

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,

v.

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

Respondent.

SUMMONS

30955: Petition for Writ of Certiorari

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*
Mary Beth Peranteau State Bar No. 1027037
44 East Mifflin Street, Suite 1000
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Attorney for Petitioners

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W2403 North Side Drive
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Petitioners,

v.

COMPLAINT

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

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

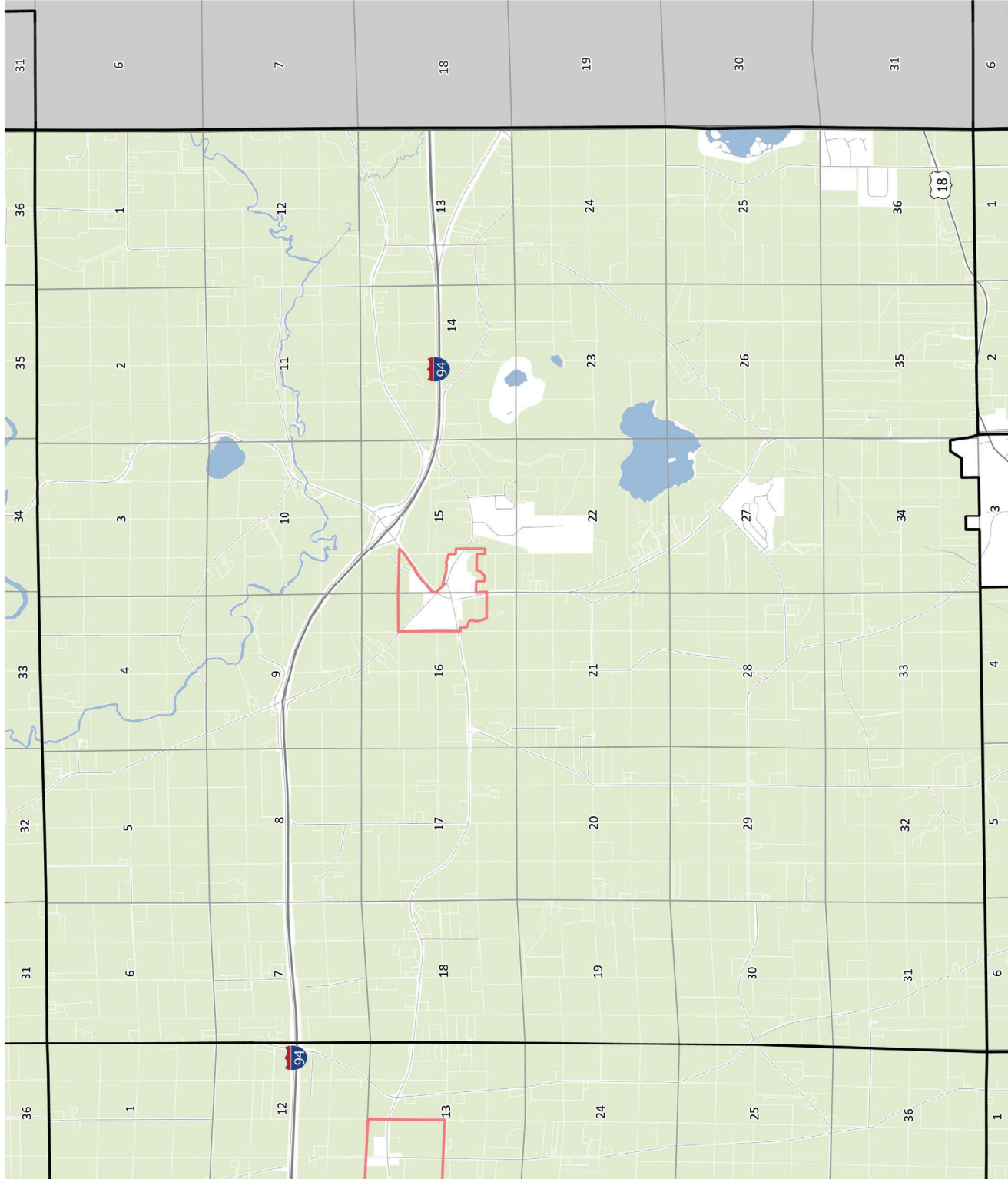


EXHIBIT B4 *Town of Concord Comprehensive Land Use Plan*

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.