

**AGENDA**  
**JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE**  
**DECISION MEETING**

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

**ROOM 203, COUNTY COURTHOUSE**  
**311 S. CENTER AVE., JEFFERSON, WI 53549**  
**8:30 A.M. ON FEBRUARY 26, 2018**

1. **Call to Order**
2. **Roll Call (Establish a Quorum)**
3. **Certification of Compliance with the Open Meetings Law**
4. **Approval of the Agenda**
5. **Public Comment (Not to exceed 15 minutes and not to include petitions slated for decision-members of the public who wish to address the Committee on specific agenda items must register their request at this time)**
6. **Approval of January 29, February 9 and February 15 Meeting Minutes**
7. **Communications**  
New Hire
8. **January Monthly Financial Report for Land Information Office-Andy Erdman**
9. **February Monthly Financial Report for Zoning-Matt Zangl**
10. **Discussion and Possible Action on 2017 Wisconsin Act 67 Relating to Conditional Use Permits and Other Zoning and Land Use Regulations**
11. **Discussion and Possible Action on Director of Planning and Zoning's Authority to Extend Zoning Amendment Deadlines**
12. **Discussion and Possible Action on Request by Tim Otterstatter to Extend the Zoning Amendment Deadline for R3939A-16, Approved by County Board on November 28, 2016**
13. **Discussion and Possible Action on Petitions Presented in Public Hearing on February 15:**

**FROM INDUSTRIAL TO A-3, AGRICULTURAL/RURAL RESIDENTIAL**

**R4037A-18 – Eugene Gutzmer Jr:** Rezone to create a 2.307-acre A-3 zone around the home at **N462 County Road N** from PIN 004-0515-3222-000 (28.305 Acres) in the Town of Cold Spring.

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

**R4038A-18 – Loren Lindl (ADL Properties, LLC)/Roger Britzke Property:** Create a 1.1-acre vacant building site on the west side of **Haas Road**, Town of Hebron, from part of PIN 010-0615-2744-000 (40 Acres).

**R4039A-18 – Loren Lindl (ADL Properties, LLC)/Roger Britzke Property:** Create a 2.2-acre farm consolidation lot around the home and buildings at **N2976 Haas Road**, and create a 1.1-ac vacant building site adjacent, both from PIN 010-0615-2744-000 (40 Acres) on the east side of Haas Road in the Town of Hebron.

**R4040A-18 – Joe Kennedy/Ashling Hills Farm LLC Property:** Rezone to create two, 1.2-acre vacant building sites on

**McMillen Road** in the Town of Koshkonong from part of PIN 016-0514-3341-000 (40 Acres).

**R4041A-18 – John & Natalie Kutz/D&S Kutz Joint Revocable Trust Property:** Create a 2.2-acre vacant building site from part of PIN 016-0614-3512-001 (30 Acres) on **Kutz Road** in the Town of Koshkonong.

**R4042A-18 – Jennifer Martin:** Create a 4 acre lot around the home and buildings at **N4435 County Road G** in the Town of Oakland from part of PIN 022-0613-1211-000 (32.07 Acres).

**R4043A-18 – Wilkes LLC:** Create a 1-acre lot around the home at **W9521 Waterloo Road** on PIN 030-0813-1821-000 (38.023 Acres) in the Town of Waterloo.

**R4044A-18 – Wilkes LLC:** Create a 1-acre lot around the home at **N7841 Geise Lane** in the Town of Waterloo from part of PIN 030-0813-2942-000 (40.5 Acres).

### **CONDITIONAL USE PERMIT APPLICATION**

**CU1939-18 – Todd Crawley & Jennifer Blossom:** Conditional use to allow up to 15 dogs in an A-3, Agricultural/Rural Residential zone at **N6304 Coffee Road** in the Town of Farmington, on PIN 008-0715-1523-002 (2.05 Acres).

#### **14. Possible Future Agenda Items**

#### **15. Upcoming Meeting Dates**

**March 9, 8:00 a.m. – Site Inspections Beginning in Courthouse Room 203**

**March 15, 7:00 p.m. – Public Hearing in Courthouse Room 205**

**March 26, 8:30 a.m. – Decision Meeting in Courthouse Room 203**

**April 13, 8:00 a.m. – Site Inspections Beginning in Courthouse Room 203**

**April 19, 7:00 p.m. – Public Hearing in Courthouse Room 205**

**April 30, 8:30 a.m. – Decision Meeting in Courthouse Room 203**

#### **16. Adjourn**

**If you have questions regarding the petitions, please contact the Zoning Department at 920-674-7131. Petition files referenced on this agenda may be viewed in Courthouse Room 201 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays. Materials covering other agenda items can be found at [www.jeffersoncountywi.gov](http://www.jeffersoncountywi.gov).**

A quorum of any Jefferson County Committee, Board, Commission or other body, including the Jefferson County Board of Supervisors, may be present at this meeting.

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 at least 24 hours prior to the meeting so that appropriate arrangements can be made.

*A digital recording of the meeting will be available in the Zoning Department upon request.*

**MINUTES OF THE  
JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE  
DECISION MEETING**

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

**ROOM 203, COUNTY COURTHOUSE  
311 S. CENTER AVE., JEFFERSON, WI 53549  
8:30 A.M. ON JANUARY 29, 2018**

**1. Call to Order**

The meeting was called to order by Chairman Nass at 8:30 a.m.

**2. Roll Call (Establish a Quorum)**

All Committee members were present. Also in attendance was Matt Zangl and Deb Magritz of the Zoning Department.

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

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

**4. Approval of the Agenda**

Motion by Jaeckel, seconded by David to approve the agenda, but also to move items around to accommodate people in attendance.

**5. Public Comment (Not to exceed 15 minutes and not to include petitions slated for decision-members of the public who wish to address the Committee on specific agenda items must register their request at this time)**

There was no public comment.

**6. Approval of January 8, January 12 and January 18 Meeting Minutes**

Motion by Reese, seconded by Jaeckel to approve the January 8 decision meeting minutes. Motion carried on a voice vote with no objection.

Motion by Jaeckel, seconded by Reese to approve the January 12 site inspection minutes. Motion carried on a voice vote with no objection.

Motion by Reese, seconded by Jaeckel to approve the January 18 public hearing minutes. Motion carried on a voice vote with no objection.

**7. Communications**

Zangl noted that applications for the technician position have been coming in, and he hopes to have interviews set up soon. He also reported that his first month as interim director has gone relatively well.

Andy Erdman said that the drone workgroup has met and is moving forward. The Land Information Land Use Plan will have to be updated, so Erdman will be bringing a resolution to this Committee to do so. He is planning to bring it to the next Committee meeting.

**8. January Monthly Financial Report for Zoning-Matt Zangl**

Zangl reported that January has been slower, and revenues will be approximately \$2,000 short of January 2017 totals. The year's total revenues to date are \$9,000.

**9. Discussion and Possible Action on a Revision to Petition R4009A-17 for Matthew and Kimberley Kaminski, Approved by County Board on November 14, 2017**

Zangl showed an air photo and explained that the Kaminskis now wish to retain the shed they previously planned to remove. To do so will require adding square footage to their approved lot. Motion by Jaeckel, seconded by Rinard to approve the revision. Motion carried on a voice vote with no objection.

**10. Discussion and Possible Action on Request by Dennis Brant for Reconsideration of Petition R4028A-17 Presented in Public Hearing on December 21 and Recommended for Approval by the Planning and Zoning Committee on January 8, 2018**

Zangl explained that Brandt withdrew his request for reconsideration after finding out the process, and will be going with a three-acre farm consolidation lot. Nass noted that Brant could come back with a request for Natural Resource zone over the additional acreage he initially requested.

**11. Discussion and Possible Action on Petition R4029A-17 for Scott Anton, Presented in Public Hearing on December 21, 2017 and Postponed by the Committee on January 8, 2018**

Zangl reported that more information had come in from Anton and his surveyor about the lot configuration. It was designed per the wishes of the applicant, and not of the Town. Motion by David, seconded by Jaeckel to approve as presented. Motion carried on a voice vote with no objection.

**12. Discussion and Possible Action on Petitions Presented in Public Hearing on January 18, 2018:**

**FROM RESIDENTIAL R-2 TO A-2, AGRICULTURAL AND RURAL BUSINESS AND APPLICATION FOR CONDITIONAL USE PERMIT**

**APPROVE WITH CONDITIONS** the rezoning of PIN 010-0615-3232-002 (6.262 Acres) in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning Ordinance on a motion by Jaeckel, seconded by Rinard, and approve with conditions a conditional use to allow storage and maintenance of concrete contractor's equipment and materials at **N2681 Wenham Road**, Town of Hebron on a motion by Reese, seconded by Jaeckel. Both motions carried on voice votes with no objection. R4031A-18 & CU1936-18 – Craig Smillie/Clint & Cheryl Cutsforth Property

**FROM A-1, EXCLUSIVE AGRICULTURAL TO A-2, AGRICULTURAL AND RURAL BUSINESS AND APPLICATION FOR CONDITIONAL USE PERMIT**

**DENY** the rezoning of PIN 032-0815-2043-000 (31.63 Acres) in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning Ordinance on a motion by Nass, seconded by Jaeckel. A motion by Nass, seconded by Jaeckel to approve was denied on a 1-4 vote. No action was taken on the conditional use for a recreational facility/paintball and outdoor activities park on **High Road** in the Town of Watertown. R4032A-18 & CU1937-18 – Kurt Pfluger/Loeb & Company LLP Property

**FROM A-3, AGRICULTURAL/RURAL RESIDENTIAL TO A-2, AGRICULTURAL AND RURAL BUSINESS AND APPLICATION FOR CONDITIONAL USE PERMIT**

**APPROVE WITH CONDITIONS** the rezoning of 1.573 acre of PIN 024-0516-1432-002 (3.6 Acres) on a motion by Reese, seconded by Jaeckel, and approve with conditions a conditional use to allow storage of contractor's equipment and materials at **N1428 Zion Road** in the Town of Palmyra on a motion by Reese, seconded by Jaeckel. This is being done in accordance with Sec. 11.04(f)7 of the Jefferson County Zoning Ordinance. Both motions carried on voice votes with no objection. R4036A-18 & CU1938-18 – Nick Draskovich/Larry & Lyn Tarnowski

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

**APPROVE WITH CONDITIONS** on a motion by Nass, seconded by Jaeckel the rezoning in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance to create a 4.25-acre farm consolidation lot around the home at **W9122 London Rd**, Town of Lake Mills, on PIN 018-0713-3221-000 (40 Acres). Motion carried on a voice vote with no objection. R4014A-17 – David Hughes

**APPROVE WITH CONDITIONS** on a motion by Reese, seconded by Jaeckel, the rezoning in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance to create a 5-acre farm consolidation lot around the home and buildings at **W708 Hooper Road** from part of PIN 024-0516-0234-000 (37.697 Acres), Town of Palmyra. Motion carried on a voice vote with no objection. R4033A-18 – Dempsey Farms Partnership/Treffinger Management LLC Property

**APPROVE WITH CONDITIONS** on a motion by Reese, seconded by Jaeckel, the rezoning to create a 5-acre lot around the home and buildings at **N4589 Pioneer Drive** from part of PINs 026-0616-0541-001 (12.065 Acres), 026-0616-0541-002 (3 Acres) and 026-0616-0542-000 (35.185 Acres) in the Town of Sullivan. This is being done in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. Motion carried on a voice vote with no objection.  
R4034A-18 – Thomas & Rochelle Anfang

**APPROVE WITH CONDITIONS** on a motion by Reese, seconded by Jaeckel to rezone all of PIN 028-0513-1624-001 (0.23 Acre) owned by Irma Radermacher and part of PIN 028-0513-1624-000 (37.268 Acre) owned by Claude and Irma Radermacher to create a one-acre lot around the home at **W8795 Loga Road** in the Town of Sumner. This is being done in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. Motion carried on a voice vote with no objection. R4035A-18 – Irma Radermacher/Claude & Irma Radermacher Properties

**APPROVE WITH CONDITIONS** on a motion by David, seconded by Jaeckel the rezoning of 0.8 acre of PIN 032-0815-1544-000 (55.29 Acres) to enlarge the existing A-3 lot, PIN 032-0815-1544-002 on **Witte Lane** and improve its road access. This is in the Town of Watertown, and is being done in accordance with Sec. 11.04(f)8 of the Jefferson County Zoning Ordinance. Motion carried on a voice vote with no objection. R3997A-17 – Daniel & Nancy Last/Daniel & Nancy Last and Wilbur Miller Property:

**13. Possible Future Agenda Items**

Text amendment in March  
Land Information resolution  
Conditional Use for Daybreak Foods Inc. in March

**14. Upcoming Meeting Dates**

**February 9, 8:00 a.m. – Site Inspections Beginning in Courthouse Room 203-Jaeckel will be absent**  
**February 15, 7:00 p.m. – Public Hearing in Courthouse Room 205**  
**February 26, 8:30 a.m. – Decision Meeting in Courthouse Room 203**  
**March 9, 8:00 a.m. – Site Inspections Beginning in Courthouse Room 203**  
**March 15, 7:00 p.m. – Public Hearing in Courthouse Room 205**  
**March 26, 8:30 a.m. – Decision Meeting in Courthouse Room 203**

**15. Adjourn**

Motion by David, seconded by Jaeckel to adjourn the meeting. Motion carried on a voice vote with no objection, and the meeting adjourned at 9:20 a.m.

Don Reese, Secretary

**If you have questions regarding the petitions, please contact the Zoning Department at 920-674-7131. Petition files referenced on this agenda may be viewed in Courthouse Room 201 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays. Materials covering other agenda items can be found at [www.jeffersoncountyiwi.gov](http://www.jeffersoncountyiwi.gov).**

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**MINUTES OF THE  
JEFFERSON COUNTY PLANNING AND ZONING COMMITTEE  
SITE INSPECTION MEETING**

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

**ROOM 203, COUNTY COURTHOUSE  
311 S. CENTER AVE., JEFFERSON, WI 53549  
8:00 A.M. ON FRIDAY, FEBRUARY 9, 2018**

**1. Call to Order**

The meeting was called to order by Vice-Chair David at 8:05 a.m.

**2. Roll Call (Establish a Quorum)**

David, Reese and Rinard were present at 8:05. Jaeckel was absent and excused. Also in attendance were Matt Zangl and Deb Magritz of the Zoning Department.

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

Reese verified that the meeting was being held in compliance with the Open Meetings Law.

**4. Approval of the Agenda**

Reese noted that everything was pretty straightforward, other than that site inspections would be conducted in-house using GIS.

**5. Public Comment (Not to exceed 15 minutes and not to include petitions slated for decision-members of the public who wish to address the Committee on specific agenda items must register their request at this time)**

There was no public comment.

**6. Communications**

Zangl reported on a request he'd received about having a wedding venue in an open space, perhaps using a tent. Zangl will follow up with additional research, and afterward will bring this back to the Committee in the future.

Zangl also offered information about an upcoming WisLine series that may be of interest to the Committee members.

**7. Discussion and Possible Determination of Completeness on Application for Expanded Livestock Facility by Daybreak Foods Inc, Crossman Road, Town of Lake Mills-Patricia Cicero**

Roll call was taken, with David, Rinard, Reese, Zangl and Patricia Cicero of the Land and Water Conservation Department (LWCD) noting their attendance.

Cicero began by explaining that Daybreak is proposing to increase their bird numbers up to a total of 27,500 animal units. They propose to build five new cage-free layer barns. Nine existing barns will be taken down. They will be removing a compost building and keeping two others. It was noted that their existing Industrial waste storage isn't regulated under livestock siting. A nutrient management plan is in place, and manure is taken off-site by a third party. Cicero explained the layout of the cage-free barns and manure drying within those barns. She noted that Daybreak Foods Inc. applications and worksheets are complete, and suggested that the Committee place conditions on the conditional use as listed in the memorandum from the LWCD dated January 30, 2018.

Zangl reminded the Committee that LWCD has determined that application to be complete. David asked whether there was anything that would create odors, and Cicero replied that Daybreak Foods Inc. is taking extra steps to be good community members. David then asked about the disposal of dead birds, and Cicero answered that they are composted currently, but Daybreak is looking at creamators for the future.

Reese made a motion to accept the completeness determination with requirements listed on the LWCD memo. David seconded. On a roll call vote, David, Reese and Rinard voted aye to accept the determination and the motion carried.

Nass arrived at 8:32 a.m., but abstained from the vote.

8. **Discussion and Possible Action on Draft County Board Resolution to Amend the Land Information Plan to Include Implementation of a County Unmanned Aircraft Systems (UAS) Program-Andy Erdman**  
Erdman handed out copies of a draft resolution for amendment of the Land Information Plan, which was developed in 2015 and adopted in 2016. Erdman discussed this with Corporation Counsel, who recommended taking this route. The workgroup is getting to the point of developing a timeline and scheduling training. Erdman listed departments and offices interested in use of the drones and their individual needs; he noted that FAA part 107 certification is needed by the pilots. David asked what models are under consideration and their cost. Erdman answered that two drones, one for law enforcement at approximately \$8,000 and one for the other departments at \$3,000 are planned.

9. **Site Inspections for Petitions to be Presented in Public Hearing on February 15, 2018:**

**The Committee viewed these site using GIS due to weather conditions:**

**R4041A-18 – John & Natalie Kutz/D&S Kutz Joint Revocable Trust Property:** Create a 2.2-acre vacant building site from part of PIN 016-0614-3512-001 (30 Acres) on **Kutz Road** in the Town of Koshkonong.

**R4040A-18 – Joe Kennedy/Ashling Hills Farm LLC Property:** Rezone to create two, 1.2-acre vacant building sites on **McMillen Road** in the Town of Koshkonong from part of PIN 016-0514-3341-000 (40 Acres).

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**CU1939-18 – Todd Crawley & Jennifer Blossom:** Conditional use to allow up to 15 dogs in an A-3, Agricultural/Rural Residential zone at **N6304 Coffee Road** in the Town of Farmington, on PIN 008-0715-1523-002 (2.05 Acres).

**R4043A-18 – Wilkes LLC:** Create a 1-acre lot around the home at **W9521 Waterloo Road** on PIN 030-0813-1821-000 (38.023 Acres) in the Town of Waterloo.

**R4044A-18 – Wilkes LLC:** Create a 1-acre lot around the home at **N7841 Geise Lane** in the Town of Waterloo from part of PIN 030-0813-2942-000 (40.5 Acres).

**R4042A-18 – Jennifer Martin:** Create a 4 acre lot around the home and buildings at **N4435 County Road G** in the Town of Oakland from part of PIN 022-0613-1211-000 (32.07 Acres).

10. **Adjourn**

Motion by Reese, seconded by Rinard to adjourn the meeting. Motion carried on a voice vote with no objection, and the meeting adjourned at 9:04 a.m.

Don Reese, Secretary

**If you have questions regarding the petitions, please contact the Zoning Department at 920-674-7131. Petition files referenced on this agenda may be viewed in Courthouse Room 201 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays. Materials covering other agenda items can be found at [www.jeffersoncountywi.gov](http://www.jeffersoncountywi.gov).**

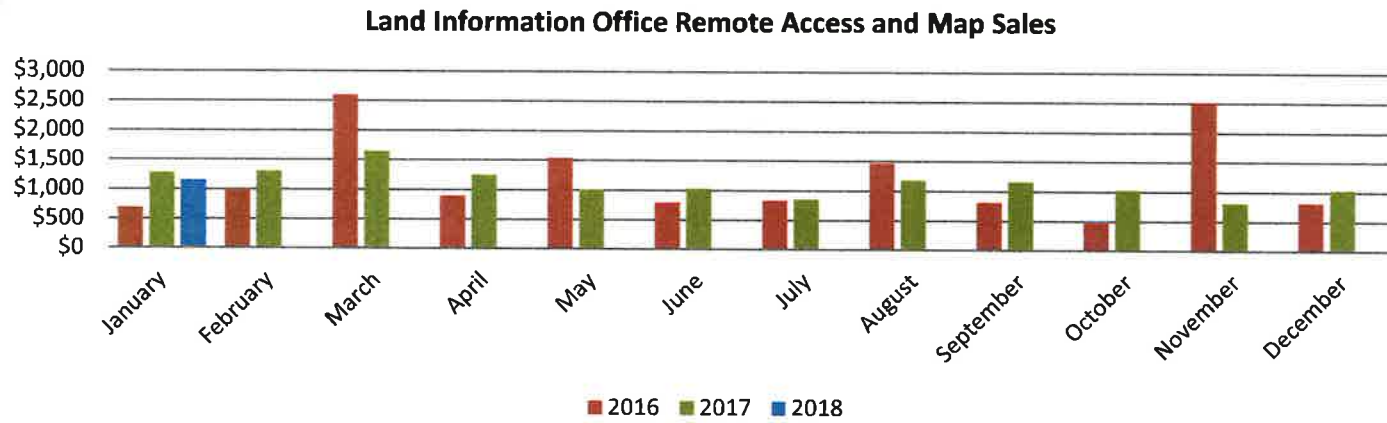
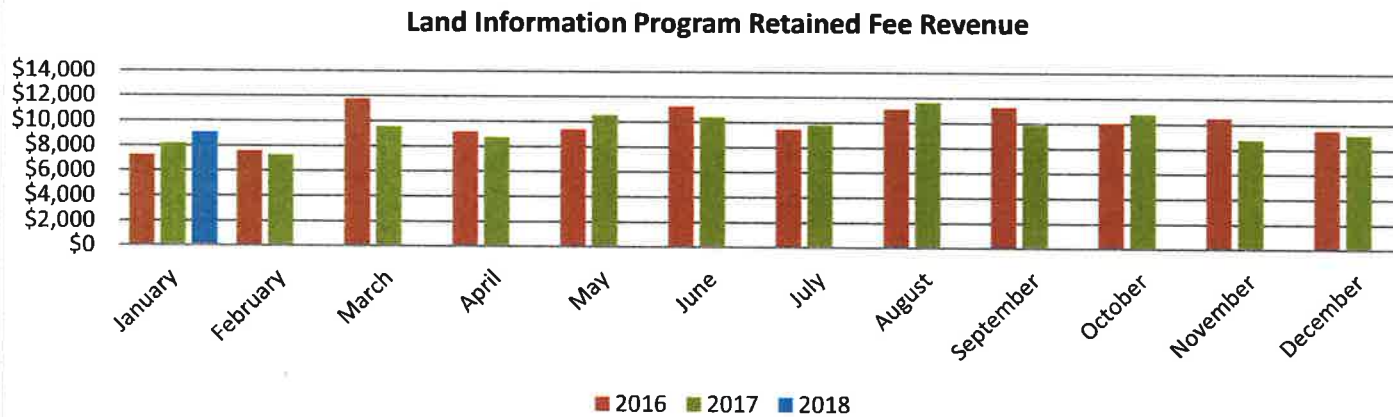
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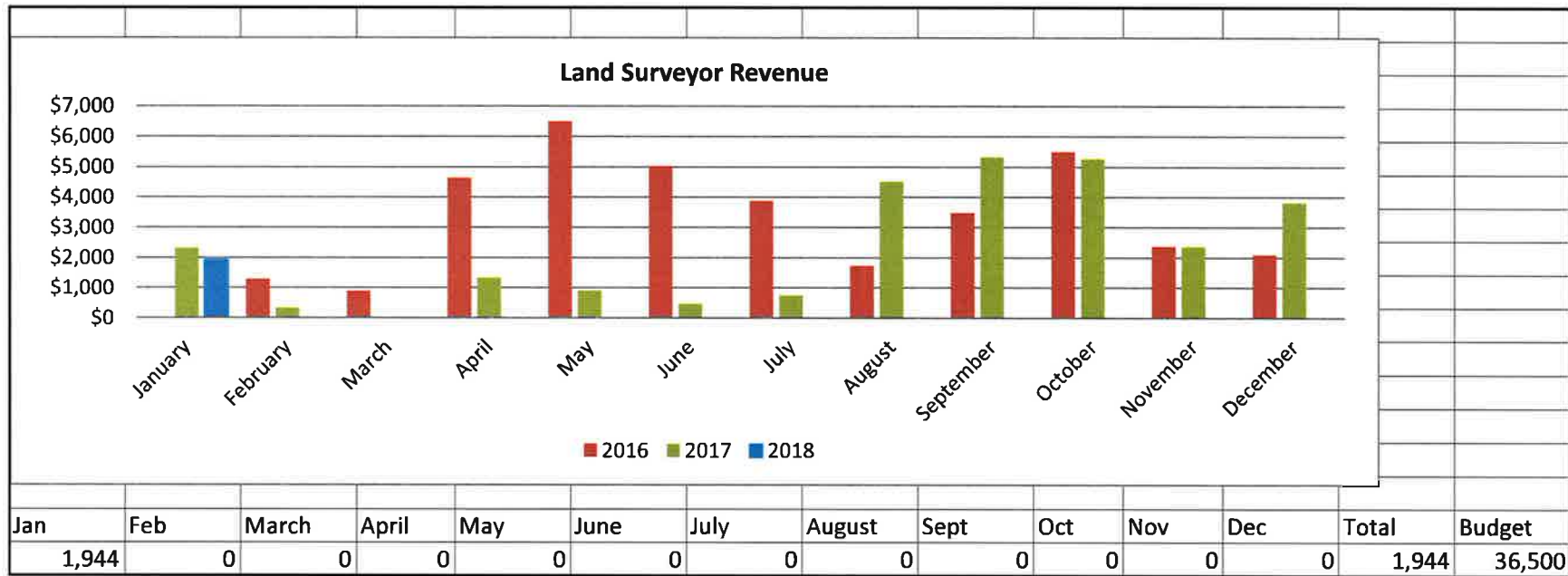
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## Land Information Monthly Revenue Report January 2018

[illegible][illegible]

## Land Information Monthly Revenue Report January 2018



Work Page | Zoning Receipt | Solid Waste | Receipt Look-up | Reporting

## Jefferson County Planning and Zoning Department

Enter Year:

PDF:    Excel:

Enter 2017 Actual Zoning Deposit:

Enter 2018 Budget Revenues:

| MTH   | Other<br>Permits/LU<br>7101.432099 | Private Parties<br>Copies/Maps<br>7101.451002 | Municipal<br>Copies/Printing<br>7101.472003 | Private Sewage<br>System<br>(County)<br>7101.432002 | Soil Testing<br>Fee<br>7101.458010 | Farmland<br>Qualifying<br>Acreage<br>Schedule<br>7101.458015 | Farmland<br>Agreement<br>App<br>7101.458014 | Farmland<br>Preservation<br>Fee/ Certs<br>7101.458001 | Septic<br>Replacement<br>Fee/ Wis Fund<br>7101.458002 | Zoning<br>Ordinance<br>Forfeitures<br>7101.441002 | Wisconsin<br>Fund Grants<br>7102.421001 | Refunds | 2018<br>Totals | 2017<br>Totals | 2017-2018<br>Difference |
|-------|------------------------------------|---|---|---|------------------------------------|--|---|---|---|---|---|---------|----------------|----------------|-------------------------|
| Jan   | 6,535.00                           | 518.33  |   | 2,475.00  | 200.00                             |  |   |   |   |   |   | 55.00   | 9,728.33       | 11,149.58      | -1421.25                |
| Feb   | 8,820.00                           | 275.50  |   | 750.00  | 100.00                             |  |   |   |   |   |   |         | 9,945.50       | 10,873.50      | -928                    |
| Mar   |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 14,561.73      | -14561.73               |
| Apr   |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 22,717.76      | -22717.76               |
| May   |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 23,281.83      | -23281.83               |
| June  |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 29,870.26      | -29870.26               |
| July  |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 20,784.29      | -20784.29               |
| Aug   |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 18,226.44      | -18226.44               |
| Sept  |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 29,100.00      | -29100                  |
| Oct   |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 22,445.90      | -22445.9                |
| Nov   |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 17,601.00      | -17601                  |
| Dec   |                                    |   |   |   |                                    |  |   |   |   |   |   |         |                | 21,685.00      | -21685                  |
| Total | 15,355.00                          | 793.83  |   | 3,225.00  | 300.00                             |  |   |   |   |   |   | 55.00   | 19,673.83      | 242,297.29     | -222623.46              |

**2017 Actual Zoning Deposit:** Please Enter Deposit

**2018 Budget Revenues:** Please Enter Revenues

**2018 Deposits YTD:**    \$19,673.83



Department of Planning & Landscape  
Architecture  
University of Wisconsin-Madison/Extension  
925 Bascom Mall  
Madison, Wisconsin 53706-1317

<https://dpla.wisc.edu>

## Conditional Use Permits After 2017 Wisconsin Act 67

By Brian W. Ohm

**2017 Wisconsin Act 67** adds new sections to the *Wisconsin Statutes* governing the issuance of conditional use permits to the general zoning enabling laws for cities, villages, towns, and counties.<sup>1</sup> Until the addition of these sections, the general zoning enabling statutes did not include the term “conditional use permit” nor provide any guidance for the issuance of conditional use permits. Rather, the law governing conditional use permits was based on court decisions.

### Act 67 Responds to the Wisconsin Supreme Court Decision in *AllEnergy Corp. v. Trempealeau County*

The Wisconsin Supreme Court’s May 2017 decision in *AllEnergy Corp. v. Trempealeau County*, 2017 WI 52, provides important context for understanding the conditional use requirements inserted in Act 67.

The *AllEnergy* case involved the denial of a conditional use permit for a proposed frac sand mine in Trempealeau County. The County voted to adopt 37 conditions for the mine, which AllEnergy agreed to meet, but then the County voted to deny the conditional use permit in part relying on public testimony in opposition to the mine. A divided Wisconsin Supreme Court upheld the County’s denial of the conditional use permit acknowledging the

discretionary authority of local governments in reviewing proposed conditional uses.

Act 67 in part reflects the sentiment articulated by the dissent in the *AllEnergy* decision. According to the Dissent in *AllEnergy*: “When the Trempealeau County Board writes its zoning code, or considers amendments, . . . is the stage at which the County has the greatest discretion in determining what may, and may not, be allowed on various tracts of property.” “Upon adding a conditional use to a zoning district, the municipality rejects, by that very act, the argument that the listed use is incompatible with the district.” “An application for a conditional use permit is not an invitation to re-open that debate. A permit application is, instead, an opportunity to determine whether the specific instantiation of the conditional use can be accomplished within the standards identified by the zoning ordinance.”

While local governments did not need to change their ordinances in response to the *AllEnergy* decision, Act 67 should prompt local governments to review their zoning ordinances, practices, and procedures to ensure they meet the new statutory requirements.

### The New Statutory Requirements

Act 67 limits local government discretion related to the issuance of conditional use permits.

<sup>1</sup>Act 67 creates section 62.23 (7) (de) for cities, villages, and towns exercising zoning under village powers, section 60.61 (4e) for towns exercising zoning without village powers, and section 59.69 (5e) for counties.

The new law adds the following definition of “conditional use” to the Statutes: “‘Conditional use’ means a use allowed under a conditional use permit, special exception, or other zoning permission issued by a [city, village, town, county] but does not include a variance.”

Act 67 also includes the following definition of “substantial evidence,” a term used in several places in the Act: “‘Substantial evidence’ means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.” This language softens the language of earlier versions of the bill that stated substantial evidence did not include “public comment that is based solely on personal opinion, uncorroborated hearsay, or speculation.” Public comment that provides reasonable facts and information related to the conditions of the permit is accepted under Act 67 as evidence.

Act 67 then provides that “if an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the [city, village, town, county] ordinance or imposed by the [city, village, town, county] zoning board, the [city, village, town, county] shall grant the conditional use permit.” This new language follows the argument made by the plaintiffs and the dissenting opinion in the *AllEnergy* case. The use of the term “zoning board,” however, is at odds with current Wisconsin law that allows the governing body, the plan commission, or the zoning board of adjustment/appeals to grant conditional uses. This “zoning board” terminology may lead to some confusion.

Act 67 also provides that the conditions imposed “must be related to the purpose of the ordinance and be based on substantial evidence” and “must be reasonable and to the extent practicable, measurable” This new statutory language emphasizes the importance of having clear purpose statements in the zoning ordinance. In addition, since local comprehensive plans can help articulate the purpose of ordinances that implement the plan, local governments should consider including a requirement that the proposed conditional use furthers and does not conflict with the local comprehensive plan.

Act 67 states that permits “may include conditions such as the permit’s duration, transfer, or renewal.” In the past, sometimes there was confusion about whether local governments had the authority to place a time limit on

the duration of a conditional use permit. This new statutory language clarifies that local governments have that authority.

Next, Act 67 provides that the applicant must present substantial evidence “that the application and all requirements and conditions established by the [city, village, town, county] relating to the conditional use are or shall be satisfied.” The city, village, town or county’s “decision to approve or deny the permit must be supported by substantial evidence.”

Under the new law, a local government must hold a public hearing on a conditional use permit application, following publication of a class 2 notice. If a local government denies an application for a conditional use, the applicant may appeal the decision to circuit court. The conditional use permit can be revoked if the applicant does not follow the conditions imposed in the permit.

#### **The New Requirements In A Nutshell:**

- ◆The requirements and conditions specified in the ordinance or imposed by the zoning board must be reasonable, and to the extent practicable, measurable.
- ◆Any condition imposed must relate to the purpose of the ordinance and be based on substantial evidence.
- ◆Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that a reasonable person would accept in support of a conclusion.
- ◆If an applicant meets, or agrees to meet, all of the requirements and conditions specified in the ordinance or imposed by the zoning board, the local government must grant the CUP.
- ◆The applicant must provide substantial evidence that the application and all requirements and conditions are, or shall be, satisfied.
- ◆If an applicant does not meet one or more of the requirements (for example the application is incomplete) or conditions specified in the ordinance or imposed by the zoning board, the local government can deny the CUP.
- ◆A local government’s decision to approve or deny a conditional use permit must be supported by substantial evidence.



The new conditional use law applies to applications for conditional use permits filed on and after November 28, 2017.

Local governments should review the requirements of their ordinance to consider adding to or revising the conditions listed in the ordinance to ensure that the local government will be able to review specific development proposals against the purpose of the ordinance and be able to support conditions imposed on a specific application with substantial evidence. Act 67 may prompt some local governments to reconsider what might be listed as a conditional use in certain zoning districts and explore creating new districts or other ways to regulate the use. Local governments might also want to a multi-step process that informs applicants of the conditions the zoning board will imposed prior to the board's decision so the applicant can prove that they can comply with the conditions.



## Frequently Asked Questions About Act 67<sup>2</sup>

### ■ Does Act 67 Limit Local Discretion to Deny a Conditional Use Permits?

Act 67 attempts to limit the level of discretion implied in the lead opinion of Wisconsin Supreme Court in the *AllEnergy* case.

Clearly under Act 67, if an applicant agrees to meet all the requirements of the ordinance and all the conditions imposed, the local government has no discretion to deny the permit.

However, local governments still have discretion in terms of whether or not something is listed as a conditional use in the zoning ordinance. Local governments also have discretion as to whether or not to impose a condition (for example every permit might not need conditions related to hours of operation). Local governments also have the authority to deny a permit if the applicant cannot meet the requirements of the ordinance or the conditions imposed. The fact that Act 67 talks about denial of a permit and the right challenge a denial in court shows the legislature did not take away all authority to deny an application for a conditional use permit.

A local government still has the ability to approve or deny a permit, and to attach conditions. A local government either approves a CUP because it complies with the requirements of the ordinance and the conditions imposed or they deny it because it does not meet the requirements of the ordinance and the conditions imposed.

Local governments have more discretion when rezoning a property. Act 67 may prompt some local governments to limit what is a conditional use and require a rezoning to a different district for certain uses.

### ■ Is a local government obligated to craft conditions that will help the applicant meet the ordinance requirements?

No, but the local government needs to articulate why the proposed use does not meet the ordinance requirements and allow the applicant to suggest conditions that address the deficiencies.

For example, say an ordinance has general standards for CUPS like "protect public health, safety, and welfare." The zoning board uses that standard to say "we should not allow this project because it will lead to traffic congestion leading to unsafe traffic conditions." Under Act 67, the local government can't deny it unless they back it up with substantial evidence. The local government decides to conduct a traffic study. The traffic study concludes that if truck traffic to the site is limited to certain hours, there will be no congestion. The applicant proposes a condition to limit truck traffic based on the findings of the study.

There needs to be an opportunity for some back and forth between the applicant and the local government -- for example, the local government says we're concerned about water quality. They will need to provide specific facts about the water quality impacts. They may use that information to impose a specific condition that will address the water quality issue or it might be that the local government identifies the threat posed by the conditional use and the applicant responds by saying "I've hired a hydrologist, here is their report about the water quality impacts. The hydrologist recommends we do x, y, and z to address those impact. We propose doing that". The applicant develops the alleviating conditions.

What Act 67 changes is that in the past a group of citizens who are opposed to a project would say "deny the CUP because it will have traffic impact" and the local government would deny the CUP. Act 67 changes that.

<sup>2</sup> Thanks to Becky Roberts with the Center for Land Use Education at UW-Stevens Point for compiling these questions.

Local governments can't just say, "We have a standard in our ordinance that a CUP promote public health, safety, and welfare. We think there are traffic impacts so we deny the CUP." **Local governments need substantial evidence that there will be traffic impacts.** That evidence will provide the basis for more specific conditions imposed by the local government or suggested by the applicant. There are engineering solutions for many impacts so it will be difficult for there to be no condition that could be imposed to meet the ordinance standards. It may be extremely expensive to follow the condition -- that might stop the project. Perhaps the hours of operation end up being so limited the applicant drops the project. That may lead the applicant to argue the condition is unreasonable. Resolution of that issue will take further litigation.

Historically, most CUPs are approved. Denials are very limited. **Act 67 may make denials harder.**

■ *How closely do conditions imposed by the zoning board need to match the "standards" (requirements and conditions) outlined in the zoning ordinance? In other words, do you need to rely on the ordinance purpose or ordinance standards when crafting conditions?*

Yes, Act 67 requires that **"any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence."** Many ordinances include general statements like protect public health and safety in the purpose statement of the ordinance, as a requirement of the ordinance, or as a standard for granting conditions. *Kraemer & Sons Inc. v. Sauk Cnty. Adjust. Bd.*, 183 Wis. 2d 1, 13, 515 N.W.2d 256 (1994), provides guidance that standards in ordinances can include general standards like the "need to protect public health, safety, and welfare" and more specific standards like "mining operations must not impair water quality." Act 67 does not prohibit the use of general standards so local governments should still include them. They just will need to provide substantial evidence to justify why the condition is necessary to protect public health, safety, and welfare.

■ *Act 67 requires applicants to demonstrate that all requirements and conditions are, or shall be, satisfied. This seems like it will be problematic. Do you have any tips that a local government can use to avoid situations where the applicant promises to meet the requirements/conditions and then never follows through?*

A local government could revoke the permit or take other legal action if the requirements and conditions are not met. The body granting a conditional use permit retains jurisdiction over the permit to insure that the applicant complies with the conditions over the life of the permit and the applicant does what they said they would do. Just like the enforcement of any zoning matter, the zoning administrator will need to monitor the activity to insure compliance. Neighboring property owners also can monitor compliance and can file a complaint with the local government -- "The permit allows the mine to operate from 8am to 5pm and they have been working until 7 pm this past week." The local government could revoke the permit for noncompliance. They could also impose a monetary penalty for not being in compliance. They should check the enforcement section of their zoning ordinance to see what it currently provides. Now Act 67 requires that the applicant provide substantial evidence that they will comply. It is not clear that applicants have been held to this standard before. This might prove helpful when dealing with, for example, "bad actors" -- "In the past, you had a CUP for a similar use and you didn't do x, y, and z as you were supposed to do. Provide us with substantial evidence that you will do things differently." It might be difficult for the applicant to do.

■ *Does Act 67's reference to only the "zoning board" mean that the plan commission and/or governing body cannot grant conditional use permits?*

Under prior Wisconsin law, it was interpreted that the authority to grant conditional use permits could rest with either the zoning board of appeals/adjustment, the plan commission, or the governing body.<sup>3</sup> **It is not clear whether the use of "zoning board" was a drafting error or intentional.**

It may lead some people to argue that as a result of Act 67 only the zoning board can grant conditional use permits despite the language elsewhere that conditional use permits can be decided by the zoning board, the plan commission, or the governing body. (When there is a conflict in the statutes, the most recently adopted statute controls.)

The language of Act 67 may lead others to argue that Act 67 only applies to conditional use permits issued by the zoning board. The plaintiffs in *AllEnergy* made the argument that the county committee did not have the

<sup>3</sup> See Wis. Stat. §§ 59.694(1), 60.65(3) and 62.23(7)(e)

legal authority to make the decision it did because the decision to not allow the mine was a legislative decision that could only be made by the county board -- the legislative body. The lead opinion in the Supreme Court's decision determined that the ordinance (the standards in the ordinance, etc.) properly authorized the committee's actions so it was not an improper delegation of legislative authority. Since Act 67 is limited to the zoning board, it does raise the argument that if it is the governing body that issues the conditional use permit, the governing body, as a legislative body, has more discretion to act on conditional use permits because they are not bound by the requirements of Act 67.

■ *Can a local ordinance provide for an appeal of a conditional use permit decision to another local body?*

A number of local governments provide for appeal of a plan commission decision on a conditional use permit to the zoning board of appeals or the governing body. It is not clear from the wording of Act 67 if it preempts local ordinances from having an intermediate step of appeal to a zoning board or the governing body before the denied applicant could appeal the decision to circuit court. An ordinance providing for an intermediate appeal in an ordinance should still be acceptable under an argument that if the applicant succeeds in the appeal it saves the time and expense of having to bring a lawsuit in a court of law.

*Brian W. Ohm, an attorney, is a professor in the UW-Madison Department of Planning and Landscape Architecture and the state specialist in planning law for UW-Extension.*







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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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| <b>2017 Wisconsin Act 67</b><br>[2017 Assembly Bill 479] | <b>Various Changes Relating to<br/>Zoning and Land Use</b> |
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2017 Wisconsin Act 67 makes various changes, described below, relating to zoning, local government authority with respect to property, and the display of the United States flag.

### ZONING

#### Conditional Use Permits

Under **prior law**, retained by the Act, conditional use permits are typically required to be approved by the relevant zoning authority in a city, village, town, or county before a person may use property in a manner that is designated as a conditional use within a given zoning district.<sup>1</sup>

**The Act** requires a city, village, town, or county to grant a conditional use permit if an applicant meets, or agrees to meet, all of the requirements and conditions specified in the relevant ordinance or imposed by the relevant zoning board. Any such conditions must be related to the purpose of the ordinance and based on substantial evidence.<sup>2</sup> In addition, the Act requires those requirements and conditions to be reasonable and, to the extent practicable, measurable.

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<sup>1</sup> In *AllEnergy Corporation v. Trempealeau County Environment and Land Use Committee*, 2017 WI 52, a majority of Wisconsin Supreme Court justices rejected an argument that, in that particular case, a land use committee acted outside the scope of its authority because it denied a conditional use permit application based in part on general concerns raised by the public.

<sup>2</sup> The Act defines “substantial evidence” to mean facts and information, other than merely personal preference or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

The Act requires an applicant for a conditional use permit to demonstrate, with substantial evidence, that an application and all requirements and conditions relating to the conditional use are, or will be, satisfied. The Act then requires a city, village, town, or county to demonstrate that its decision to approve or deny the permit application is supported by substantial evidence.

The Act specifies that a conditional use permit may remain in effect as long as the conditions upon which the permit was issued are followed, except that a city, village, town, or county may impose conditions relating to the permit's duration, and the ability of the applicant to transfer or renew the permit, as well as any other additional, reasonable conditions specified in the relevant zoning ordinance or by the relevant zoning board.

The Act requires a public hearing to be held on a conditional use permit application and authorizes a person whose conditional use permit application is denied to appeal the decision in circuit court.

### Nonconforming Structures

**Prior law**, generally retained by the Act, prohibits local zoning ordinances from prohibiting, or limiting based on cost, repair, maintenance, renovation, or remodeling of a nonconforming structure.<sup>3</sup> [ss. 59.69 (10e) (b) and 62.23 (7) (1k) (a) 2., Stats.]

**The Act** removes references that limit the application of that prohibition to ordinances enacted under general municipal zoning authority.

With respect to county zoning ordinances, the Act also expands the prohibition regarding the regulation of nonconforming structures by specifying that, in addition to the actions described above, a county may not prohibit the rebuilding of a nonconforming structure, or limit such rebuilding based on cost. In addition, the Act specifies that the prohibition for county ordinances applies to **any part of a nonconforming structure**.

Finally, also only with respect to county zoning ordinances, the Act specifies that a county ordinance may not require a **variance** for the repair, maintenance, renovation, rebuilding, or remodeling of a nonconforming structure or any part of a nonconforming structure.

### Variances

Under **prior law**, generally unchanged by the Act, a zoning board of appeals has the discretion to grant a variance from a requirement under a zoning ordinance for a specific property if the variance will not be contrary to the public interest and, owing to special conditions, a literal enforcement of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. [ss. 59.694 (7) (c) and 62.23 (7) (hb) 2., Stats.]

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<sup>3</sup> For this purpose, "nonconforming structure" means a dwelling or other building that existed lawfully before the prior zoning ordinance was enacted or amended, but that does not conform with one or more provisions in the prior zoning ordinance applicable to elements including setback, height, lot coverage, and side yard. [ss. 59.69 (10e) (a) and 62.23 (7) (hb) 1., Stats.]

The Act specifies that a property owner bears the burden of proving “unnecessary hardship” for such variances by demonstrating the following, based on conditions unique to the property that were not caused by the property owner:

- For an area variance,<sup>4</sup> that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose, or that strict compliance would render conformity with the zoning ordinance unnecessarily burdensome.
- For a use variance,<sup>5</sup> that strict compliance with a zoning ordinance would leave the property owner with no reasonable use of the property in absence of a variance.

### **USE AND CONVEYANCE OF SUBSTANDARD LOTS**

Prior law did not specifically prohibit restrictions relating to building on lots that are smaller than a prior minimum lot size requirement.<sup>6</sup>

Notwithstanding any other law or rule, or any action or common law proceeding, the Act prohibits a city, village, town, or county from prohibiting a property owner from taking either of the following actions:

- Conveying an ownership interest in a substandard lot.<sup>7</sup>
- Using a substandard lot as a building site, if both of the following criteria apply:
  - The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
  - The substandard lot or parcel is developed to comply with all other ordinances of the city, village, town, or county.

### **PREEMPTION OF LOT MERGER PROVISIONS**

Prior law did not specifically limit local authority regarding the merger of commonly owned lots.

The Act prohibits a city, village, town, or county from enacting an ordinance or taking any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

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<sup>4</sup> The Act defines “area variance” to mean a variance granted for a modification to a dimensional, physical, or locational requirement, such as a setback, frontage, height, bulk, or density restriction for a structure.

<sup>5</sup> The Act defines “use variance” to mean a variance granted for the use of land for a purpose that is prohibited or not otherwise allowed.

<sup>6</sup> An example of such a restriction is the St. Croix County ordinance at issue in *Murr v. Wisconsin*, 582 U.S. \_\_\_ (2017). That ordinance, which was required under administrative rules promulgated by the DNR to implement the National Wild and Scenic Rivers Act, restricts the density of lots within the Lower St. Croix National Scenic Riverway, subject to a grandfather clause exception.

<sup>7</sup> The Act defines “substandard lot” to mean a legally created lot or parcel that met any applicable lot size requirements when it was created but does not meet current lot size requirements.

**DISPLAY OF THE UNITED STATES FLAG IN A HOUSING COOPERATIVE OR HOMEOWNERS' ASSOCIATION**

Prior law, unaffected by the Act, prohibits condominium bylaws and rules from prohibiting a condominium unit owner from respectfully displaying the United States flag. Condominium bylaws and rules may regulate the size and location of flags and flagpoles. [s. 703.105, Stats.] Prior law did not impose a similar restriction on housing cooperatives or homeowners' associations.

The Act prohibits homeowners' associations and housing cooperatives from adopting or enforcing covenants, conditions, or restrictions, or entering into agreements, that restrict or prevent a member of a homeowners' association or housing cooperative from displaying the United States flag on property in which the member has a property interest (for homeowners' associations) or a right to exclusive use (for housing cooperatives). However, the Act authorizes a homeowners' association or housing cooperative to do either of the following:

- Require that the display conform with a rule or custom set forth under specified provisions of federal law.
- Provide a reasonable restriction on the time, place, or manner of displaying the flag that is necessary to protect a substantial interest of the homeowners' association or housing cooperative.

*Effective date:* November 29, 2017

*Prepared by:* Anna Henning, Senior Staff Attorney  
Scott Grosz, Principal Attorney

December 1, 2017

AH:SG:mcm;ty

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

**I. FINDINGS OF FACT:**

Petition #: R3939A-16 Township: Watertown  
Site Inspection Date: 11/14/16 Hearing Date: 11/17/16  
Petitioner Name: Tim Otterstatter  
Property Owner(s): Same  
Property Location: W2771 East Gate Drive

**REZONING REQUEST:**

Create a 1.4-acre A-2 lot with existing residence

PARCEL(S) (PIN#): 032-0815-1231-000 (37.14 Acres)  
\_\_\_\_\_  
\_\_\_\_\_

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

TOTAL CONTIGUOUS A-1 ACRES 4.5 + or - ☒ Less than 50 ☐ More than 50

PREVIOUS A-3 LOTS CREATED FROM PARENT PARCEL: 0

LOTS AVAILABLE: Non Prime 3 or Prime 1

LOTS REQUESTED: One 1.49-acre A-2 lot with existing old residence

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

SOIL TYPES: MoB; RtC2

Class I \_\_\_\_\_ % Class II 90 % Class III \_\_\_\_\_ % Class III Non-Prime 10 %

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

Cropland \_\_\_\_\_ % Woods \_\_\_\_\_ % Fallow/Pasture \_\_\_\_\_ % Existing Yard 100 % Slope 2-6 %

☐ FLOODPLAIN ☐ WETLANDS ☐ SHORELAND

ADJACENT LAND USE: A-1, Exclusive Agricultural; A-2, Agricultural & Rural Business;  
Business

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

A-2 zone allows lot creation for existing residence.

Private on-site waste treatment system location in file

TOWN BOARD RECOMMENDATION 10/17/16 ☒ 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 A-2 zone allows a pre-1975 home to be split from the rest  
of the property

☒ 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: Don Reese 2nd by: George Jaeckel Abstained \_\_\_\_\_  
Vote: voice vote, no objection Date: 11/28/16

**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: 11/28/16

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 If farm-type animals are desired, a new petition will be required for the lot to become two acres in size

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

DATE: 12-19-16 SIGNATURE: 