



Assembly Bill 563

December 10, 2015

Good afternoon Housing and Real Estate chairman and members, and thank you for allowing me to testify on AB 563 today, allowing Dane County towns to opt out of county zoning.

I, along with Senators Fitzgerald and Olsen, and Representatives Kleefisch and Jagler, are proposing this bill to allow Town Boards in Dane County to opt out of countywide zoning under very limited circumstances. This bill is needed to protect the property rights of rural landowners in the county.

The Dane County Zoning Ordinance was first adopted in 1938 and has not ever had a comprehensive revision. This makes it unique among Wisconsin's counties. The county has never had a comprehensive revision because enacting one would require the county to allow Town Boards the option of opting out. In order to keep the towns from opting out, Dane County has had an almost continuous process of incremental revisions, thus trapping towns into an ordinance that now bears no resemblance to the original ordinance which was adopted before World War II, a time when, for example, many farmers were still using horses to pull their implements.

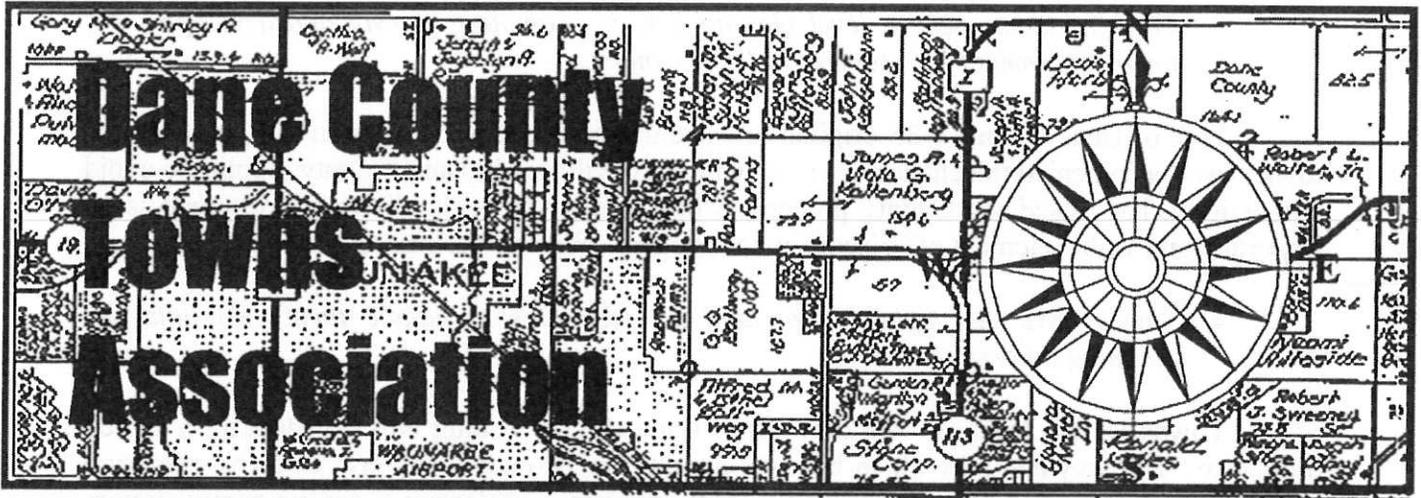
The Dane County Board is made up of 37 members and only roughly 5 of them currently represent rural areas. The remaining 32 represent incorporated areas that are NOT covered by the county zoning ordinance, but still get to vote on zoning decisions affecting only township areas. This is another factor that makes the situation in Dane County uniquely undemocratic.

These two facts have led to a situation in which Dane County routinely makes arbitrary decisions that are not supported by the town board of a particular town or by its residents.

Our bill allows a town board to choose to opt out of county zoning during calendar year 2017, and for one year periods every three years after that. Towns that choose to opt out have the option to choose one of two actions: 1. Adopt a Town Zoning Ordinance that is essentially identical to the County Zoning Ordinance or 2. Adopt a model ordinance that is developed by all opt-out towns collectively. These two options avoid the issue of having several different zoning ordinances across the county and would ensure Dane County would have a maximum of two zoning ordinances.

Also, to address questions we have received during the process, there are a couple of issues I wanted to clear up. First, this bill only applies to Dane County. Second, this bill does not affect annexation or extraterritorial zoning of cities and villages.

Thank you again for your time today and I would be happy to answer any questions you may have.



PLAT MAP EXCERPT USED BY PERMISSION OF ROCKFORD MAP PUBLISHERS

To: Assembly Committee on Housing and Real Estate
From: Dane County Towns Association
Date: December 10, 2015
Re: Please Support AB 563, Dane County Towns Withdrawal From County Zoning

AB-563 will promote growth, jobs and freedom. The Dane County Towns Association and its parent organization, the Wisconsin Towns Association, request your support of the bill. This memo is a short summary of the reasons to enact the bill. The accompanying memo has more detailed information about the legislation.

1. *Dane County's Town residents should have the same freedom to govern their local affairs enjoyed by city and village residents.*

More than 79,000 people who live in Dane County towns are denied the right to establish land use policy. Instead, they are subject to control by a county board which pursues an extreme anti-growth agenda directed by supervisors from the City of Madison and other cities and villages. Just because someone lives in a town does not mean they should have fewer rights than a city or village resident.

2. *Towns need the option to withdraw from Dane County's urban-based control over rural towns and its top-down policies.*

Dane County is one of just three counties in Wisconsin which is so determined to maintain control of its towns that it has refused to comprehensively revise its zoning ordinance. The County is so afraid of Towns gaining limited zoning independence that it clings to a 1937 zoning ordinance. The Towns are under the thumb of a zoning committee dominated by supervisors with an extreme agenda aimed at controlling rural residents.

3. *Town residents need a level playing field in promoting growth and development if town government is to survive in Dane County.*

Five of Dane County's 35 original towns either have vanished or soon will, because the towns have been denied the chance to grow. Cities and villages in Dane County, hoping to avoid competition, have used the County process to hold the towns back. Town government is an important and viable element of Wisconsin government. We can't afford to lose it.

4. *Towns have the sophistication and the resources to handle their own land use planning and regulation.*

Towns which decide to withdraw from Dane County zoning will be adopting a shared ordinance. The levy and fees which have supported Dane County's expensive zoning operation will shift to the Towns. Towns will likely retain experience professional zoning administrators under contract to handle the important business of zoning regulation. Town residents are every bit as capable as city and village residents to make zoning decisions.

5. *The bill corrects an oversight in the statutes, and does not reverse a conscious policy choice.*

The bill corrects an oversight in the statutes – towns are subject to county zoning only if they choose to be. But, once they have elected to be under the County, they cannot escape. When the county zoning law was passed in 1928, withdrawal simply was overlooked in the drafting of the law. In the decades since, the rise of urban control over counties has made that drafting oversight a serious omission with drastic consequences. It's time to return control over land use to the people who are affected by it.

6. *Town Zoning Has Not Destroyed Cities and Villages In the 15 Counties Without County Zoning, and Won't Harm Dane County Cities and Villages.*

Contrary to the fear-mongering of the Dane County Cities and Villages Association, town zoning will not harm cities and villages. This bill does nothing to eliminate the power cities and villages have to override town zoning in the areas 3 or 1 ½ miles from their boundaries. Towns seeking sewer service (which many already have) will remain subject to the approval of the Capital Area Regional Planning Commission, as they currently are. The DCCVA opposes this bill because it will eliminate the complete control over rural zoning which cities and villages have enjoyed in Dane County. Somehow, all but 3 counties in Wisconsin have allowed towns the option to have their own zoning and survived. Green Bay, Sheboygan, Fond du Lac, Oshkosh, Waukesha, Janesville and Wausau have managed to endure despite having neighboring towns with zoning power. Dane County cities and villages simply need to accept loss of some of their unilateral control.

TO: John Jagler, Chair, 2015 Assembly Committee on Housing and Real Estate
Room 316 North, State Capitol, P.O. Box 8952, Madison, WI 53708

CC: Committee members, 2015 Assembly Committee on Housing and Real Estate

FROM: Town of Dunn Town Chair Edmond Minihan
Town of Cross Plains Town Chair Greg Hyer
Town of Montrose Town Chair Roger Hodel
Town of Perry Town Chair Roger Kittleson

Town of Christiana Town Chair Gary Rattmann
Town of Oregon Town Chair Wayne Ace
Town of Pleasant Springs Town Chair Mary Haley
Town of Springdale Town Chair Ed Eloranta

RE: Opposing AB 563 to allow Dane County Towns to withdraw from County Zoning

I am writing on behalf of 8 Dane County Towns to urge you to oppose AB 563. We are deeply concerned about the repercussions this bill would have for our towns and our fellow Dane County towns, property owners and taxpayers.

Perhaps the most important reason we encourage you to oppose this legislation is that it seems to be attempting to fix a problem that, we believe, is overstated and quite limited. Only 13 zoning petitions have been denied since 2011, and about half of those denied were in fact denied at the Town level, not by Dane County Zoning. Towns enjoy significant benefits from our partnership with Dane County Zoning, and these limited incidents of denial do not warrant abandoning a well-functioning system.

In Dane County, towns have been successful at achieving farmland preservation that supports a robust agricultural economy, while also facilitating appropriate development in our rural areas. This is due in large part to having a predictable, cooperative system across the county. If this bill is enacted, it will lead to a fragmented decision making system that varies widely from town to town. This would be a barrier for farmers and developers alike. Despite the provision to have all towns that opt-out adopt a single code, it would be a challenge to maintain this consistency over time as individual towns pursue updates as they begin to use the code.

Administrating zoning at the county level allows for having high quality planning staff administrating and enforcing the zoning ordinance. Most towns do not have the capacity to hire staff with this capability should they choose to have their own ordinance. With County zoning, Towns have both the benefit of town-level review for local control and collaborating county zoning staff and taking advantage of on their expertise. Enforcement is another important service that county zoning provides. If towns opt out, they are losing out on this service and town taxpayers are also paying twice – through county taxes which fund county zoning, plus the significant financial investment of administrating and enforcing a zoning ordinance locally whether by hiring staff or a consultant.

Dane County Zoning has been responsive to the concerns of towns as they have arisen, making changes to give towns more local control over the zoning process. For example, Dane County Towns have the ability to approve or deny Conditional Use Permits, which is unique to Dane County. Town action comes first, influencing the county process, and adjustments have been made to have more town representatives on zoning committees.

Once again, we urge you to oppose AB 563. We believe this bill represents a costly over-correction for a limited set of circumstances. County zoning provides a significant benefits to towns in a very cost effective manner, while providing a predictable, consistent process county-wide. Eliminating this consistency would come at a great cost both financially and in a diminished ability to provide quality services to our residents.

Sincerely,



Edmond P. Minihan
Chairman, Town of Dunn
4156 County Road B, McFarland, WI 53558
(608) 838-1081

DANE COUNTY CITIES' & VILLAGES' ASSOCIATION



President:

Jon Hochkammer
Mayor
City of Verona
(608) 845-5833

Vice President:

Kurt Sonnentag
Mayor
City of Middleton
(608) 827-1059

Secretary:

Judd Blau
Village President
Village of DeForest
(608) 846-6751

Treasurer:

Bill Burns
City Administrator
City of Verona
(608) 845-6495

At-Large:

Donna Olson
Mayor
City of Stoughton
(608) 873-6677

Lobbying Consultant:

Forbes McIntosh
Gov't Policy Solutions
(608) 255-0029

DCCVA Address:

14 West Mifflin Street
Suite 206
Madison, WI 53703

To: Rep. John Jagler, Chair
Members of the Assembly Committee on Housing & Real Estate

From: City of Verona Mayor Jon Hochkammer
City of Middleton Mayor Kurt Sonnentag
City of Stoughton Mayor Donna Olson
Village of DeForest President Judd Blau
City of Verona Administrator Bill Burns

Date: Thursday, December 10, 2015

Re: **Opposition to Assembly Bill 563 – Allowing Towns to Withdraw from Dane County Zoning**

On behalf of the 19 villages and 8 cities that comprise the membership of the Dane County Cities' & Villages' Association (DCCVA) where approximately 85 percent of the approximate 500,000 residents of Dane County reside, we are writing to express our deep concern over the prospect of legislation allowing towns to withdraw from Dane County zoning. While this may seem to be an isolated change for towns, it will have broad implications for cities and villages in Dane County. Land use issues can be contentious, but this legislation will substantially alter the dynamic.

We are sympathetic to the towns' claim that they have faced challenges in working with Dane County prior to the 2014 compromise the Dane County Towns Association and the Dane County Board reached during the public debate of [2013 AB-661](#). Certainly the DCCVA has had its share of conflicts. However, this proposal will have wide repercussions on issues such as land use, transportation and the efficient provision of municipal services. DCCVA believes this proposal will lead to disputes between cities, villages and towns that will be costly, lengthy and unnecessary intergovernmental boundary disputes for our taxpayers. Such a fundamental alteration in the landscape of municipal growth needs to be made in the context of all the communities affected.

The cities and villages of this region believe it is biased that towns only in Dane County would in effect be exempted from regional planning oversight, while the Dane County Towns' Association and the Dane County Board would continue to have representatives on the regional planning entities where they would continue to have direct votes to decide whether or how a city or village will grow in the future.

MEMORANDUM

TO: Honorable Members of the Assembly Committee on Housing and Real Estate

FROM: Kyle Christianson, Director of Government Affairs *ke*

DATE: December 10, 2015

SUBJECT: Opposition to Assembly Bill 563

The Wisconsin Counties Association (WCA) opposes Assembly Bill 563, which allows towns in Dane County to unilaterally withdraw from county zoning ordinances. If passed, this legislation will lead to many unintended consequences throughout the Dane County region and will set a precedent for other counties across the state.

While there are undoubtedly disagreements between towns in Dane County and the county over land use issues, the current system of checks and balances works well. Over the last four years (2011-2014), there were 593 zoning petitions before the Dane County Zoning and Land Regulation Committee. Only 13 of these petitions were denied; however, six of these denials were denied by the towns.

There is value added in having both towns and Dane County partner in the current zoning process, evident in the fact that Dane County is one of the fastest growing counties in the state. Under the current system, both the county and towns have a stake in zoning decisions. For example, the county is only allowed to make changes to county zoning ordinances with approval from the majority of towns in Dane County. This forces a level of collaboration and cooperation between the county and towns that will be eliminated under this legislation. In addition, AB 563 has the potential to create regulatory uncertainty for businesses and developers as Dane County would no longer have zoning uniformity.

While the current county-town zoning process may not always be easy, it has proven successful and should not be preempted by the state without the county and towns first working cooperatively to identify and address all the challenges present under the current system. In recent years, based on concerns raised by Dane County towns, the county board made significant changes to its zoning practices, as well as membership of the Dane County Zoning and Land Regulation Committee. These changes were the direct result of local government officials working cooperatively to make improvements to the local government zoning process.

Thank you for considering our comments and please feel free to contact WCA if you need additional information.

December 7, 2015

To Whom It May Concern,

As the residents of the Town of Blue Mounds discuss the merits of attempting to remove ourselves from the influence of the Dane County Zoning and Land Regulation Committee, I had been in support of staying with Dane County. However, I recently experienced the process of petitioning to rezone a parcel of my property, and I must say that my view has been somewhat altered.

Since I am not an experienced land developer, the process seemed extremely complex and convoluted. I was often given conflicting messages and wrong dates. I was told by Dane County in the early summer of 2015 that a portion of my land should be switched to A-4 and then, only a few days before my Nov. 24 hearing, the ZLR committee suggested it be changed to CO-1 Conservation. Meanwhile, I was told by the town board that I really didn't need to rezone the land at all. I was also told by the ZLR Committee at that time that I would need a revised driveway agreement without any explanation of how or when or with whom to implement these changes. I don't necessarily question the committee's intentions, but I objected to the lack of communication and consideration for my time and resources.

While I understand that Dane County works to be a good steward of our land, I have come to believe that the Town of Blue Mounds could be just as responsible and conscientious a steward of our land while being much more accessible and considerate of individual land owners.

Thanks,

Michael J. Cahill
3100 Bergum Road
Mount Horeb, WI 53572



1077 N. Bristol Street
 Sun Prairie, WI. 53590
 Phone (608) 837-7463
 Fax (608) 837-1081

SE1/4-SW1/4
 SECTION 35
 TOWN OF VERMONT

S85°51'38"E
 182.50'
 S85°35'44"E
 S82°10'25"W
 97.50'
 152.00'
 S69°09'50"E
 54.50'
 S01°53'07"W
 54.50'

SW1/4-SE1/4
 SECTION 35
 TOWN OF VERMONT

PARCEL "A"
 Proposed CSM
 Lot 1
 REZONE TO A-4

SOUTH 1/4 CORNER
 SECTION 35
 T6N, R6E

TOWN OF VERMONT
 TOWN OF BLUE MOUNDS

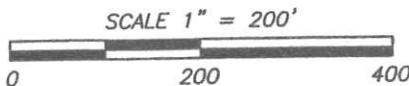
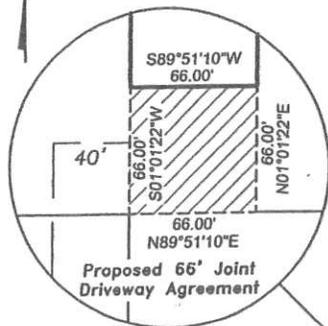
NORTH 1/4 CORNER
 SECTION 2
 T6N, R6E

PARCEL "B"
 Proposed CSM
 Lot 1

REZONE TO A-2

NE1/4-NW1/4
 SECTION 2
 TOWN OF BLUE MOUNDS

NW1/4-NE1/4
 SECTION 2
 TOWN OF BLUE MOUNDS



Existing 40' Joint
 Driveway Agreement
 Per Doc. No. 4035267

ZONING DESCRIPTION: PARCEL "A"
 A part of Southwest 1/4 of the Southeast 1/4 Section 35, T6N, R6E, Town of Vermont. More fully described as follows: Beginning at the South 1/4 Corner of said Section 35; thence N00°53'55"E, 643.00 feet along the West line of said 1/4 1/4 to a point on a meander line on Moen Creek; thence S71°17'40"E, 119.00 feet along a meander line; thence S25°44'26"E, 44.00 feet along a meander line; thence S85°51'38"E, 129.50 feet along a meander line; thence S61°58'09"E, 62.00 feet along a meander line; thence S85°35'44"E, 182.50 feet along a meander line; thence S01°53'07"W, 54.50 feet along a meander line; thence S82°10'25"W, 97.50 feet along a meander line; thence S69°09'50"E, 152.00 feet along a meander line; thence S06°51'23"W, 392.00 feet to a point on the South line of said 1/4 1/4; thence S89°49'41"W, 504.50 feet along said South line to the point of beginning, containing 286,731 square feet, 6.58 acres more or less.

ZONING DESCRIPTION: PARCEL "B"
 A part of Northwest 1/4 of the Northeast 1/4 Section 2, T6N, R6E, Town of Blue Mounds. More fully described as follows: Beginning at the North 1/4 Corner of said Section 2; thence N89°49'41"E 504.43 feet along the North line of said 1/4 1/4; thence S06°51'23"W 221.69 feet; thence S15°02'39"W 449.00 feet; thence N88°58'38"W 307.00 feet; thence S01°01'22"W, 605.00 feet; thence S89°51'10"W, 66.00 feet to a point on the West line of said 1/4 1/4; thence N01°01'22"E 1252.40 feet along said West line to the point of beginning, containing 332,269 square feet, 7.26 acres.

Proposed 66' Joint Driveway Agreement:
 Northwest 1/4 of the Northeast 1/4

SE1/4
 SECTION 2
 TOWN OF BLUE MOUNDS

7/24/2012 Site Visit			
Site visit by Mr Hendricks, Mr Miles and Mr Bollig.			
Town of Blue Mounds Board members, Chief Brinkmann in attendance to answer questions or address concerns by ZLR members.			
No action taken			
8/14/2012 Working Session			
Site visit review and clarification by ZLR at working meeting.			
Action by ZLR: postponed to next meeting due to Mr Hendricks absence. Note: All other agenda items were approved at this meeting.			
8/28/2012 ZLR Public Hearing			
Site visit review and clarification by ZLR at working meeting.			
Recommendations by ZLR			
Bollig: Approval			
Hendrick: Denial: Inaccessibility that impacts public health, safety and general welfare. No longer has concerns with emergency access. Recommends working with ZLR staff to obtain secondary access to building site.			
Miles: Agrees with Hendricks. Also questions wisdom of using "so much land for driveway."			
8/30/2012 E-Mail communication with ZLR Stall			
ZLR Staff submitted alternative to achieve secondary access through steep wooded area to neighboring drive to ZLR members			
Hendrick reply via e-mail: "That would address my concern"			
9/4/12 - 9/9/12			
Petitioner makes 3 email attempts to get direction from ZLR committee members about access.			
Response from Hendrick 9/9/12: Sup. Miles and I cannot discuss committee business with each other by email. It violates the Open Meeting law.			
8/31/12 - 9/25/12			
Petitioner meets with owners of neighboring drive to discuss possibility: Neighbors refuse			
Petitioner requests approval from Town of Blue Mounds for additional driveway: Town denies access road			
9/25/2012 ZLR Public Hearing			
Cancelled due to Jewish Holiday			
10/23/12 ZLR Public Hearing			
Petition by Land Owner to rezone 2 acres of A1-Ex to A2			
Petition includes willingness to clear pathway to property edge allowing secondary access			
Petitioner spoke to reiterate that all but 300 feet of proposed driveway is an existing driveway or a field road and is not sited on ag land.			

Chief Brinkmann spoke to clarify access in emergency situations do not need neighbor approval and also restate that there is no concern by Fire and EMS for access to building site.				
Action by ZLR:				
Hendrick: Acknowledges that emergency vehicle access is not issue, but is concerned that other county services such as Elder Abuse and Child Protective Services will not be able to reach remote site.				
Miles: Dislikes use of agricultural land for driveway.				
Bollig: Approves petition but recommends postponement to allow continued work to resolution of concerns				
Action taken by Petitioner to address concerns				
Phone contact made to Manager Julie Ahnen of Child Protective Services and Lyn Forschaug, manager of Dane County Aging Community and Elder Abuse. Informed that they have no concerns on driveway length. If needed to access home in time of emergency, they would utilize emergency services.				
11/13/12 ZLR Working Meeting				
Petition by Land Owner to rezone 2 acres of A1-Ex to A2				
Action by ZLR:				
Hendricks Concerns:				
1. Petitioners are asking for Illegal Spot Zoning				
2. Farmland Preservation Plan: Using up 80 acres for one house. Does not preserve productive agricultural land for food and fiber production				
3. Health Safety and Welfare: Remote location about half mile from through road with only one way in and out.				
4. Chapter 75: Cul de sacs shall not exceed 1000 feet				
5. Chapter 4: Dane County Comprehensive Plan: Does not meet goals to provide water, sewer and solid waste services, utilities, recycling, natural gas, electricity.				



MADISON AREA BUILDERS ASSOCIATION

December 10, 2015

Chair Jagler and Members of the Committee:

My name is Andrew Disch. I am the Director of Government Affairs for the Madison Area Builders Association. On behalf of our 500 members who are dedicated to delivering high-quality, safe, and affordable housing options to all income levels, I am here to testify in support of Assembly Bill 563 giving Towns *the option* to withdraw from Dane County zoning.

Economists will tell you that every economic recovery in modern times has been predicated on a rebounding housing market. New construction also generates substantial local economic activity like support of locally owned business - everything from excavators to title companies - and additional revenue for local governments. The *National Association of Home Builders* commissioned an economic study using a model capturing the effect of the construction activity itself, the ripple impact that occurs when income earned from construction activity is spent and recycles in the local economy, and the ongoing impact that results from new homes becoming occupied by residents who pay taxes and buy local goods and services. The result is: 3 full-time, permanent jobs are created for every new home built.

Dane County's restrictive land use policies have prevented environmentally responsible new construction from taking place. A significant segment of consumers prefer to live in a rural setting. This is evidenced by the fact that 15% of Dane County's population lives in one of its 34 towns and despite Dane County having the fastest growing population in the State, there has been a noticeable absence of rural housing options keeping up with consumer demand. To illustrate this point, it is not uncommon for zero or one building permits to be issued annually in Dane County towns. Here are some examples:

2013: Town of Berry: one permit. Town of Medina: one permit.

2014: Town of Dunkirk zero permits. Town of Perry zero permits. Town of Verona one permit.

YTD for 2015: Town of Blue Mounds one permit. Town of Christiana zero permits. Town of York one permit.

In addition, this proposal comes at a time when towns are under significant budget pressures. If a local town board wants to continue to deliver high quality services without raising property taxes, the best way to way to achieve this is to increase its tax base. Now this does not mean paving the way for massive neighborhoods. With many annual operating budgets less a million dollars, identifying pockets of rural housing can

go a long way. Moreover, rural landowners are the best stewards of their land. I can attest to this growing up myself in a town on rural lot in Dane County.

I have also been to several other town board meetings all throughout Dane County during my tenure at the Builders Association and I've observed that the local elected officials on town boards are some of the most connected to their local community and are in the best position to assess their local character and make land use decisions accordingly. On the contrary, for the first time since statehood, not a single farmer serves on the Dane County Board. In a County that is still largely rural, and has 37 County Board members, and is charged with regulating rural land – not one farmer serves on the Dane County Board for the first time since the county was created.

Not every Town will decide to withdraw from County Zoning, however this will give more Dane County Towns an additional option to select when evaluating what best serves their unique needs.

Respectfully Submitted,

Andrew Disch



Mike and Lee Ann Dillis
2214 Dahlk Circle
Verona, WI 53593

March 12, 2013

Dane County Zoning and Land Regulation Committee
City-County Building
210 Martin Luther King, Jr., Blvd
Madison, WI 53703-3342

RE: Rezone Application #10486
3205 Bergum Road, Town of Blue Mounds

Dear Committee Members,

At the November 13, 2012 Zoning & Land Regulation Committee meeting you voted unanimously to postpone action on our petition in order to *"provide an opportunity for the applicant to explore alternate homesite locations on the property"*.

Over the past two months we have communicated with Chairman Miles through our attorney in an effort to more clearly understand what is at the heart of the Committee's concerns with regard to our proposed location. The perceived impact on agriculture appears to be what you are really concerned about. There is concern with the length of the driveway and it interfering with agricultural usage. It was suggested by Chairman Miles, to our attorney, that we again consider ways of minimizing the length of the driveway while also considering using the open field areas for agricultural purposes.

Perhaps it has not been clearly communicated to you that we have intended for the land? The preservation of the land and some agricultural use has always been at the forefront of our thinking. Please read the following few paragraphs to gain further clarity on our vision.

The open field areas on the property have been enrolled in the United States Department of Agriculture's Conservation Reserve Program (CRP) since October 2007. The contract expiration date is October 2017. The now-deceased father of the current Owner (Bob Larson) enrolled the field areas in CRP because his efforts to crop the land in previous years were not cost-effective. One main focus of the CRP program is to reduce soil erosion and sedimentation in streams while helping to improve water quality and establishing wildlife habitat. Bob Larson was a great steward of his land, and he saw this program as an opportunity to maintain the land in a natural state in lieu of trying to actively farm it. In its current state, the vegetative cover on the open field areas protects the stream running through the property, and also provides good habitat for the wild animal population.

If we receive ZLR and County Board approval, it is our intent to keep the open field areas in the CRP Program intact through the 2017 contract expiration date. After that time, we plan to either sign a new CRP contract or plant a combination of crops and meadows to be potentially used for animals; and we will work with the USDA to enroll the other portion in its Wildlife Habitat Incentive Program (WHIP). What really excites us about this program is that it offers technical and financial assistance to help restore, develop and enhance both fish and wildlife habitat. The creek that runs the length of the property has some great potential to be improved and this program could be a great catalyst!

We recently had a meeting with a land planning and design firm that specializes in land stewardship and sustainability. They provided us with some additional ideas on how we could further enhance the natural beauty of the land, and we are eager to explore additional options with them. We believe that these alternative plans will address the Committee's concerns: maintaining the property in CRP would protect the stream and foster a healthy indigenous plant and animal community; while feed crop or meadow would further agricultural use while minimizing the impact to the aesthetics and natural character of the property.

Chairman Miles expressed concern about the length and location of the driveway to the proposed home site, and whether it may limit future use of the fields for agriculture. As a reminder, the vast majority of the proposed driveway is an existing unpaved farm vehicle drive that parallels but is not located in the open field. Our plan is to utilize the footprint of the existing drive; and our driveway would only extend into the current field to the extent necessary to reach the home site (no more than 300 lineal feet). Even then, the drive will be close to the edge of the field so as not to be visually intrusive or limiting of future use.

It has been suggested more than once by the Committee that we should simply build our new home in the location of the old double wide trailer since this location would shorten the overall driveway length. As previously noted, that site is too small to allow for a modestly sized home to be built there. In addition please understand that if a home were to be built in this general location the agricultural use of the land would no longer be an option. Given the size of today's farming equipment, it would not physically fit past the house to get down into the open fields in question.

In conclusion we once again we wish to convey our willingness to work with the Committee to fashion appropriate conditions that would be consistent with our goals for residing at the south end of the property while preserving the rural character of this property. We ask that you approve this request.

Thank you,

Mike and Lee Ann Dillis

cc: Roger Lane, Mark Hazelbaker, Dennis Jelle, Jon Larson

A copy of the proposed home and driveway location plan is attached. Based upon past interactions with The Committee during a number of meetings several concerns were expressed.

This letter in conjunction with a review of the documents being provided directly to you by the Zoning Administrator for the upcoming March 12th meeting, adequately address all of these concerns.

According to published meeting notes this is the list of The Committee's specific concerns:

1. Compliance with the Town Use Plan.
2. Development on 12% slopes.
3. Development within the floodplain.
4. Classification of soils within the boundary area.
5. The length of the driveway.
6. Remote site location and ability of the County to deliver services.
7. Spot zoning and conflicts with the County Comprehensive Plan.

Compliance with the Town Use Plan.

- The two acre parcel meets all nine criteria established in the Town Land Use Plan
- The application has been unanimously endorsed by the Town of Blue Mounds.

Development on 12% slopes.

- This concern was a carryover from Petition #10416 and has been resolved.
- See page 2 of the September 25, 2012 Staff Report.
- The home and driveway are not impacting these slopes.

Development within the floodplain.

- This concern was a carryover from Petition #10416 and has been resolved.
- See page 2 of the September 25, 2012 Staff Report.
- The home location and driveway are not in the floodplain.

Classification of soils within the boundary area.

- This concern was a carryover from Petition #10416 and has been resolved.
- See page 2 of the September 25, 2012 Staff Report.
- Only 4% of the two acre parcel has Class 2 soils.
- The home location and driveway do not impact the Class 2 soils.

The length of the driveway.

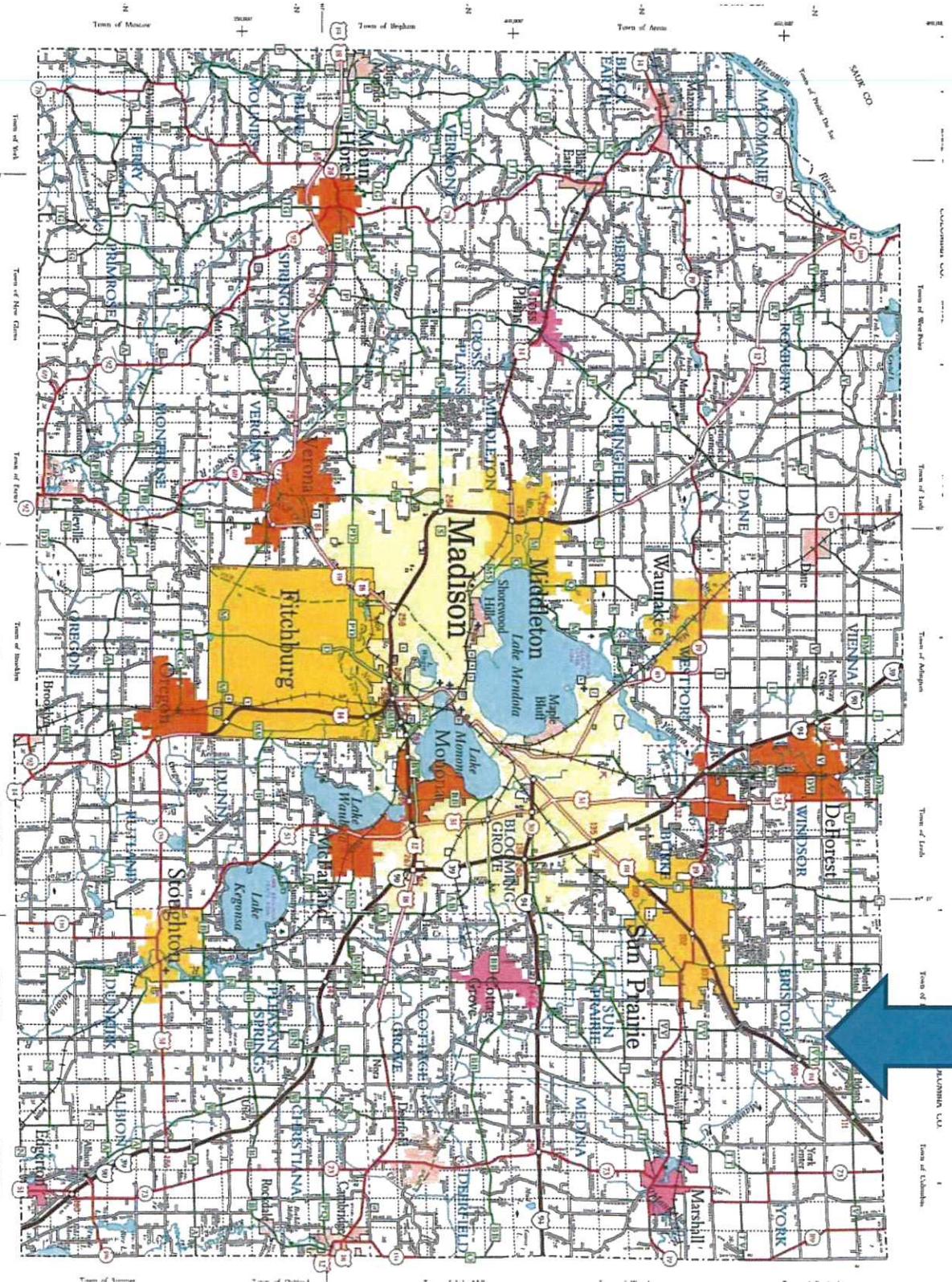
- As verified by Dane County Staff, the proposed driveway is out of the floodplain, has no impact to Class 1 or 2 soils, and is completely off of the steep slopes.
- The Town of Blue Mounds has no driveway length restrictions. Note the following clause was inserted as an Amendment to Ordinance 4, adopted on September 14, 2009... "*The Town of Blue Mounds has no restrictions on the length of private driveways.*"
- It should be noted that there are countless other driveways in Dane County that are what may be considered to be as long. As the Committee is aware, the adjacent neighbor's driveway is approximately 2,800 feet long.

The remote location and ability of the County to deliver Services.

- Homesite is located approximately 3 miles from Hwy 18/151.
- Two existing homes are located within 750 feet of this proposed home location.
- Site is located within a 5 minute response time by the Mount Horeb Fire District which provides fire and EMT services to the area.
- FDMH has sent two letters stating that they have no concern with the proposed site, driveway or home location. ZLR Committee has previously acknowledged these letters and that they have no concern with EMT and Fire gaining access.
- Concern by the ZLR relative to Elder Abuse. Telephone conversation with the Area Agency on Aging on 11-5-12 confirmed that this agency is responsible for investigating elder abuse cases. They advised that this is a non-emergent service and stated that if there was a need to respond in an emergent situation they would contact the Dane County Sherriff or Mount Horeb Fire/EMTs for assistance.
- Concern by the ZLR relative to Elder Abuse. Telephone conversation with the Director of Southwest Dane Senior Outreach Services on 11-5-12 noted that they have never had an issue to responding to homes in the rural setting around Mount Horeb. The Director has visited the neighbor who shares the joint driveway on several occasions and is also familiar with the proposed home site location, having visited the land. She sees no issues providing services to our proposed location.
- Concern by the ZLR relative to Child Protective Services. Telephone conversation with the Child Protective Services Manager on 11-5-12 confirmed that this agency is responsible for investigating child abuse cases. The manager noted that if an investigator needs to be dispatched to the residence they would contact the Dane County Sherriff or Mount Horeb Fire/EMTs for assistance.
- Elder Abuse and Child Protective Services do not have a concern about the length of the driveway or ability to gain access in an emergent situation.
- Concern by the ZLR about a potential wind fall tree blocking the driveway. Several individuals have provided feedback over the past ten months addressing this concern. To summarize, should a felled tree obstruct a portion of the proposed driveway a secondary access option will utilize the valley floor as necessary to circumvent the obstruction.

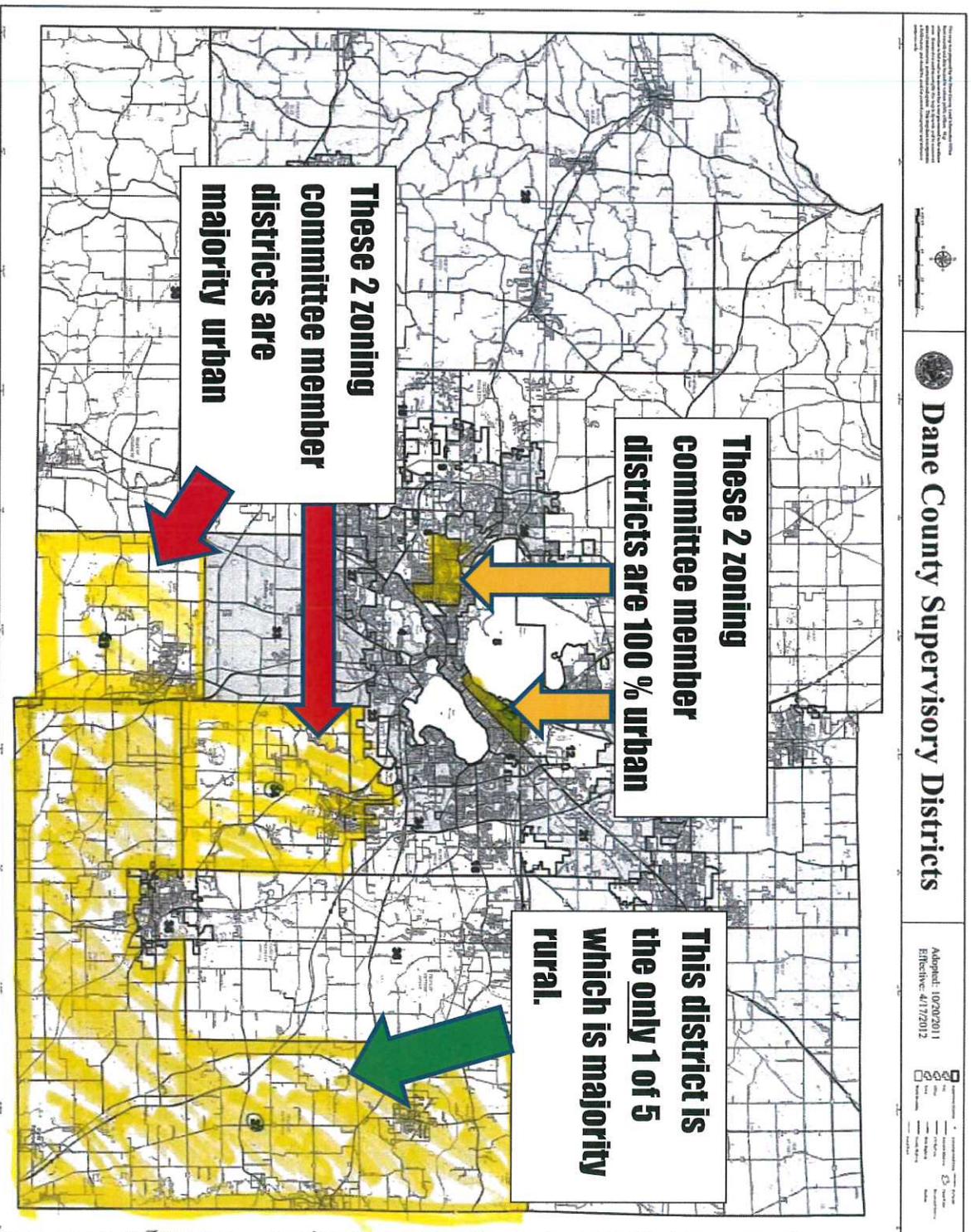
WHO DANE COUNTY ZONING CONTROLS

THE AREA OF THE MAP SHOWN IN WHITE IS THE UNINCORPORATED AREA OF DANE COUNTY, WHERE 79,000 PEOPLE LIVE WHO ARE SUBJECT TO DANE COUNTY'S ZONING AUTHORITY



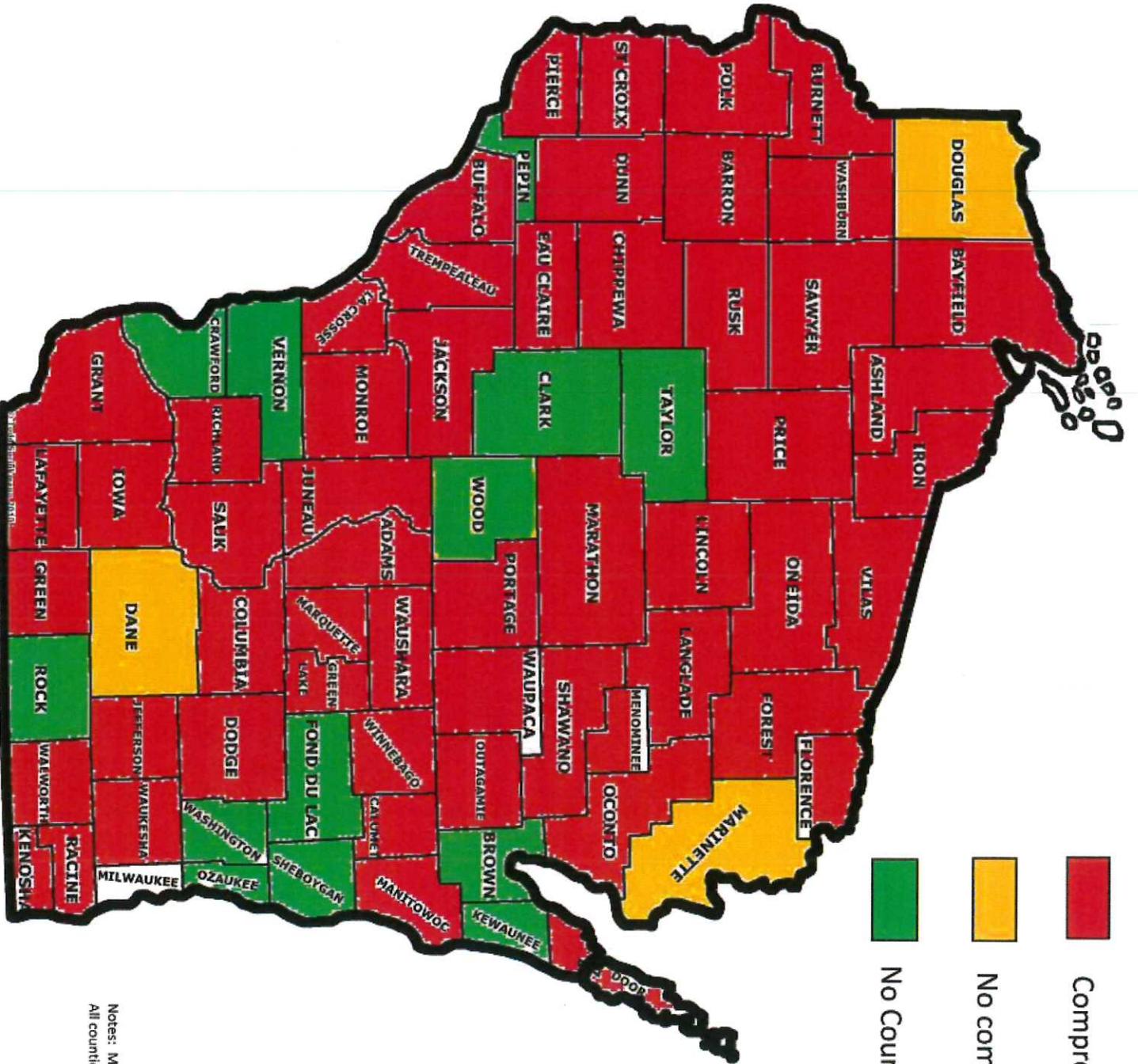
WHO CONTROLS DANE COUNTY ZONING?

The 5 Dane County zoning committee members represent the following areas of the County:

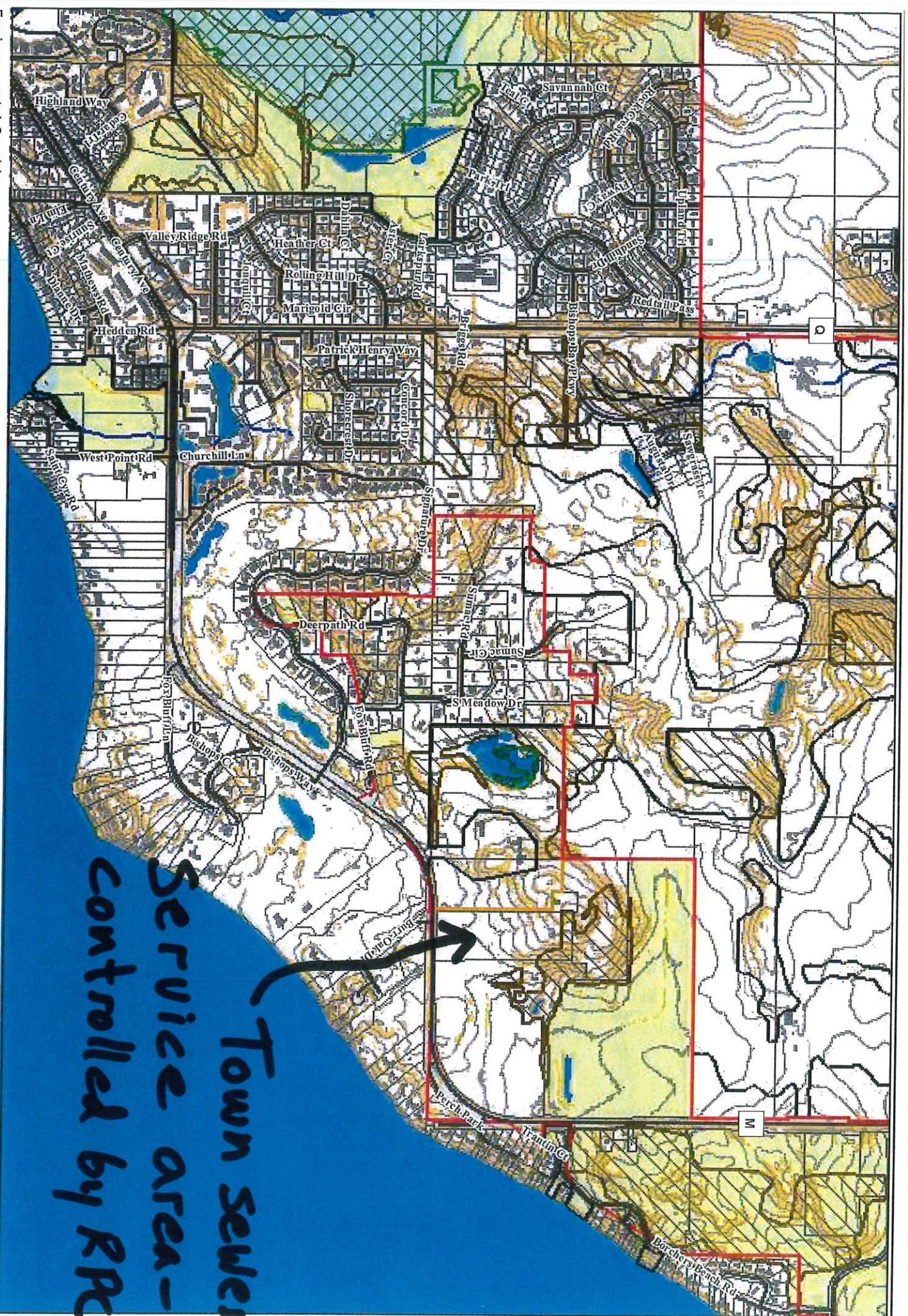


Dane County Zoning: Regulation Without Representation

- The Zoning Committee is the final authority on many issues (CUPs, plats, CSMS) and effectively final on others.
- Only 1 of 5 committee member's district is majority-rural (Dist 31).
- Two members' districts are 100% urban (Dists. 1 and 11).
- The other 2 districts are dominated by village voters.
- The zoning committee's constituents are 71 % urban residents.
- More than 60,000 town residents have no representation on the zoning committee. 76 % of the people regulated by Dane County zoning have no real voice in the process.
- Dane County refused to place Town officials on the zoning committee even in an advisory capacity, but it has high school students on the committee in that role.



Notes: Milwaukee County has no towns.
 All counties other than Milwaukee have shoreland and floodplain zoning.



Town sewer service area - controlled by RR

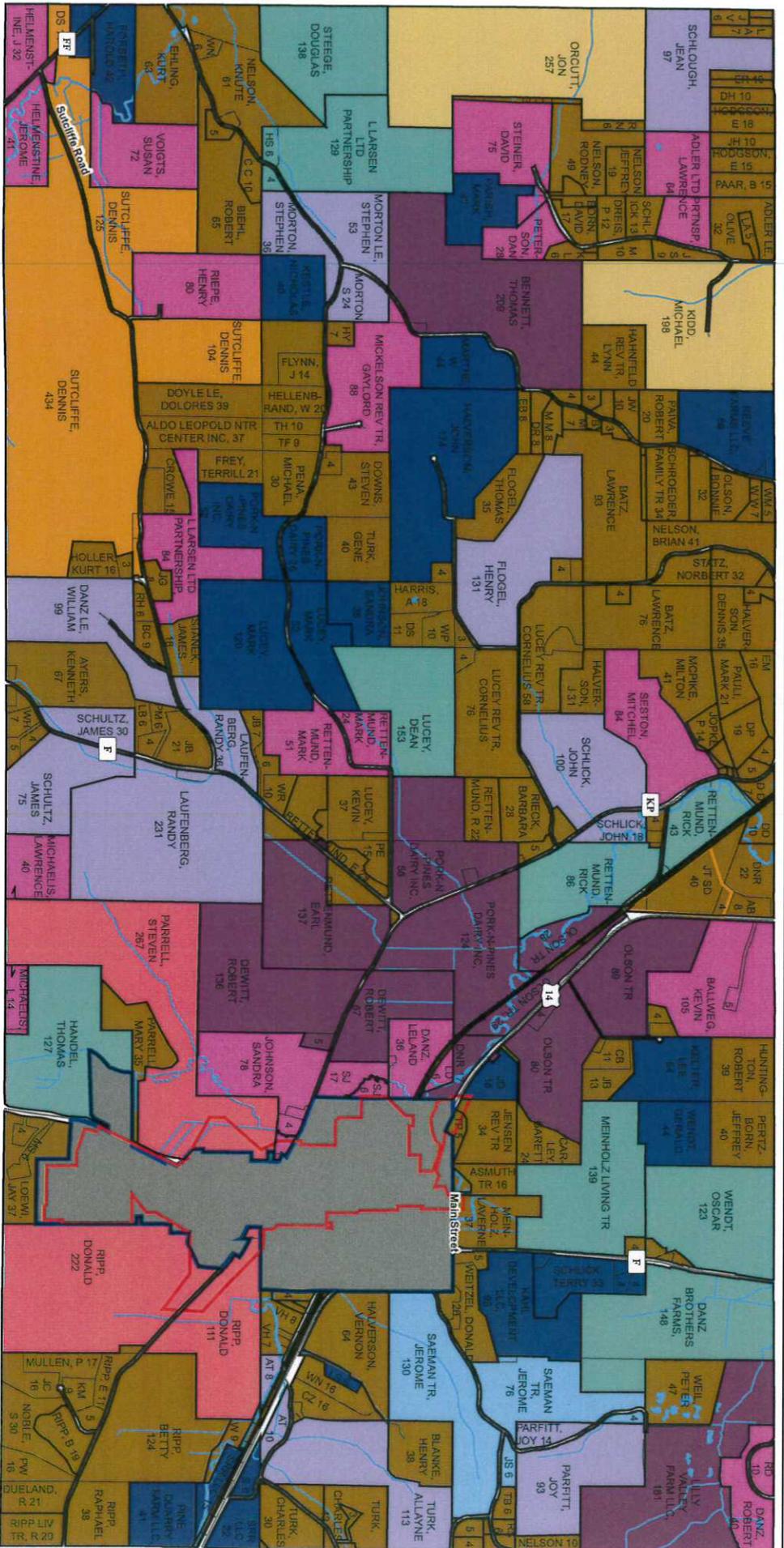
Environmental Corridors
Fox Bluff
Dane County, Wisconsin

Jun. 25, 2014



- Urban Service Area
- Limited Service Area
- Channel
- Intermittent
- Perennial
- Shoreline
- Contours (10ft interval)
- Sleep Slopes (GTE 12%)
- Existing Public Land
- Proposed Public Land
- Wetland
- Woodland (80% canopy)
- 100 Year Floodplain
- Tax Parcel



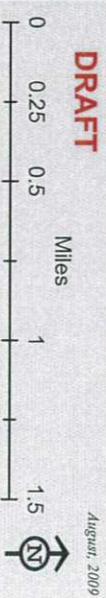
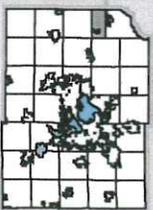


Town of Black Earth

Splits Available



Estimates are based on general town/county land use policies and on county parcel and zoning data as of Jan. 2009. For a current and more precise accounting of potential building sites or "splits" contact the Dane County Planning Division for a density study report.
<http://www.countydane.com/plandev/planning/> Planning Division phone number: (608) 266-4251
 City-County Building, Room 116, 210 Martin Luther King Jr Blvd Madison, WI 53703



Source info:
 Original Homesites: 2003, (DCRD)
 Potential Homesites: 08/09, (DCRD & T Black Earth)
 Black Earth Village Boundary: 08/09, (DCRD)
 Black Earth Urban Service Area: 08/09, (CA/BC)

This map was prepared through the Dane County Department of Planning and Development in conjunction with the Dane County Land & Water Resources Department, Dane County Land Information Office and the Capital Area Regional Planning Commission.

**Town of Black Earth Chapter of the
Dane County Comprehensive Plan Addendum**

Pursuant to substitute 1 to Ordinance Amendment #35, 2009-10, the Dane County Board adopts the Town of Black Earth Comprehensive Plan as adopted by the Town of Black Earth on August 18, 2009 **excluding** the following provisions:

1. Page 3-3 under **Section 3.3 Implementation** “If at any time there are discrepancies, inconsistencies, or subjectivity within these goals, objectives and policies, it shall be the sole responsibility of the Town to make a final determination of their meaning and intent.”
2. Page 3-12 under **Section 13.k Determination of density**. The current Town of Black Earth “Splits Available” Map, as included at the end of the Land Use Chapter of this Plan, shall be the official determination of allowable splits by Dane County and the Town of Black Earth. If discrepancies are identified or appeals are made,
3. **Under General Provisions Part II Interpretation, Section 2-3** In the event that any question arises concerning any provision or the application of any provision of this plan, the Plan Commission shall be responsible for such interpretation and shall look to the overall intent of the comprehensive plan for guidance. The Commission shall provide such interpretation in writing upon request and keep a permanent record of said interpretations. The Town shall be the sole interpreter of this plan and shall have final interpretation of all materials contained within.

[EXPLANATION: The Town of Black Earth Chapter of the Dane County Comprehensive Plan Addendum identifies differences between the Town of Black Earth adopted Town of Black Earth Comprehensive Plan, and the county-adopted Town of Black Earth component of the Dane County Comprehensive Plan.]

DRAFT

- ii. May not be environmentally sensitive areas.
- iii. Should have access to Town roads which provide good vehicle access without a need for upgrading the road corridor.
- iv. Should have soils which are capable of supporting onsite wastewater treatment systems.
- v. Should not be located on ridgelines, hilltops or slopes of more than ten (10) percent.
- vi. Should not require the creation of flag lots.
- vii. Should comply with all other policies and requirements of the Town's ordinances and comprehensive plan.
- g. The landowner shall present a site plan showing where the lots and home sites of each reallocated density unit will be located, including the proposed driveway alignment, runoff control and erosion control plans.
- h. If all of the density units associated with a parcel have been utilized, as the result of reallocation, deed notices shall be recorded against the parcel to document that its associated density units have been used.

13. Rezoning for nonfarm residential use. Rezoning of lands in the agricultural preservation district for limited nonfarm residential development may be approved by the Town Board if the following criteria are met:

- a. The area proposed for rezoning is limited to the acreage that is necessary for the residential or hobby use contemplated.
- b. The development or structure is located on non-tillable land and/or takes a minimum of tillable land, land that is not economically viable for farming, or where there has not been a history of productive farming activities.
- c. The land is suitable for an approved wastewater disposal system which can be properly operated all seasons of the year.
- d. Land is located so that conflict with surrounding agricultural uses would be unlikely.
- e. The development shall require a driveway of no more than 10 percent slope in order to assure access by fire and emergency vehicles. Driveways must meet the requirements of the Town's Driveway Ordinance.
- f. Construction must be done under accepted erosion control measures and an erosion control plan must be filed to meet the requirements of the Dane County Erosion Control regulations.
- g. The proposed development/structure shall not disturb or destroy any important natural features such as significant woodland areas, wetlands, steep slopes, etc.
- h. The land shall not require crossing of productive agricultural land to reach the proposed development.
- i. Utility extensions (electric power lines, telephone lines, cable television, natural gas distribution lines, and sewer lines) shall not cross productive farmland in a manner that will disrupt farming activities.
- j. The minimum residential lot size shall be one (1) acre for four or less parcels in a cluster; for five or more parcels in a cluster, the minimum is 1 ½ acres. Note: The Dane County Groundwater Protection Plan recommends that clusters of on-site wastewater systems be at a density of one system per 1.5 to 2.0 acres.

- k. **Determination of density.** ~~The current Town of Black Earth "Splits Available" Map, as included at the end of the Land Use Chapter of this Plan, shall be the official determination of allowable splits by Dane County and the Town of Black Earth. If discrepancies are identified or appeals are made, the Town shall work with the County to provide a determination on the number of splits available. The density or number of allowable splits have been determined in the following manner:~~

- a. **Density.** The overall density of Agricultural Preservation areas shall not exceed one dwelling unit per 35 acres owned on June 3, 1981 (effective date of A-1 Exclusive Agricultural Zoning).
 - i. **Land Sales after 1981.** Changes and reconfigurations in ownership do not trigger new allotments of potential future dwelling units per the density

Not Adopted by the
Dane County Board
Per sub 1 to OA 35
(09-10) DCCO

- f. The Town Clerk directs the publishing of a Class 1 notice, with such notice published at least 30 days before a Town Board public hearing and containing information required under Section 66.1001(4)d, Wisconsin Statutes.
- g. The Town Board holds the formal public hearing on an ordinance that would incorporate the proposed plan amendment into the *Comprehensive Plan* (see sample ordinance included in this *Comprehensive Plan*).
- h. Following the public hearing, the Town Board approves (or denies) the ordinance adopting the proposed plan amendment. Adoption must be by a majority vote of all members. The Town Board may require changes from the Plan Commission recommended version of the proposed plan amendment.
- i. The Town Clerk sends a copy of the adopted ordinance and plan amendment (not the entire *Comprehensive Plan*) to all adjacent and surrounding government jurisdictions as required under Sections 66.1001(4)b and c, Wisconsin Statutes.
- j. The Town Clerk sends copies of the adopted plan amendment to the Dane County Planning and Development Department for incorporation in the Dane County Farmland Preservation Plan and/or County Comprehensive Plan.

3. PLAN UPDATE

The State comprehensive planning law requires that the *Comprehensive Plan* be updated at least once every ten years. As opposed to an amendment, an update is often a substantial re-write of the plan document and maps. Further, on January 1, 2010, if a local unit of government has an official map, or subdivision or zoning ordinance, these documents will have to be consistent with locally-adopted comprehensive plans—including zoning and subdivision ordinances, annexations, and transportation improvements. Based on these two deadlines, the Town should complete a full update of its *Comprehensive Plan* before the year 2015 (i.e., ten years after 2005) at the latest. The Town should continue to monitor any changes to the language or interpretations of the State law over the next several years.

D. CONSISTENCY AMONG PLAN ELEMENTS

The State comprehensive planning statute requires that the implementation element “describe how each of the elements of the Comprehensive Plan shall be integrated and made consistent with the other elements of the Comprehensive Plan.” Preparing the various elements of the *Town of Springfield Comprehensive Plan* simultaneously has ensured that there are no known internal inconsistencies between the different elements of this *Plan*.

E. INTERPRETATION

~~The Town intends that this *Plan* should be interpreted reasonably to achieve the overall goals of the *Plan*, and not in a narrow or literal sense which frustrates or delays realization of its goals. If there is a question as to the interpretation of a provision of the *Plan*, the Town Board shall be empowered to adopt an interpretation of the *Plan* which shall resolve the issue and shall be appended to this *Plan*. The Town shall be the only body authorized to interpret this *Plan*.~~

Not Adopted by the Dane County Board
via Sub 1 to Res 23(07-08)