon recording of an affidavit acknowledging that fact. It is further conditioned upon approval and recording of a final certified survey map for the lot. R4395A-22 – Connie & Jerry Wolf/Jay & Deloris Kogle Trust Property

Create a 2-ac lot around the home at **N4062 County Road E** from part of PIN 026-0616-1422-000 (33.965 ac) in the Town of Sullivan. 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. R4396A-22 – Barry & Pauline Stephan:

Create a 3-ac lot around the home at **N7691 Newville Rd** in the Town of Waterloo from part of PIN 030-0813-3321-001 (30.25 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 a final certified survey map for the lot. R4397A-22 – Heidi Kabat & Wayne Meier/RNH 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.

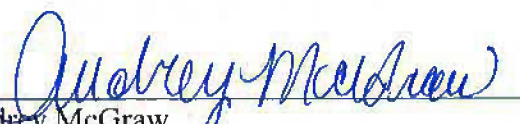
Voice Vote - Passed

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. 2022-02, adopted at the April 19, 2022, Session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.

WITNESS MY HAND AND SEAL this 25th day of April 2022.




Audrey McGraw
Jefferson County Clerk
Jefferson, Wisconsin

Referred By:
Planning and Zoning Committee

04-19-2022

BOARD MEETING
JEFFERSON COUNTY

April 19, 2022

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JEFFERSON COUNTY BOARD MEETING
TUESDAY, APRIL 19, 2022, 4:00 P.M.
ITEM NOS. 15 AND 20 ONLY

Transcribed by:
Christine Aiello

J9367573



ESQUIRE
DEPOSITION SOLUTIONS

BOARD MEETING
JEFFERSON COUNTY

April 19, 2022

2

PROCEEDINGS

(58:08 - 01:48:40)

CHAIR WEHMEIER: That takes us to public comment. And I have one, two, three, four, five, six, seven -- I have 11 folks signed up for public -- public comment -- comment, and all would like to speak. So we'll begin with Dale Konle. We have three minutes each.

MR. KONLE: Hello. My name is Dale Konle. I live at N6204 Stonewood Drive, Watertown, Wisconsin. I am the Concord town chair. This is in regards to the Brunsons' opposed proposal for building ten large storage sheds on Highway B in Concord near I-94 interchange. I'd like to talk a little about town board and the comprehensive plan that's in relation to proposals in rezoning.

The district -- the desired role of the town board, the structure of the town board is well-suited for administering services. They get roads plowed -- plowed, potholes fixed, parks mowed, et cetera. If they are not doing a good job in two years, you can just elect a new board, say to improve; but land use changes are forever. In two years, you cannot elect a new board to remove a Walmart. That's why we have long-term comprehensive plans, to provide more

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stability over time, rather than having town zoning approaches change with each election.

The value of a comprehensive plan, comprehensive plans -- comprehensive plans take a while to make. They provide a very thoughtful long-range view of what residents would like their community to look like and be like. State comprehensive plan laws require communities to be involved in the planning process. Plans must be updated every ten years, but changes can be made before then. The process on how to make changes is written into the plan.

For towns in Jefferson County, land use zoning is administered by the county. The county has its own plan, which it should follow. I believe the county plan refers to town plans, which means that county zoning decisions should follow town plans. The final word on that, I understand, is to be worked out by attorneys in the courts.

Jefferson County has been consistent in administering zoning in Concord up until this proposal for ten large storage buildings by Donald and Nancy Brunson on Highway B near I-94 Exchange. Two members of the county -- town board did approve this proposal, but they do not represent the town plan or the wishes of the citizens. At the County Zoning Committee



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1 hearing, 40 people wrote or spoke at the hearing to
2 oppose the storage buildings. One person spoke in
3 favor, the Realtor.

4 In addition, we are in the process of
5 updating our town plan. At those meetings, many more
6 people have indicated that they oppose this barn
7 proposal. I ask you to send this proposal of rezoning
8 back to the zoning committee, table it, or just vote it
9 down. There are several legal questions that would be
10 easier to clarify before voting to approve this
11 proposal.

12 Thank you.

13 CHAIR WEHMEIER: Thank you, Dale.

14 Kimberly Miller.

15 MS. MILLER: Thank you for this chance to
16 speak. I'm here to speak about the Brunson proposal
17 for rezoning for boat storage. I want to emphasize the
18 abrupt change in county policy. On February 28, this
19 proposal came before the zoning committee. They stated
20 that they followed town plans and voted to postpone
21 action, effectively sending this back to the town for
22 us to work out the discrepancy between this proposal
23 and our town plan. That seemed reasonable to us.

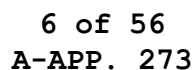
24 But then the proposal was put back on the
25 next zoning committee agenda now for the March 28th

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meeting. At that meeting, county staff claimed that the county would no longer follow town plans, but instead just the town board's vote. The committee, nonetheless, spent a lot of time discussing our plan and trying to justify this decision based on our plan, including one place where something was misread from how we -- how we have read it.

So it seemed puzzling to us that they spent a lot of time talking about our plan. It was also very puzzling to us that they, sometime in March, that they changed from saying that they followed town plans to saying that they would not follow town plans. So when you vote on this proposal, you are not just voting on this proposal, but on a substantial and abrupt change in county policy. This sets a precedent for every town in Jefferson County, and can even have statewide implications, for the legal status of town plans.

There's some unresolved questions about town plans. And we believe everyone should fully understand the reasons behind the policy change and the potential impacts of vote -- before voting on this specific proposal. Why are the county staff, you know, creating this change in policy? What are the implications of this change in policy? The county is required to follow its own comprehensive plan, which mentions town



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1 plans in several places. Can the county simply change
2 its interpretation of its comprehensive plan for this?

3 Also wanted to let you know, the Town of
4 Concord does not currently have a town attorney.
5 Citizens believed the town would hire an attorney at
6 the April 12th board meeting to get legal advice on
7 this, but the board did not hire an attorney, in part,
8 because one member became very upset spending any money
9 on an attorney. So now a group of citizens are working
10 to hire an attorney, but neither of the attorneys we
11 contacted were available before tonight's meeting,
12 given the tight timeline from our board meeting, which
13 was yeah, I guess just a week ago.

14 And finally, please note that those of us
15 speaking today represent a wider body of concerned
16 citizens. We know people who would have liked to
17 attend and -- but and asked us to kind of convey their
18 concerns, because -- and some of them, it's because of
19 the 4:00 p.m. timeframe. This meeting being earlier,
20 it makes it harder for people with jobs to be here. We
21 also had some people who are have ill health but don't
22 have computer access for Zoom, including one person
23 with -- who is getting over COVID and so was not able
24 to be here.

25 Thank you.

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1 CHAIR WEHMEIER: Thank you very much.

2 I believe our next would be Sally Williams.

3 MS. WILLIAMS: Hi. I'm also asking you to
4 deny the petition by the Brunsons to rezone 7.4 acres
5 to A-2. The proposal is inconsistent with town and
6 county -- county comprehensive land use plans. The
7 town plan states on page 56, quote, the town will limit
8 the establishment of new businesses to areas within the
9 Town of Concord rural hamlet, and the town will not
10 support expansion of the current rural hamlet.

11 The proposal in question creates a
12 significant new commercial development outside the
13 hamlet, and, thus, is inconsistent with the plan. The
14 Jefferson County agricultural preservation plan states
15 on page 31, quote, whenever land is proposed for
16 rezoning from a certified farmland preservation zoning
17 district, such as A-1, to a non-certified zoning
18 district, like A-2, require that the following criteria
19 is met, B, the zoning is consistent applicable with the
20 town and county comprehensive plan.

21 So the county plan does direct the county to
22 follow town plans, however, we have been told that
23 county zoning approvals would now be based on town
24 board decisions, rather than town plans. If this
25 reflects an assumption by the county that an approval

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1 by the town board indicates consistency with the town
2 plan, that assumption is not valid. This petition
3 passed our town board by a two-to-one vote.

4 One of the supervisors who voted for the
5 proposal, indicated ahead of the vote, that he should
6 recuse himself due to his personal relationship with
7 the petitioners. He spoke at length as to why the
8 petition should be denied, because it was inconsistent
9 with the Concord plan, and then he voted to approve.
10 He later justified his decision by saying he felt he
11 had to take the financial status of the petitioner into
12 consideration.

13 So if the county is no longer going to
14 recognize town plans, but defer -- defer to the
15 decisions of changing town boards, this leaves future
16 development to be guided by the subjective criteria of
17 favoritism and personal relationships rather than the
18 objective criteria thoughtfully set forth in long-range
19 planning.

20 Regarding A-2 zoning, at the county zoning
21 meeting, the fact that the town had approved some
22 petitions to rezone -- rezone to A-2 in the past was
23 used as an argument that the town supports A-2 zoning
24 requests in general. Basically, if one A-2 zone was
25 consistent with our plan, then all were; but there are

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1 61 conditional uses in A-2 zoning. Some are consistent
2 with our plan, and some are not.

3 We have approved six A-2 zoning requests
4 since the passage of our plan. Two for small increases
5 in size for commercial enterprise, which pre-existed
6 our plan; two for the storage of contractors' equipment
7 by homeowners for businesses operated offsite; and two
8 for agricultural use. The town has consistently denied
9 requests for new commercial enterprises outside the
10 hamlet and A-2 zoning. Denials include a wedding barn,
11 landscape business, kennel, disc golf course, and a
12 wrestling camp.

13 Questions have also arisen about whether or
14 not our plan is valid since it expired in 2019. At
15 that time the town chose to delay updating the plan
16 until after the census and after the new county plan
17 was complete. We're currently in the process of
18 updating. I would point out that prior to the decision
19 on the Brunson proposal, the town has continued to
20 operate as though the plan were in force. Two of the
21 A-2 zoning requests, which were denied by the town
22 because they set up new commercial enterprises outside
23 the hamlet, were -- were decided in the last two years.

24 Thank you.

25 CHAIR WEHMEIER: Thank you.

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1 Ronald Brandt.

2 MR. BRANDT: Ronnie Brandt. I got some land
3 adjoining the Brunson -- Brunson property where both
4 units are supposed to go. It would be on my south side
5 of my property. And I'm concerned about that, the
6 units, they're going to be up in the air for -- it just
7 wouldn't like right. I -- I oppose it. And I'm
8 concerned about the watershed on there. Where is it
9 going to go? It's going to go -- right now it's going
10 on my land, but with the -- all the units, it's going
11 to be a lot more problems. So I do oppose it.

12 Thank you.

13 CHAIR WEHMEIER: Thank you.

14 This takes us to, I believe, it's Mike is the
15 first name. I cannot read the last name, but it looks
16 like it starts with a B. It looks -- okay. Thank you.

17 MR. BOUCHE: I'm a neighbor of Ronnie's, and
18 I'm -- I'm much concerned about the water runoff, too.
19 We talk about having ten buildings put on a seven-acre
20 plat. They've already put five -- five buildings on a,
21 I don't know how big that piece of property is. But by
22 the time you consider what's under shed, the percentage
23 of land for it to soak in to the cover, you're talking
24 almost a third of the property -- a quarter of the
25 property is going to be just building. That doesn't

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1 include the -- if they put asphalt in for a driveway,
2 gravel in there, runoff.

3 We have not seen how big these buildings are
4 going to be on this property. We have not seen any,
5 you know, any type of engineering where there's going
6 to be a retention pond put somewhere. Nothing. I -- I
7 just, I -- I think there needs to be more thought put
8 into what they want to do on that property before it
9 goes forward, if it even goes forward, because that
10 piece of property is not in the hamlet.

11 And as Sally talked about, you know, we must
12 keep things in the hamlet if we're going to -- our
13 hamlet isn't even barely touched with commercial
14 property. So why would we want to go outside the
15 hamlet? That's just going to set up a, you know,
16 everyone that's on the edge of the hamlet being able to
17 push out if this goes through.

18 Thank you.

19 CHAIR WEHMEIER: Thank you.

20 Pete Gross.

21 MR. GROSS: I am Pete Gross, N5921 Jefferson
22 Road, Johnson Creek, Wisconsin. I'm the real estate
23 guy in this county. And I talk to a lot of people that
24 come into this county. And I've been dealing with the
25 zoning office in this county for over 18 years. In

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1 fact, I was a planning commission member for the Town
2 of Aztalan for nine, was involved in the Smart Growth
3 Plan Committee for the county, and I was also the one
4 that helped develop our comp plan in the Town of
5 Aztalan.

6 And the bottom line is, comp plans are a
7 plan, they're a guide, they are not law. An ordinance
8 is what is law and they adopted the Jefferson County
9 ordinance.

10 It's interesting how people can twist the
11 truth, and that's been going on in this whole process.
12 We've been through due process. They've been delayed
13 an extra month by going out and getting a posse behind
14 them with nonfactual information. I'm going to tell
15 you right now, there is an engineered plan for the
16 runoff. The zoning committee has analyzed that. They
17 postponed it a month to come in here.

18 Everybody has been really good. This county
19 has been awesome to work with, with the zoning
20 committee. They are very well-trained. They know how
21 to follow their ordinance. The attorney was there
22 guiding them, and they did approve it. And I would
23 hope in this case the county board would also approve
24 it.

25 Thank you.

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1 CHAIR WEHMEIER: Thank you.

2 That takes us to, is it Daley or David Heckel?

3 FEMALE SPEAKER: (Indiscernible).

4 CHAIR WEHMEIER: It's Dick, okay. I'm -- I'm
5 just having difficulty reading the handwriting.

6 MR. HECKEL: I'm Dick Heckel. I'm part of
7 the Boat House, and we did put up the previous
8 buildings prior to it. All those buildings were
9 followed by an engineered plan thoroughly, and executed
10 by the planning board, as well. So that's all I want
11 to say. And the new -- and the new buildings in place
12 will be also engineered with engineered plans and
13 approved by the planning, as well. That's all.

14 CHAIR WEHMEIER: Thank you.

15 I'm trying -- is it Don and Nancy Brunson?

16 MR. BRUNSON: My name is Don Brunson, W1432
17 County Road B. My wife and I have lived on that
18 property for 36 years. Our children were raised on the
19 property, and they reside in Jefferson County. We are
20 both retired. Although my wife, she never retired
21 because she is a housewife.

22 But anyway, we -- we've been there. And when
23 I was approached by the Boat House to expand and talk
24 to me, I thought it was a pretty good idea, to be
25 honest with you, because it makes good sense for them

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1 if they want to enlarge their -- their business. Half
2 of that property, three and a half acres, has never had
3 a plow on it in 60 years. It's just land that just
4 sits there. It's never been agriculture -- agriculture
5 at all.

6 So I just want the -- it has passed the --
7 the Town Board of Concord. I would hope it would pass
8 Jefferson's Board. We've had positive plus negative.
9 We had a meeting in Concord with the town board. That
10 meeting was -- was a full gymnasium and we had probably
11 an hour discussion over this and it was passed by
12 Concord, as well as the zoning committee in Jefferson
13 County.

14 Thank you very much.

15 CHAIR WEHMEIER: Thank you.

16 And we have Becky Schuster. Good handwriting.

17 MS. SCHUSTER: My name is Rebecca Schuster. I
18 live at North 5236 Golden Lake Park Road. I've been a
19 resident of the Town of Concord since 1973. And my
20 grandparents developed one of the R-2 subdivisions over
21 at Rooters Circle (phonetic). I don't know if any of
22 you know where that is. It's on the very east side.

23 The point of that being is I understand that
24 there's always the controversy of development and so on
25 and so forth, but the thing about this property is I

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drive from one part of the Town of Concord to the other side of the Town of Concord every single day, drive through this intersection in the morning and in the afternoon, and I look at five red buildings that look just like the Mindeman Farm (phonetic) with their red barns and all the barns on Highway E.

I think they blend in nicely. They have landscaping in the front. I understand that there might be some trees that need to be replaced, but that can be taken care of. It's one of the cleanest sites that I drive by when I drive to work every day. I think it's very well-maintained. It's lit well. And you wouldn't even know there is a business there because there isn't any signage, either.

I am a taxpayer in the Town of Concord, and I would think that the tax base of this particular development might help us a little bit. I watched our roads be plowed this winter poorly, and I'm assuming that our budget is probably a little light. So I'm thinking a little extra tax dollars would not hurt.

I don't think it will negative impact our rural feel in any way, shape, or form, because I think the county zoning ordinance is well-written to make sure that we keep that rural feel throughout our county and through our towns.



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1 I think the town has a guide for you to all
2 follow, but it is being rewritten, and that was poorly
3 notified, I think, for town members, as I got a teeny
4 little yellow postcard saying that we are getting a new
5 town plan or they're starting to plan one. So I
6 understand that there's pieces to all the puzzle, but
7 just being a town paying tax citizen, I just wanted to
8 express my opinion that I think it's a good proposal
9 being right adjacent to an existing business that's
10 already in the Town of Concord.

11 Thank you.

12 CHAIR WEHMEIER: Thank you.

13 Andy Ingarra.

14 MR. INGARRA: Thank you for the time, for
15 giving us this opportunity to -- to speak. And we are
16 -- I'm with the Boat House. My name is Andy Ingarra.
17 In favor of the Brunson proposal. As it's been
18 mentioned with the few people -- people prior to me,
19 this has been a long process, about five months or so.
20 We started well before that with conversations with the
21 Brunsons. And they have been unbelievable neighbors.
22 I believe most of, if not all, of the neighbors in that
23 area would -- would agree with that, that statement, as
24 well.

25 We do not operate in this business year

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1 round. This is a very seasonal business. We are in
2 and out. It is very, very, very seasonal, to the point
3 where even during the day we don't have people going in
4 and out. So it is not your normal business in terms of
5 people flow, traffic flow, and all of that.

6 Beyond that, this property is approved from
7 an engineer standpoint. We wouldn't go this far
8 without that. So we definitely have the backing from
9 an engineer saying that the runoff is proper, and it
10 will be aligned accordingly. Beyond that, the
11 buildings are offset from the road, so as much as the
12 -- the initial five buildings do blend in, this will be
13 even further set back and further away from any traffic
14 flow that would be going through County Road -- County
15 Road B.

16 Thank you for your time.

17 CHAIR WEHMEIER: Thank you.

18 And lastly, Rick Donner.

19 MR. DONNER: Good afternoon. My name is Rick
20 Donner. I'm the attorney for the Boat House of Lake
21 Country. Thank you. They're the applicant for -- to
22 rezone a seven-acre portion of W1432 County Road B in
23 the Town of Concord, otherwise known as the Brunson
24 proposal. I thank you for the opportunity to speak
25 with you today.

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1 As Andy mentioned, it's taken us five months
2 to get to today's hearing. The Boat House rezone
3 petition was submitted before Thanksgiving last year.
4 The concerns the opponents have raised today were
5 previously raised at the Town of Concord Plan
6 Commission hearing on December 22nd; at the Town of
7 Concord Board hearing on January 10th, at which time
8 the board voted to approve the rezone; at the public
9 hearing before the Jefferson County Zoning Committee on
10 February 17th; at the Jefferson County Zoning Committee
11 hearing on February 28th, at which time the committee
12 tabled the matter for one month to allow the opponents'
13 concerns to be investigated; and at the zoning
14 committee hearing on March 28th, at which time the
15 zoning committees voted unanimously to recommend
16 approval of the Boat House rezone application.

17 No new information has been presented today
18 by the opponents. These concerns have been thoroughly
19 vetted over five months by the Town of Concord and
20 Jefferson County zoning approval process. Today the
21 opponents are asking the board to ignore the judgment
22 of the elected Town of Concord Board and the Jefferson
23 County Zoning Committee, who voted unanimously to
24 approve -- to recommend approval. They seek to insert
25 their own judgment over the judgment of the elected

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1 representatives from the town and the Jefferson County
2 Zoning Commission.

3 The board has -- the -- the Boat House is
4 asking this board to accept the recommendation of the
5 elected Town of Concord Board and the Jefferson County
6 Zoning Committee and approve the proposed rezoning.

7 Representatives from the Boat House are
8 obviously here today and happy to answer any questions.
9 The Boat House is proud of the proposed project and
10 looks forward to furthering its investment in the Town
11 of Concord and the Jefferson County community. Thank
12 you for your time.

13 CHAIR WEHMEIER: Thank you.

14 That ends our portion of the meeting of public
15 comment, which takes us to committee -- committee
16 reports, resolutions, and ordinances. We have a change
17 in the agenda. So we will be taking Item 20 first,
18 which is a -- which is a planning and zoning committee
19 approval of petitions.

20 Mr. Jaeckel.

21 SUPERVISOR JAECKEL: Thank you, Mr. Chairman.

22 First of all, report to the honorable members
23 of the Jefferson County Board of Supervisors.
24 Jefferson County Planning and Zoning Committee, having
25 considered petitions to amend the official zoning map

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1 of Jefferson County, filed for a public hearing on
2 February 17th and March 17th, 2022, as required
3 pursuant to Wisconsin statutes, and the onus there of
4 having been given and being duly advised of the wishes
5 of the town boards and persons in effect -- areas
6 effected hereby makes the following recommendations;
7 approval of petitions as listed, dated this 28th day of
8 March, 2022, Blane Poulson, secretary.

9 Onto the ordinance, ordinance number --

10 FEMALE SPEAKER: Two.

11 SUPERVISOR JAECKEL: -- 2022-2, amending the
12 official zoning map, whereas Jefferson Board of
13 Supervisors has heretofore been petitioned to amend the
14 official zoning map of Jefferson County and whereas
15 petition number -- is that the first one? I'm trying
16 to see -- 23 is -- as -- petitions as listed were
17 proposed -- and proposed amendments have been given due
18 consideration by the Board of Supervisors in open
19 session. Now, therefore, it be ordained that the
20 Jefferson County Board of Supervisors does amend the
21 official zoning map of Jefferson County as listed.

22 CHAIR WEHMEIER: Do I have a second? Do I
23 have -- a second by Mr. Christensen?

24 SUPERVISOR CHRISTENSEN: Yeah.

25 CHAIR WEHMEIER: Discussion?

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SUPERVISOR JAECKEL: Mr. Chair, may I ask to divide the question to vote on all the other ones first and -- and do the Brunson one second?

CHAIR WEHMEIER: So you --

SUPERVISOR JAECKEL: I would make that motion.

CHAIR WEHMEIER: The -- the one on your sheet, that would be from A-1 exclusive agriculture to A-2 agriculture and rural business, that would be the very first petition there that we would divide?

SUPERVISOR JAECKEL: Correct. That -- that's my motion, to divide the question.

SUPERVISOR POULSON: Second.

CHAIR WEHMEIER: Second for Mr. Poulson.
Discussion? Seeing none, all in favor of dividing --
Supervisor Martin.

SUPERVISOR MARTIN: Thank you, Mr. Chair.
From what I understand, a number of legal questions
have come up --

CHAIR WEHMEIER: First of all, this is just a question on whether we're dividing the --

SUPERVISOR MARTIN: Oh.

CHAIR WEHMEIER: -- question.

SUPERVISOR MARTIN: I'm sorry.

CHAIR WEHMEIER: Yeah.

SUPERVISOR MARTIN: I'll table it.

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1 CHAIR WEHMEIER: Anyone, any discussion on
2 whether or not to divide this question? If not, all in
3 favor?

4 SUPERVISOR: Aye.

5 SUPERVISOR: Aye.

6 CHAIR WEHMEIER: Aye.

7 Opposed? Hearing none, okay. Now, the
8 question is divided. And what our -- and what
9 Supervisor Jaeckel suggested, we will pass -- we will
10 set that one aside, and we will vote on the remaining
11 one, two -- seven petitions. Any discussion on the --
12 the last of seven petitions, the remaining seven
13 petitions?

14 Mr. Kannard.

15 SUPERVISOR KANNARD: I will abstain for
16 potential conflicts of interest.

17 CHAIR WEHMEIER: Thank you.

18 Any discussion? Anything else? All in favor?

19 SUPERVISOR: Aye.

20 SUPERVISOR: Aye.

21 CHAIR WEHMEIER: Aye.

22 Opposed? Hearing none, those are passed.
23 Now we will entertain discussion on the petition of A-1
24 exclusive agricultural A-2 to agricultural rural
25 business to grade a 7.4-acre to an A-2 zone near

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1 W-41832 County Road B. Discussion?

2 Mr. Christensen.

3 SUPERVISOR CHRISTENSEN: Thank you, Mr. Chair.

4 I was notified of this here petition and a few problems
5 that it presents. So what I would like to say is I
6 think there's a real need to clarify, for more
7 examination, and improvement of the decision-making
8 process when there's a conflict between town board and
9 that town's land use plan. I'll say a major benefit of
10 county zoning has been, especially for me as a
11 long-time county -- or town board supervisor, is that
12 it has -- it has some distance from the local
13 considerations.

14 When you're on a town board, you often are
15 presented with a need to rule in favor or opposed to
16 something that will affect your neighbors, your
17 friends, your coworkers, and so on. That's a difficult
18 situation to be in. It's always more comfortable if
19 you make that decision, but then you have it -- you
20 have that decision either ratified or -- or the -- the
21 tough decision, anyway, made by the county.

22 My concern here is the devaluing -- devaluing
23 of town land use plans. I think that we should
24 probably favor supporting land use plans because they
25 have a standing from long term; they've been passed by

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the town, they've been ratified by the people, and they've been employed over years, whereas towns can come and go, and it is -- it is unfortunate to have things change more or less on a whim.

So what I would like to have happen, for -- for my interest, is in the coming years, so that the new zoning committee, whenever it's formed, spend some time considering how to improve and clarify this process of deciding between either the town land -- or yeah, town land use plan or comprehensive plan or the town board, who would take precedence, so that you can avoid this difficulty that we're seeing here tonight.

Thank you.

CHAIR WEHMEIER: Other discussion?

Supervisor Martin.

SUPERVISOR MARTIN: Okay. Thank you. I agree with the comments from Supervisor Christensen regarding the need to look at this more closely. However, we do have a decision on the table here.

From what I understand, a number of legal questions have come up regarding this situation. I was able to attend the decision meeting on March 28th, and things just weren't quite as clear as I think some folks wanted. The state statutes do govern community -- county comprehensive plans and also town



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1 comprehensive plans.

2 It would seem better to postpone a decision
3 tonight on this until our May meeting so there can be
4 more legal clarity. This way, we are not voting on
5 something which potentially could cost Jefferson County
6 a lot in legal fees, and, also, we wouldn't be
7 unintentionally setting a precedent that we -- that we
8 may not actually want. So I move to postpone this
9 decision until the May meeting.

10 Thank you.

11 CHAIR WEHMEIER: There's a motion on the floor
12 to postpone this until the May meeting. Is there a
13 second?

14 SUPERVISOR JOHNS: Second.

15 CHAIR WEHMEIER: Who was the second?

16 SUPERVISOR JOHNS: Yeah.

17 CHAIR WEHMEIER: Second, Mr. Johns.
18 Discussion on the postponement? Hearing none, all in
19 favor of postponement say aye.

20 SUPERVISOR MARTIN: Aye.

21 SUPERVISOR JOHNS: Aye.

22 CHAIR WEHMEIER: Opposed?

23 SUPERVISOR: No.

24 SUPERVISOR: No.

25 CHAIR WEHMEIER: No.

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1 So we'll take a roll call vote.

2 MS. MCGRAW: I have to add it, so just give me
3 one second. Okay. You can go ahead and vote.

4 MALE SPEAKER: Mr. Chair, would you just
5 clarify the response is yes and no?

6 CHAIR WEHMEIER: Oh, the -- the yeses would be
7 to postpone. No would be to not postpone.

8 MS. MCGRAW: I have several who are not -- it
9 doesn't show as voting. Are you -- do you have
10 connection issues?

11 FEMALE SPEAKER: Yes.

12 MS. MCGRAW: Supervisor Richardson, Supervisor
13 Preuss.

14 CHAIR WEHMEIER: It didn't register.

15 SUPERVISOR: I'm trying.

16 MS. MCGRAW: Supervisor Mielke.

17 CHAIR WEHMEIER: It's not registering, so you
18 can verbally tell us.

19 MS. MCGRAW: Supervisor Degner.

20 CHAIR WEHMEIER: That was a yes, I believe he
21 said.

22 MS. MCGRAW: Supervisor Groose.

23 SUPERVISOR GROOSE: Yes.

24 MS. MCGRAW: Supervisor Smith.

25 SUPERVISOR SMITH: Yes.

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1 MS. MCGRAW: Supervisor Martin.

2 SUPERVISOR MARTIN: Yes.

3 MS. MCGRAW: Supervisor Turville-Heitz.

4 SUPERVISOR TURVILLE-HEITZ: Yes.

5 MS. MCGRAW: Supervisor Callan.

6 SUPERVISOR CALLAN: Yes.

7 MS. MCGRAW: Supervisor Gulig.

8 SUPERVISOR GULIG: Yes.

9 MS. MCGRAW: We have 10 yes, 18 no, and two
10 absent.

11 CHAIR WEHMEIER: That motion fails. So it is
12 back to the floor to -- to the original motion to
13 approve or disapprove of these -- this particular
14 petition. Any further discussion on the petition?

15 Mr. Wineke.

16 SUPERVISOR WINEKE: Yeah, I'm wondering if,
17 like, Matt Zangl could take a few minutes to summarize
18 exactly what the issues are here. I've heard people
19 that have indicated that the county had -- was not
20 following their own rules, that kind of thing. And so
21 if -- if that could all be clarified as -- as what the
22 quick process was, and -- and I'm interested in why the
23 -- the board voted unanimously to approve this and
24 whether or not it's consistent with the county's plans.

25 CHAIR WEHMEIER: Is Matt here? Oh, okay.

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1 Matt.

2 MR. ZANGL: Mr. Supervisor Wineke, good
3 question. So I'll start by saying, I'm trying to think
4 of where to start, it would be my opinion if this
5 proposal was offered anywhere else in the county, that
6 it would be approved. The planning zoning committee
7 approved it at the last meeting on a five-to-zero --
8 four-to-zero vote, and I think that shows that they
9 would approve this in any area.

10 I agree with the committees determination
11 that it meets the county's comprehensive plan and the
12 county's zoning ordinances. The confusion, or the --
13 the struggle, comes into play that the town planning
14 commission voted to deny the petition. The town board,
15 the one who makes the formal decision on behalf of the
16 board, voted to approve it. So you're seeing here
17 today the -- the conflict, or the struggle, between the
18 question of, did the town follow their comprehensive
19 plan.

20 Am I the one to offer that suggestion? I
21 don't know. I didn't create the plan. I don't read
22 the plan on a daily basis. I -- I don't know. I can't
23 speak on behalf of that.

24 You've heard comments today that the town did
25 not follow that comprehensive plan; however, the town

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1 board did approve the petition, the formal decision or
2 recommendation to the planning zoning committee, of
3 which they review, was to approve the petition.

4 Does that answer it in a short statement?

5 SUPERVISOR WINEKE: (Indiscernible).

6 CHAIR WEHMEIER: I think Buck had his hand up
7 first. Mr. Supervisor Smith.

8 SUPERVISOR SMITH: Thank you, Mr. Chair. My
9 concern with this, I was contacted by several people,
10 and as this went to the town, they were unaware that it
11 was there, so they were not able to oppose it. And at
12 the point it had passed, now they're arguing that
13 that's the reason why we should support it. That I
14 personally think this is like the property in Palmyra
15 where it should get sent back to the town and then
16 should figure it out.

17 And if they send it back, you know, pass it or
18 not, but I think the town should -- this should go back
19 to the town and let them decide more if they're in
20 favor of it or not so people have more of an option to
21 disagree -- agree or disagree with it.

22 CHAIR WEHMEIER: Supervisor Morris.

23 SUPERVISOR MORRIS: Without trying to put our
24 corp counsel in a difficult position, I wondered if we
25 could get an opinion from the corporation counsel.

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1 MR. WARD: Thank you. Rezoning is presented
2 -- the petition is presented to the county board.
3 State statutes contemplate that it's a joint endeavor.
4 The -- a rezoning doesn't happen unless the town and
5 the county want it to happen. That's why state
6 statutes give each government the authority to rezone.
7 Specifically with a rezoning request, the county has
8 the ability to approve a rezoning petition, which is
9 what's on the floor right now before the county board,
10 and the town has the authority to veto it. So 40 days
11 after it's passed, if the county does approve the
12 rezoning, the town can veto it.

13 So do we want to get into town politics? As
14 a -- as a matter of doing business, the county asks the
15 town before acting on a zoning petition, does the town
16 support the rezoning petition? In this case, the town
17 said, yes, it does support the rezoning petition, and
18 the planning and zoning committee voted to rezone or
19 grant the rezoning petition. Now we have the county
20 board asked -- being asked to make that decision.

21 We have a number of people who are opposing
22 the rezoning, but legally, we -- we have a petition
23 before the board, and there is nothing preventing, or
24 if -- if we do choose to deny the rezoning petition, I
25 know that's not on the floor right now, there was --

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1 there was a request to return it or postpone it, but
2 what -- what basis does the county have to deny it?
3 There have been some statements made that it's
4 inconsistent with town county -- town -- town
5 comprehensive plan.

6 Now, it -- it -- the town comprehensive plan
7 is three years out of date, it's expired. So what
8 relevance do you want to give that? Focus on the
9 county's comprehensive plan, the county's zoning
10 ordinance, the recommendation of the planning and
11 zoning committee. And my opinion is that this is a
12 petition to rezone that should be granted. There's --
13 there's nothing inappropriate about granting this
14 petition. I -- I see no issues.

15 Issues have been raised by the public, but
16 these aren't issues that concern me where I would
17 advise the county board to postpone the rezoning
18 petition or deny it, but of course the -- the committee
19 certainly -- or the county board has its option, I've
20 -- I've addressed this with other supervisors, the
21 county board can take action, as it would with any
22 other matter before it, it can approve the rezoning and
23 it can deny it, it can refer it back to committee, or
24 -- or postpone it or amend the zoning petition.

25 I don't know what amendments would be made,

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1 but those are the options that state law gives the
2 county board in a situation like this.

3 CHAIR WEHMEIER: Further discussion?

4 Mr. Backlund.

5 SUPERVISOR BACKLUND: Yeah, I think corp
6 counsel answered it, but he was asked -- Mr. Smith was
7 asking about, you know, can we send it back, but the
8 reality is they have the veto power. So even if we
9 approved it, sending it back would only take time, but
10 they still -- if we approve it, they can still veto it
11 and stop the project.

12 MR. WARD: If the town chose to, the town
13 could, yes.

14 CHAIR WEHMEIER: Mr. -- Mr. Kannard.

15 SUPERVISOR KANNARD: I will abstain for
16 potential conflict of interest.

17 CHAIR WEHMEIER: Thank you.

18 Mr. Jaeckel.

19 SUPERVISOR JAECKEL: Thank you again,
20 Mr. Chairman. A few of the things Mr. -- corporation
21 counsel stated it very well. The way things have --
22 are laid out, at least from what I understand, a lot
23 after sitting through several hours with him at the
24 Fair Park in the middle of winter for a We Energies
25 thing. I -- I know there's -- there was lots of

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1 questions going on that way.

2 I think if everybody actually has met, you
3 know, us on the zoning committee, I would think you
4 would realize we actually do thoughtfully think this
5 stuff through. We do ask corporation counsel lots of
6 times for guidance to it. A few of the points I will
7 bring up, like (indiscernible) town plan is out of date
8 three years. Most -- most places can get business done
9 within three years. If they wanted to update it, amend
10 it, or continue it, they could have done stuff like
11 that pretty easily.

12 Second thing would be, everyone around here
13 either lives in a town or a city, and I think you vote
14 for new town board members, city board councils, and
15 stuff like that every couple of years, regardless. So,
16 you know, when -- when a board overrides committee,
17 because technically, I think that's what a planning
18 commission is, is a committee, they are not elected to
19 that, at least not on any of the town boards I know of;
20 they're all appointed. It would be like us, you know,
21 just going off on one of our appointed administration
22 -- administration people and leaving them have the full
23 range of everything we do. That's why we do it here,
24 you know, so we can oversee it.

25 But I think, you know, when the town had

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1 approved it, and we said we would approve it and even
2 thought back to say, you know, postponed it another
3 time to -- to just see if the town came back within a
4 month and said they had some major change, I don't see
5 a reason for us not to go forward with approving this.
6 Thank you.

7 CHAIR WEHMEIER: I saw another hand up here
8 earlier. Any other -- Mr. Johns hasn't spoken yet.

9 SUPERVISOR JOHNS: Thank you, Mr. Chair.

10 CHAIR WEHMEIER: And then we can go back to
11 you, Supervisor Martin.

12 SUPERVISOR JOHNS: This project is in my
13 district over in -- outside of Farmington, so I -- I've
14 been weighing this back and forth for the last couple
15 of days. It's become quite an issue in my -- in my
16 district there and certainly on that side of it.

17 But I think corporate counsel helped us out
18 here a little bit with the possibility of the -- of the
19 town board vetoing this if, in fact, they chose to do
20 that. It's a town board and the town planning group.
21 It gives them 40 days. It's an off-ramp. It's an
22 opportunity for an off-ramp for them, if, in fact,
23 that's what their constituents or that town board wants
24 to do. I'm not advocating for that, but I'm just
25 saying there is an off-ramp, in fact, if it's -- if

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1 it's -- if it's -- if it's taken up by the town.

2 So I just want to thank you corporate counsel
3 for pointing that out. It -- it does -- it is a
4 factor. Thank you.

5 CHAIR WEHMEIER: Supervisor Martin.

6 SUPERVISOR MARTIN: Thank you, Mr. Chair.
7 Just one question for clarification from corporate
8 counsel.

9 Is it my understanding that we do not really
10 have clarity on -- as to whether a town plan, which is
11 technically outdated, still is legally binding? Thank
12 you.

13 MR. WARD: No, that's a good question. I
14 found -- through my research, I found no guidance on
15 whether or not -- what -- what the effect of an
16 outdated town plan would be; but it is my opinion that
17 it would not be appropriate to say, just because the
18 town plan is outdated, therefore, there can never be
19 any rezoning petitions granted in that town. So
20 assuming it has an -- an effect, well, what is that
21 effect? And in my opinion that effect isn't a basis to
22 deny the rezoning request.

23 SUPERVISOR MARTIN: Thank you.

24 CHAIR WEHMEIER: Mr. Poulson.

25 SUPERVISOR POULSON: I would make a motion to

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call the vote.

MALE SPEAKER: He's just calling for the question.

CHAIR WEHMEIER: He's calling for the question.

Is there a second to that? This can only be approved by a majority -- majority vote, because basically what you're doing is -- is ending discussion. And so the motion is on the floor to -- it's a two-thirds vote, yes, it is a two-thirds vote. So motion on the floor to -- to call a question. This is not for the question, just whether or not to call it and end debate. So we'll take a roll call vote.

MS. MCGRAW: I have to add this.

CHAIR WEHMEIER: Okay, okay. The motion on the floor right now is to end debate. It is not for or against this petition. It is to end debate. That's all it is. If you vote yes, you want to end the debate. No, you want to allow people to have their say any further.

Mr. Kannard.

SUPERVISOR KANNARD: I would like to ask, Blair, do I need to abstain from this, or should I vote?

MR. WARD: My -- my advice is since you



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1 abstained from the main motion, that you would abstain
2 from any secondary or subsidiary motions, so yes.

3 CHAIR WEHMEIER: Let us know when you're
4 ready, madam clerk.

5 MS. MCGRAW: I'm ready.

6 CHAIR WEHMEIER: Madam clerk, you're ready,
7 okay.

8 We can vote.

9 MS. MCGRAW: Supervisor Richardson.
10 Supervisor Preuss. Supervisor Mielke. Supervisor
11 Degner.

12 SUPERVISOR DEGNER: Yeah.

13 MS. MCGRAW: Supervisor Groose.

14 SUPERVISOR GROOSE: Yeah.

15 MS. MCGRAW: Supervisor Smith.

16 SUPERVISOR SMITH: No.

17 MS. MCGRAW: Supervisor Martin.

18 SUPERVISOR MARTIN: No.

19 MS. MCGRAW: Supervisor Turville-Heitz.

20 SUPERVISOR TURVILLE-HEITZ: Yes.

21 MS. MCGRAW: Supervisor Callan. Supervisor
22 Gulig. Twenty-one yes, six no, one abstain, two
23 absent.

24 CHAIR WEHMEIER: So now the original motion is
25 on the floor for approval or disapproval of -- of this

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1 petition. Any further discussion?

2 Mr. Smith.

3 SUPERVISOR SMITH: I just had a question, is
4 this going to be sent back to the same board that sent
5 it here that has already approved it? Is that the
6 same --

7 CHAIR WEHMEIER: Yes.

8 SUPERVISOR SMITH: -- board?

9 CHAIR WEHMEIER: It's the same board. It
10 hasn't changed.

11 SUPERVISOR SMITH: Okay. Thanks.

12 CHAIR WEHMEIER: Yeah.

13 SUPERVISOR SMITH: Thank you.

14 CHAIR WEHMEIER: Yeah. Okay. All in favor?
15 Oh, wait, wait.

16 Do you have -- do you have a question, Anita?
17 No, okay.

18 So now we'll do a voice vote on whether to
19 approve or disapprove. If I -- if I can't discern, we
20 will have a roll call vote. All in favor of this
21 petition say aye.

22 SUPERVISOR: Aye.

23 SUPERVISOR: Aye.

24 CHAIR WEHMEIER: Aye.

25 Opposed?

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1 SUPERVISOR: No.

2 CHAIR WEHMEIER: The ayes have it.

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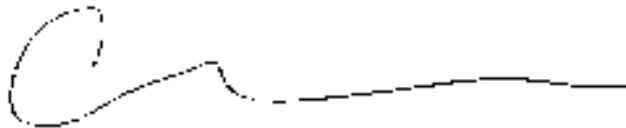
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1 STATE OF WASHINGTON)
2) SS
3 COUNTY OF WHATCOM)
4

5 I, CHRISTINE AIELLO, do hereby certify
6 that I transcribed the audio, and that the foregoing is
7 a true and complete transcription of the audio
8 transcribed under my personal direction.

9 IN WITNESS WHEREOF, I do hereunto set my
10 hand at Blaine, Washington, this 28th day of March,
11 2023.
12
13

14 
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16

17 _____
18 Christine Aiello
19
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FILED
10-05-2023
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

DATE SIGNED: October 5, 2023

Electronically signed by William V. Gruber
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT

JEFFERSON COUNTY

DEFEND TOWN PLANS, U.A. et al,

Petitioners,

v.

JEFFERSON COUNTY BOARD OF
SUPERVISORS,

Respondent.

Case No.: 22CV334

Case Code: 30955

JUDGMENT

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

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

This is a final judgment for purposes of appeal.

FILED
10-04-2023
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

STATE OF WISCONSIN : CIRCUIT COURT: JEFFERSON COUNTY

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

Plaintiffs,

-vs-

Case No. 2022CV334

ORAL RULING

JEFFERSON COUNTY BOARD OF
SUPERVISORS,

Defendant.

August 14, 2023

HONORABLE WILLIAM V. GRUBER
Circuit Court Judge
Branch I

A P P E A R A N C E S

* * * * *

ATTORNEY MARY BETH PERANTEAU by telephone on behalf of
the Plaintiff, DEFEND TOWN PLANS, U.A., et al.;

CORPORATION COUNSEL JON BLAIR WARD by telephone on
behalf of the Defendant, JEFFERSON COUNTY BOARD
OF SUPERVISORS.

* * * * *

Erica L. Schueler, RPR, CRR
Official Court Reporter

1 (Proceedings commenced at 8:35 a.m.)

2 THE COURT: This is 22CV334, Defend Town
3 Plans along with a series of individual petitioners
4 and, respondent in this case, the Jefferson County
5 Board of Supervisors.

6 We have Corporation Counsel Ward on the
7 phone on behalf of the respondent. And we have, on
8 behalf of the petitioners, Attorney Peranteau. And we
9 have some gathered here in the courtroom, but the
10 counsel appearances all by telephone this morning.

11 The Court's going to provide a decision in
12 connection with the -- well, what gave rise to this
13 litigation, a petition for writ of certiori. That was
14 filed back in October of '22. And what we know here
15 generally is that we have such a request, that is a
16 certiori review on the part of a group of interests,
17 citizen interests individually, and but also we have
18 this Defend Town Plans, UA. I forget the exact nature
19 of that collective. It's not that important here and
20 now.

21 They requesting that this Court review an
22 action of the County, and I think more specifically as
23 captioned, the County Board. And that action is an
24 amendment by way of an ordinance, rezone ordinance. I
25 think it was 2022-02. Yeah.

1 So there is a lot of attention devoted by
2 way of briefing on the part of the petitioners to --
3 argument that what the County, what the Board did here
4 could not be consistent with a comprehensive plan and
5 that's why we see a lot of attention devoted to State
6 Statute 66.1001.

7 And that's a good background to the case.
8 I mean, in general. It paints an essential background
9 in terms of the Smart Growth law and, you know,
10 substantive and sometimes maybe more aspirational
11 qualities of that whole act and so that's important.
12 And like I said, there was a great deal devoted to it
13 and I understand that that's, you know, sometimes
14 essential with briefing.

15 But where I found myself in analyzing the
16 case and, you know, the Court's role here to review the
17 record, I found myself more preoccupied with that
18 statute in Chapter 91, 91.48, and something of a -- I
19 guess a corollary, the County ordinance 11.11. But
20 what the result here is going to turn on is 91.48 (1).

21 And even there, when we consider that
22 particular statute, and maybe I'll just -- I'm going to
23 read some of that in pertinent part here shortly. But
24 just by way of one example, you know, 91.48 (1) (a)
25 reads the land -- and this is out of context, I

1 appreciate that, but it will make sense here in a few
2 moments. "The land is better suited for a use not
3 allowed in the farmland preservation zoning district."
4 That is a finding, one of four findings, that the
5 political subdivision has to make after public hearing
6 in order to do what it did here or sought to do.
7 That's one instance.

8 But this Court is not going to, at least
9 not in this phase of the litigation, determine whether
10 or not the land is better suited for a use not allowed
11 in the farmland preservation zoning district because
12 the Court is -- well, the Court will find that
13 the Board of Supervisors, the parent body to the
14 committee that was involved here, that body did not
15 make the findings that it was required to make.

16 And the more I consider the transcript and
17 the record here, as I'm required to, I came to the
18 conclusion that, even if I reviewed the record that I
19 have -- and I don't go out looking for a record. Even
20 if I looked at it or reviewed it, analyzed it in a
21 light more favorable than even the County has -- you
22 know, has a right to or is entitled to, I would not be
23 able to determine that those findings, all four of them
24 under 91.48 (1), were made.

25 And I'm suggesting that, you know, when we

1 see, like, Mr. Zastrow talking and the zoning director
2 talking, I'm not saying it was just irrelevant banter.
3 I'm not suggesting that at all. It was -- you know, it
4 was focused remarks, but they -- this is not -- it's
5 not what the legislature was looking for. I'm firmly
6 confident about that.

7 It's not what they were looking for and I
8 don't know if I would go so far as to say what -- or
9 suggest what Petitioners' counsel is suggesting. I
10 think she suggested that, you know, the process here
11 has a whole made a -- what did she say? A mockery, you
12 know, of the -- you know, I don't know, Smart Growth
13 law or this act that I started talking about at the
14 start here. I don't know if I'd go that far, but it's
15 not what the legislature intended; I'm quite sure about
16 that. I suppose I could be wrong and I suppose we'll
17 find out.

18 But really, what I think this amounted to
19 was almost a -- at least a part of the membership here
20 at the committee level and maybe even the -- its parent
21 body level thought this was, like, a -- you know, a
22 signature, countersignature. You know, because there
23 was a lot -- it does seem there was a focus on, you
24 know, what the town did and "this is what the town
25 did," "this is what the town's done before." And, you

1 know, there's, you know, use of the word "prerogatives"
2 and, you know, that just -- to me, that conveys that
3 quality of a -- not a considerable misunderstanding,
4 but a misunderstanding of the requirements of the
5 legislature in terms of these findings.

6 And so when the Court is asked to
7 undertake a certiori review, we know that in -- we --
8 somebody cited that *Oneida Seven Generations*
9 *Corporation vs. City of Green Bay*. It's a pretty
10 recent case. Somebody cited that and we know that, by
11 way of that authority, that one of the things the Court
12 has to do here is determine whether the County acted
13 according to the law.

14 And well, and that's where the Court was
15 guided in this case by Petitioners' counsel. At least
16 that was one component. Did the County act as required
17 under 91.48 (1) and, perhaps secondarily, according to
18 its very own ordinance. I don't think I have to divide
19 the analysis here among those two authorities.

20 Suffice it to say, and I've said this two
21 or three or four times already in varying ways, I don't
22 find, I can't find that the County made its findings --
23 made the findings that it's required to make, again,
24 under 91.48 (1).

25 And yeah. So again, those remarks by

1 committee members, planning and zoning, whatever the
2 name of the committee is, that body -- I mean, I get
3 that they found their way up to the board, but
4 there's -- there is just -- there's nothing here in
5 isolation or collectively that equals what's required
6 here.

7 So now the next question is remedy. And
8 the argument is -- on the part of the petitioner is
9 this is invalid or procedurally irregular and so -- and
10 so, Judge, it must therefore be declared void, says
11 Attorney Peranteau. But -- or she finishes with, "The
12 Court should therefore vacate the ordinance 2022-02."
13 That's how she finishes her initial brief. And I'm
14 sure the reply brief suggests something else or
15 something similar.

16 But I -- probably to the lawyers' chagrin,
17 I need more in terms of the authority of that, the
18 propriety of that result, Attorney Peranteau, and I
19 need Attorney Ward to respond to that. And I just sort
20 of feel like I'm operating in a vacuum on that one and
21 I'm not comfortable without some additional argument.
22 Maybe we can just do it orally. We'll see what the
23 counsel wants. But you have, I don't know, 70 or 80
24 percent of the Court's decision, but we have to talk
25 about remedy.

1 And what do you think, Attorney Peranteau?
2 Because I -- like I said, I -- there's really nothing
3 for me to grab onto here other than your -- just -- I
4 mean, you're telling me that I have to declare it void.
5 Maybe you can reshape that. I want something to hang
6 my hat on.

7 MS. PERANTEAU: Well, your Honor, I -- I
8 think that we actually do need a ruling on whether
9 substantively the County Board was, you know, lawfully
10 entitled to make the decision it did even if it did
11 make all of the findings.

12 In my experience -- and I've got, you
13 know, 25-plus years in the world of zoning -- I've
14 never come across a case that was more black and white
15 in terms of violation of the Smart Growth law. We have
16 here a map that allows rezoning to commercial uses such
17 as what the rezone petition proposed in a specified
18 rural hamlet and the parcel that was rezoned is outside
19 of that hamlet.

20 And so even if the Court were to remand
21 the matter to the County Board to make the proper
22 findings, there is -- in my view, there's no way that
23 this rezone could be consistent with the comprehensive
24 plan as mandated by Section 66.1001.

25 So this is a -- in terms of remedy, this

1 is a common law certiori case. It's not unlike, for
2 example, the Board of Adjustment has the power to grant
3 variances and Section 59.69 litanizes what a court can
4 do on certiori review. And it can -- you know, it can
5 reverse in whole or in part and remand.

6 But again, I question what the point of
7 remand would be because I think we do need to get to
8 the central argument of this case that there is -- you
9 know, there's no way that the County Board can fix this
10 procedurally by making the requisite findings under the
11 Farmland Preservation law. There's -- there's still
12 glaring inconsistency with the comprehensive plan.

13 THE COURT: Okay. Well, that's not a
14 direct answer to my question, but I understand why it
15 was provided. Because Attorney Peranteau seems to
16 see -- she would see a deficit here in the result if we
17 didn't get into the 66.1001 area.

18 Attorney Ward, do you want to provide any
19 additional record? I think Attorney Peranteau's
20 probably right. And -- well, anything, Attorney Ward?

21 MR. WARD: Well, the Court took the
22 position of the County Board didn't make the proper
23 findings and Attorney Peranteau is now saying that
24 there's no way that the County Board could possibly
25 make the required findings.

1 The County's position is that this should
2 go back to the County Board so that the -- the County
3 Board can consider the proper elements and -- and make
4 the proper findings. I mean, at this point, do we
5 know, if those four elements were presented to the
6 County Board, what their answer would be? And maybe
7 they could.

8 I guess we're -- we're -- I think we're
9 getting ahead of the game here by saying that the
10 County Board can't make certain required findings. I'm
11 asking the Court to give the County Board the
12 opportunity to make the required findings.

13 THE COURT: Yeah. And Attorney Peranteau,
14 you're saying it's an impossibility, Judge. It can't
15 be done. And I'm supposed to -- I mean, I'm supposed
16 to accept that and then close the case.

17 MS. PERANTEAU: Well, let me clarify. I
18 think it's -- that, you know, we're talking about two
19 different statutes. It's -- I guess it's possible that
20 the County Board could make the requisite findings
21 under the Farmland Preservation law. What it can't do
22 is make the consistency finding under the Smart Growth
23 law.

24 THE COURT: How do you -- okay. How do
25 you know that? I mean, maybe that's a silly question

1 because of what you briefed, right? That's argument.

2 MS. PERANTEAU: Well, because the
3 comprehensive plan was -- these plans are typically --
4 have a ten-year life span and this county comprehensive
5 plan and the farmland preservation plan, which is
6 incorporated by reference, were both just recently
7 amended, I believe, in 2021.

8 And so it's the same plan. It's the same
9 rezoning petition. There's not going to be any change
10 that would enable -- that would change the boundaries
11 of the rural hamlet and -- and thus allow a commercial
12 rezone outside of the rural hamlet in the farmland
13 preservation area. Or I should say the agricultural
14 preservation area is what it's called in the plan.

15 THE COURT: Okay. Pause the proceedings
16 here briefly.

17 (Pause in proceedings.)

18 THE COURT: Resume the proceedings in
19 22CV334, Defend Town Plans UA et al. vs. Jefferson
20 County Board of Supervisors.

21 The Court just taking a moment to decide
22 what's been undecided at this point and that is --
23 well, it pertains to that recent record we made about
24 whether or not the Court ought to or is required to or
25 should on a discretionary basis remand the matter to

1 the Jefferson County Board of Supervisors with respect
2 to those findings or, as Attorney Peranteau urges,
3 whether the Court should, must find that those findings
4 just -- they can't -- they cannot be made. Those
5 findings again, under 91.48, given the record here,
6 they can't be made and so that -- and thus the Court
7 should dispose of this matter, at least at this level,
8 here and now.

9 Well, I'm going to take that under
10 advisement. Brief advisement. And I'll -- in this
11 instance, I'll likely render something in writing with
12 respect to this final item. The Court will have
13 that delivered within 30 days.

14 Anything else for today, Attorney Ward?

15 MR. WARD: Nothing further from the
16 County, your Honor.

17 THE COURT: Okay. Attorney Peranteau,
18 anything?

19 MS. PERANTEAU: No, your Honor. Thank
20 you.

21 THE COURT: Madam Clerk?

22 THE CLERK: No, your Honor.

23 THE COURT: Okay. Recess.

24 (Proceedings concluded at 8:57 a.m.)
25

1 STATE OF WISCONSIN)
2) SS:
3 COUNTY OF JEFFERSON)
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6 I, ERICA L. SCHUELER, RPR, CRR, do
7 hereby certify that I reported the foregoing
8 proceedings; that the same is true and correct as
9 reflected by my original machine shorthand notes taken
10 on said date at said place before the
11 HONORABLE WILLIAM V. GRUBER, Circuit Court Judge, Branch
12 I, Jefferson, Wisconsin.

13 Dated this 4th day of October, 2023.
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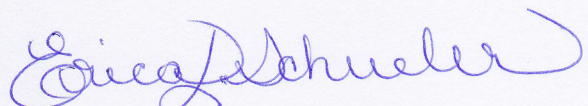
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Erica L. Schueler, RPR, CRR

FILED
10-04-2023
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

STATE OF WISCONSIN : CIRCUIT COURT: JEFFERSON COUNTY

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

Plaintiffs,

-vs-

Case No. 2022CV334

ORAL RULING

JEFFERSON COUNTY BOARD OF
SUPERVISORS,

Defendant.

September 25, 2023

HONORABLE WILLIAM V. GRUBER
Circuit Court Judge
Branch I

A P P E A R A N C E S

* * * * *

ATTORNEY MARY BETH PERANTEAU by telephone on behalf of
the Plaintiffs, DEFEND TOWN PLANS, U.A., et al.;

CORPORATION COUNSEL JON BLAIR WARD on behalf of the
Defendant, JEFFERSON COUNTY BOARD OF SUPERVISORS.

* * * * *

Erica L. Schueler, RPR, CRR
Official Court Reporter

1 (Proceedings commenced at 1:46 p.m.)

2 THE COURT: This is 22CV334, Defend Town
3 Plans, UA vs. Jefferson County Board of Supervisors.
4 We have additional petitioners in their individual
5 capacities and interests. Not going to recite the
6 names.

7 And we have Corporation Counsel Ward in
8 the courtroom. Correct, Attorney Ward?

9 MR. WARD: I am here, your Honor. Yes.

10 THE COURT: All right. And can you hear
11 me?

12 MR. WARD: I can.

13 THE COURT: All right. And then on the
14 telephone on behalf of all the petitioners,
15 Attorney Peranteau. Can you hear me?

16 MS. PERANTEAU: Yes, your Honor. Thank
17 you.

18 THE COURT: All right. Good afternoon to
19 both of you. Good afternoon to those present in the
20 courtroom. I would suppose or presume that those are
21 one or some of the petitioners or others with similar
22 interests or, I guess, from a -- in a broad sense,
23 broader sense, interested in the ruling here. Just
24 to -- just by way of some brief history, this is
25 essentially part two of hopefully two of the Court's

1 decision.

2 We had -- as I indicated, we had oral
3 argument back in May. The Court ruled on August 14th,
4 2023. The Court found, as urged by Attorney Peranteau,
5 that the County, and more particularly the county by
6 its board, erred as a matter of law in failing to make
7 those required findings as per 91.48 (1). I think the
8 Court made reference also to various provisions in
9 Chapter 66 and then more secondarily county ordinances
10 in Chapter 11, specifically 11.11.

11 And I just want -- before the Court makes
12 additional record here, I want to ask Counsel, starting
13 with Attorney Peranteau. Attorney Peranteau, what
14 is expected, what is asked of the Court essentially, is
15 what -- now that the Court made those findings as to
16 that error, essentially we're down to the remedy here.
17 Do we -- does the Court vacate or invalidate the acts
18 of that legislative body, the County Board, or do
19 something other than that.

20 I think it was really at the end of our
21 last record that you suggested or essentially insisted
22 on, you know, what consequence -- legally speaking, of
23 course -- comes about by way of that finding by the
24 Court. Is that accurate?

25 MS. PERANTEAU: I believe that is, your

1 Honor. And -- and my comments at the end of our last
2 proceeding were that the petitioners are requesting
3 that the zoning ordinance be nullified as opposed to
4 being returned to the Board for making findings on the
5 grounds that the finding of consistency that's required
6 by Section 66.1001 can't be made on this record or, in
7 fact, at all because the County's comprehensive plan
8 can't allow a rezone to the A2 outside of what's known
9 as the Town of Concord rural hamlet.

10 So essentially, it would be useless to
11 return the case -- to remand the case because, as a
12 matter of law, that consistency requirement can't be
13 found.

14 THE COURT: And Attorney Ward, one more
15 time, please, for your part.

16 MR. WARD: Well, the County's always
17 maintained that the decision of the County Board, which
18 took into consideration the recommendation of Planning
19 and Zoning Committee following a public comment and the
20 recommendation of the Town, that the rezoning decision
21 by the County should be sustained for the reasons set
22 forth in the brief of Jefferson County.

23 However, if the Court does find that there
24 are errors, the County Board should be given an
25 opportunity to remedy those errors. Any finding that

1 there's no possibility of a legal rezoning based on the
2 record is something that the County Board should be
3 given the opportunity to review and discuss and then,
4 if there's issues after that, then Defend Town Plans
5 can submit another appeal.

6 But the County's position that it is not
7 appropriate to make a finding that the -- the rezoning
8 is nullified; that it can't -- it can't properly be
9 rezoned under any -- any circumstances. That's a
10 decision for the County Board and I'd ask the Court to
11 send it back to the County Board to make the
12 appropriate findings.

13 THE COURT: I do appreciate that. And the
14 Court's going to provide some level of finality here,
15 at least I think at the trial level, and in
16 so by saying this. And I don't -- I'm not sure that is
17 going to be satisfactory to others, but it is going to
18 be the best you get.

19 And I think I'm going to start out this
20 way. We're all using certain words that I think carry
21 more significance than perhaps we're appreciating,
22 although I'm not being critical of either counsel. And
23 in fact, I'm stating this because I'm just -- by way of
24 the Court's own research that ran off of the research
25 that was most certainly accomplished by counsel in

1 preparing their briefs, I'm just not -- I've never been
2 100 percent comfortable in what language to use. And
3 so I'm going to -- I'm somewhat guarded in whether I'm
4 going to use the word and which words I'm using.

5 And I've heard reference to nullify. I've
6 heard and/or seen reference to invalidate or
7 invalidating and I've heard the word vacate. You know,
8 these all have meanings. You know, they have meanings
9 that are specific to statutes, specific to ordinances.
10 They have meanings that are perhaps a little bit
11 broader in a -- from a -- just a broader legal
12 standpoint.

13 But this is the -- this is where the Court
14 finds itself. Again, the Court made a specific finding
15 that the Board did not make the findings that were --
16 that are required by 91.48 (1) and, to a lesser extent,
17 by county ordinance. So for that reason, I don't think
18 that there's any -- there's really any -- there's any
19 way for the Court to provide a decision, a
20 determination other than something along the lines of
21 an invalidation of the ordinance.

22 Now does that result in a vacation? I --
23 that's what Attorney Peranteau is urging and I think
24 that's -- I don't know that there's any other result
25 here; the Court vacating that ordinance.

1 But what the Court is not prepared to say,
2 because I -- to this -- to -- because the Court
3 disagrees with the petitioners that it is -- as a first
4 principle, that it's an impossibility for the Board to
5 make a finding of this consistency with the farmland
6 preservation requirements in light of the planned use
7 or activities of the interest that really brought about
8 this request for rezoning. I'm not -- I don't think I
9 have the sort of record that allows the Court to say
10 that.

11 And the Court needs to be mindful that
12 there is a considerable amount of deference that has to
13 be left with the local governing body. I'm not
14 prepared to say that, no matter what the County Board
15 does, that it's going to be, you know, as a matter
16 of -- again, as a matter of first principle, it just --
17 it couldn't be found to be consistent. I'm not
18 prepared to say that.

19 And really in a vacuum at this point,
20 because I don't know. I don't know what those findings
21 would look like. I don't know, you know, what the
22 conversation at the local governing body would look
23 like in reference to those findings that have to be
24 made. All I'm prepared to say is that the findings
25 that we have now are inadequate. They are not

1 consistent with the statute really by any measure. But
2 I'm simply not prepared to say that that's an
3 impossibility.

4 So I don't know what form --
5 Attorney Peranteau, I'm going to ask you to draft
6 something that's consistent with this record to the
7 extent that you can glean what the Court -- where the
8 Court is landing on this. But the ordinance is vacated
9 for the records already made, both today and on August
10 14th, but that is going to be the extent of the Court's
11 ruling on the writ of certiori.

12 Do you have any additional record,
13 Attorney Peranteau?

14 MS. PERANTEAU: Only that I want to
15 confirm that it's necessary, corollary to your Honor's
16 ruling that this rezone -- this rezone ordinance is
17 vacated and therefore any effort to rezone the same
18 parcel is going to have to start with a new petition
19 for a rezone.

20 THE COURT: That is consistent with the
21 Court's ruling. So can you prepare a -- prepare
22 something for the Court's signature?

23 MS. PERANTEAU: Yes. I will do that.

24 THE COURT: Do you have anything else,
25 Attorney Ward?

1 MR. WARD: Nothing, your Honor.

2 THE COURT: Madam Clerk, anything?

3 THE CLERK: No, your Honor.

4 THE COURT: Recess.

5 (Proceedings concluded at 1:59 p.m.)

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1 STATE OF WISCONSIN)
) SS:
2 COUNTY OF JEFFERSON)

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I, ERICA L. SCHUELER, RPR, CRR, do

hereby certify that I reported the foregoing

proceedings; that the same is true and correct as

reflected by my original machine shorthand notes taken

on said date at said place before the

HONORABLE WILLIAM V. GRUBER, Circuit Court Judge, Branch

I, Jefferson, Wisconsin.

Dated this 4th day of October, 2023.

Erica Schuler

Erica L. Schueler, RPR, CRR

FILED
12-22-2023
Clerk of Circuit Court
Cindy R. Hamre Incha
2022CV000334

1 STATE OF WISCONSIN CIRCUIT COURT JEFFERSON COUNTY

2

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

4 Plaintiffs,

5 v

Case No. 2022CV000334

6 JEFFERSON COUNTY BOARD OF SUPERVISORS,

7 Defendants.

8

9 ORAL ARGUMENTS

10

May 30, 2023

11

12 HONORABLE WILLIAM V. GRUBER,
13 CIRCUIT COURT JUDGE, PRESIDING

14

APPEARANCES:

15

Mary Beth Peranteau, Attorney at Law,
16 Appearing for the Petitioner.

17

Jon Blair Ward, Attorney at Law,
18 Appearing for the Respondent.

19

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21

22

Appearing via Teleconference:

23

Michelle Jean Yaklovich, RMR

24

District Court Reporter

25

515 West Moreland Boulevard Room C359

Waukesha, Wisconsin 53188

26

262-548-7058

michelle.yaklovich@wicourts.gov

27

1 P R O C E E D I N G S

2 THE COURT: Court's gonna call 22CV334.

3 That's Defend Town Plans U.A. and others as Petitioners
4 versus Jefferson County Board of Supervisors.

5 So it's Defend Town Plans, et al,
6 and then our Respondent is Jefferson County Board of
7 Supervisors, and here we have Attorney Pernow
8 (phonetic) on the --

9 ATTORNEY PERANTEAU: Peranteau.

10 THE COURT: Peranteau. Sorry, counsel.

11 She's here on behalf all Petitioners, and we have the
12 County's Corporation Counsel, Attorney Ward, here in
13 the courtroom on behalf of the Board of Supervisors.

14 The Court's court reporter is remote
15 this morning, so perhaps even more important to be
16 mindful of good volume and not too quick of a pace in
17 speech, because we want to make sure we get -- I
18 certainly want to make sure, and I would think all the
19 interests want to make sure, we get everything
20 collected by the court reporter and --

21 Well, I think we're gonna get
22 started here with the argument. I'm tempted to ask the
23 court reporter if she can hear the counsel, but I am
24 just gonna rely on her to alert the Court somehow, some
25 way, if she can't hear counsel or the Court, for that

1 matter.

2 Attorney Peranteau, you're here on
3 behalf of the Petitioner. I would invite you to argue
4 the petition, unless there's something that we need to
5 talk about before that. Anything, Attorney Peranteau?

6 ATTORNEY PERANTEAU: No, Your Honor. I'm
7 prepared to begin, but if you've had the opportunity to
8 review the briefs, Judge, I'll just provide a summary.

9 THE COURT: Certainly. And the Court should
10 have made that record. The Court has reviewed the
11 initial brief by Petitioners, the response, and then,
12 of course, the reply, and the Court thanks counsel for
13 that briefing.

14 So go ahead, counsel.

15 ATTORNEY PERANTEAU: Thank you, Your Honor.
16 As you know, the Petitioners are here to enforce the
17 Smart Growth Law Section [§]6.1001 of the statute.

18 In a case where the County Board
19 approved a rezoning ordinance from the A-1 prime
20 agricultural designation to the A-2 on a parcel that is
21 located in the Town of Concord but which is not located
22 in the so-called rural hamlet or in the town's
23 fifteen-year growth area, as planned by the county's
24 comprehensive plan.

25 We feel that is a glaring

1 inconsistency and therefore violates the provisions of
2 the Smart Growth Law.

3 Secondarily, the County made a
4 procedural raze error, in that it did not make findings
5 required not only by the Smart Growth Law, but also by
6 the Farmland Preservation Law, and those findings must
7 at least be said on the record or in writing by the
8 ordinance, and the record has no indication that the
9 findings were made.

10 So that is the Petitioner's basic
11 argument, and I guess I reserve time to refute in
12 response to counsel's argument.

13 THE COURT: All right. Attorney Ward?

14 ATTORNEY WARD: The County has developed its
15 arguments in the briefs to the Court responding to the
16 allegations of the Petitioner.

17 The allegations revolve around the
18 County not following its comprehensive plan, revolve
19 around the Town not following its comprehensive plan;
20 and therefore, Petitioners argue the Court should
21 reverse the decision by the Jefferson County Board of
22 Supervisors granting the rezoning petition.

23 It's important to note that the
24 Town of Concord adopted its comprehensive plan in 2009,
25 let it expire, and that's one of the arguments that has

1 been made by the County and responded to by
2 Petitioners.

3 The County says it's -- it should
4 be given little to no weight. Petitioners argue, well,
5 we know the statutes don't say what happens if a plan
6 expires.

7 I don't know what happens when a
8 plan expires, but I do know that there's clear
9 statutory authority that says the Town has to
10 reevaluate or update its plan every ten years.

11 And this plan was three years out
12 of date by the time the rezoning took place, and at the
13 time the Town considered whether or not to recommend
14 approval of the rezoning petition.

15 So I think it's difficult for me to
16 accept Petitioner's argument that the expired town plan
17 that had been expired three years should be given the
18 same weight as a plan that has not been expired.

19 I think that it being expired would
20 even give more weight to the Town's recommendation to
21 approve the zoning ordinance, because they have this
22 expired ordinance, and they're basically saying to the
23 Town, yeah, we think that this rezoning should be
24 granted. Grant the rezoning petition, Jefferson
25 County, and when it got to the Planning and Zoning

1 Committee, what did the Planning and Zoning Committee
2 do?

3 Well, I heard some public comment
4 that was opposed to the rezoning, so the Planning and
5 Zoning Committee said, well, let's set it -- let's hold
6 off on this, give the Town one more chance to really
7 think about whether they want to approval this rezoning
8 or not.

9 Well, during that one-month time
10 period, the County did nothing. Then, in February of
11 2022, the County Planning and Zoning Committee said,
12 well, they had a month, they didn't tell us not to
13 approve it, and they still stood on their original
14 recommendation to approve or recommend approval of the
15 rezoning; and as such, the Planning and Rezoning
16 Committee then had a discussion, and in excerpts of the
17 discussion from various Planning and Zoning Committee
18 members are cited in the County's brief about what they
19 discussed, what they considered, in deciding to
20 approve -- or I should say recommend approval of the
21 rezoning petition, because the County Board is the only
22 body that has the ability to approve the rezoning
23 petition.

24 So at this point you have the Town
25 recommending the approval of the rezoning, finding it

1 was consistent with its plan.

2 You have the Planning and Zoning
3 Committee of Jefferson County recommending the approval
4 of rezoning, finding that rezoning is consistent with
5 the county plan.

6 And then you have, a few months
7 later, the rezoning petition going to the County Board,
8 and the County Board finding that the rezoning petition
9 is consistent with the county's rezoning plan.

10 So you have all these bodies, all
11 this debate, all this deliberation, and every body
12 comes back and says, this is consistent with the
13 respective plan, and approval is granted, or
14 recommendation for approval is granted, and we have the
15 rezoning.

16 And the State Legislature, in its
17 desire to give the ultimate decision to the local unit
18 of government, in this case, the Town Of Concord, said,
19 okay, Town, if you don't like a County rezoning
20 something in your town, you can veto it.

21 Statutes don't use that word. They
22 say the Town can disapprove of the rezoning in forty
23 days.

24 And I call it a veto, because
25 that's really what it is, and then forty days passed,

1 and the Town of Concord, the same town that voted to
2 approve the rezoning, chose to do nothing. They let it
3 sit.

4 They let it sit for the forty days,
5 and then the forty-first day, the rezoning became
6 effective, and then we have the then town plan saying,
7 we don't like this decision, it's a bad decision,
8 Judge, please overturn it.

9 That's what they're asking, and
10 they have all their reasons. But I think what this
11 case really comes down to is an interpretation of a
12 town plan, and the interpretation of a county plan, and
13 what -- who better -- what better body or what better
14 authority to interpret a town plan than the Town. What
15 better authority to interpret a county plan than the
16 County. And not only the County, but the County
17 Planning and Zoning Committee, and then the County
18 Board.

19 And then here we are in court,
20 asking that this Court reverse or impose its judgment
21 or replace the County and the Town's judgment with its
22 judgment, and therefore reverse the decision of the
23 Planning and Zoning Committee, and we have the
24 recommendation of the Town.

25 So the County obviously opposes the

1 decision, and I think this is a situation where it has
2 been vetted, as it needed to be, as is -- as is
3 contemplated in state law, to have everybody consider
4 the rezoning amendment, and after all the
5 consideration, it was voted to be approved.

6 So the fact that there's an expired
7 town plan certainly adds a different twist to this
8 case.

9 What does that mean? But the fact
10 that it was expired is certainly different than if it
11 wasn't expired. If it wasn't expired, I wouldn't be
12 able to make this argument. There wouldn't be that big
13 question mark about what do you do with an expired town
14 plan?

15 But nonetheless, the County has met
16 its statutory obligations. It considered everything
17 that it needed to find at the Planning and Zoning
18 Committee level about whether or not the use was suited
19 elsewhere, there was discussion in there, the fact that
20 the business was already existing, and they just wanted
21 to keep going in a certain direction, and there's land
22 right next door, so let's -- let's expand it.

23 And even there was a Planning and
24 Zoning Committee member who was also a member of the
25 Town of Concord Board. He got to vote on it twice, and

1 he vote -- he said, if it was somewhere else in the
2 town, then he wouldn't have voted for it; but it just
3 seemed like a logical expansion of a business, versus
4 creating another business district or business area
5 elsewhere that may or may not be consistent or may be
6 somewhat out of place.

7 They couldn't escape the fact that
8 the character of the area where the rezoning was
9 requested was very appropriate, entirely appropriate,
10 for expansion of that business.

11 And then the record is clear on
12 that. That was discussed in many -- by many County
13 Planning and Zoning Committee members during the
14 decision meeting.

15 So you have a situation here where
16 the statutory requirements have been met, and if you
17 were to look at the town county comprehensive plan and
18 the county -- excuse me, the town comprehensive plan
19 and the county comprehensive plan, you can see the word
20 "guide". It's a guide to how the town is gonna
21 develop, it's a guide to how the county is going to
22 develop; and then that guide, the guidance, was
23 interpreted by local units of government, and that's
24 how the decision was made.

25 I understand the need to follow it,

1 but when you have language ambiguous, such as was in
2 the Town of Concord plan, that says -- um --
3 development is appropriate in the rural hamlet or
4 adjacent to.

5 And Petitioners can argue, well,
6 adjacent to didn't mean necessarily adjacent to the
7 rural hamlet, it meant adjacent to the business within
8 the rule hamlet. But the Town could easily have said,
9 well, no, it means adjacent to an existing business,
10 regardless of where that business is.

11 So I think in the light even most
12 favorable to the Petitioner, when you say it's
13 ambiguous, it can go either way.

14 And as I started earlier in my
15 argument, who better to interpret a town comprehensive
16 plan than the Town. And who better to interpret a
17 county comprehensive plan than the County.

18 So that's what we have here, Judge.
19 I'm not gonna go on any more. I think my brief really
20 develops the County's position, but I can't escape the
21 fact that -- that this is a situation where it involves
22 interpretation of a plan, of a document; and those
23 bodies that enacted and adopted those documents
24 interpreted those documents, applied the law, applied
25 the facts, and made a decision and granted to rezone

1 the petition.

2 So I ask the Court to uphold the
3 County's rezoning petition at issue here.

4 However if the Court finds that
5 there were errors, as alleged by the Petitioner, then I
6 think the appropriate remedy would not simply be
7 reversing or undoing the zoning amendment, but
8 remanding for any correction that the Court deems
9 appropriate for errors that have been found.

10 That's all I have. Thank you.

11 THE COURT: Thank you, counsel.

12 And so I take from your argument,
13 Attorney Ward, that when we use the words "guide" or
14 "plan," as people commonly use those words, we're
15 talking -- it implies something that's aspirational,
16 not a -- not as, say, a defined or strict as law; is
17 that fair?

18 ATTORNEY WARD: Petitioners will have a
19 different answer than the answer I'm going to give you,
20 but the answer that I have for this Court is that it
21 is, indeed, a guide.

22 It's not a guide that should be
23 taken lightly, because these plans are put into place
24 after many hours of meetings of governmental bodies,
25 after many hours of public input.

1 And these plans are adopted by the
2 governmental bodies. It's not staff that says, I think
3 this is how we should develop things.

4 So plans should be given great
5 weight, that that's their intent.

6 But if push comes to shove, and you
7 have a state statute or a county ordinance and a plan,
8 a lot of times you have to synthesize all three, figure
9 it out, and then how much weight do you give both.

10 And the guide needs to be given
11 great weight, but it's not something that is one
12 hundred percent the effect of law. That's the County's
13 position.

14 THE COURT: All right. Attorney Peranteau,
15 you want to respond to that and/or Attorney Ward's
16 response in general?

17 ATTORNEY PERANTEAU: Yes. Thank you, Your
18 Honor.

19 We are here to enforce the
20 consistency requirement in the statute, which is
21 mandatory for County Boards when considering rezone
22 ordinances.

23 The term "consistency" is a defined
24 term, meaning the zoning amendment must not contradict
25 the objective goals and policies contained in the plan.

1 That's the standard.

2 We're not here to talk about the
3 town's comprehensive plan. Certainly, my clients did
4 advocate vigorously before the Town for them to
5 recommend denial of this rezone; but their remedies are
6 limited in this regard, because the Town is not the
7 zoning authority.

8 Further, as a practical matter, in
9 small towns like Concord, the Town -- It's oftentimes
10 the Town Board's friends and neighbors who are
11 appearing before them, seeking some sort of zoning
12 permission.

13 The County's ability to enforce the
14 consistency requirement of the county's comprehensive
15 plan is a check on that kind of parochial decision
16 making.

17 So we're only here to discuss the
18 county plan. The County Board did not make the finding
19 of consistency under its own plan. The County
20 attempted to delegate that duty to the Town and
21 essentially made a finding that if it's okay with the
22 Town, it's okay with us.

23 That just does not comport with the
24 legal standard that the County Board is required to
25 follow.

1 The issues that a town plan
2 expired, these sorts of things, are just -- just
3 extraneous to this case. They are not relevant to the
4 decision before the Court.

5 The County Board is not permitted
6 under Chapter 59 to just hand off its responsibility
7 for consistency to the Town, regardless of what the
8 Town's decision may be in a particular rezone.

9 So the County Board approved the
10 rezone, but nothing in counsel's argument or in the
11 response brief explained why. Why is that rezone
12 consistent with the county plan?

13 It's not in the rural hamlet. It's
14 not in the fifteen-year growth area. The town plan is
15 irrelevant, because the town plan is not incorporated
16 by reference into the county plan.

17 So the County's failure to explain,
18 either on the record or here, why this rezone for a
19 commercial use, a nonagricultural use, in an area that
20 is outside the rural hamlet, why does that comply with
21 the Smart Growth Law?

22 In terms of a remedy under the
23 plan, which I believe was -- the county's plan was
24 amended in 2021, so it's good for at least ten years;
25 so I do not see the point of remanding this case to the

1 Board for a do-over, because they're gonna be
2 confronted with the same plan as the first go around,
3 and for ten years, that plan is prohibiting this rezone
4 in particular, because it is not consistent with the
5 plan.

6 THE COURT: Okay. Well, when it comes to
7 remedies, let's just focus on that for a moment.

8 I'm a little apprehensive in acting
9 or not acting when counsel suggests there's just no
10 utility in that, or that's not pragmatic.

11 So maybe somebody can point me to
12 some authority, in terms of -- especially what Attorney
13 Ward is saying, in terms of the result here is the
14 county did -- you know, there was some failure, you
15 know, do we remand it to the County Board, or do we
16 simply reverse the outcome here?

17 So Attorney Peranteau, you
18 understand my concern?

19 ATTORNEY PERANTEAU: Yes. And I guess I
20 can't point you to any particular statute, but in my
21 understanding, it would be a remand with directions to
22 the County Board to nullify the ordinance.

23 The property in question is owned
24 by -- I believe -- I'm not actually sure what the
25 status of ownership is.

1 When the rezone amendment -- or
2 yeah, rezone petition was submitted, there was a
3 pending offer to purchase by this outfit called The
4 Boathouse. They've got facilities in Walworth County,
5 and you know, basically they -- they store boats for
6 people who don't have docking facilities of their own.

7 THE COURT: Remand with direction to nullify.

8 ATTORNEY PERANTEAU: That's my understanding.

9 THE COURT: Attorney Ward, just on that
10 subject, that narrow subject, anything else?

11 ATTORNEY WARD: Well, I think, well, first of
12 all, the County opposes any remand. The County takes
13 the position that the petition for certiorari should be
14 dismissed, and the current rezoning should be allowed
15 to stand.

16 However, if there is a desire to
17 remand to the County Board for further findings, I
18 would ask the Court to provide further direction to the
19 County Board, because the County Board would then look
20 to me for guidance, saying, well, what needed to be
21 done, what needed to be found, and I'd have to give
22 them guidance.

23 But before that, before the Court
24 would consider that, I'd ask the Court to take a second
25 look at Section 66.1001, which talks about

1 comprehensive planning and references that the
2 comprehensive plan is a guide, as I stated earlier; and
3 then you have subsections, specifically subsections one
4 and two, specifically focusing on the county
5 development plan as well as the city, village, or town
6 master plan, and amended.

7 So that language is there as a
8 guide, and I would like to emphasize that to the Court.

9 And then there is argument made
10 regarding what the authority of the Court is in this
11 situation, as far as when a certiorari grant of relief
12 would be appropriate, and I'd ask the Court to take a
13 closer look at that, and was this an arbitrary position
14 or decision by the County Board.

15 There's language throughout my
16 brief and citations to the Planning and Zoning
17 Committee meeting, the members talking about, yes, it
18 does meet the county plan. That was a finding of the
19 County Planning and Zoning Committee.

20 So the Court is in a position to
21 say, well, okay, Supervisor Jayco (phonetic), I know
22 you said at the meeting that it does meet the plan, but
23 I'm finding that it doesn't.

24 Well, if the Court takes that
25 position, I'd ask the Court to just make it clear to

1 me, so I can advise the County what needs to be done
2 down the road that it really doesn't meet the county
3 plan, and I can explain why.

4 And I think that's primarily --
5 That's my primary concern, I guess, is kind of a
6 long-winded answer for me to give to the Court about
7 whether or not I would think about the remand or what
8 type of issues would be down the road with the County.

9 ATTORNEY PERANTEAU: May I just respond
10 briefly, Your Honor?

11 THE COURT: Certainly.

12 ATTORNEY PERANTEAU: The -- It appears now
13 that the County Board principal argument is that the
14 Smart Growth Law is merely a guide -- um --

15 Originally, the Smart Growth Law
16 applied to other types of zoning permits. For example,
17 conditional use permits were required to be consistent
18 with a county or municipality's plan.

19 The Legislature ended up amending
20 the statute so that conditional use permits no longer
21 have that mandate.

22 The Legislature knows how to amend
23 the statutes to say what is mandatory and what is not
24 mandatory, in terms of consistently with a
25 comprehensive plan.

1 So I would submit that, although
2 the comprehensive plan has the word "guide" in it, the
3 statute says "shall". Shall be consistent with the
4 county's comprehensive plan.

5 THE COURT: And one more item, Attorney Ward.
6 I take it that you dispute that there are insufficient
7 findings in the local proceedings here.

8 ATTORNEY WARD: Correct.

9 THE COURT: Okay. I just wanted to confirm
10 that.

11 Well, the Court wants to take an
12 opportunity to consider the arguments in light of the
13 -- in light of the briefs, rereview those, and I can
14 consider the arguments, and the Court will likely
15 schedule this for oral decision in approximately sixty
16 days.

17 It could be a written decision
18 within that approximate time period, but more likely an
19 oral decision, approximately sixty days. The Court's
20 judicial assistant will schedule that.

21 Anything else for today, Attorney
22 Peranteau?

23 ATTORNEY PERANTEAU: No, Your Honor. I just
24 --

25 What would your policy be on

1 appearing remotely, if there is an oral decision?

2 THE COURT: You can certainly appear by
3 telephone or Zoom. If you need the Zoom credentials,
4 just contact the Court's judicial assistant.

5 These proceedings themselves could
6 have been remote. For some reason it was -- must have
7 been an oversight on my part, in terms of making sure
8 that that was understood.

9 ATTORNEY PERANTEAU: Well, it's a beautiful
10 ride in country this morning.

11 THE COURT: This weather makes up for our
12 winter, if anybody in here likes winter.

13 Attorney Ward, anything else for
14 today?

15 ATTORNEY WARD: No, Your Honor.

16 THE COURT: Okay. Mr. Clerk, anything else?

17 THE CLERK: No, Judge.

18 THE COURT: Thank you. Recess.

19 (End of proceedings.)

20 ---oo0oo---

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1 STATE OF WISCONSIN)
2) SS
3 JEFFERSON COUNTY)

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8 I, Michelle Jean Yaklovich, Registered Merit
9 Reporter, certify that the foregoing is a true record of
10 the proceedings, to the best of my ability, held on the
11 30th day of May, 2023, before the HONORABLE WILLIAM V.
12 GRUBER, Circuit Court Judge, presiding, and reduced to
13 writing in accordance with the Stenograph notes made at
14 said time and place.

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_____ Electronically Signed By _____
Michelle Jean Yaklovich, District Court Reporter

JEFFERSON COUNTY

ZONING ORDINANCE NO. 11



Effective
January 15, 1975

Last Amended
October 11, 2022

Jefferson County Planning & Zoning Department
311 South Center Avenue, Jefferson, WI 53549
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ZONING ORDINANCE, JEFFERSON COUNTY STATE OF WISCONSIN

11.01 INTRODUCTION

- (a) **Authority.** These regulations are adopted under the authority granted by various sections of the Wisconsin Statutes, including but not limited to Sections 59.69, 59.692, 59.694, 59.696, 59.697, 87.30, 281.31, and Chapters 91, 236, 287, 289 and 823, Wis. Stats. 1999-00, as amended from time to time. Therefore, the County Board of Jefferson County, Wisconsin, does ordain as follows: [am. 03/13/12, Ord. 2011-28]
- (b) **Purpose.** The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of this County, and to limit structures to those areas where soil and geological conditions will provide a safe foundation and prevent and control water pollution.
- (c) **Intent.** It is the general intent of this Ordinance to regulate and to restrict the use of all structures, lands, shorelands, and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light, air, sanitation, and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; prevent and control water pollution; protect spawning grounds, fish and aquatic life; preserve shoreline cover; and implement the Jefferson County Comprehensive Plan, as may be amended by the County Board from time to time. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation. [Amended 2/8/00, Ord. No. 99-28, am. 3/13/12, Ord. 2011-28]
- (d) **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern. The shoreland provisions of this Ordinance supersede all the provisions of any County zoning ordinance adopted under Section 59.692, Wisconsin Statutes, which relate to shorelands. The general shoreland zoning provisions located in Section 11.10 and the Shoreland-Wetland District regulations of Section 11.10(c) shall not require approval or be subject to disapproval by any town or town board. However, where an ordinance adopted under a statute other than Section 59.692, Wisconsin Statutes, is more restrictive than this Ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. (Amended 11/13/84, Ord. No. 84-15, and 4/16/84, Ord. No. 85-4.)
- (e) **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Geographic Information System (GIS) data is utilized for interpretations of this ordinance. GIS data is a graphic representation of the underlying data that is contained in the Soil Survey of Jefferson County, Wisconsin, Federal Emergency Management Agency (FEMA) floodplain maps, Wisconsin DNR Wetland Inventory maps, official zoning maps and tax parcel maps. [Amended 2/8/00, Ord. No. 99-28]
- (f) **Severability.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- (g) **Repeal.** All other ordinances or parts of ordinances of the County inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

11.04 ZONING DISTRICTS

(a) Establishment of Districts.

1. The Zoning Districts are provided as follows:

- i. R-1 Residential - Sewered
- ii. R-2 Residential - Unsewered
- iii. B-Business
- iv. I-Industrial
- v. A-T Agricultural Transition [cr. 3/13/12, Ord. 2011-28]
- vi. A-1 Exclusive Agricultural [2/8/00, Ord. No. 99-28]
- vii. A-2 Agricultural and Rural Business [2/8/00, Ord. No. 99-28; am. 3/13/12, Ord. 2011-28]
- viii. A-3 Agricultural/Rural Residential [2/8/00, Ord. No. 99-28]
- ix. C-Community
- x. W-Waterfront
- xi. S-Shoreland-Wetland (Overlay Zone)
- xii. N-Natural Resources
- xiii. R/R-Residential/Recreational

[Repealed and recreated 4/16/85, Ord. No. 85-4; re-lettered 3/13/12, Ord. 2011-28]

2. Boundaries of these districts are hereby established as shown on a map entitled "Zoning Map, Jefferson County, Wisconsin", which accompanies and is a part of this Ordinance. Such boundaries shall be construed to follow corporate limits; U.S. Public Land Survey lines; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights of way or such lines extended, unless otherwise noted on the zoning map.

3. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

(b) **Zoning Map.** A certified copy of the zoning map shall be adopted and approved with the text as part of this Ordinance and shall bear upon its face the attestation of the County Board Chairman and the County Clerk and shall be on file in the office of the County Clerk.

(c) **Rules for Interpretation of Zone Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following municipal boundaries shall be construed as following municipal boundaries.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
7. Boundaries indicated as parallel to or extension of features indicated in the preceding above shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

(d) **Limited Number of Buildings.** There shall be not more than one (1) principal dwelling structure and two (2) accessory structures, which include one (1) residential garage and one (1) residential accessory

building on any lot in the R-1 and R-2 Residential, Community and Waterfront Districts. [11/10/09, Ord. 2009-19]

- (e) **Zone Regulations.** No person shall use any land, building, or structure, or erect, construct, reconstruct, move, or structurally alter a building, structure, or part thereof, except in conformance with the following regulations. All applicable sections of the Jefferson County Agricultural Preservation and Land Use Plan shall guide the determination of rezoning land to the following districts. [Amended 2/8/00, Ord. No. 99-28]

(f) **Zoning Controls.**

1. **R-1 – Residential – Sewered** [title – 2/14/84, Ord. No. 83-20]

- i. **Purpose.** To identify those areas where predominantly residential development has occurred or will be likely to occur within the urban service areas and limited-service areas as described in the Jefferson County Agricultural Preservation and Land Use Plan. To protect residential neighborhoods by prohibiting uses which will not mix well with homes. [Amended 2/8/00, Ord. No. 99-28; am. 3/13/12, Ord. 2011-28]
- ii. **Principal Uses.** [12/21/82, Ord. No. 11]
 - a. Single family detached home.
 - b. Parks, conservancy areas.
 - c. Community Living Arrangements and Similar Facilities in single family dwellings, 8 or fewer occupants. [am. 01/11/22, Ord No. 2021-16]
- iii. **Accessory Uses.** [12/21/82, Ord. No. 11]
 - a. Garage, residential.
 - b. Residential accessory uses.
 - c. Home occupation, accessory. [Amended 4/16/85, Ord. No. 85-4; am. 3/13/12, Ord. 2011-28]
 - d. Professional home office. [am. 3/13/12, Ord. 2011-28]
 - e. Childcare provided in a residence.
 - f. Local utilities.
 - g. Household pets. (Kennels separately defined, not included here.)
[re-lettered 3/13/12, Ord. 2011-28]
- iv. **Conditional Uses.** [12/21/82, Ord. No. 11]
 - a. Church.
 - b. School.
 - c. Mobile home on foundation.
 - d. Mobile home park (including sales of mobile homes associated with park operation.
 - e. Multiple dwelling unit structures, established as a planned development, with overall density not exceeding ten (10) dwelling units per acre. [am. 4/16/85, Ord. 85-4]
 - f. Duplex.
 - g. Rest home; nursing home.
 - h. Day care center.
 - i. Community Living Arrangements and Similar Facilities, 9 or more occupants. [am. 01/11/22, Ord No. 2021-16]
 - j. Extensive on-site parking or storage.
 - k. Non-local utilities.
 - l. Public and semi-public uses.
 - m. Keeping of dogs as household pets on a non-commercial basis in excess of two per premises.
- v. **Minimum Lot Area.** 8,000 square feet. 10,000 square feet - Shoreland Area.
- vi. **Minimum Width.** Eighty (80) feet.

- vii. **Minimum Depth.** Eighty (80) feet.
 - viii. **Minimum Yards.** Front - Section 11.07(d)2. Rear - 25 feet. Side - 10 feet each.
 - ix. **Maximum Principal Building Height.** Three (3) stories or thirty-five (35) feet. [4/21/87, Ord. 87-03]
 - x. **Maximum Accessory Building Height.** Section 11.07(b)1. [4/2/87, Ord. 87-03]
 - xi. **Maximum Lot Coverage by Buildings.** Maximum lot coverage by principal and accessory structures not to exceed thirty (30) percent of existing lot area. [4/16/85, Ord. No. 85-4]
- 2. R-2 - Residential – Unsewered** [title – 2/14/84, Ord. No. 83-20]
- i. **Purpose.** To identify non-farm residential areas not served by public sewer. To be applied only within the urban service areas, limited-service areas, and rural hamlet areas described in the Jefferson County Agricultural Preservation and Land Use Plan. To ensure that, when used within urban service areas or limited-service areas, that the establishment of unsewered development does not unreasonably inhibit future public sewer service. To protect residential neighborhoods by prohibiting uses which will not mix well with homes. [am. 2/8/00, Ord. No. 99-28; am. 3/13/12, Ord. 2011-28]
 - ii. **Principal Uses.** [12/21/82, Ord. No. 11]
 - a. Single family detached home.
 - b. Parks, conservancy areas.
 - c. Community Living Arrangements and Similar Facilities in single family dwellings, 8 or fewer occupants.
 - iii. **Accessory Uses.** [12/21/82, Ord. No. 11]
 - a. Garage, residential.
 - b. Residential accessory uses.
 - c. Home occupation, accessory. [am. 3/13/12, Ord. 2011-28]
 - d. Professional home office. [am. 3/13/12, Ord. 2011-28]
 - e. Childcare provided in a residence.
 - f. Local utilities.
 - g. Household pets. (Kennels separately defined, not included here.)
 - h. Growing of field crops.
[Re-lettered 3/13/12, Ord. 2011-28]
 - iv. **Conditional Uses.** [12/21/82, Ord. No. 11]
 - a. Church.
 - b. School.
 - c. Mobile home on foundation.
 - d. Mobile home park (including sales of mobile homes associated with park operation)
 - e. Multiple dwelling unit structures, established as a planned development, with overall density not exceeding five dwelling units per acre.
 - f. Duplex.
 - g. Rest home; nursing home.
 - h. Day care center.
 - i. Community Living Arrangements and Similar Facilities, 9 or more occupants.
 - j. Extensive on-site parking or storage.
 - k. Non-local utilities.
 - l. Public and semi-public uses.
 - m. Keeping of dogs as household pets on a non-commercial basis in excess of two per premises.
 - n. Raising/keeping of farm animals provided that parcels are at least 2 acres and provided that the number of animals will not exceed one animal unit per one acre. [am. 2/8/00, Ord. 99-28]

- o. Private airstrips when lands are adjacent to an FAA-approved airport.
 - i. **Minimum Lot Area.** Appendix A.
 - ii. **Minimum Width.** One hundred (100) feet.
 - iii. **Minimum Depth.** One hundred fifty (150) feet.
 - iv. **Minimum Yards.** Front - Section 11.07(d)2. Rear - 40 feet. Side - 15 feet each.
 - v. **Maximum Principal Building Height.** Three (3) stories or thirty-five (35) feet. 4/21/87, Ord. No. 87-03]
 - vi. **Maximum Accessory Building Height.** Section 11.07(b)1. [4/21/87, Ord. No. 87-03]
 - vii. **Maximum Lot Coverage by Buildings.** Maximum lot coverage by principal and accessory structures not to exceed thirty (30) percent of existing lot area. [4/16/85, Ord. No. 85-04]
3. **B – Business** [title – 2/14/84, Ord. 83-20]
- i. **Purpose.** To identify areas appropriate for non-agricultural commercial use located within the urban service areas or limited-service areas as described in the Jefferson County Agricultural Preservation and Land Use Plan. A site may have a conditional use without the principal use being established. [am. 2/9/00, Ord. No. 99-28; am. 3/13/12, Ord. 2011-28]
 - ii. **Principal Uses.** [12/21/82, Ord. No. 11] [am. 01/11/22, Ord No. 2021-16]
 - a. General merchandise stores.
 - b. Food stores.
 - c. Building materials, hardware, garden supplies.
 - d. Automotive dealers, mobile home dealers.
 - e. Fuel dealers.
 - f. Service stations and repair shops.
 - g. Apparel and accessory stores.
 - h. Furniture, home furnishings and equipment.
 - i. General retail establishments.
 - j. Finance, insurance, and legal services.
 - k. Real estate offices.
 - l. Personal services establishments.
 - m. Business services.
 - n. Repair services.
 - o. Business association offices.
 - p. Civic, social, and fraternal associations.
 - q. Churches.
 - r. Other professional services
 - s. Community buildings (local government owned).
 - t. Community garages and storage facilities (local government owned).
 - u. Communication services.
 - v. First Amendment Protected Adult-Oriented Establishments [Created 06/21/05, Ord. No. 2005-10]
 - iii. **Accessory Uses.** [12/21/82, Ord. No. 11]
 - a. Local utilities.
 - b. R-1 Accessory Uses associated with a residence allowed in this district.
 - iv. **Conditional Uses.** [12/21/82, Ord. No. 11]
 - a. Eating and drinking places.
 - b. Hotels, motels.
 - c. Movie theaters.
 - d. Amusement and recreation facilities and services.
 - e. Construction contractors.

- f. Transportation services.
 - g. Wholesale trades.
 - h. Residences.
 - i. Non-local utilities.
 - j. Public and semi-public uses.
 - vi. **Minimum Lot Area.** Sewered - 8,000 square feet, except Shoreland Area which shall be 10,000 square feet. Unsewered - Appendix A, plus any additional requirements of COMM 83.
 - vii. **Minimum Width.** Eighty (80) feet.
 - viii. **Minimum Depth.** Sewered - 80 feet. Unsewered - 150 feet.
 - ix. **Minimum Yards.** Front - Section 11.07(d)2. One-half (1/2) the height of the structure for side and rear. [Ord. No. 2013-31, 03-11-2014]
 - x. **Maximum Building Height.** Three (3) stories or thirty-five (35) feet.
4. **I – Industrial** [title – 2/14/84, Ord. No. 83-20]
- i. **Purpose.** To identify areas best suited for non-agricultural industrial development because of location, topography, existing streets, utilities, and relationship to other land uses and located within the urban service areas or limited-service areas as described in the Jefferson County Agricultural Preservation and Land Use Plan. [am. 2/8/00, Ord. No. 99-28; am. 3/13/12, Ord. 2011-28]
 - ii. **Principal Uses.** The following Industrial categories when the use involves manufacturing, processing, warehousing, wholesale distribution and transportation. A site may have a conditional use without the principal use being established. [12/21/82, Ord. No. 11] [am. 01/11/22, Ord No. 2021-16]

The activity is a permitted use when it falls in the categories below and when the proposed operation will be fully enclosed within buildings, except for parking/driving areas. If some operations and/or storage are not under cover, the Planning and Zoning Committee shall review the proposal for site plan approval, through a Zoning and Land Use Permit, after considering any recommendations from the affected Town. [am. 01/11/22, Ord No. 2021-16]

- a. Transportation services.
- b. Food and kindred products (not including meat products).
- c. Textile products, apparel.
- d. Lumber and wood products.
- e. Furniture and fixtures.
- f. Printing, publishing, and allied industries.
- g. Rubber and plastic products.
- h. Leather and leather products.
- i. Stone, clay, glass products.
- j. Fabricated metal products.
- k. Machinery.
- l. Electrical and electronic equipment and supplies.
- m. Transportation equipment.
- n. Instrument manufacturing.
- o. General manufacturing.
- p. Retailing as an adjunct to a principal or conditional use allowed in this district.
- iii. **Accessory Uses.** Local utilities. [12/21/82, Ord. No. 11]
- iv. **Conditional Uses.** [12/21/82, Ord. No. 11]
 - a. Retailing that is freestanding -- that is, not adjunct to a manufacturing operation.

- b. Meat products.
 - c. Mining, including exploration and testing preparatory to mining, milling, and processing of mined materials.
 - d. Paper mills.
 - e. Chemical and allied products.
 - f. Petroleum refinery and related industries.
 - g. Concrete products.
 - h. Primary metal industries.
 - i. Ordnance works.
 - j. Generation of electrical power.
 - k. Manufacturing and distribution of gas.
 - l. Dumps or landfills.
 - m. Salvage yards; junkyards.
 - n. Storage or processing of industrial wastes.
 - v. **Minimum Lot Area.** Sewered - 8,000 square feet, except Shoreland Area which shall be 10,000 square feet. Unsewered - Appendix A, plus any additional requirements of COMM 83.
 - vi. **Minimum Width.** Eighty (80) feet.
 - vii. **Minimum Depth.** Sewered - 80 feet. Unsewered - 150 feet.
 - viii. **Minimum Yards.** Front - Section 11.07(d)2. One half (1/2) the height of the structure for side and rear. [Ord. No. 2013-31, 03-11-2014]
 - ix. **Maximum Building Height.** Three (3) stories or thirty-five (35) feet.
5. **A-T Agricultural Transition** [title – 2/14/84, Ord. No. 83-20; am. 2/8/00, 99-28; 03/13/12, Ord. 2011-28]
- i. **Purpose.** To preserve for an unspecified time period in agricultural and open space land use those lands generally located in proximity to developed areas within Jefferson County where future development is in keeping within town, city, village, and/or county plans, and located within 15 Year Growth Areas as described in the Jefferson County Agricultural Preservation and Land Use Plan. [am. 2/8/00, Ord. No. 99-28; 10/09/01, Ord. No. 2001-16; 11/12/02, Ord. No. 2002-25; 3/13/12, Ord. 2011-28]
 - ii. **Principal Uses.**
 - a. Agriculture, subject to the limitations under subs. (p) through (r) below. [am. 3/13/12, Ord. 2011-28]
 - b. Horticulture.
 - c. Dairying, subject to the limitations under subs. (p) through (r) below. [am. 3/13/12, Ord. 2011-28]
 - d. Beekeeping.
 - e. Livestock raising, subject to the limitations under subs. (p) through (r) below. [am. 3/13/12, Ord. 2011-28]
 - f. Hatching of fowl, subject to the limitations under subs. (p) through (r) below. [am. 3/13/12, Ord. 2011-28]
 - g. Nursery.
 - h. Greenhouse.
 - i. Stable, agricultural. [am. 3/13/12, Ord. 2011-28]
 - j. Truck farm.
 - k. Forest management.
 - l. Game farm.
 - m. Hunt club.
 - n. Roadside stand for the sale of products grown or produced on the premises.

- o. Existing dwellings built before January 15, 1975, and their replacements, as long as the replacement dwelling is placed within 100 feet of the existing dwelling, unless otherwise reviewed and approved by the Planning and Zoning Committee. [am. 3/13/12, Ord. 2011-28]
 - p. Feedlot for 150 livestock units or less, ATCP 51 regulated livestock facilities for more than 150 animal units are not permitted in the A-T district [see Section 11.05(d)2]. [am. 3/13/12, Ord. 2011-28]
 - q. Fowl and poultry farm housing 10,000 birds or less, ATCP 51 regulated poultry farms housing more than 10,000 birds are not permitted in the A-T district [see Section 11.05(d)2]. [am. 3/13/12, Ord. 2011-28]
 - r. On parcels with less than 35 acres of contiguous land, only one animal unit per acre, with a minimum of 2 acres required.
 - s. County parks – uses permitted under the County Parks Ordinance. [Ord. No. 2012-13, 09-11-2012] [9/8/81, Res. No. 81-87; am. 10/09/01, Ord. No. 2001-16; 2/8/00, Ord. No. 99-28; 10/09/01, Ord. No. 2001-16; 1/12/02, Ord. No. 2002-25; 09/11/06, Ord. 2006-15; lettered & am. 3/13/12, Ord. 2011-28]
- iii. **Accessory Uses.**
- a. Essential services.
 - b. Accessory uses as listed in the A-3 zoning district, with the exception of sub. g. for existing and/or replacement dwellings. [am. 3/13/12, Ord. 2011-28]
 - c. A parcel of land zoned A-T can contain and is not limited to equipment used in different types of farming activities at the particular location or on other A-T zoned lands owned or leased by the owners of the parcel in question. This includes construction equipment used in the farming activities; machinery and equipment used in the housing and care of livestock or agricultural production; storage units and associated equipment; feed storage areas such as bunker or pit silos; other such materials as may be employed in the day-to-day operation of agricultural activities, whether or not these items were originally intended for such purposes. Also included is up to three (3) semi-trailers or truck boxes if used for storage of agricultural equipment, supplies or products on A-T zoned property of 35 or more contiguous acres (for the purpose of this provision, a road shall not be considered a divider.) Normal setbacks and permits shall apply to these trailers and truck boxes used as storage units. Greater than three (3) semi-trailers or truck boxes utilized for storage shall require a conditional use permit. This section does not apply to licensed semi-trailers that are located on the property for the regular transport of agricultural goods and supplies produced on the particular farm. [4/16/85, Ord. No. 84-4; am. 2/8/00, Ord. No. 99-28; 9/11/06, Ord. 2006-15; 01/10/06, Ord. No. 2005-40; lettered 3/13/12, Ord. 2011-28]
- iv. **Conditional Uses.**
- a. Commercial raising of fish. [lettered 3/13/12, Ord. 2011-28]
 - b. Home occupation, conditional. [created 3/13/12, Ord. 2011-28]
 - b. Fur farm. [lettered 3/13/12, Ord. 2011-28]
 - c. Public and semi-public uses [see Section 11.05(b)] except those uses listed in Section 11.05(b)1. [lettered 3/13/12, Ord. 2011-28]
 - d. Private Agri-related airstrips. [lettered 3/13/12, Ord. 2011-28]
 - e. Greater than three (3) semi-trailers or truck boxes utilized for storage of agricultural equipment, supplies or products on A-T zoned property of 35 or more contiguous acres (for the purpose of this provision, a road shall not be considered a divider.) [lettered & amended 3/13/12, Ord. 2011-28]

- f. Non-metallic mineral extraction use that meets the requirements of Section 11.05(c). [lettered & amended 3/13/12, Ord. 2011-28]
- g. Public recreational use. [lettered & amended 3/13/12, Ord. 2011-28] [am. 12/21/82, Ord. No. 11; 10/09/01, Ord. No. 2001-16; 2/8/00, Ord. No. 99-28; 11/12/02, Ord. No. 2002-25; 01/10/06, Ord. No. 2005-40; 09/11/06, Ord. 2006-15; am. & re-lettered 3/13/12, Ord. 2011-28]

These conditional uses are associated with adaptive reuse of barns as defined in the ordinance. Existing pre-1970 barns with a limitation for additions of no more than 25 percent of the existing footprint and no more than 25 percent replacement, modification, or repair of existing structural members. However, as part of the conditional use process the Planning and Zoning Committee may consider replacement, modification or repair of the existing barn that exceeds this limitation if it meets the purpose and intent of this section. In addition, the limitations of Section 11.09 still apply. As a condition of approval, the barn conversion shall meet all applicable Federal, State and Local Codes for the conversion to a public building and place of employment. Notice of approval from the State of Wisconsin shall be submitted to the Zoning Department prior to issuance of the Zoning and Land Use permit which is required for conversion of use. [Ord. No. 2013-30, 03-11-2014]

- h. Winery, tasting room, store
- i. Antiques store
- j. Farm store
- k. Repair shop, machinery repair, auto repair, equipment repair, small engine repair
- l. Garden center with store
- m. Recreation facility
- n. Office space
- o. Recycling facility
- p. Conference center, banquet hall, event facility
- q. Storage – mini storage, personal storage
- r. Classroom, educational facility, art studio
- s. Tourist rooming house – would count as a residence under the A-3 regulations
- t. Butcher shop, food processor
- u. Eating and drinking place
[Ord. No. 2013-30, 03-11-2014]
- v. **Minimum Lot Area.** Thirty-five (35) acres with the following exceptions:
 - a. A one (1) acre to five (5) acre lot for farm consolidation for an existing residence and associated accessory structures is permitted if the residence in question was constructed prior to the enactment of the January 15, 1975, Zoning Ordinance and existed on or after this date even if subsequently replaced with a newer home and the parcel remaining contains a minimum of thirty-five (35) contiguous acres. Between three (3) and five (5) acres shall be considered by the Planning and Zoning Committee, at a regularly scheduled Committee meeting, if necessary to accommodate existing driveways and/or existing structures, and if the town board approved the preliminary certified survey map. All provisions of the A-3 Agricultural/Rural Residential District are applicable to the farm consolidation parcel created.
 - b. Parcels of less than thirty-five (35) acres which existed prior to January 15, 1975.
 - c. Parcels of less than thirty-five (35) acres which are a result of a zoning district amendment to the official Zoning Map of Jefferson County. A-T zoned lands transferred

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.

iii. **Permitted Accessory Uses.**

- a. Existing farm residence built before January 15, 1975, or its replacement, as long as the replacement farm residence is placed within 100 feet of the residence built before January 15, 1975, unless otherwise approved by the Planning and Zoning Committee.
- b. Accessory residential structure to a farm residence listed under sub. a above.
- c. Agricultural accessory structure.
- d. Stable, agricultural.
- e. Home occupation, accessory.

iv. **Conditional Uses.**

- a. Agricultural use that exceeds one or more of the limitations under the Agricultural Use listing in the Principal Uses section above, including:
- b. A feedlot for more than 150 livestock units [see Section 11.05d(1) non ATPC-regulated facility].
- c. The housing of fowl for more than 10,000 birds [see Section 11.05(d)1 Non-ATCP 51 regulated facilities].
- d. An ATPC 51 regulated livestock facility for more than 150 animal units or a poultry farm housing more than 10,000 birds [see Section 11.05(d)2].
 - 1) Fur farm.
 - 2) Commercial raising of fish.
 - 3) Agriculture-related use.
 - 4) Bed and breakfast establishment.
 - 5) Home occupation, conditional.
 - 6) Kennel.
 - 7) Stable, commercial.
 - 8) Non-metallic mineral extraction use that meets the requirements of Section 11.05(c).
 - 9) Transportation, communication, pipeline, electrical transmission, utility, or drainage use that qualifies under §91.46(4) of the Wisconsin Statutes.
 - 10) Greater than three (3) semi-trailers or truck boxes used for the storage of agricultural equipment, supplies, or products on A-1 zoned property of thirty-five (35) or more contiguous acres in the same ownership (for the purposes of this provision, a road shall not be considered a divider of contiguity). Normal setbacks and permits shall be required for trailers and truck boxes used for storage of agricultural equipment.

v. **Minimum Lot Area.** Thirty-five (35) acres, with the following exceptions and qualifiers:

- a. A-1 lots created around a residence constructed before January 15, 1975, as a result of a farm consolidation certified survey map recorded between January 15, 1975, and March 13, 2012, with such lots instead having a minimum lot area of one acre. (Farm consolidation lots for certified survey maps recorded after March 13, 2012, are still allowed, but require rezoning to the A-3 district.)
- b. Parcels of less than thirty-five (35) acres which existed prior to January 15, 1975, with such parcels instead having a minimum lot area equal to their lot area on January 15, 1975.
- c. On parcels with less than thirty-five (35) acres of contiguous land under common ownership, only one animal unit is allowed per acre, with a minimum of 2 acres required to house animal units.
- d. A-1 zoned lands transferred from a parcel of record to another 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 under the policies expressed in this Ordinance or the Agricultural Preservation and Land Use Plan.
- e. Parcels of less than thirty-five (35) acres which are a result of a zoning district amendment to the official Zoning Maps of Jefferson County.
 - f. Parcels of less than thirty-five (35) acres which are zoned A-1 and defined as Parcels of Record or Parent Parcels. [am. 12-11-12, Ord. 2012-19] [am. 01/11/22, Ord No. 2021-16]
 - vi. **Minimum Width.** Two hundred (200) feet.
 - vii. **Minimum Depth.** Two hundred (200) feet.
 - viii. **Minimum Yards.** Front – See Section 11.07(d)2. Rear – 20 feet. Side – 20 feet each, providing that agricultural structures do not exceed in height twice their distance from the nearest lot line. (ATCP 51 setbacks may differ.)
 - ix. **Maximum Building Height.** Thirty-five (35) feet, except see Section 11.07(a)2 for height standards for agricultural structures. [created 3/13/12, Ord. 2011-28]
7. **A-2 AGRICULTURAL AND RURAL BUSINESS** [title – 2/14/84, Ord. No. 83-20; am. 2/8/00, Ord. No. 99-28; amended & renumbered 3/13/12, Ord. 2011-28]
- 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. [Ord. No. 11, 12/21/82; am. 2/8/00, Ord. No. 99-28; am. 3/13/12, Ord. 2011-28]
 - ii. **Principal Uses.**
 - a. Agriculture.
 - b. Horticulture.
 - c. Dairying.
 - d. Beekeeping.
 - e. Livestock raising.
 - f. Hatching of fowl.
 - g. Nursery.
 - h. Greenhouse.
 - i. Stable, agricultural. [am. 3/13/12, Ord. 2011-28]
 - j. Truck farm.
 - k. Forest management.
 - l. Game farm.
 - m. Hunt club.
 - n. Roadside stand for the sale of products grown or produced on the premises.
 - o. Existing dwelling built before January 15, 1975, and its replacement, as long as the replacement dwelling is placed within 100 feet of the existing dwelling, unless otherwise reviewed and approved by the Planning and Zoning Committee. [am. 3/13/12, Ord. 2011-28]
 - p. On parcels with less than 35 acres of contiguous land, only one animal unit is allowed per acre, with a minimum of 2 acres required.
[2/8/00, Ord. No. 99-28; 11/10/09, Ord. 2009-19; lettered 3/13/12, Ord. 2011-28]
 - iii. **Accessory Uses.** [12/21/82, Ord. No. 11]
 - a. Residential (R-2) uses for Residence in this district.

- b. Local utilities.
- iv. **Conditional Uses.**
 - a. Residences will be occupied by a person who, or a family of which one adult member, earns a majority of his/her gross income from conducting the farm operations on the parcel or parcels in close proximity. Substantial evidence shall be provided to the Committee documenting the intended agricultural use. A-2 Agricultural and Rural Business District rezonings for farm labor housing would count against the total number of A-3 lots available for the parent parcel. Multi-family housing for farm labor is considered as a conditional use under this provision. [2/8/00, Ord. No. 99-28; am. 3/13/12, Ord. 2011-28]
 - b. Contract sorting, grading, and packaging services for fruits and vegetables.
 - c. Grist mill services.
 - d. Horticultural services.
 - e. Poultry hatchery services.
 - f. Canning of vegetables, fruits, and specialty foods.
 - g. Production of cheese.
 - h. Production of condensed and evaporated milk.
 - i. Wet milling of corn (custom).
 - j. Preparation of feeds for animals and/or fowl. Conditional use approval is required if the operation occurs on a non-farm parcel or if it is conducted on a commercial/custom basis for export to farms other than the one on which it is located.
 - k. Production of flour and other grain mill products.
 - l. Blending and preparing of flour
 - m. Fluid milk processing.
 - n. Production of frozen fruits, vegetables, other specialties.
 - o. Meat packing.
 - p. Poultry, fish and small game dressing and packing, providing that all operations are conducted within an enclosed building.
 - q. Livestock sales facilities.
 - r. Grain elevators and bulk storage of feed grains.
 - s. Fertilizer production, sales, storage, mixing and blending.
 - t. Sale of farm implements and related equipment.
 - u. Grain drying where capacity exceeds 200,000 bushels per year.
 - v. Trap and skeet shoot, rifle range, motocross course, race track and festival grounds, and clubhouse for such operation.
 - w. Waste storage, treatment and/or disposal.
 - x. Kennel, veterinarian facility, animal hospital.
 - y. Mineral extraction and processing.
 - z. Storage of non-farm equipment.
 - aa. Non-local utilities.
 - bb. Campgrounds
 - cc. Golf Courses.
 - dd. Public and semi-public uses.
 - ee. Home occupation, conditional. [4/16/85, Ord. No. 85-4, am. 3/13/12, Ord. 2011-28]
 - ff. Fur farm.
 - gg. Salvage yard. [am. 11/12/02, Ord. 2002-25]
 - hh. Retail sales of agricultural related items not grown on the premises. [11/10/09, Ord. 2009-19]

- ii. Storage of contractor's equipment and materials. [11/10/09, Ord. 2009-19]
 - jj. Mini warehousing/personal storage warehousing. [11/10/09, Ord. 2009-19]
 - kk. Bed and breakfast in an existing A-2 zone and an existing dwelling (as defined in Chapter DHS 197 in the Wisconsin Administrative Code) [11/10/09, Ord. 2009-19]
 - ll. Tourist rooming house in an existing A-2 zone and an existing dwelling (as defined in Chapter DHS 195 in the Wisconsin Administrative Code) [11/1/09, Ord. 2009-19]
 - mm. Food stand – privately owned, associated with recreational use. [07/13/10, Ord. 2010-110]
 - nn. Stable, commercial. [cr. 3/13/12, Ord. 2011-28]
 - oo. Agricultural tourism [Ord. No. 2012-04, 05-07-2012]
 - pp. Huntclub/Game farm resort [Ord. No. 2012-04, 05-07-2012]
 - qq. Winery, tasting room, store [Ord. No. 2013-30, 03-11-2014]
 - rr. Farm store [Ord. No. 2013-30, 03-11-2014]
 - ss. Garden center with retail store [Ord. No. 2013-30, 03-11-2014]
 - tt. Recreational facility directly related to open space uses and the necessity for a rural location [Ord. No. 2013-30, 03-11-2014]
 - uu. Recycling operation (stand alone or add to salvage yard) [Ord. No. 2013-30, 03-11-2014]
 - vv. Landscaping business [Ord. No. 2013-30, 03-11-2014]
- These conditional uses are associated with adaptive reuse of barns as defined in the ordinance. Existing pre-1970 barns with a limitation for additions of no more than 25 percent of the existing footprint and no more than 25 percent replacement, modification, or repair of existing structural members. However, as part of the conditional use process the Planning and Zoning Committee may consider replacement, modification or repair of the existing barn that exceeds this limitation if it meets the purpose and intent of this section. In addition, the limitations of Section 11.09 still apply. As a condition of approval, the barn conversion shall meet all applicable Federal, State and Local Codes for the conversion to a public building and place of employment. Notice of approval from the State of Wisconsin shall be submitted to the Zoning Department prior to issuance of the Zoning and Land Use permit which is required for conversion of use. [Ord. No. 2013-30, 03-11-2014]
- ww. Winery, tasting room, store
 - xx. Antiques store
 - yy. Farm store
 - zz. Repair shop, machinery repair, auto repair, equipment repair, small engine repair
 - aaa. Garden center with store
 - bbb. Recreation facility
 - ccc. Office space
 - ddd. Recycling facility
 - eee. Conference center, banquet hall, event facility
 - fff. Storage – mini storage, personal storage
 - ggg. Classroom, educational facility, art studio
 - hhh. Tourist rooming house – would count as a residence under the A-3 regulations
 - iii. Butcher shop, food processor [Ord. No. 2013-30, 03-11-2014]
 - v. **Maximum Building Height.** Thirty-five (35) feet, except see Section 11.07(a)2 for height standards for agricultural structures. [cr. 3/13/12, Ord. 2011-28]
 - vi. **Minimum Lot Area.** Minimum sufficient areas for the principal structures and accessory buildings. [Amended 2/8/00, Ord. No. 99-28]

- vii. **Minimum Yards.** Same as A-3-yard requirements, with the option for greater setbacks set by the Planning and Zoning Committee, dependent upon use. [2/8/00, Ord. No. 99-28]
- 8. **A-3 Agricultural/Rural Residential** [title – 2/8/00, Ord. No. 99-28; renumbered 3/13/12, Ord. 2011-28]
 - i. **Purpose.** The purpose of the A-3 Agricultural/Rural Residential District is to allow limited rural residential development on lands in predominantly agricultural areas that are not suited for agricultural production or, due to the proposed location, would have limited impact on agricultural production. Lots are limited in number, size and location to minimize the impacts associated with rural residential development. Residents of this district may experience conditions associated with farming that are not necessarily compatible with rural residential use. This district may be considered within the Agricultural Preservation Areas, Rural Hamlet areas, Environmental Corridor overlay, Urban Services Areas, and Limited-Service Areas, as described in the Jefferson County Agricultural Preservation and Land Use Plan. Within planned Agricultural Preservation Areas, the number of A-3 lots created from a parcel of record shall be limited per the associated policies within that Plan. [Amended 2/8/00, Ord. 99-28; 3/13/12, Ord. 2011-28]
 - ii. **Principal Uses.** [12/21/82, Ord. No. 11]
 - a. Single family dwelling.
 - b. Mobile homes on foundation.
 - c. Community Living Arrangements and Similar Facilities in single family dwelling, 8 or fewer occupants. [am. 01/11/22, Ord No. 2021-16]
 - iii. **Accessory Uses.** [12/21/82, Ord. No. 11]
 - a. Garage, residential.
 - b. On-site parking and storage.
 - c. Residential accessory uses.
 - d. Home occupation, accessory. [4/16/85, Ord. No. 85-4; am. 3/13/12, Ord. 2011-28]
 - e. Professional home office. [cr. 3/13/12, Ord. 2011-28]
 - f. Home childcare.
 - g. Household pets.
 - h. Raising/keeping of farm animals provided that parcel is 2.0 acres or larger and number of animals will not exceed one animal unit per 1.0 acre. [am. 2/8/00, Ord. No. 99-28]
 - i. Growing of field crops.
 - j. Roadside stands.
 - k. Local utilities. [re-lettered 3/13/12, Ord. 2011-28]
 - l. stable, agricultural [am. 01/11/22, Ord No. 2021-16]
 - iv. **Conditional Uses.** [12/21/82, Ord. No. 11]
 - a. Duplex.
 - b. Non-local utilities.
 - c. Kennel.
 - d. Home occupations, conditional.
 - e. Public and semi-public uses.
 - f. Bed and breakfast (as defined in Chapter DHS 197 in the Wisconsin Administrative Code) [11/10/09, Ord. 2009-19]
 - g. Tourist rooming house (as defined in Chapter DHS 195 in the Wisconsin Administrative Code) [11/10/09, Ord. 2009-19]
 - h. Stable, commercial. [cr. 3/13/12, Ord. 2011-28]
 - vi. **Minimum Lot Area.** One (1) acre. [Amended 2/8/00, Ord. No. 99-28]

- vii. **Minimum Width.** One hundred fifty (150) feet.
- viii. **Minimum Depth.** Two hundred (200) feet.
- ix. **Minimum Yards.** Front - Section 11.07(d)2. Rear - 20 feet. Side - 20 feet each. [am. 4/21/87, Ord. No. 87-03]
- x. **Maximum Building Height.** Thirty-five (35) feet, except see Section 11.07(a)2 for height standards for agricultural structures. [cr. 3/13/12, Ord. 2011-28]
- xi. **Maximum Lot Area.** Two (2) acres, with the following possible exceptions and qualifiers:
 - a. Possible lot combinations under the policies for creation of A-3 lots within this Ordinance and the Agricultural Preservation and Land Use Plan, which may allow for larger area in non-prime and prime agricultural land lots (i.e., e.g., one six-acre lot may be substituted for three two-acre lots in non-prime agricultural land or one four-acre lot may be substituted for two two-acre lots in prime agricultural land upon Planning and Zoning Committee and County Board approval). A lot combination may be considered by the Committee in an environmental corridor if enough non-prime agricultural land is available, even though the maximum number of lots may have been reduced due to environmental corridor density provisions described in A-3 Maximum Number of Lots section. [am. 3/13/12, Ord. 2011-28] [am. 01/11/22, Ord No. 2021-16]
 - b. A lot of greater than two (2) acres in area shall be considered by the Planning and Zoning Committee if necessary to accommodate a dwelling built before February 8, 2000, and its driveway and accessory structures, if the town board first approves the preliminary certified survey map. In such cases, lot area around the dwelling and accessory structures shall not exceed the maximum acreage allowed by this section. [am. 3/13/12, Ord. 2011-28] A lot of up to five (5) acres in area may be considered by the Planning and Zoning Committee in association with a farm consolidation for an existing residence and associated accessory structures, if the residence in question was constructed prior to January 15, 1975 (or was subsequently replaced with a newer home) and the parcel continues to be zoned A-1. [cr. 3/13/12, Ord. 2011-28] [2/8/00, Ord. No. 99-28; lettered 3/13/12, Ord. 2011-28]
- xii. **Maximum Lot Coverage by Buildings.** Maximum lot coverage by principal and accessory structures not to exceed thirty (30) percent of existing lot area. [4/16/85, Ord. No. 85-4]
- xiii. **Maximum Number of Lots.** Three (3) non-prime agricultural land A-3 lots or one (1) or two (2) prime agricultural land A-3 lot(s) with clustering recommended. The number of possible prime agricultural land lots is based on the amount and configuration of land owned (see the lot chart below). With less than fifty (50) acres, one (1) prime agricultural land lot is possible. With fifty (50) acres or more, two (2) prime agricultural land lots are possible. The minimum amount of prime agricultural land shall be utilized when approving the prime lot option. If an option is utilized to mix non-prime and prime agricultural land lots, the prime agricultural land maximum lot numbers shall apply. A-3 lots created since the 1977 adoption of the A-3 zoning district shall also be taken into account when determining how many A-3 lots may be available. All parcels of record may propose the maximum number of lots described in this section unless the number of lots has been reduced due to A-3 lots being created from the parent parcel predating the parcel of record. Each parcel of record would have the possibility of at least one A-3 lot upon Committee review and County Board approval. Existing A-3 lots created since 1977 shall not be further redivided so as to create additional lots. A-3 lots proposed for dwellings constructed prior to December 13, 1977, do not count as having utilized an A-3 lot division. [2/8/00, Ord. No. 99-28]
Environmental corridor overlays described in the plan may also impact the maximum number of possible A-3 lots available as described in the following lot chart by utilizing the development

density of no greater than one dwelling unit per 10 acres. Clear cutting upland wooded environmental corridor areas in existence at the time of the enactment of this ordinance provision shall not increase the number of A-3 lots available (see the environmental corridor detailed policies in the Jefferson County Agricultural Preservation and Land Use Plan). Also, A-2 lots for an agricultural residence shall reduce the number of lots available. [2/8/00, Ord. No. 99-28]

**A-3
AGRICULTURAL/RURAL RESIDENTIAL DISTRICT
LOT CHART**

PARCEL OF RECORD SIZE AT TIME OF ORDINANCE AMENDMENT	PRIOR A-3 SPLITS FROM PARENT PARCEL	MAY USE ONE OR THE OTHER	
		NON-PRIME LOTS PRIME LOTS AVAILABLE (May Use One Or The Other)	AVAILABLE
Less Than 50	3	1	1
	2	1	1
	1	2	1
	0	3	1
50 or Greater	3	1	1
	2	1	1
	1	2	1
	0	3	2

[2/8/00, Ord. No. 99-28]

In order to achieve safer access, more effective clustering or protection of land resources, the Committee may consider the consolidation of multiple parcels of record that are contiguous or divided only by a public road and under the same ownership. In reviewing the consolidation for the purpose of a proposed A-3 lot(s) relocation, the Committee must determine that they would have otherwise approved the number of lots on each separate parcel of record. Any proposed lots relocated in this manner would constitute use of all the lots from that separate parcel of record regardless of the number actually relocated. Proposed lots that would have been approved in a non-prime agricultural soil location cannot be relocated into prime agricultural soils unless the number of proposed lots is reduced to the prime soil numbers as described in the "Maximum Number of Lots" section. Conversely, the number of lots would not be increased if relocated from a prime soil location on the separate parcel of record to a non-prime agricultural soil location on the consolidated parcel of record. Town approval is required for any request for consolidation of parcels of record. [Created 09/11/06, Ord. 2006-15]

9. **C – Community** [renumbered 3/13/12, Ord. 2011-28]

- i. **Purpose.** To identify those areas which have traditionally serviced the nearby farms and residences but were not legally incorporated into villages or cities. To recognize that these older communities have mixed their residential, commercial, and farming uses. The Community zoning district shall be utilized in Rural Hamlet areas and Limited-Service Areas as described in the Jefferson County Agricultural Preservation and Land Use Plan. A site may have a conditional use without the principal use being established. [am. 2/8/00, Ord. 99-28; 3/13/12, Ord. 2011-28] [am. 01/11/22, Ord No. 2021-16]
- ii. **Principal Uses.** [12/21/82, Ord. No. 11]
 - a. Single family detached home.
 - b. Parks, conservancy areas.
 - c. Community Living Arrangements and Similar Facilities in single family dwellings, 8 or fewer occupants. [am. 01/11/22, Ord No. 2021-16]
- iii. **Accessory Uses.** [12/21/82, Ord. No. 11]
 - a. Garage, residential.
 - b. Residential accessory uses.
 - c. Home occupations, accessory. [am. 3/13/12, Ord. 2011-28]
 - d. Childcare provided in a residence.
 - e. Local utilities.
 - f. Household pets (kennels separately defined, not included here).
 - g. Growing of field crops.
- iv. **Conditional Uses.** [12/21/82, Ord. No. 11]
 - a. Church.
 - b. School.
 - c. Mobile home on foundation.
 - d. Mobile home park (including sales of mobile homes associated with park operation).
 - e. Multiple dwelling unit structures, established as a planned development, with overall density not exceeding five dwelling units per acre.
 - f. Duplex.
 - g. Rest home; nursing home.
 - h. Day care center.
 - i. Community Living Arrangements and Similar Facilities, 9 or more occupants. [am. 01/11/22, Ord No. 2021-16]
 - j. Extensive on-site parking or storage.
 - k. Home occupation, conditional. [am. 3/13/12, Ord. 2011-28]
 - l. Non-local utilities.
 - m. Public and semi-public uses.
 - n. Keeping of dogs as household pets on a non-commercial basis in excess of two per premises.
 - o. Raising/keeping of farm animals provided that parcels are at least 2.0 acres and provided that the number of animals will not exceed one animal unit per 1.0 acre. [am. 2/8/00, Ord. No. 99-28]
 - p. Private airstrips when lands are adjacent to an FAA-approved airport.
 - q. General merchandise store.
 - r. Food store.
 - s. Building material, hardware, garden supply retail.
 - t. Automotive dealer, mobile home dealer.
 - u. Fuel dealer.

- v. Service station and repair shop.
- w. Apparel and accessory store.
- x. Furniture, home furnishings and equipment.
- y. General retail establishment.
- z. Finance, insurance and legal service.
- aa. Real estate office.
- bb. Personal services establishment.
- cc. Business services.
- dd. Repair services.
- ee. Business association office.
- ff. Civic, social and fraternal association.
- gg. Church.
- hh. Other professional services.
- ii. Community buildings (local government owned).
- jj. Community garages and storage facilities (local government owned).
- kk. Communication services.
- ll. Eating and drinking place.
- mm. Hotel, motel.
- nn. Movie theater.
- oo. Amusement and recreation facility and services.
- pp. Construction contractor.
- qq. Transportation services.
- rr. Wholesale trade.
- ss. Residence.
- tt. Public and semi-public uses.
- v. **Minimum Lot Area.** Sewered - 8,000 square feet except Shoreland area, which shall be 10,000 square feet. Unsewered - Appendix A.
- vi. **Minimum Width.** Sewered - 80 feet. Unsewered - 100 feet.
- vii. **Minimum Depth.** Sewered - 80 feet. Unsewered - 150 feet.
- viii. **Minimum Yards.** Front - Section 11.07(d)2. Rear - 25 feet. Side - 10 feet each.
- ix. **Maximum Building Height.** Three (3) stories or thirty-five (35) feet.
- 10. **W – Waterfront** [renumbered 3/13/12, Ord. 2011-28]
 - i. **Purpose.** To identify residential and commercial areas adjacent to the County's waterways.
 - ii. **Principal Uses.**
 - a. Single-family dwelling, existing only, if located in floodway. Permitted in floodplain if all provisions of the Floodplain Zoning and Private Sewage System Ordinances are complied with. [6/12/84, Ord. No. 84-5]
 - b. Park, conservancy areas. [12/21/82, Ord. No. 11]
 - c. Non-structural open space and recreational uses. [12/21/82, Ord. No. 11]
 - iii. **Accessory Uses.**
 - a. Residential garage, existing structures, only if in floodway. [6/12/84, Ord. No. 84-5]
 - b. Residential parking, storage, accessory structures, existing only, if located in floodway. [6/12/84, Ord. No. 84-5]
 - c. Other R-2 accessory uses, providing that no new structures are established to accommodate the use. [12/21/82, Ord. No. 11]
 - d. Boathouses, provided that standards of 11.10(c)4 are met. [12/2/-82, Ord. No. 11]
 - e. Boat docks and piers for private residential usage only. [12/21/82, Ord. No. 11]

- f. Camping occupancy of camping trailers or similar vehicles, provided that the vehicle is of a type recognized by HFS 178 of the Wisconsin Administrative Code and is under 400 square feet in area, that length of occupancy shall not exceed 14 days in any one continuous period nor more than 30 days cumulatively over any 12-month period and provided that the unit is neither skirted nor connected to any porch except for essential steps or ramps. [12/21/82, Ord. No. 11]
 - g. Local utilities. [12/21/82, Ord. No. 11]
- No accessory structure may be used for human occupancy. All sanitary requirements shall be complied with and, during flood stage periods, all such units shall be removed from designated hazard areas. [12/21/82, Ord. No. 11]
- iv. **Conditional Uses.**
 - a. Water related business (marinas, boat, bait, gift shops, taverns, restaurants). Newly established, or abandoned, uses, described above, shall meet all applicable sections of the Floodplain Zoning, Private Sewage System and Zoning Ordinances. [6/12/84, Ord. No. 84-5]
 - b. General retail, existing use only. [6/12/84, Ord. No. 84-5]
 - c. Expansion, alteration of parking areas for existing uses. [(12/21/82, Ord. No. 11)]
 - d. Non-local utilities. [12/21/82, Ord. No. 11]
 - e. Kennel - see definition. [12/21/82, Ord. No. 11]
 - f. Boathouses on vacant lots. [12/21/82, Ord. No. 11]
 - g. Public and commercial access ramps to navigable waters. [am. 12/12/06, Ord. 2006-20]
- v. **Minimum Lot Area.** Sewered - 12,000 feet. Unsewered - Appendix A.
- vi. **Minimum Width.** Sewered - 80 feet. Unsewered - 100 feet.
- vii. **Minimum Depth.** One hundred fifty (150) feet.
- viii. **Minimum Yards.** Front - Section 11.07(d)2. Rear - 20 feet. Side - 10 feet.
- ix. **Maximum Building Height.** Three (3) stories or thirty-five (35) feet.
- 11. **S - Shoreland-Wetland (Overlay Zone)** Refer to Section 11.10(c) for description and provisions applicable to this district. The Shoreland-Wetland District takes precedence over any underlying zone. [4/16/85, Ord. 85-4; renumbered 3/13/12, Ord. 2011-28]
 - i. **Purpose.** An overlay district, to delineate the floodplain and to prevent unsuitable uses from locating in such floodplain.
 - ii. **Principal Uses.** Any principal use allowed in the underlying district, provided the conditions of Section 11.10(b)6 are met.
 - iii. **Accessory Uses.** Essential services.
 - iv. **Conditional Uses.** Any conditional use allowed in the underlying district, provided the conditions of Section 11.10(b)6 are met.
 - v. **Minimum Lot Area.** As in underlying district.
 - vi. **Minimum Width.** As in underlying district.
 - vii. **Minimum Depth.** As in underlying district.
 - viii. **Minimum Yards.** Front - As in underlying district. Rear - As in underlying district. Side - As in underlying district.
 - ix. **Maximum Building Height.** As in underlying district.
- 12. **N - Natural Resource** [renumbered 3/13/12, Ord. 2011-28]
 - i. **Purpose.** To identify those areas where development is prohibited due to ground water, the presence of significant wildlife habitat and natural vegetation or the need to protect water quality. To allow for low impact agricultural uses, generally those which predated zoning to the N district, To 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. All applicable sections of the Agricultural Preservation and Land Use Plan shall be evaluated in determining a rezoning to this district. Rezoning out of the N district may occur only following 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. [am. 2/8/00, Ord. No. 99-28; 3/13/12, Ord. 2011-28]

ii. **Permitted Principal Uses.**

- a. Undeveloped natural resource and open space area, including public lands recreational use such as hunting, fishing, hiking, and bridle path. [am. & lettered 3/13/12, Ord. 2011-28]
- b. Raising of waterfowl, fish, or other wildlife, including necessary non-residential buildings serving the use and meeting the requirements for accessory uses under §91.01(1) of the Wisconsin Statutes. [am. & lettered 3/13/12, Ord. 2011-28]
- c. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops. [cr. 3/13/12, Ord. 2011-28]
- d. The practice of silviculture, including the planting, thinning and harvesting of timber. [am. 3/13/12, Ord. 2011-28]

iii. **Permitted Accessory Uses.**

- a. Essential services. [lettered 3/13/12, Ord. 2011-28]
- b. Agricultural accessory structure. [cr. 3/13/12, Ord. 2011-28]

iv. **Conditional Uses.**

- a. An agricultural use not listed as a Principal Use in the N district, except for: [am. 3/13/12, Ord. 2011-28]
 - 1. A feedlot for more than 150 livestock units. [cr. 3/13/12, Ord. 2011-28]
 - 2. The housing of fowl for more than 10,000 birds [see Section 11.05(d)1 Non-ATCP 51 regulated facilities]. [cr. 3/13/12, Ord. 2011-28]
 - 3. ATCP 51 regulated livestock facilities for more than 150 animal units and poultry farm housing more than 10,000 birds [see Section 11.05(d)2]. [cr. 3/13/12, Ord. 2011-28]
- b. Watercourse relocation, filling, draining, dredging that qualifies under §91.46(4) of the Wisconsin Statutes. [am. 3/13/12, Ord. 2011-28]
- c. Dam, hydroelectric plant that qualifies under §91.46(4) of the Wisconsin Statutes. [am. 3/13/12, Ord. 2011-28]

v. **Minimum Lot Area.** Two (2) acres.

vi. **Minimum Width.** One hundred (100) feet.

vii. **Minimum Depth.** One hundred (100) feet.

viii. **Minimum Yards.** Front - Section 11.07(d)2. Rear - 75 feet. Side - 75 feet each.

ix. **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]

13. **R/R - Residential/Recreational** [4/20/82, Res. No. 82-16; renumbered 3/13/12, Ord. 2011-28]

- i. **Purpose.** To identify those areas where predominantly recreational development has occurred or will be likely to occur, generally in 15 Year Growth Areas, Urban Service Areas, Limited-Service Areas, and Rural Hamlet Areas as described within the Agricultural Preservation and Land Use Plan. Due to soil types, agricultural productivity class, topographic conditions, and adjacent uses, the area would be best suited to sparse residential and recreational development rather than intensive agricultural development. A site may have a conditional use without the principal use being established. [am. 2/8/00, Ord. No. 99-28; 3/13/12, Ord. 2011-28] [am. 01/11/22, Ord No. 2021-16]

- ii. **Principal Use.**
 - a. One-family dwelling.
 - b. Mixture of recreational use such as lake resort area, golf course, bridle path, and residential use.
- i. **Accessory Uses.** [am. 01/11/22, Ord No. 2021-16]
 - a. Essential services.
 - b. Home occupation, accessory,
 - c. Professional home office.
 - d. Private garage or parking areas. [am. 4/16/85, Ord. 85-4; 3/13/12, Ord. 2011-28]
 - e. Garage, residential
 - f. Residential accessory uses
- ii. **Conditional Uses.**
 - a. Two-family and multi-family dwellings.
 - b. Cluster developments.
 - c. Condominium development.
 - d. Single-family attached developments.
 - e. Public and semi-public uses [Section 11.05(b)].
 - f. Raising/keeping of farm animals provided that parcels are at least 2.0 acres or more with one animal unit permitted for each 1.0 acre.
 - g. Taxiing and parking of airplanes on land adjacent to an FAA-approved airport.
 - h. Rest and nursing homes, club, fraternity.
 - i. Bed and breakfast (as defined in Chapter DHS 197 in the Wisconsin Administrative Code).
 - j. Tourist rooming house (as defined in Chapter DHS 195 in the Wisconsin Administrative Code). [am. 2/8/00, Ord. No. 99-28; 11/10/09, Ord. 2009-19]
 - k. Extensive On-site Storage [am. 01/11/22, Ord No. 2021-16]

NOTE: NO USE SHALL BE ALLOWED UNTIL ALL REQUIREMENTS OF THE COUNTY PRIVATE SEWAGE SYSTEMS ORDINANCE ARE MET.

v. **Minimum Lot Area.**

- a. Sewered lots: 10,000 square feet.
- b. Unsewered lots: 20,000 square feet. [am. 3/13/12, Ord. 2011-28]

vi. **Minimum Lot Width.** One hundred (100) feet*.

vii. **Minimum Lot Depth.** One hundred fifty (150) feet*.

viii. **Minimum Yards.** Front - Section 11.07(d)2*. Rear - Forty (40) feet*. Side - Fifteen (15) feet*.

*Lot area, width, depth, and minimum yards for multi-family type developments, as listed, will be determined as part of the Conditional Use Permit.

- (g) **Storage of Major Recreational Equipment.** Recreational vehicles and equipment shall not be placed in the driveway or in any portion of the front yard of a residence for any period of time exceeding 72 hours, except in the Agricultural District.
- (h) **Camping.** Camping is prohibited in all areas except in campgrounds and parks where camping is permitted.
- (i) **Minimum Building Area.** All dwelling units shall contain the following area:

	Bedrooms	Square Feet Floor Area
Single Family Dwellings	2	850
	3	930
	4	1100
Two Family and Multi-Family Dwellings (per unit)	1	500
	2	650
	3	800

(j) **Public Utility.** Public utility gas and oil pipelines, transmission and distribution lines, poles and other accessories shall be permitted in all districts, provided that when a utility proposes a major inter-city transmission line or pipeline, it shall give notice to the Committee of such intention and of the time and place of hearing before the Public Service Commission. At the request of the Committee the utility shall meet with it to discuss the routing of said transmission line or pipeline and before actual construction shall file a mapped description of the route of such transmission line with the Committee.

(k) **First Amendment Protected Adult-Oriented Establishments.** [Created 06/21/05, Ord. No. 2005-10]

1. **Definitions:** For the purposes of this section the following terms have the meanings indicated.

- i. **Adult Arcade:** means any place to which the public is permitted or invited wherein coin, slug, electronically, or mechanically controlled or operated still or in motion picture machines, projectors, computers or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas."
- ii. **Adult Bathhouse:** means a commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in "Specified Sexual Activities."
- iii. **Adult Body Painting Studio:** means a commercial establishment wherein patrons are afforded an opportunity to be painted or to paint images on "Specified Anatomical Areas." An Adult Body Painting Studio does not include a tattoo parlor.
- iv. **Adult Bookstore:** means any commercial establishment having as its stock-in-trade the sale, rental or lease for any form of consideration, any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on "Specified Anatomical Areas" or "Specified Sexual Activities."
 - b. Instruments, devices, or paraphernalia which are designed for use in connection with "Specified Sexual Activities."
 - c. Facilities for the presentation of "Adult Entertainment" as defined herein, including Adult-Oriented films, motion pictures, video cassettes, video reproductions, slides or other visual representations for observation by patrons therein.
- v. **Adult Cabaret:** means a nightclub, bar, restaurant, or similar commercial establishment which features:
 - a. Live performances which are characterized or distinguished by the exposure of "Specified Anatomical Areas" or "Specified Sexual Activities," or,
 - b. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas."
- vi. **Adult Entertainment:** means any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme, or is distinguished or characterized by any one or more of the following:
 - a. "Specified Sexual Activities,"

b. "Specified Anatomical Areas"

- vii. **Adult Massage Parlor:** means a commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in "Specified Sexual Activities."
- viii. **Adult Motel:** means a hotel, motel or other similar commercial establishment which: offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, film, motion pictures, video cassettes, video reproductions, slides, or other visual reproductions characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas," and has a sign visible from the public right of way which advertises the availability of this type of adult entertainment; or
 - a. offers a sleeping room for rent for a period of time that is less than ten hours; or
 - b. allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten hours.
- ix. **Adult-Oriented Establishment:** Includes Adult Arcade, Adult Bathhouse, Adult Body Painting Studio, Adult Bookstore, Adult Cabaret, Adult Massage Parlor, Adult Motel, Adult Theater, and any commercial establishment presenting Adult Entertainment, whether or not such establishment is operated or maintained for a profit and where alcohol is not served or consumed.
- x. **Adult Theater:** means an enclosed building such as theater, concert hall, auditorium or other similar commercial establishment which is used for presenting "Adult Entertainment".
- xi. **Board:** means the Jefferson County Board of Supervisors.
- xii. **Specified Anatomical Areas:** means:
 - a. less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast; or
 - b. human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- xi. **Specified Sexual Activities:** means and includes any of the following, simulated or actual.
 - a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
 - b. acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.
 - c. showing of human genitals in a state of sexual stimulation or arousal.
 - d. excretory functions during a live performance, display, or dance of any type.
- xii. **Youth facility:** means any facility where minors gather for education or recreational activities including but not limited to playgrounds, swimming pools, libraries, licensed child-care facilities, youth clubs and youth camps.

2. **First Amendment Protected Adult-Oriented Establishments**

PURPOSE AND FINDINGS OF FACT.

Purpose: It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of citizens of Jefferson County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within Jefferson County. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

Findings:

- i. The Board finds that Adult-Oriented Establishments, as defined in this ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the County.
 - ii. Based on its review of studies conducted in Phoenix, AZ; Garden Grove, CA; Los Angeles, CA; Whittier, CA; Indianapolis, IN; Minneapolis, MN; St. Paul MN; Cleveland, OH; Oklahoma City, OK; Amarillo, TX; Austin, TX; Beaumont, TX; Dallas, TX; Houston, TX; Newport News, VA; Bellevue, WA; New York, NY; Seattle, WA; and St. Croix County, WI; and the Report of the Attorney General's Working Group of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Preventions, and the findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Colman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theatre, Inc.* 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000), *East of the River Enterprises II v. City of Hudson*, 2000 Wisc. App. Lexis 734 (Ct. App. Aug.1, 2000); *Ben's Bar, Inc. v. Village of Somerset*, F.3d, 2003 WL 132541 (7th Cir. 2003), the Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential area, and decreased property values.
 - iii. The Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
 - iv. It is not the intent of the Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.
 - v. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the County, it is the intent of the Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
 - vi. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.
- 3. Location Of First Amendment Protected Adult-Oriented Establishments**
- i. The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined by this ordinance, are entitled to certain protections. Therefore, an Adult-Oriented Establishment shall be a permitted use in the B-Business zoning district and shall be a prohibited use in any other zoning district. The Adult-Oriented Establishment may locate in the specified district only if an Adult-Oriented Establishment License has been granted by a town or municipality requiring such license within the County which is subject to this ordinance, and all the requirements of this section and the applicable zoning district regulations are met.

- ii. Adult-Oriented Establishments shall be located at least 1,000 feet from:
 - a. any residential district line where a single-family residence is a principal use, playground lot line, public park lot line, or publicly owned recreation area.
 - b. any structure used as a residence, place of religious worship, public or private school, or "Youth-Facility" as defined in this ordinance.
 - c. any other structure housing an Adult-Oriented Establishment.
 - d. any structure housing an establishment which holds an alcohol beverage license.
- iii. Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the residential district boundary lines, to the lot line of any lot used for park, playground, or any structure listed in 11.04(k)(3) b.1-4 above.
- iv. The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
- v. For Adult-Oriented Establishments located in conjunction with other buildings such as in a shopping center, and clearly separate from other establishments, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
- vi. For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).
- vii. Subsequent location of any establishments described in 11.04(k)(3) b.1-4 within 1000 feet of an existing Adult-Oriented Establishment does not constitute a violation of this Ordinance by the Adult-Oriented Establishment.

11.11 ADMINISTRATION AND ENFORCEMENT

(a) Agencies and Offices Involved in Ordinance Administration and Enforcement, Definitions of Responsibilities.

1. Jefferson County Board of Supervisors: The Jefferson County Board of Supervisors is responsible for the enactment, amendment, and repeal of the Jefferson County land use ordinances. The Board of Supervisors appropriates funds in support of the Office of Zoning Administrator, the Planning and Zoning Committee and the Board of Adjustment.
2. Jefferson County Planning and Zoning Committee: The Jefferson County Planning and Zoning Committee is a committee of the County Board, created pursuant to Section 59.69 of the Wisconsin Statutes, and serves as the County planning agency pursuant to Section 236.02(1) of the Wisconsin Statutes. The Planning and Zoning Committee is responsible for overseeing the office of the Zoning Administrator and for other functions assigned to it by this Ordinance or by state law.
3. Jefferson County Zoning Adjustment Board: The Jefferson County Zoning Adjustment Board is a board created by action of the County Board of Supervisors pursuant to Section 59.694 of the Wisconsin Statutes. The Zoning Adjustment Board is responsible for hearing and deciding administrative appeals and variance applications as provided in this Ordinance.
4. County Zoning Agency: The County Zoning Agency is an administrative department of Jefferson County government, created by the Board of Supervisors. The office is headed by the Head of the County Zoning Agency pursuant to s. 59.69(10)(b)2, Wis. Stats. This position is a County Department Head position which is appointed by the County Administrator subject to confirmation by the County Board of Supervisors. The office shall also consist of such other personnel as shall be provided for the office. In addition to duties and responsibilities specified elsewhere in this Ordinance, the Head of the County Zoning Agency shall be responsible for directing the work of the office, for making periodic reports as required on the activities of the office, and for training and educational activities to assure that persons connected with the program are able to keep abreast of developments in the field of County land use ordinances. [Ord. No. 2018-04, 04-17-2018]

(b) Duties of the Zoning Administrator: Records, Inspections, Determinations, Permits, Fees.

In addition to the duties specified elsewhere in this Ordinance, the Zoning Administrator shall be responsible for the following administrative duties:

1. Advising Applicants: The Zoning Administrator shall advise applicants for permits and approvals as to the provisions of this Ordinance and shall assist them in preparing applications.
2. Keeping Records: The Zoning Administrator shall keep records of applications received, Committee or Board or office actions on such applications, permits issued, inspections made, enforcement actions undertaken and other similar activities.
3. Making Inspections: The Zoning Administrator shall make such inspections of premises as are required to determine compliance of land use activities with the terms of this Ordinance. Except in cases of emergency, such inspections shall be made only at a reasonable hour, with reasonable notice to the owner and/or occupant of the premises and with consent, unless it is made pursuant to an inspection warrant issued pursuant to Wisconsin Statutes.
4. Making Determinations: The Zoning Administrator shall make those administrative decisions and determinations as are assigned to the Administrator by terms of this Ordinance.
5. Permits, Approvals and Fees: The Zoning Administrator shall receive applications for the following permits and shall process the applications and the fees collected in the following manner:

(c) Zoning Permit.

1. When required: See Sec. 11.13.
2. Zoning permits shall be issued only if the parcel is in compliance with the Jefferson County Land Division Ordinance and Floodplain Ordinance.
3. Application and issuance: Applications for zoning permits shall be made on forms furnished by the Zoning Administrator. Issuance of a sanitary permit is a precondition to issuance of a land use permit whenever applicable. Permits shall be issued if the application and information obtained through field inspections, if any, causes the Administrator to conclude that the proposed use will comply with all applicable regulations.
4. Fees: A fee set pursuant to Section 11.13 shall be submitted to the Zoning Administrator when application is made for a land use permit.
5. Publication: The Zoning Administrator shall cause publication to be made in the official newspaper of Jefferson County of pertinent identifying information on each zoning permit issued. Such publications shall be made each month within the last ten days of the month.
6. Permits shall lapse and become void if operations described in the permit are not completed within two years of issuance of the permit, except that the Zoning Administrator may grant an extension for a period not to exceed one year upon showing of a valid cause.

(d) Applications for Conditional Use Permits, Variances, Administration Appeals, and Applications for Rezoning.

1. Application and referral: Applications for variances and administrative appeals shall be made to the Zoning Administrator on forms prepared by the Administrator and approved as to form and content by the Zoning Board of Adjustment. Applications for rezoning requests shall be made to the Deputy County Clerk in the Zoning Office. Applications for conditional uses shall be made to the Zoning Administrator. Completed applications shall be referred by the Administrator to the appropriate board or committee for processing and disposition.
2. Fees: A fee set pursuant to Section 11.13 shall be submitted to the Zoning Administrator.
3. Sanitary and Zoning Permits for Conditional Uses and Variances: Issuance by the Planning and Zoning Committee for a conditional use approval or issuance by the Board of Adjustment of a variance shall not relieve the applicant of the obligation to obtain sanitary and zoning permits. [11/10/09, Ord. 2009-19]
4. Effect and Posting of Permits: Permits are issued on the basis of plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Property owners, builders and contractors are primarily responsible for ordinance compliance and for reasonable care in construction. Issuance of permits and approvals under this Ordinance is not to be construed as establishing legal responsibility of the County for the design and construction of premises. Use, arrangement, or construction not in full accord with that authorized shall be deemed a violation of this Ordinance.
5. Permits shall be placed in a prominent location on the premises during construction, alteration or moving.
6. Permits shall lapse and become void if operations described in the permit are not completed within two years of issuance of the permit, except that the Zoning Administrator may grant an extension for a period not to exceed one year upon showing of a valid cause.

(e) Amendment Procedures. Amendments: The Jefferson County land use ordinances are adopted by the County Board and may be amended by the County Board. State law prescribes how amendments are processed. Five major steps occur:

1. A hearing is held by the County Planning and Zoning Committee.

2. The Planning and Zoning Committee reviews the proposed amendment and makes recommendations to the County Board.
3. The County Board votes on the proposal.
4. In the case of amendments to general zoning outside shoreland and floodplain areas, the affected town board can veto an amendment adopted by the County Board.
5. The amendment is published and recorded.
In addition, persons owning lands proposed to be subject to zoning amendment or owners of abutting property can file a "protest" which requires a three-fourths vote of the County Board to approve the proposed amendment. All of these procedures are subject to detailed statutory rules of §59.69 Wisconsin Statutes, which are adopted herein by reference. The Zoning Administrator shall create and maintain a current summary of the statutory procedures for interested persons.
6. Standards for Rezoning from the A-1 Exclusive Agricultural and N Natural Resource Districts: Land that is zoned A-1 Exclusive Agricultural or N Natural Resource may be rezoned to a zoning district that is not a certified farmland preservation zoning district if all of the following additional criteria are met (some of which are based on §91.48 of the Wisconsin Statutes): [am. 3/13/12, Ord. 2011-28]
 - i. The land is better suited for a use not allowed in the A-1 or N district. [cr. 3/13/12, Ord. 2011-28]
 - ii. The rezoning is consistent with the County Comprehensive Plan. [cr. 3/13/12, Ord. 2011-28]
 - iii. The rezoning is substantially consistent with the Jefferson County Agricultural Preservation and Land Use Plan. [cr. 3/13/12, Ord. 2011-28]
 - iv. 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. [cr. 3/13/12, Ord. 2011-28]
 - v. There will be adequate public facilities to serve the proposed and potential land use changes that would be enabled by the rezoning. [re-lettered & am. 3/13/12, Ord. 2011-28]
 - vi. The burdens on local government for providing the needed services to the proposed and potential land use changes that would be enabled by the rezoning are reasonable. [re-lettered & am. 3/13/12, Ord. 2011-28]
 - vii. The development will not cause unreasonable air or water pollution, soil erosion, or adverse effects on valued natural areas. [re-lettered & am. 3/13/12, Ord. 2011-28]
 - viii. The soil productivity rating has been considered in the location of the area proposed for rezoning. [re-lettered & am. 3/13/12, Ord. 2011-28]
 - ix. The remaining A-1 parcel 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]
7. By March 1 of each year, the County shall provide to the Department of Agricultural, Trade and Consumer protection a report of the number of acres that the county has rezoned out of farmland preservation zoning districts during the previous year and a map that clearly shows the location of those areas (ch. 91.48(2)) [am. 10/11/22, Ord 2022-12]

(f) Board of Adjustment.

1. Appointment and Term: The Board shall consist of three members and two alternate members who shall be appointed for staggered three-year terms, commencing on July 1, by the County Administrator. Vacancies shall be filled in like manner for the unexpired term of any member whose term becomes vacant. Members shall all reside in the County and

APPELLANT'S CERTIFICATION OF APPENDIX

I hereby certify that filed with this brief is an appendix that complies with Wis. Stat. § (Rule) 809.19 (2) (a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under § 809.23 (3) (a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated this 19th day of February 2024.

s/Electronically Signed By: Danielle H. Thompson
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