

**JEFFERSON COUNTY, WISCONSIN
BOARD OF SUPERVISORS**

IN RE:

Claim of Defend Town Plans, U.A., Rhonnie Garcia, Robert Gartzke and Karen Gartzke, Thomas L. Williams and Sally J. Williams to Jefferson County Board of Supervisors

**NOTICE OF CIRCUMSTANCES OF CLAIM AND
NOTICE OF CLAIM PURSUANT TO WIS. STAT. § 893.80**

TO: Audrey McGraw
Jefferson County Clerk
Jefferson County Courthouse
311 South Center Avenue, Room 109
Jefferson, WI 53549

This is a Notice of Circumstances of Claim and Notice of Claim made pursuant to Wis. Stat. § 893.80 against the Jefferson County Board of Supervisors.

CLAIMANTS

1. Claimant 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 W2403 North Side Drive, Watertown, Wisconsin 53094.
2. Claimant Rhonnie Garcia is an adult resident of the State of Wisconsin who serves as Secretary of the Association and is co-owner of property located in the A-1 (Exclusive Agricultural) zoning district at N6712 North Island View Road, in the Town of Concord, Jefferson County, Wisconsin.
3. Claimant Robert Gartzke is an adult resident of the State of Wisconsin and member of the Association who is co-owner of property located in the C (Community) zoning district at W1363 County Road B, in the Town of Concord, Jefferson County, Wisconsin.
4. Claimant Karen Gartzke is an adult resident of the State of Wisconsin and member of the Association who is co-owner of property

located in the C (Community) zoning district at W1363 County Road B, in the Town of Concord, Jefferson County, Wisconsin.

5. Claimant Thomas L. Williams is an adult resident of the State of Wisconsin who serves as President of the Association and is co-owner of property located in the A-1 (Exclusive Agricultural) zoning district at W2403 North Side Drive, in the Town of Concord, Jefferson County, Wisconsin.

6. Claimant Sally J. Williams is an adult resident of the State of Wisconsin and member of the Association who is co-owner of property located in the A-1 (Exclusive Agricultural) zoning district at W2403 North Side Drive, in the Town of Concord, Jefferson County, Wisconsin.

CIRCUMSTANCES OF CLAIM

7. 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 A-1 (Exclusive Agricultural) to A-2 (Agricultural and Rural Business) for a proposed development consisting of ten barns to be used for boat storage on property located at 432 County Road B in the Town of Concord, which was assigned Petition No. R4379A22.

8. On January 10, 2022, the Town of Concord, in the exercise of its authority over Jefferson County rezone petitions under Wis. Stat. § 59.69(e)6., voted to recommend approval of the Brunson rezone application.

9. The Jefferson County Planning and Zoning Committee held a public hearing on Petition No. R4379A22 on February 17, 2022.

10. At a regular meeting on February 28, 2022, the Planning and Zoning Committee voted 5-0 to postpone its decision and return the Brunsons' petition to the Town of Concord to resolve the discrepancy created by the Towns recommendation of approval despite the inconsistency of the Brunsons' petition with the Town's Comprehensive Plan.

11. At a regular meeting on March 28, 2022, the Planning and Zoning Committee considered and voted to recommend adoption of a zoning ordinance amendment to remap 7.2 acres of the Brunson parcel to A-2.

12. At its regular meeting on April 19, 2022, the Jefferson County Board considered and approved Rezone Petition No. R4379A22 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.

CLAIM

1. Section 11.04(a)6. of the Jefferson 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.

2. The Jefferson County Board erred as a matter of law in approving Rezone Petition No. R4379A22 because the Jefferson County Planning and Zoning Committee failed to follow the mandatory procedure and make required findings as set forth in Wis. Stat. § 91.48(1) and Section 11.11(c)6. of the Jefferson County Zoning Ordinance for the rezone of property to remove it from the exclusive A-1 agricultural zoning district.

3. The Jefferson County Board erred as a matter of law in in approving Rezone Petition No. R4379A22 because the zoning amendment is inconsistent with the Jefferson County Agricultural Preservation and Land Use Plan (the “Farmland Preservation Plan”), incorporated by reference into the Jefferson County 2040 Comprehensive Plan pursuant to Wis. Stat. § 91.10(2).

- a. Section 11.11(c)6. of the Jefferson County Zoning Ordinance requires any rezone of property removed from the A-1 exclusive agricultural district to be substantially consistent with the County’s Farmland Preservation Plan which in turn provides that such rezoning must be consistent with the applicable town and County comprehensive plan.
- b. In furtherance of the Town of Concord’s overarching land use goal to “maintain the agrarian and rural character of the Town of Concord,” the Town’s comprehensive 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 Map 10 of the Town plan, as follows:

1.B. Issues and Opportunities

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. (Page 5)

8.B. Economic Development Element: Strategies

8. 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 within the Town.

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

“[T]here is a 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.” (Page 57)

10.A. Vision Statements

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.

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10.E. Land Use Trends

Public, Commercial and Residential Trends. “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.” (Page 81)

- c. Rezone Amendment R4379A22 proposes commercial development outside the boundary of the Town of Concord rural hamlet and is therefore clearly inconsistent with myriad statements in the Town plan.

4. The County Board erred as a matter of law in concluding that the Town Board’s approval of the rezone petition pursuant to Wis. Stat. 59.69(e)(6) superseded the County Board’s obligation under Wis. Stat. § 66.1001 to ensure that a zoning amendment is consistent with the County’s

Comprehensive Plan, which incorporates the Farmland Preservation Plan pursuant to statute.

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

6. 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, Claimants demand that the Jefferson County Board vacate zoning amendment R4379A22 for the rezone of the Brunson lands within the A-1 exclusive agricultural district.

Dated this 31st day of May, 2022.

Respectfully submitted,

WHEELER, VAN SICKLE & ANDERSON, S.C.
Attorney for Claimants

By:

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