

AGENDA

JEFFERSON COUNTY BOARD MEETING & PUBLIC HEARING

October 27, 2015 7:00 p.m.

**Jefferson County Courthouse
311 S. Center Avenue, Room 205
Jefferson, WI 53549**

1. **CALL TO ORDER**
2. **ROLL CALL BY COUNTY CLERK**
3. **PLEDGE OF ALLEGIANCE**
4. **CERTIFICATION OF COMPLIANCE WITH OPEN MEETING LAW**
5. **APPROVAL OF THE AGENDA**
6. **COMMUNICATIONS**
7. **PUBLIC HEARING ON THE 2016 RECOMMENDED BUDGET** (Public Comment on Budget items)
8. **PUBLIC COMMENT** (Public Comment on Non-Budget agenda items)
9. **SPECIAL ORDER OF BUSINESS**
 - a. Jefferson County Alcohol Treatment Court Graduate
 - b. Presentation – United Way “Get Connected” – Megan Findlay

COMMITTEE REPORTS / RESOLUTIONS / ORDINANCES

10. **PLANNING AND ZONING COMMITTEE – Bittorf Zoning Petition**
 - a. Communications (Page 1-18)
 - Communications from Tyler Wilkinson, Axley Attorneys, regarding Bittorf Zoning Amendment Petition
 - Communication from Jay S. Smith, Neuberger, Griggs, Sweet & Smith, LLP, regarding Bittorf Zoning Amendment Petition
 - Communication from neighbors of Phillip and Sandra Bittorf
 - b. Comments in favor of rezoning petition
 - c. Comments opposed to rezoning petition
 - d. Zoning Report (Page 19-32)
 - Jefferson County Zoning Ordinance
 - Wisconsin State Statute
 - Draft Zoning Decision
 - e. Ordinance – Action on Zoning Petition (Page 33)
11. **PUBLIC COMMENT** (General)
12. **ANNOUNCEMENTS**
13. **ADJOURN**

**PLEASE BRING PREVIOUSLY DISTRIBUTED COPY OF THE
2016 RECOMMENDED BUDGET TO THIS MEETING**

**NEXT COUNTY BOARD MEETINGS
NOVEMBER 10, 2015 – 7:00 P.M. – ROOM 205
(ADOPTION OF THE 2016 COUNTY BUDGET IS SCHEDULED FOR THIS MEETING)**



AXLEY BRYNELSON, LLP

• • • • •
TYLER WILKINSON
twilkinson@axley.com
(608) 283-6783

October 7, 2015

VIA HAND DELIVERY AND E-MAIL

Jefferson County Clerk Barbara A. Frank
311 S. Center Ave, Room 109
Jefferson, WI 53549

RE: Phillip and Sandra Bittorf Zoning Amendment Request

Dear Ms. Frank:

We represent Phillip and Sandra Bittorf in this matter. This letter is a written request for Phillip and Sandra Bittorf to appear, along with counsel, at the October 27, 2015, County Board Meeting to advocate that the County Board approve their zoning amendment request. Specifically, the Bittorfs are requesting to rezone 3.2 acres of PIN 018-0713-0614-000 (40 acres) with conditional use for storing non-farm equipment and/or contractor equipment at N7103 Stoney Creek Road in the Town of Lake Mills.

County Board Chair Jim Schroeder has graciously approved our oral request to be placed on the October 27, 2015, County Board meeting agenda as opposed to the October 13, 2015, County Board meeting agenda. He has also granted us 10 minutes to address the Board on the zoning amendment. He has granted 10 minutes to any people who oppose the zoning amendment to address the Board as well.

We intend to file written materials with you by October 21, 2015, to be placed in the County Board Agenda Packet.

Thank you for your consideration of this matter.

Sincerely,

AXLEY BRYNELSON, LLP

Tyler Wilkinson

TKW:sal



AXLEY BRYNELSON, LLP

RECEIVED

OCT 20 2015

JEFFERSON CO. CLERK, WI
JEFFERSON COUNTY FINANCE

TYLER WILKINSON
twilkinson@axley.com
(608) 283-6783

October 20, 2015

Jefferson County Board of Supervisors
Jefferson County Courthouse
311 S. Center Avenue, Room 205
Jefferson, WI 53549

RE: Philip and Sandra Bittorf Zoning Amendment Request
Request No.: R3829A-15 & CU1842-15
Our File: 20796.75124

To The Honorable Members of the Jefferson County Board of Supervisors:

We represent Philip and Sandra Bittorf in this matter. Mr. and Mrs. Bittorf requested to re-zone 3.2 acres of their 40 acre parcel, located at N7103 Stoney Creek Road in the Town of Lake Mills, from A-1 Exclusive Agriculture to A-2 Agricultural and Rural Business. They also requested a conditional use permit as part of this re-zoning request to store non-farm equipment and/or contractor's equipment and materials as allowed by the County Zoning Ordinance. This re-zoning request is necessary to accommodate the Bittorfs' business, Mid-State Traffic Control, at their property.

The Bittorfs' request was approved by the Town of Lake Mills Planning Commission and the Town of Lake Mills Board in August. The Jefferson County Planning and Zoning Committee, however, voted 4-1 to recommend denying the re-zoning request.

This matter is now before the County Board. We ask that the County Board override the Planning and Zoning Committee's recommendation and direct it to draft an ordinance enacting the requested re-zoning.

We believe that the Planning and Zoning Committee made the best decision it could based on the information before it. Unfortunately, the Bittorfs did not do a good job explaining why they are requesting the re-zoning amendment, how they intend to use their property if re-zoned, why the proposed use meets all of the necessary requirements and how their neighbors overwhelmingly support the re-zoning.

In short, this letter and enclosures provides the information that the Planning and Zoning Committee should have seen earlier in order to recommend the re-zoning request. We plan to attend the County Board meeting on October 27, 2015, to explain the request and to answer any questions that the Board may have.

Mid-State Traffic Control

The Bittorfs own and operate Mid-State Traffic Control, which supplies traffic signals, highway signs, barricades, traffic control barrels and striping services for use during road construction. These contractor materials are stored inside three large sheds already located on the property. We have enclosed photographs of the sheds with this letter.

Mid-State is a seasonal operation and only does business during the road construction period between March and November each year. The company has two seasonal employees and hires three part-time employees (typically college students) for work during the busy time in the summer. Otherwise, the company is made up of Philip and Sandra, both of whom reside at the property.

The company uses seven work trucks: four Dodge 2500s, two Dodge 3500s and one freightliner truck. None of these trucks are large enough to require a commercial driver's license and, in fact, no one employed by Mid-State has a commercial driver's license.

On a typical summer work week, Mid-State's five employees drive to the property with their personal vehicles and park them out-of-view on the property. The employees then take work trucks, load them with the necessary contractor materials, and drive the materials to the job site. The employees pick up contractor materials at the property once or twice per day depending on the number of contractor jobs at a given time. This business adds 5-10 additional vehicles on Stoney Creek Road per day, which is a fairly low number for any town road in southcentral Wisconsin.

This business is operated on a 3.2 acre parcel which is made up of the Bittorfs' residence and the three sheds. The Bittorfs allow a nearby farmer to farm the remaining acres, which means that they have no agricultural use for the three sheds located on the property. The employees keep the work trucks during the work week and pick up their personal vehicles for the weekends. The work trucks are parked out-of-view on the property when not in use.

This business clearly fits within the conditional uses of "storage of non-farm equipment" and/or "storage of contractor's equipment and materials" for an A-2 zoned property. Moreover, the Bittorfs volunteered reasonable restrictions as part of their conditional use request. The Planning and Zoning Committee did not consider these conditional use requirements at its previous meeting. The County Board can direct it to do so if it votes to override the recommendation to deny the Bittorfs' re-zoning request.

The Jefferson County Comprehensive Plan and Agricultural Preservation and Land Use Plan

Some members of the Planning and Zoning Committee had questions as to whether the Bittorfs' proposed re-zoning was consistent with the County Comprehensive Plan or substantially consistent with the Jefferson County Agricultural Preservation and Land Use Plan. It is important to remember that neither the Comprehensive Plan nor the Agricultural Preservation Plan explicitly prohibit the Bittorfs' re-zoning request. Rather, both Plans are statements of policy designed to guide future actions in the County.

Both the Comprehensive Plan and the Agricultural Preservation Plan are meant to "[p]reserve the 'rural character' and aesthetic quality of Jefferson County." Agricultural Preservation Plan, page 7. Likewise, they are meant to limit the amount of residential development on prime agricultural land. The Comprehensive Plan is focused on residential development and actually celebrates that it is "friendly to business." Comprehensive Plan, page 39.

The Bittorfs' re-zoning request is consistent with both Plans. The vast majority of the Bittorfs' forty acre parcel will still be farmed if the re-zoning request is granted. Mid-State intends to store its contractor materials inside the sheds so as to preserve the aesthetic qualities of the area. Moreover, the Bittorfs are not requesting to build or add any new buildings, so there is no "development" as that term is used in both the Comprehensive Plan and the Agricultural Preservation Plan.

Rather, the Bittorfs are requesting to use their existing sheds for purposes that the County Board of Supervisors has already concluded are consistent with A-2 agricultural and rural business use and thus are consistent with the Plans. In fact, the County Board of Supervisors has taken a very broad view of what businesses "are related to the agricultural industry" under the Zoning Ordinance and explicitly allows the following "non-agricultural uses:"

- Storage of non-farm equipment;
- Salvage yards;
- Storage of contractor's equipment and materials;
- Mini-warehousing/personal storage warehousing;
- Bed and breakfasts;
- Recycling operations;

- Landscaping business;

These conditional uses for A-2 agricultural and rural businesses show that the County Board of Supervisors has used a relatively broad definition to determine what businesses “relate” to agriculture.

Mid-State’s business activities are related to the agriculture industry because farmers need quality roads in order to transport and sell their products. Bad roads directly impact and harm the farming industry, according to the recent Local Government Institute study entitled “Filling Potholes: A New Look at Funding Local Transportation in Wisconsin.” Mid-State works directly to address the poor roads problem in the State and does so in a way that saves taxpayer money. In fact, in one recent road construction project, Mid-State saved the State more than \$500,000 by providing more efficient services than its next competitor. Moreover, Mid-State has worked on projects to improve road access to existing farms. In short, Mid-State’s business is good for agriculture and the community.

Stoney Creek Road

The Bittorfs reside on Stoney Creek Road. This Road cuts north from County Road B and ends at a dead end near I-94. The Road has a speed limit of 45 miles per hour. The Road is also a Class B town road, meaning it can legally handle loads of over 20,000 pounds in the most terrible conditions. As noted above, none of Mid-State’s trucks are large enough to require commercial driver’s licenses, so they are all well-below the weight limit on the Road. Against that backdrop, there is no evidence that the public facilities, namely the Road, are not adequate to handle Mid-State’s business.

Some people raised concerns at the Planning and Zoning Committee that the Road is not meant to handle truck traffic. This concern is overstated as trucks and other heavy equipment regularly use Stoney Creek Road. Battist Farm is located where Stoney Creek Road begins and intersects with County Road B. This farm has large trucks and tractors that use the Road at different points. On the other end of the Road, at the dead end near I-94, is Wilke’s Classic Tractors. The Wilkes use semi-trucks and trailers to haul tractors back and forth on Stoney Creek Road. Multiple people drive trucks, tractors and other agricultural equipment up and down the Road.

The aerial maps enclosed with this letter show that the Road is fairly straight. It is not a windy road that cannot accommodate truck traffic; if it were, how could it accommodate the heavy agricultural traffic described above without issue for so many years?

The bottom line is that Stoney Creek Road is not a residential or neighborhood street; it is a town road in an isolated agricultural area. The same type of concerns that people have with residential areas, like increased congestion and danger to children and pets, are simply not present.

This is perhaps why almost every single landowner up and down Stoney Creek Road has signed a letter supporting the Bittorfs' re-zoning request. A copy of this letter is enclosed with this letter.

Notably, the only neighbors who object to the proposed re-zoning are the ones least likely to be affected by the re-zoning. The Muchka family and the Donnelly family live north of the Bittorfs' driveway where vehicles enter and exit the property. As such, no Mid-State truck will ever drive on the road past their residences. Similarly, the property to the south of the Bittorfs' property is owned by the Kraak Trust and no one resides there. The residents to the south of the Bittorfs' property, where the trucks will pass, support the re-zoning request.

We have enclosed the following documents with this letter:

- Photographs of the Bittorfs' buildings and property to be re-zoned;
- An aerial map showing Stoney Creek Road and the adjacent property owners; and
- A letter of support from almost all of the Bittorfs' neighbors on Stoney Creek Road.

We ask that the County Board review this information and vote to override the Planning and Zoning Committee's denial and direct it to draft an ordinance enacting the requested re-zoning. We look forward to answering any questions you may have.

Thank you for your consideration.

AXLEY BRYNELSON, LLP

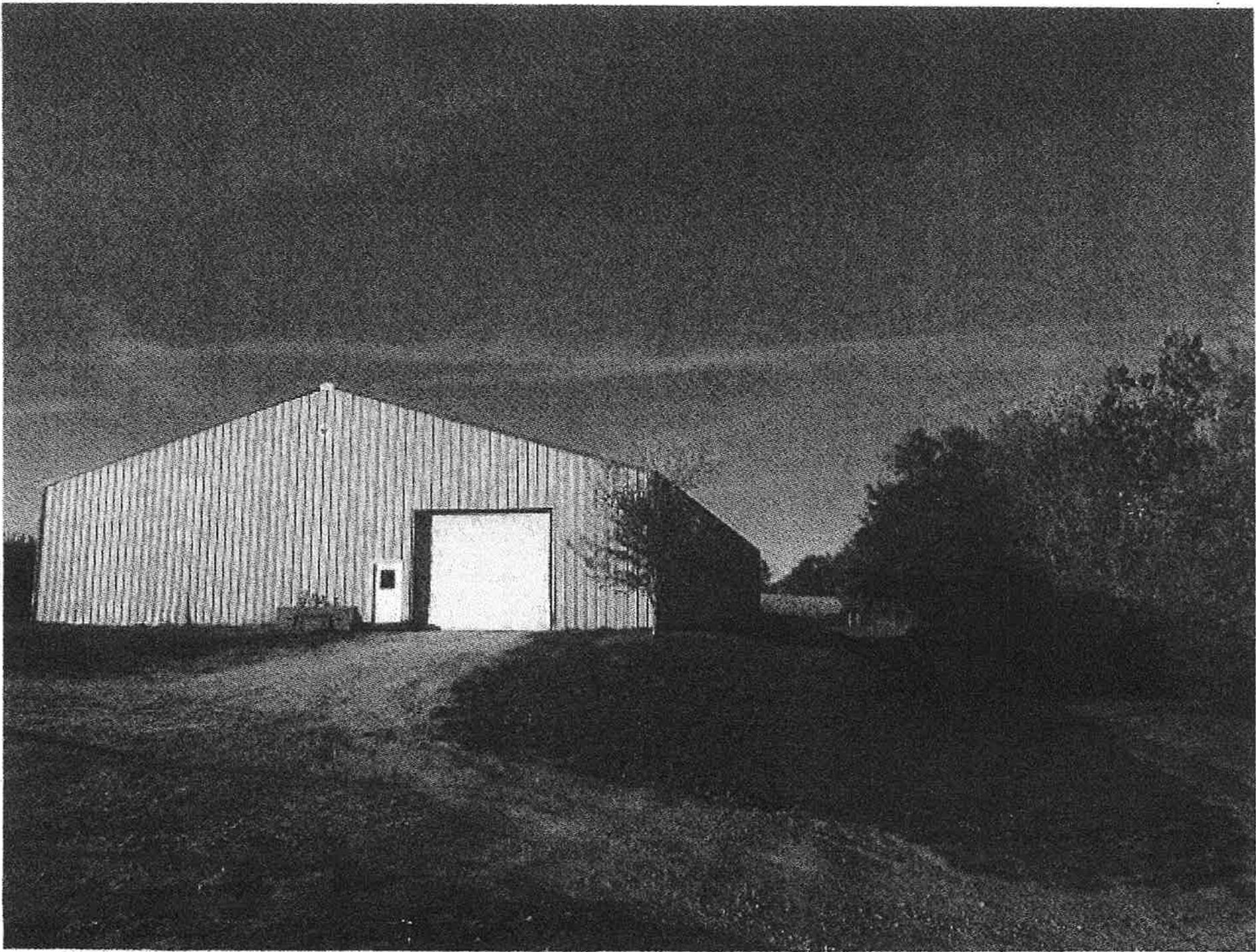


Tyler Wilkinson

TKW:sal

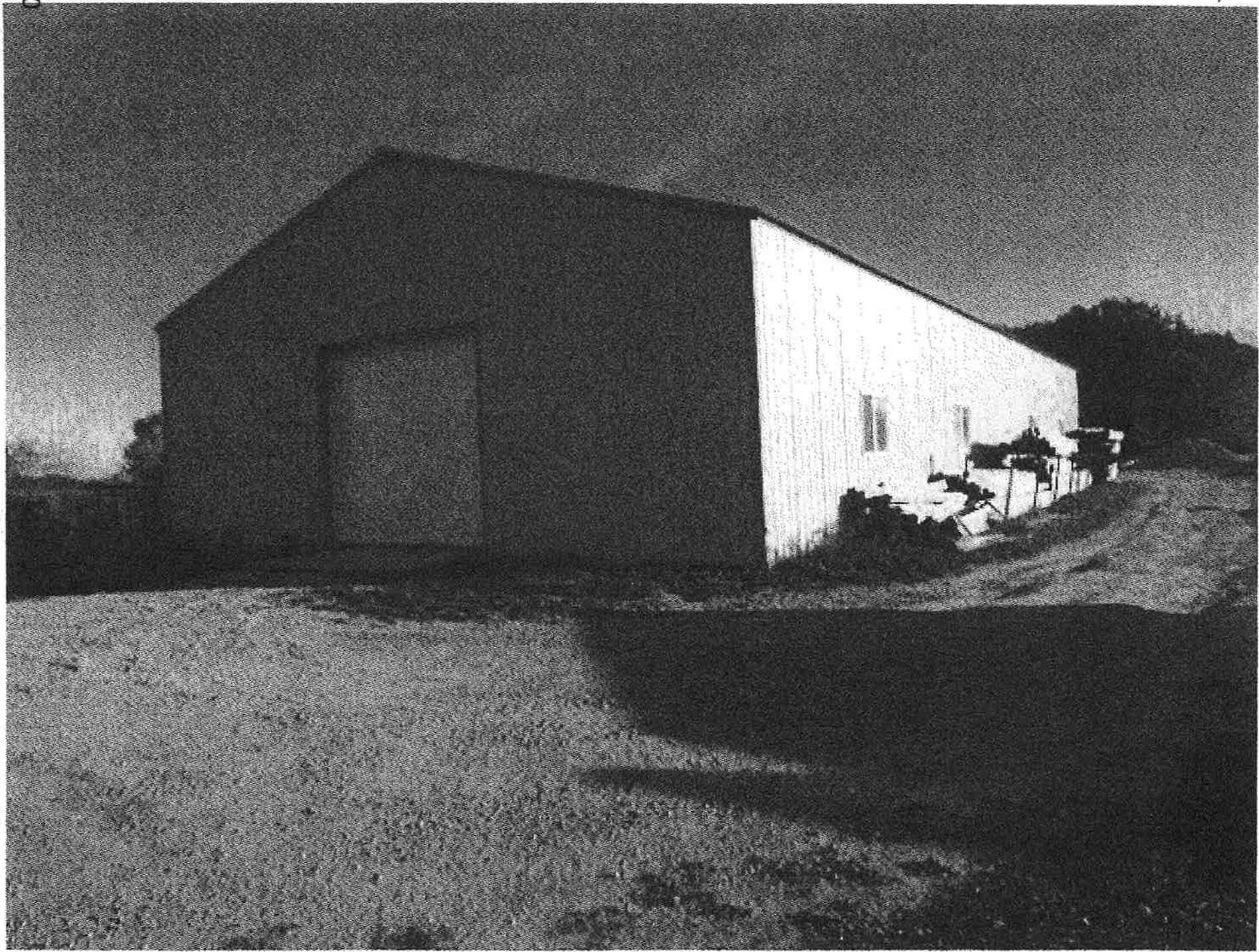
Enclosures

cc: Mr. and Mrs. Bittorf (via e-mail)
Attorney Jay Smith (via e-mail)

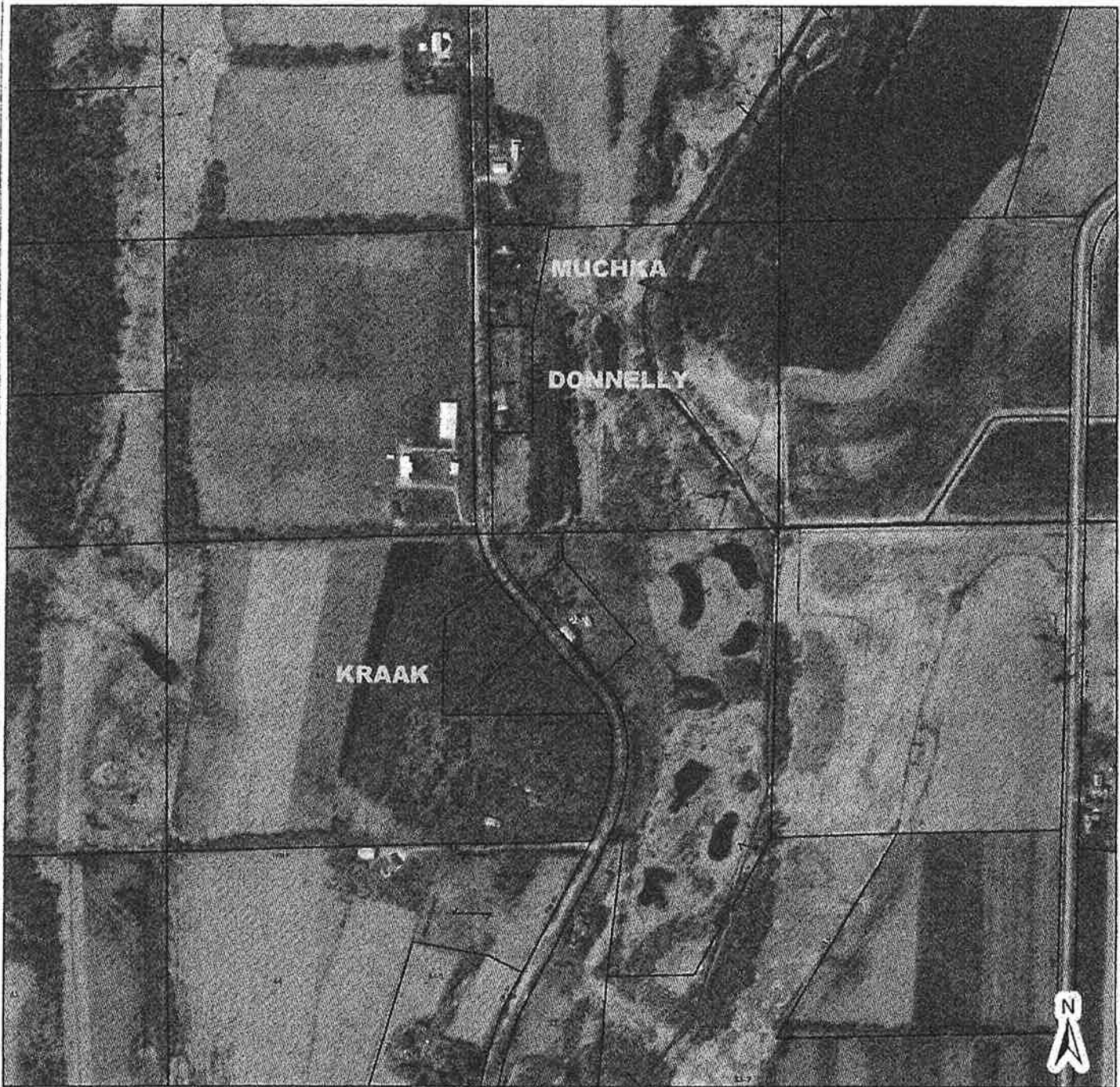








AERIAL VIEW OF STONEY CREEK ROAD



- | | | |
|-----------------------|---------------------|---------------|
| Municipal Boundaries | Section Lines | Red: Band_1 |
| Property Boundary | Surface Water | Green: Band_2 |
| Old Lot/Meander Lines | Map Hooks | Blue: Band_3 |
| Rail Right of Ways | Tax Parcels | |
| Road Right of Ways | Streams and Ditches | |

610 305 0 610 Feet
 1 inch = 610 feet

Jefferson County Geographic Information System

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

Printed on: October 19, 2015

Author:

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ANNE MACARTHUR
Of Counsel

NEUBERGER, GRIGGS, SWEET & SMITH, LLP

ATTORNEYS AND COUNSELORS AT LAW

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SERVING SOUTH CENTRAL WISCONSIN SINCE 1922

WATERTOWN OFFICE:
136 HOSPITAL DRIVE
WATERTOWN, WI 53098
PHONE: (920) 261-1630
FAX: (920) 261-0339

~~~~~  
CAROL M. LORENZ  
*Retired*

September 24, 2015

**RECEIVED**

SEP 28 2015

JEFFERSON CO. CLERK, WI  
JEFFERSON COUNTY FINANCE

**RE: Petition for Zoning Amendment of Philip and Sandra Bittorf  
N7103 Stoney Creek Road, Waterloo, WI 53594**

Dear Ms. Frank,

I represent property owners opposed to the proposed zoning amendment and request for Conditional Use Permit. Enclosed please find formal protest petitions signed by owners of three adjacent properties. We are filing these protests pursuant to Section 59.69(5g), Wis. Stats.

The enclosed protest petitions are signed by three owners abutting the Bittorf property composing just over 50% of the perimeter. However, Michael and Dorothy Donnelly (owners of N7154 Stoney Creek Road) are the only owners immediately abutting the proposed zoning amendment area, other than the petitioners, Philip and Sandra Bittorf. Therefore, I believe the Donnellys are the only relevant protest petitioners as they hold 100% of the property adjacent to the proposed zoning amendment area (excluding the petitioners). The Statute is somewhat unclear as to who the relevant owners are in this circumstance.

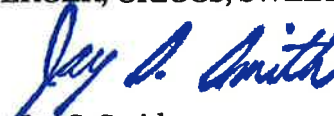
Regardless, I believe that the protests meet the requirements under the Statutes to require the County Board to pass any proposed zoning amendment by a three-fourths ( $\frac{3}{4}$ ) vote instead of a simple majority. Please file these documents with the County Board to be considered at the October 13<sup>th</sup> meeting, if necessary. At this juncture, we still do not know if the zoning committee is recommending approval of the zoning amendment to the County Board. Obviously, my clients oppose approval.

If you should have any questions please do not hesitate to contact me.

Very truly yours,

NEUBERGER, GRIGGS, SWEET & SMITH, LLP

By:

  
Jay S. Smith

JSS/kae  
Enclosures  
attyjss@nlgslaw.com

# Formal Protest Petition Against Proposed Zoning Amendment

To the Jefferson County Board of Supervisors:

Please consider this as a formal protest pursuant to Wisconsin Statutes Section 59.69(5g) against the proposed zone change amendment for the following property:

N7103 Stoney Creek Road, Waterloo, WI 53594 (Parcel No. 018-0713-0614-000)

It is my understanding that, if a sufficient number of property owners adjacent to the property covered by the proposed zoning amendment, submit this protest petition, the zoning amendment can only be approved if not less than three-fourths of the Board members voting on this zoning amendment vote in favor of the change.

I own the property at the following address(es)/parcel number(s):

Parcel No. 018-0713-0641-000 (No property address)

My property identified above abuts the area of the proposed zoning amendment to the south and has approximately 1,320 feet of frontage on the property proposed for the zoning amendment. My property abutting the subject of the proposed zoning amendment is approximately 38.6 acres and consists of vacant farmland. I believe this qualifies me as a formal protest petitioner under Wisconsin Statutes Section 59.69(5g).

Below is my signature in protest against this zone change, witnessed and notarized by a notary public.

Wapke Wilma Kraak  
(Signature of Protest Petitioner)

\_\_\_\_\_  
(Signature of Protest Petitioner)

Wapke Wilma Kraak, Trustee of the Kraak Trust  
(Print Name)

\_\_\_\_\_  
(Print Name)

9-24-15  
(Date Signed)

\_\_\_\_\_  
(Date Signed)

STATE OF WISCONSIN       )  
                                          ) ss.  
JEFFERSON COUNTY       )

Personally came before me, this 4 day of Sept, 2015, the above named Wilma Kraak, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.



Stacey Meyer  
Stacey Meyer (Print Name)  
Notary Public, State of Wisconsin.  
My Commission expires 8-26-2019.

## Formal Protest Petition Against Proposed Zoning Amendment

To the Jefferson County Board of Supervisors:

Please consider this as a formal protest pursuant to Wisconsin Statutes Section 59.69(5g) against the proposed zone change amendment for the following property:

**N7103 Stoney Creek Road, Waterloo, WI 53594 (Parcel No. 018-0713-0614-000)**

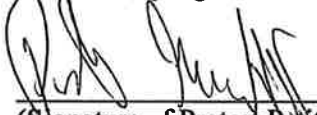
It is my understanding that, if a sufficient number of property owners adjacent to the property covered by the proposed zoning amendment, submit this protest petition, the zoning amendment can only be approved if not less than three-fourths of the Board members voting on this zoning amendment vote in favor of the change.

I own the property at the following address(es)/parcel number(s):

**N7180 Stoney Creek Road, Waterloo, WI 53594 (Parcel No. 018-0713-0523-000)**

My property identified above abuts the area of the proposed zoning amendment to the east and has approximately 440 feet of frontage on the property proposed for the zoning amendment. My property abutting the subject of the proposed zoning amendment is approximately 2.7 acres and consists of my personal residence. I believe this qualifies me as a formal protest petitioner under Wisconsin Statutes Section 59.69(5g).

Below is my signature in protest against this zone change, witnessed and notarized by a notary public.

  
(Signature of Protest Petitioner)

Peter Muchka  
(Print Name)

9-3-15  
(Date Signed)

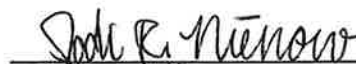
  
(Signature of Protest Petitioner)

Sara Muchka  
(Print Name)

9-3-15  
(Date Signed)

STATE OF WISCONSIN           )  
                                          ) ss.  
JEFFERSON COUNTY           )

Personally came before me, this 3rd day of September, 2015, the above named Peter Muchka and Sara Muchka, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

  
Jodi R. Nienow (Print Name)  
Notary Public, State of Wisconsin.  
My Commission expires 7/14/17.

## Formal Protest Petition Against Proposed Zoning Amendment

To the Jefferson County Board of Supervisors:

Please consider this as a formal protest pursuant to Wisconsin Statutes Section 59.69(5g) against the proposed zone change amendment for the following property:

N7103 Stoney Creek Road, Waterloo, WI 53594 (Parcel No. 018-0713-0614-000)

It is my understanding that, if a sufficient number of property owners adjacent to the property covered by the proposed zoning amendment, submit this protest petition, the zoning amendment can only be approved if not less than three-fourths of the Board members voting on this zoning amendment vote in favor of the change.

I own the property at the following address(es)/parcel number(s):

N7154 Stoney Creek Road, Waterloo, WI 53594 (Parcel No. 018-0713-0523-001); and  
Parcel No. 018-0713-0523-002 (No property address)

My property identified above abuts the area of the proposed zoning amendment to the east and has approximately 880 feet of frontage on the property proposed for the zoning amendment. My property abutting the subject of the proposed zoning amendment is approximately 37.5 acres and consists of my personal residence and vacant farmland. I believe this qualifies me as a formal protest petitioner under Wisconsin Statutes Section 59.69(5g).

Below is my signature in protest against this zone change, witnessed and notarized by a notary public.

  
(Signature of Protest Petitioner)

Michael Donnelly  
(Print Name)

Sept 1, 2015  
(Date Signed)

  
(Signature of Protest Petitioner)


Dorothy Donnelly  
(Print Name)

Sept 1, 2015  
(Date Signed)

STATE OF WISCONSIN           )  
                                          ) ss.  
JEFFERSON COUNTY           )

Personally came before me, this 1<sup>st</sup> day of September, 2015, the above named Michael Donnelly and Dorothy Donnelly to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.



  
Jay S. Smith (Print Name)  
Notary Public, State of Wisconsin.  
My Commission expires is permanent.



RECEIVED

OCT 20 2015

Jefferson County Board of Supervisors  
Jefferson County Courthouse  
311 S. Center Avenue, Room 205  
Jefferson, WI 53549

JEFFERSON CO. CLERK, WI  
JEFFERSON COUNTY FINANCE


October 2, 2015


RE: Phillip and Sandra Bittorf's Petition for Re-Zoning

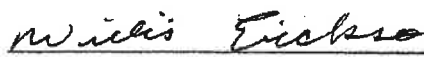
Dear Jefferson County Board of Supervisors:


We are Phillip and Sandra Bittorf's neighbors. We are aware of their request to re-zone a portion of their 40 acre parcel and to obtain a conditional use permit to operate a road sign business out of the existing buildings on the property. We have no objection to the proposed re-zoning and urge you to approve the re-zoning request.


Signed:

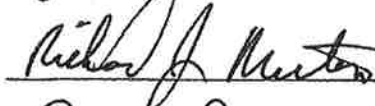
 10/3/15 N7249 Stoney Creek Rd.

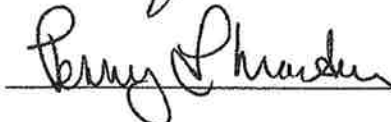
 10/3/15 N7249 Stoney Creek Rd.

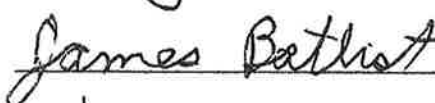
 10-4-15 N-7001 Stoney Cr. Rd.


 10-5-15 N6997 Stoney Creek Rd.

 10/5/15 N6997 Stoney Creek Rd.

 10/5/15 N6978 Stoney Creek Road

 10/5/15 - N6978 Stoney Creek Road

 10/6/15 - H/9334 Co Rd B Waterloo, WI

 10/18/15 H/9334 Co Rd B Waterloo, WI 53594

Jefferson County Board of Supervisors  
Jefferson County Courthouse  
311 S. Center Avenue, Room 205  
Jefferson, WI 53549

October 2, 2015

RE: Phillip and Sandra Bittorf's Petition for Re-Zoning

Dear Jefferson County Board of Supervisors:

We are Phillip and Sandra Bittorf's neighbors. We are aware of their request to re-zone a portion of their 40 acre parcel and to obtain a conditional use permit to operate a road sign business out of the existing buildings on the property. We have no objection to the proposed re-zoning and urge you to approve the re-zoning request.

Signed:

Torale Lenz 10/7/2015 N7214 Stoney Creek Road  
Juan Lenz 10/7/2015 N7214 Stoney Creek Road  
Joyce Lenz 10/7/2015 N7214 Stoney Creek Road  
Howard Soldner 10-9-15 County Road D  
Arene Soldner 10-9-15 County Road D  
Debbie Soldner 10-9-15 Cty Rd. D  
Steve Lenz 10-9-15 Cty Rd. D  
Gerald Raatz 10/19/15 W9258 Co. Rd. B, Waterloo  
Victoria Raatz 10/19/15 W9258 Co. Rd. B, Waterloo

Jefferson County Board of Supervisors  
Jefferson County Courthouse  
311 S. Center Avenue, Room 205  
Jefferson, WI 53549

October 2, 2015

RE: Phillip and Sandra Bittorf's Petition for Re-Zoning

Dear Jefferson County Board of Supervisors:

We are Phillip and Sandra Bittorf's neighbors. We are aware of their request to re-zone a portion of their 40 acre parcel and to obtain a conditional use permit to operate a road sign business out of the existing buildings on the property. We have no objection to the proposed re-zoning and urge you to approve the re-zoning request.

Signed:

Philip Bittorf

10-18-15 W9352 Lo Rd B Waterloo WI

Sandra Bittorf

10/18/15 W9352 G Rd B Waterloo WI

Ruth Cline

10/19/15 N6939 STONEY CREEK RD.

Sandra M. Bittorf

10/20/15 N7103 Stoney Creek Rd

Philip Bittorf

10/20/15 N7103 Stoney Creek Rd

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

The Jefferson County Planning and Zoning Committee, having considered petitions to amend the official zoning map of Jefferson County, filed for public hearing held on September 17, 2015, as required by law pursuant to Wisconsin Statutes, notice thereof having been given, and being duly advised of the wishes of the town boards and persons in the areas affected, hereby makes the following recommendation:

**DENIAL OF PETITION R3829A-15**

Petition R3829A-15 was a request by Philip and Sandra Bittorf to create an A-2, Agricultural and Rural Business zone at N7103 Stoney Creek Road in the Town of Lake Mills. Testimony in support of the request was given by the petitioner and Attorney Andy Rumpf; the Town of Lake Mills was in favor of the request. Opposition was voiced by numerous citizens. The file contains all information pertaining to the application, the public hearing and all documents submitted. The Committee based its recommendation for denial upon the findings that the proposal is in an area that is not relatively isolated and rural in nature and would be utilizing a narrow Town road, and therefore conflicts with the purpose of the A-2 zoning district as described in the Jefferson County Zoning Ordinance and the A-2 Agricultural and Rural Business Zoning District Policies of the Jefferson County Agricultural Preservation and Land Use Plan. The Committee found that the petition did not meet multiple standards of rezoning as listed in Sec. 11.11(c)6 of the Jefferson County Zoning Ordinance, which are required to be met in order to rezone out of the A-1 Exclusive Agricultural district.

**DATED THIS TWENTY-EIGHTH DAY OF SEPTEMBER 2015**

**Donald Reese, Secretary**

**EXCERPT OF MINUTES OF PUBLIC HEARING  
JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE**

*Steve Nass, Chair; Greg David, Vice-Chair; Don Reese, Secretary; Amy Rinard; George Jaeckel*

**SUBJECT:** Map Amendments to the Jefferson County Zoning Ordinance and Requests for Conditional Use Permits

**DATE:** Thursday, September 17, 2015

**TIME:** 7:00 p.m. (*Courthouse doors will open at 6:30*)

**PLACE:** Room 205, Jefferson County Courthouse, 311 S. Center Ave., Jefferson, WI

**1. Call to Order**

The meeting was called to order by Chairman Nass at 7:00 p.m.

**2. Roll Call**

Committee members in attendance at 7:00 were Jaeckel, David, Nass, Reese and Rinard. Zoning staff present included Michelle Staff and Rob Klotz.

**3. Certification of Compliance with Open Meetings Law Requirements**

Reese verified that the meeting was being held in compliance with the open meetings law requirements.

**4. Approval of Agenda**

There were no changes proposed to the agenda.

**5. Explanation of Process by Committee Chair**

Chairman Nass explained the process of the public hearing.

**6. Public Hearing**

Klotz read aloud the following:

**NOTICE IS HEREBY GIVEN** that the Jefferson County Planning and Zoning Committee will conduct a public hearing at 7 p.m. on Thursday, September 17, 2015, in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. A hearing will be given to anyone interested in the proposals. **PETITIONERS, OR THEIR REPRESENTATIVES, SHALL BE PRESENT.** Matters to be heard are petitions to amend the official zoning map of Jefferson County and applications for conditional use permits. A map of the properties affected may be obtained from the Zoning Department. Individual files are available for viewing between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, excepting holidays. If you have questions regarding these matters, please contact Zoning at 920-674-7131.

**R3829A-15 & CU1843-15 – Philip & Sandra Bittorf:** Rezone 3.2 acres of PIN 018-0713-0614-000 (40 acres) with conditional use for a highway warning sign business at **N7103 Stoney Creek Road** in the Town of Lake Mills.

**Petitioner:** Attorney Andy Rumpf, 152 West Main Street, Cambridge WI 53523 represented the Bittorfs. Rumpf explained that the petitioners would like to rezone and obtain a conditional use permit for contractor's equipment and materials. He explained the business operations and areas to be utilized. Rumpf explained the areas proposed for outside storage with the hours of operation to be M-F 7 a.m. - 8 p.m., Sat. 7 a.m. -5 p.m. and Sun. 9 a.m - noon. They are using existing buildings.

Philip Bittorf, N7103 Stoney Creek Road – Bittorf explained what his business entails, what they do and when they do it. Bittorf explained that he was running the same business from his previous residence in Dane County and stated there weren't any issues with his neighbors there. He explained the reason for moving to Jefferson County and that he hopes to continue to live and work within Jefferson County. He addressed several concerns from the neighbors that were discussed at the Town of Lake Mills meeting such as noise, safety, truck traffic, property values, etc.

Attorney Rumpf rebutted the statements from the opposition. Rumpf explained that the operation is on a dead end road that is between the interstate and a county road. He stated it is a rural area and the Bittorfs' business is similar to any other contractor's such as electrical, excavator, etc. Rumpf stated that there are other uses permitted in the agricultural district that could be considered more offensive than the Bittorfs' business. He stated that the previous owners had a horse stable with people coming and going all the time. Rumpf stated that the hours of operation proposed are similar to other operations such as this and they believe those are reasonable. He mentioned that the buildings themselves are natural screens and the property is well maintained. Rumpf explained the weighting black rings and possibility a truck for loading being outside on the property. Rumpf stated the hours of operations again (M-F 7 a.m. to 8 p.m., Sat. 7 a.m. to 5 p.m., Sunday 9 a.m. to noon) and stated that these are acceptable times to allow noise in most municipalities. He stated they are utilizing pre-existing buildings and not taking agricultural lands out of production. In closing he stated that all of the buildings and a parking area are 15 feet off property lines, buildings are taller than 6 feet and they believe hours of operations are reasonable.

In response to Klotz's question about bathrooms, Bittorf explained that the building on the top of the hill does have a restroom and the septic serves the building and the residence.

**Comments in Favor:** None

**Comments Opposed:** Klotz read the following letters of opposition into the record:

- A letter dated August 28, 2015, from Attorney Jay Smith from the law offices of Neuberger, Griggs, Sweet and Smith, LLP.
- A letter dated September 15, 2015, from Attorney Jay Smith from the law offices of Neuberger, Griggs, Sweet and Smith, LLP.

- A petition received by the Jefferson County Planning and Zoning Department on August 10, 2015, addressed to Jefferson County Planning and Zoning and Town of Lake Mills Board.
- A petition received by the Jefferson County Planning and Zoning Department on August 21, 2015, addressed to Jefferson County Planning and Zoning and Town of Lake Mills Board.
- A letter received by the Jefferson County Planning and Zoning Department on September 14, 2015, from Sara Muchka with attached e-mail from Muchka.

Mike Donnelly, N7154 Stoney Creek Road, Lake Mills, WI – Donnelly said he heard the petitions that were read into the record and wanted to add a couple of additional concerns. Donnelly stated since he didn't know where Bittorf operated in Dane County, we don't know what he was zoned or how he operated. Donnelly stated that their attorney did a limited research but he couldn't find any business similar to this commercial request. He said there may only be a handful of contractors' storage operations in the County. He feels that the A-2 rezoning request should be denied. Klotz explained the process for rezoning to all and explained appeal rights to the audience. Donnelly asked that all equipment be stored inside. He requested that the hours of operation be similar to what the Town of Lake Mills requested which is M-F 7 a.m. to 8 p.m., Sat. 8 a.m. to 5 p.m. and no Sundays. Donnelly stated that Stoney Creek Road has sight limitations on it and the truck traffic should go 25 mph. He also would like Midstate Traffic to be respectful of their neighbors with noise.

Sarah Muchka, N7180 Stoney Creek Road, Lake Mills, WI – She stated that along the road there are 5 existing homes and 3 vacant parcels to be built on. She stated this commercial business does not fit the area.

Peter Magnoni, N6851 Stoney Creek Road, Lake Mills, WI – He stated that there is a cost burden to our local government. He stated that he contact Mark Miller of the Jefferson County Sheriff's Office and Town of Lake Mills police that set up radar along the road. He stated there were several traffic speed violations. This puts extra cost burdens on the local government. Magnoni stated that Bittorf's employees don't know the area.

Corinne Magnoni, N6851 Stoney Creek Road, Lake Mills, WI – She explained they are located on the first farm on the west of Stoney Creek Road and have been living on the property for 35 years. When they moved in there were only 4 houses on the road. Magnoni explained why she moved to the area and expressed her concerns about living by a commercial enterprise. Magnoni stated she is in opposition to the Bittorfs' proposal.

John Phillips, N7072 Stoney Creek Road, Lake Mills, WI – Phillips explained that Stoney Creek Road has many dangerous curves. He submitted air photos with other photos and explained them to the Committee. He doesn't believe commercial traffic is a good fit for the neighborhood.

Linnea Phillips, N7072 Stoney Creek Road, Lake Mills, WI – She explained that she is a stay-at-home mom and has seen a difference in the traffic since the Bittorfs moved in. Phillips stated she does not feel secure as she once did with the traffic on her road. She does not know the workers.

She explained concerns about her children being at home in the summer when it is the busy time for the Bittorfs' business.

Paul Hynek, W9501 Britzke Road, Cambridge, WI – Hynek stated that he is a BOA alternate and agrees with most of the letters that were submitted. He stated that the question is whether this use is allowed in the A-2 zone. He stated that storage of contractor's equipment is quite broad. Hynek gave background and history of the land use process in Jefferson County.

Peter Muchka, N6851 Stoney Creek Road, Lake Mills, WI – Muchka is opposed to the rezone. He explained his reasons for opposition. Muchka submitted photos and explained them to the Committee. He believes all storage should be inside the buildings. He has other concerns such as property value with the additional traffic and noise.

**Questions from the Committee:** Reese asked the petitioner about the location of outside storage.

**Town Response:** Klotz read Town response into the record and it is in the file. Klotz read all conditions recommended by the Town of Lake Mills.

**Staff Report:** Staff report given by Robert Klotz and now on file in the Zoning Department. Klotz explained all plans and ordinance involved in this decision.



English

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| September 21, 2015 , 10:55 am | Delivered      | LAKE MILLS, WI 53551 |

Your item was delivered at 10:55 am on September 21, 2015 in LAKE MILLS, WI 53551

|                            |                                                 |                      |
|----------------------------|-------------------------------------------------|----------------------|
| September 10, 2015 2:30 pm | Notice Left (No Authorized Recipient Available) | LAKE MILLS, WI 53551 |
| September 10, 2015 7:57 am | Arrived at Unit                                 | LAKE MILLS, WI 53551 |
| September 9, 2015 7:56 pm  | Departed USPS Facility                          | MADISON, WI 53714    |
| September 9, 2015 3:41 pm  | Arrived at USPS Facility                        | MADISON, WI 53714    |

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9/4/15-JEFFERSON COUNTY ZONING

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**24 LAKE MILLS, WI 53551**

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NOTICE OF PUBLIC HEARING  
COUNTY PLANNING AND ZONING COMMITTEE

**NOTICE IS HEREBY GIVEN** that the Jefferson County Planning and Zoning Commission will conduct a public hearing on a Thursday, September 11, 2014, at 10:00 a.m. at the Jefferson County Courthouse, Jefferson, Missouri. A public hearing will be held on the following proposed rezoning:

**REPRESENTATIVES, SHALL BE PRESENT** Must be in person. Petitioners, on their own behalf, are not permitted to appear at the public hearing. If you are unable to attend the public hearing, you may designate a representative to appear on your behalf. Individuals who are applying for rezoning may not be present at the public hearing.

**4:00 p.m. - 6:00 p.m.** Public Hearing. The public hearing will be held at the Jefferson County Courthouse, 400 N. 2nd St., Jefferson, Missouri 64501. The public hearing will be held on the following date:

**4:00 p.m. - 6:00 p.m.** Public Hearing. The public hearing will be held at the Jefferson County Courthouse, 400 N. 2nd St., Jefferson, Missouri 64501. The public hearing will be held on the following date:

Brian V. Knox being duly sworn, deposes and says that he is the Publisher of the Daily Jefferson County Union, a public newspaper, printed at the City of Fort Atkinson, in said County, and that a notice, a printed copy of which, taken from said newspaper, is hereunto attached, was published in said newspaper once in each week for the period of 2 successive weeks, the first publication being on the 4<sup>th</sup> day of September, A.D. 2015, and the last on the 8<sup>th</sup> day of September, A.D. 2015.

Karen E. Kutz  
Notary Public, Jefferson County, Wisconsin  
My commission expires: 08-29-2017



2) Zoning permits shall be issued only if the parcel is in compliance with the Jefferson County Land Division Ordinance.

3) Application and issuance: Applications for zoning permits shall be made on forms furnished by the Zoning Administrator. Issuance of a sanitary permit is a precondition to issuance of a land use permit whenever applicable. Permits shall be issued if the application and information obtained through field inspections, if any, causes the Administrator to conclude that the proposed use will comply with all applicable regulations.

4) Fees: A fee set pursuant to Section 11.13 shall be submitted to the Zoning Administrator when application is made for a land use permit.

5) Publication: The Zoning Administrator shall cause publication to be made in the official newspaper of Jefferson County of pertinent identifying information on each zoning permit issued. Such publications shall be made each month within the last ten days of the month.

6) Permits shall lapse and become void if operations described in the permit are not completed within two years of issuance of the permit, except that the Zoning Administrator may grant an extension for a period not to exceed one year upon showing of a valid cause.

**b. Applications for Conditional Use Permits, Variances, Administration Appeals, and Applications for Rezoning.**

1) Application and referral: Applications for variances and administrative appeals shall be made to the Zoning Administrator on forms prepared by the Administrator and approved as to form and content by the Zoning Board of Adjustment. Applications for rezoning requests shall be made to the Deputy County Clerk in the Zoning Office. Applications for conditional uses shall be made to the Zoning Administrator. Completed applications shall be referred by the Administrator to the appropriate board or committee for processing and disposition.

2) Fees: A fee set pursuant to Section 11.13 shall be submitted to the Zoning Administrator.

3) Sanitary and Zoning Permits for Conditional Uses and Variances: Issuance by the Planning and Zoning Committee for a conditional use approval or issuance by the Board of Adjustment of a variance shall not relieve the applicant of the obligation to obtain sanitary and zoning permits. [11/10/09, Ord. 2009-19]

4) Effect and Posting of Permits: Permits are issued on the basis of plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Property owners, builders and contractors are primarily responsible for ordinance compliance and for reasonable care in construction. Issuance of permits and approvals under this Ordinance is not to be construed as establishing legal responsibility of the County for the design and construction of premises. Use, arrangement or construction not in full accord with that authorized shall be deemed a violation of this Ordinance.

5) Permits shall be placed in a prominent location on the premises during construction, alteration or moving.

6) Permits shall lapse and become void if operations described in the permit are not completed within two years of issuance of the permit, except that the Zoning Administrator may grant an extension for a period not to exceed one year upon showing of a valid cause.

**(c) Amendment Procedures.** Amendments: The Jefferson County land use ordinances are adopted by the County Board and may be amended by the County Board. State law prescribes how amendments are processed. Five major steps occur:

1. A hearing is held by the County Planning and Zoning Committee;

2. The Planning and Zoning Committee reviews the proposed amendment and makes recommendations to the County Board;

3. The County Board votes on the proposal;

4. In the case of amendments to general zoning outside shoreland and floodplain areas, the affected town board can veto an amendment adopted by the County Board;

5. The amendment is published and recorded.

In addition, persons owning lands proposed to be subject to zoning amendment or owners of abutting property can file a "protest" which requires a three-fourths vote of the County Board to approve the proposed amendment. All of these procedures are subject to detailed statutory rules of §59.69 Wisconsin Statutes, which are adopted herein by reference. The Zoning Administrator shall create and maintain a current summary of the statutory procedures for interested persons.

**6. Standards for Rezoning from the A-1 Exclusive Agricultural and N Natural Resource Districts:** Land that is zoned A-1 Exclusive Agricultural or N Natural Resource may be rezoned to a zoning district that is not a certified farmland preservation zoning district if all of the following additional criteria are met (some of which are based on §91.48 of the Wisconsin Statutes): [am. 3/13/12, Ord. 2011-28]

- (a) The land is better suited for a use not allowed in the A-1 or N district. [cr. 3/13/12, Ord. 2011-28]
- (b) The rezoning is consistent with the County Comprehensive Plan. [cr. 3/13/12, Ord. 2011-28]
- (c) The rezoning is substantially consistent with the Jefferson County Agricultural Preservation and Land Use Plan. [cr. 3/13/12, Ord. 2011-28]
- (d) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use. [cr. 3/13/12, Ord. 2011-28]
- (e) There will be adequate public facilities to serve the proposed and potential land use changes that would be enabled by the rezoning. [re-lettered & am. 3/13/12, Ord. 2011-28]
- (f) The burdens on local government for providing the needed services to the proposed and potential land use changes that would be enabled by the rezoning are reasonable. [re-lettered & am. 3/13/12, Ord. 2011-28]
- (g) The development will not cause unreasonable air or water pollution, soil erosion, or adverse effects on valued natural areas. [re-lettered & am. 3/13/12, Ord. 2011-28]
- (h) The soil productivity rating has been considered in the location of the area proposed for rezoning. [re-lettered & am. 3/13/12, Ord. 2011-28]
- (i) The remaining A-1 parcel shall front on a public road for a minimum distance of at least sixty-six (66) feet. Access to the lot shall be provided within this frontage. [cr. 3/13/12, Ord. 2011-28]

**(d) Board of Adjustment.**

1. Appointment and Term: The Board shall consist of three members who shall be appointed for staggered three-year terms, commencing on July 1, by the Chair of the County Board. Vacancies shall be filled in like manner for the unexpired term of any member whose term becomes vacant. Members shall all reside in the County and outside incorporated cities and villages and no two members shall reside in the same town.

2. Operating Rules.

a. The Board shall choose its own chair, vice chair and secretary.

2. A county may regulate payday lenders by enacting a zoning ordinance that contains provisions that are more strict than those specified in par. (b).

3. If a county has enacted an ordinance regulating payday lenders that is in effect on January 1, 2011, the ordinance may continue to apply and the county may continue to enforce the ordinance, but only if the ordinance is at least as restrictive as the provisions of par. (b).

4. Notwithstanding the provisions of subd. 3., if a payday lender that is doing business on January 1, 2011, from a location that does not comply with the provisions of par. (b), the payday lender may continue to operate from that location notwithstanding the provisions of par. (b).

**(4m) HISTORIC PRESERVATION.** A county, as an exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may regulate by ordinance any place, structure or object with a special character, historic interest, aesthetic interest or other significant value, for the purpose of preserving the place, structure or object and its significant characteristics. The county may create a landmarks commission to designate historic landmarks and establish historic districts. The county may regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district.

**(5) FORMATION OF ZONING ORDINANCE; PROCEDURE.** (a) When the county zoning agency has completed a draft of a proposed zoning ordinance, it shall hold a public hearing thereon, following publication in the county of a class 2 notice, under ch. 985. If the proposed ordinance has the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the ordinance or a description of the property affected by the ordinance and a statement that a map may be obtained from the zoning agency. After such hearing the agency may make such revisions in the draft as it considers necessary, or it may submit the draft without revision to the board with recommendations for adoption. Proof of publication of the notice of the public hearing held by such agency shall be attached to its report to the board.

(b) When the draft of the ordinance, recommended for enactment by the zoning agency, is received by the board, it may enact the ordinance as submitted, or reject it, or return it to the agency with such recommendations as the board may see fit to make. In the event of such return subsequent procedure by the agency shall be as if the agency were acting under the original directions. When enacted, duplicate copies of the ordinance shall be submitted by the clerk by registered mail to each town clerk for consideration by the town board.

(c) A county ordinance enacted under this section shall not be effective in any town until it has been approved by the town board. If the town board approves an ordinance enacted by the county board, under this section, a certified copy of the approving resolution attached to one of the copies of such ordinance submitted to the town board shall promptly be filed with the county clerk by the town clerk. The ordinance shall become effective in the town as of the date of the filing, which filing shall be recorded by the county clerk in the clerk's office, reported to the town board and the county board, and printed in the proceedings of the county board. The ordinance shall supersede any prior town ordinance in conflict therewith or which is concerned with zoning, except as provided by s. 60.62.

(d) The board may by a single ordinance repeal an existing county zoning ordinance and reenact a comprehensive revision thereto in accordance with this section. "Comprehensive revision", in this paragraph, means a complete rewriting of an existing zoning ordinance which changes numerous zoning provisions and alters or adds zoning districts. The comprehensive revision may provide that the existing ordinance shall remain in effect in a town for a period of up to one year or until the comprehensive revision is approved by the town board, whichever period is shorter. If the

town board fails to approve the comprehensive revision within a year neither the existing ordinance nor the comprehensive revision shall be in force in that town. Any repeal and reenactment prior to November 12, 1965, which would be valid under this paragraph is hereby validated.

(e) The board may amend an ordinance or change the district boundaries. The procedure for such amendments or changes is as follows:

1. A petition for amendment of a county zoning ordinance may be made by a property owner in the area to be affected by the amendment, by the town board of any town in which the ordinance is in effect; by any member of the board or by the agency designated by the board to consider county zoning matters as provided in sub. (2) (a). The petition shall be filed with the clerk who shall immediately refer it to the county zoning agency for its consideration, report and recommendations. Immediate notice of the petition shall be sent to the county supervisor of any affected district. A report of all petitions referred under this paragraph shall be made to the county board at its next succeeding meeting.

2. Upon receipt of the petition by the agency it shall call a public hearing on the petition. Notice of the time and place of the hearing shall be given by publication in the county of a class 2 notice, under ch. 985. If an amendment to an ordinance, as described in the petition, has the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the zoning agency. A copy of the notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing. If the petition is for any change in an airport affected area, as defined in s. 62.23 (6) (am) 1. b., the agency shall mail a copy of the notice to the owner or operator of the airport bordered by the airport affected area.

3. Except as provided under subd. 3m., if a town affected by the proposed amendment disapproves of the proposed amendment, the town board of the town may file a certified copy of the resolution adopted by the board disapproving of the petition with the agency before, at or within 10 days after the public hearing. If the town board of the town affected in the case of an ordinance relating to the location of boundaries of districts files such a resolution, or the town boards of a majority of the towns affected in the case of all other amendatory ordinances file such resolutions, the agency may not recommend approval of the petition without change, but may only recommend approval with change or recommend disapproval.

3m. A town may extend its time for disapproving any proposed amendment under subd. 3. by 20 days if the town board adopts a resolution providing for the extension and files a certified copy of the resolution with the clerk of the county in which the town is located. The 20-day extension shall remain in effect until the town board adopts a resolution rescinding the 20-day extension and files a certified copy of the resolution with the clerk of the county in which the town is located.

4. As soon as possible after the public hearing, the agency shall act, subject to subd. 3., on the petition either approving, modifying and approving, or disapproving it. If its action is favorable to granting the requested change or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit the proposed ordinance directly to the board with its recommendations. If the agency after its public hearing recommends denial of the petition it shall report its recommendation directly to the board with its reasons for the action. Proof of publication of the notice of the public hearing held by the agency and proof of the giving of notice to the town clerk of the hearing shall be attached to either report. Notification of town board resolutions filed under subd. 3. shall be attached to either such report.

5. Upon receipt of the agency report the board may enact the ordinance as drafted by the zoning agency or with amendments, or it may deny the petition for amendment, or it may refuse to deny

the petition as recommended by the agency in which case it shall rerefer the petition to the agency with directions to draft an ordinance to effectuate the petition and report the ordinance back to the board which may then enact or reject the ordinance.

5g. If a protest against a proposed amendment is filed with the clerk at least 24 hours prior to the date of the meeting of the board at which the report of the zoning agency under subd. 4. is to be considered, duly signed and acknowledged by the owners of 50% or more of the area proposed to be altered, or by abutting owners of over 50% of the total perimeter of the area proposed to be altered included within 300 feet of the parcel or parcels proposed to be rezoned, action on the ordinance may be deferred until the zoning agency has had a reasonable opportunity to ascertain and report to the board as to the authenticity of the ownership statements. Each signer shall state the amount of area or frontage owned by that signer and shall include a description of the lands owned by that signer. If the statements are found to be true, the ordinance may not be enacted except by the affirmative vote of three-fourths of the members of the board present and voting. If the statements are found to be untrue to the extent that the required frontage or area ownership is not present the protest may be disregarded.

5m. If a proposed amendment under this paragraph would make any change in an airport affected area, as defined under s. 62.23 (6) (am) 1. b., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment with the clerk at least 24 hours prior to the date of the meeting of the board at which the report of the zoning agency under subd. 4. is to be considered, no ordinance which makes such a change may be enacted except by the affirmative vote of two-thirds of the members of the board present and voting.

6. If an amendatory ordinance makes only the change sought in the petition and if the petition was not disapproved prior to, at or within 10 days under subd. 3. or 30 days under subd. 3m., whichever is applicable, after the public hearing by the town board of the town affected in the case of an ordinance relating to the location of district boundaries or by the town boards of a majority of the towns affected in the case of all other amendatory ordinances, it shall become effective on passage. The county clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by the ordinance of the effective date and also insert the effective date in the proceedings of the county board. Any other amendatory ordinance when enacted shall within 7 days thereafter be submitted in duplicate by the county clerk by registered mail to the town clerk of each town in which lands affected by the ordinance are located. If after 40 days from the date of the enactment a majority of the towns have not filed certified copies of resolutions disapproving the amendment with the county clerk, or if, within a shorter time a majority of the towns in which the ordinance is in effect have filed certified copies of resolutions approving the amendment with the county clerk, the amendment shall be in effect in all of the towns affected by the ordinance. Any ordinance relating to the location of boundaries of districts shall within 7 days after enactment by the county board be transmitted by the county clerk by registered mail only to the town clerk of the town in which the lands affected by the change are located and shall become effective 40 days after enactment of the ordinance by the county board unless such town board prior to such date files a certified copy of a resolution disapproving of the ordinance with the county clerk. If such town board approves the ordinance, the ordinance shall become effective upon the filing of the resolution of the town board approving the ordinance with the county clerk. The clerk shall record in the clerk's office the date on which the ordinance becomes effective and notify the town clerk of all towns affected by such ordinance of such effective date and also make such report to the county board, which report shall be printed in the proceedings of the county board.

7. When any lands previously under the jurisdiction of a county zoning ordinance have been finally removed from such jurisdiction by reason of annexation to an incorporated municipal-

ity, and after the regulations imposed by the county zoning ordinance have ceased to be effective as provided in sub. (7), the board may, on the recommendation of its zoning agency, enact amendatory ordinances that remove or delete the annexed lands from the official zoning map or written descriptions without following any of the procedures provided in subds. 1. to 6., and such amendatory ordinances shall become effective upon enactment and publication. A copy of the ordinance shall be forwarded by the clerk to the clerk of each town in which the lands affected were previously located. Nothing in this paragraph shall be construed to nullify or supersede s. 66.1031.

(f) The county zoning agency shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance or amendment that affects the allowable use of the property owned by the person. If the county zoning agency completes a draft of a proposed zoning ordinance under par. (a) or if the agency receives a petition under par. (e) 2., the agency shall send a notice, which contains a copy of the proposed ordinance or petition, to each person on the list whose property, the allowable use of which, may be affected by the proposed ordinance or amendment. The notice shall be by mail or in any reasonable form that is agreed to by the person and the agency. The agency may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this paragraph may take effect even if the agency fails to send the notice that is required by this paragraph.

(6) OPTIONAL ADDITIONAL PROCEDURES. Nothing in this section shall be construed to prohibit the zoning agency, the board or a town board from adopting any procedures in addition to those prescribed in this section and not in conflict therewith. Such procedures may, but are not required to, provide for public hearings before the county board. The public hearing provided by sub. (5) (a) and (e) 2. is deemed to be sufficient for the requirements of due process whether or not the county board holds a further public hearing thereafter.

(7) CONTINUED EFFECT OF ORDINANCE. Whenever an area which has been subject to a county zoning ordinance petitions to become part of a city or village, the regulations imposed by the county zoning ordinance shall continue in effect, without change, and shall be enforced by the city or village until the regulations have been changed by official action of the governing body of the city or village, except that in the event an ordinance of annexation is contested in the courts, the county zoning shall prevail and the county shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

(8) EXCHANGE OF TAX DEEDED LANDS. When a county acquires lands by tax deeds, the board may exchange such lands for other lands in the county for the purpose of promoting the regulation and restriction of agricultural and forestry lands and may exchange such lands for other lands for the purpose of creating a park or recreational area.

(9) ZONING OF COUNTY-OWNED LANDS. (a) The county board may by ordinance zone and rezone lands owned by the county without necessity of securing the approval of the town boards of the towns wherein the lands are situated and without following the procedure outlined in sub. (5), provided that the county board shall give written notice to the town board of the town wherein the lands are situated of its intent to so rezone and shall hold a public hearing on the proposed rezoning ordinance and give notice of the hearing by posting in 5 public places in the town.

(b) This subsection does not apply to land that is subject to a town zoning ordinance which is purchased by the county for use as a solid or hazardous waste disposal facility or hazardous waste storage or treatment facility, as these terms are defined under s. 289.01.

(10) NONCONFORMING USES. (ab) In this subsection "nonconforming use" means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted

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

Petition #: R3829A-15 Township: Lake Mills  
Site Inspection Date: 09/14/2015 Hearing Date: 09/17/2015  
Petitioner Name: Philip & Sandra Bittorf  
Property Owner(s): Same  
Property Location: N7103 Stoney Creek Road

**REZONING REQUEST:**

Rezone 3.2 acres from A-1 Exclusive Agricultural to A-2 Agricultural and Rural Business

PARCEL(S) (PIN#): 018-0713-0614-000  
\_\_\_\_\_  
\_\_\_\_\_

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

TOTAL CONTIGUOUS A-1 ACRES 40 ☐ Less than 50 ☐ More than 50

PREVIOUS A-3 LOTS CREATED FROM PARENT PARCEL: None

LOTS AVAILABLE: Non Prime 3 or Prime 1

LOTS REQUESTED: 3.2 acres of A-2 zoned property

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

SOIL TYPES: KfC2 and MpC2

Class I \_\_\_\_\_ % Class II \_\_\_\_\_ % Class III 100 % Class III Non-Prime \_\_\_\_\_ %

Class IV \_\_\_\_\_ % Class V-VII \_\_\_\_\_ %

Cropland \_\_\_\_\_ % Woods \_\_\_\_\_ % Fallow/Pasture \_\_\_\_\_ % Existing Yard 100 % Slope 6-12 %

☐ FLOODPLAIN ☐ WETLANDS ☐ SHORELAND

ADJACENT LAND USE: Rural Residential and Agricultural

**COMMENTS/ADDITIONAL INFORMATION RECEIVED AT PUBLIC HEARING:**

Riding Arena and sheds were built in 2002.

Proposed use conditional use of storage of contractor's equipment and materials

TOWN BOARD RECOMMENDATION 08/11/2015 ☒ Granted ☐ Denied ☐ Tabled ☐ Not Received  
Date

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

## II. CONCLUSIONS

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

AS A PRIME LOT \_\_\_\_\_ NONPRIME LOT \_\_\_\_\_ LOT COMBINATION \_\_\_\_\_  
**FOR THE FOLLOWING REASONS:** The proposal would have utilized a narrow Town road, and the site is not a "relatively isolated and rural location," thereby conflicting with the purpose of the A-2 Zoning District as described in the Jefferson County Zoning Ordinance and the (continued next page)

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

### DECISION

### III. ORDER & DETERMINATION

### DECISION

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

Motioned by: George Jaeckel to approve 2nd by: Greg David to approve Abstained \_\_\_\_\_

Vote: 1-4, Jaeckel in favor, all others opposed Date: 9/28/15

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

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

☐ **Granted** ☐ **Denied** ☐ **Postponed** Date: \_\_\_\_\_

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

☐ ACCESS APPROVAL BY MAINTAINING AUTHORITY

☐ RECEIPT OF SUITABLE SOIL TEST

☐ RECEIPT OF AND RECORDING OF THE FINAL CSM

☐ EXTRATERRITORIAL PLAT REVIEW

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

☐ OTHER \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

DATE: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_



## ZONING PETITION R3829A-15 FOR PHILIP & SANDRA BITTORF, TOWN OF LAKE MILLS

Page Two, II. Conclusions, Continued:

...A-2, Agricultural and Rural Business Zoning District Policies of the Jefferson County Agricultural Preservation and Land Use Plan. Also, the Committee found that the petition did not meet all the standards of Sec. 11.11(c)6 of the Jefferson County Zoning Ordinance, as referred to in Sec. 91.48 of Wisconsin State Statutes specifically,

- (a) **The land is /is not better suited for a use not allowed in the A-1 or N district**

*Jaeckel noted that you can't crop the buildings.*

*Reese replied that the buildings could be moved and the area cropped.*

- (b) **The rezoning is not consistent with the County Comprehensive Plan-the Agricultural Preservation and Land Use Plan is part of the Comprehensive Plan.**

- (c) **The rezoning is not substantially consistent with the Jefferson County Agricultural Preservation and Land Use Plan**

*Nass said that this is not necessarily agriculturally related.*

*Jaeckel disagreed because this type of barricade can be used in agricultural applications for safety features*

- (d) *The Committee determined that this point was not in question.*

- (e) **There will not be adequate public facilities to serve the proposed and potential land use changes that would be enabled by the rezoning.**

*Rinard stated that the proposal is on a winding, rural road that does not meet sight lines. Hours of operation are pretty broad.*

*Jaeckel noted that it is difficult to quantify the amount of traffic without a study. He pointed out that farmer's hours may be 5 a.m. to 8 p.m. seven days a week. This business may only create traffic early and late in the day.*

- (f) *The Committee determined that this point was not in question.*

- (g) *The Committee determined that this point was not in question.*

- (h) *The Committee determined that this point was not in question.*

- (i) *The Committee determined that this point was not in question.*

**ORDINANCE NO. 2015-\_\_\_\_\_****Denial of Zoning Petition**

WHEREAS, the Jefferson County Board of Supervisors has heretofore been petitioned to amend the Jefferson County Zoning Ordinance, and

WHEREAS, Petition R3829A-15 was referred to the Jefferson County Planning and Zoning Committee for public hearing on September 17, 2015, and

WHEREAS, the proposed amendment has been given due consideration by the Board of Supervisors in open session,

NOW, THEREFORE, BE IT ORDAINED that the Jefferson County Board of Supervisors does deny Petition R3829A-15 and that no change shall be allowed:

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-2,  
AGRICULTURAL AND RURAL BUSINESS**



Rezone 3.2 acres of PIN 018-0713-0614-000 (40 acres) with conditional use for a highway warning sign business at **N7103 Stoney Creek Road** in the Town of Lake Mills. R3829A-15 & CU1843-15 – Philip & Sandra Bittorf

Ayes\_\_\_\_\_ Noes\_\_\_\_\_ Abstain\_\_\_\_\_ Absent\_\_\_\_\_ Vacant\_\_\_\_\_

Requested by  
Planning & Zoning Committee

10-27-15

Deb Magritz: 10-06-15

REVIEWED: Administrator ; Corp. Counsel ; Finance Director 